House Legislative Analysis Section
Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

RES. DEVELOPMENT PROPERTY

House Bill 4616 (Substitute H-2)
First Analysis (6-26-97)

Sponsor: Rep. Michael J.Griffin
Committee: Tax Policy

THE APPARENT PROBLEM:

The passage of Proposal A in March of 1994 created a new school financing system and dramatically overhauled the property tax. Homesteads -- owner-occupied principal residences -- are exempt from school operating taxes and typically pay only the new 6-mill state school property tax. Non-homestead properties (residential rental property, business property, second homes, etc.) typically pay an 18-mill local school operating tax in addition to the state property tax, for a total of 24 mills for schools. (In higher spending school districts, a limited number of additional mills may be levied.)

This new system, with its dichotomy of homestead and non-homestead tax rates, has energized a longstanding debate over how to tax newly constructed residential property. Builders have long sought to delay the full assessment of new residential property until it is occupied. They have argued that property assessments increase during the process of development (e.g., when property changes designation from agricultural to residential, when the property is sold for development, etc.) even without taking into account the residential structure. Developers have argued that it is unduly burdensome to force them to pay the increased taxes that result when the market value of partially constructed or newly completed dwellings is added to the tax assessment. (It also ultimately can result in higher housing prices to consumers.) With the new tax system, the inequity is more obvious. Newly built homes that are yet to be occupied obviously do not qualify for the homestead exemption, and so not only must builders bear the burden of being taxed on their inventory of unsold homes but they must pay at a rate far above the rate at which occupied homes are taxed. Legislation has been introduced to address this issue.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to exempt "residential development property" from school operating taxes to the same extent that a homestead is exempt, beginning with taxes levied after December 31, 1997.

The term "residential development property" refers to real property that meets all of the following criteria:

-- It is classified as residential real property under the act.

-- A final plat for the real property is recorded under the Land Division Act after the effective date of the bill, or a condominium subdivision plan is completed and a master deed for all or a portion of the real property is recorded under the Condominium Act after the effective date of the bill.

-- No residential dwelling unit or condominium unit that is occupied or has ever been occupied is located on the real property. Residential development property could include property on which is located a partially completed residential dwelling or partially completed condominium unit, or a fully completed residential dwelling that is not occupied and has never been occupied or a fully completed condominium unit that is not occupied and has never been occupied. Residential development property does not include property on which is located a residential dwelling or condominium unit used for commercial purposes or as an office, showroom, or model.

MCL 211.7gg

FISCAL IMPLICATIONS:

The Department of Treasury has estimated the loss of revenue to the state at $3 million. (Testimony before the House Tax Policy Committee on 6-25-97)

ARGUMENTS:

For:

This bill provides much needed tax relief for residential developments while construction is underway and provides equity for homebuilders. It allows residential development property to be taxed at the homestead rate (that is, to be exempt from the 18-mill local school operating tax, as owner-occupied principal residences are). The bill is prospective. It requires that a final plat for the property have been recorded and, where applicable, that a condominium subdivision plan have been recorded, after the bill's effective date. The bill would apply only to property that had never been occupied, and it would not apply to property used for commercial purposes or as an office, showroom, or model. To the extent that the bill reduces the cost of building homes, it could lead to lower housing prices. It provides a clear definition so that administration of the provision will not be troublesome (according to representatives of local government).

Against:

Concern has been expressed that the bill offers an incentive to plat land that is non-agricultural open space -- because then the property would be taxed at a lower rate.

Response:

Proponents of the bill have said that this should not be a concern. They say that platting property is expensive, complicated, and time consuming, and would be more trouble than the tax exemption is worth. The process requires approvals at several levels of government and more than once. Further, once land is rezoned as residential, it is likely the assessment will go up.

Against:

The bill has a direct revenue impact on state school funds since the state will have to make up the revenue lost to local school districts. Further, when voters approved Proposal A, they anticipated one rate for homestead property and another for non-homestead property. They did not anticipate homestead property tax rates for housing under construction and vacant developable land.

POSITIONS:

The Michigan Association of Home Builders supports the bill. (6-25-97)

The Michigan Association of Realtors supports the bill. (6-25-97)

Representatives of the Michigan Municipal League and the Michigan Townships Association have testified that their organizations are neutral on the bill. (6-25-97)

The Department of Treasury is opposed to the bill. (6-25-97)

The Michigan Federation of Teachers and School Related Personnel has indicated its opposition to the bill. (6-25-97)

Analyst: C. Couch