



**House
Legislative
Analysis
Section**

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**HOMESTEAD EXEMPTION: APPEAL
FOR THREE PRIOR YEARS**

House Bill 4660 (Substitute H-1)

Sponsor: Rep. Jim Plakas

House Bill 5743 as introduced

Sponsor: Rep. Nancy Cassis

Committee: Tax Policy

First Analysis (3-21-02)

THE APPARENT PROBLEM:

With some exceptions, under Michigan's school financing system, homesteads (owner-occupied principal residences) are exempt from local school operating property taxes. To receive an exemption, a homeowner needs to file an affidavit with the local tax collecting unit by May 1. (Property occupied after May 1 is not eligible for an exemption until the next year.) Once in place, the exemption remains until the property is transferred or ceases to be a homestead; homeowners need not file each year. However, a homeowner who is eligible for an exemption but fails to file an affidavit on time can appeal to the local board of review. The homeowner can appeal to the July or December board of review in the year for which the exemption is claimed or in the immediately succeeding year. This means that homeowners who discover that they were entitled to a homestead exemption in past years, but who failed to file for it, can only get the exemption for the current year and one earlier year, even if the property qualified as a homestead for additional years. Some people believe this is unfair because it results in homeowners overpaying their taxes due to confusion, ignorance, or misunderstandings. (Testimony before the House Tax Policy Committee suggested that some taxpayers confuse the homestead exemption with the homestead property tax credit. A person can qualify for the first without qualifying for the other.) Critics find this especially annoying since if a person claims a homestead exemption that he or she is not entitled to, the property owner can be billed for unpaid taxes for the current year and the three immediately preceding years. At the very least, the "look back" period in the two cases should be the same.

THE CONTENT OF THE BILL:

House Bill 5743 would amend the General Property Tax Act (MCL 211.7gg and 211.53b) to allow a homeowner who had a homestead exemption on the

tax roll for the current tax year, and who had owned and occupied that homestead in any of the three immediately preceding tax years when the exemption was not on the tax roll, to file an appeal with the local assessor for an exemption for any of those three immediately preceding tax years. If the assessor granted an exemption, he or she would require the owner of the property to execute the homestead exemption affidavit for the tax years appealed. The bill would add a new section to establish the appeal and rebate procedure. House Bill 4660 would amend the section of the General Property Tax Act (MCL 211.7cc) that creates the homestead exemption to eliminate the current taxpayer appeal provisions and instead specify that homeowners could appeal by using the procedure established in the new section created by House Bill 5743. The two bills are tie-barred to one another, meaning that both must be enacted for either to take effect.

Under House Bill 5743, if the assessor granted the appeal for a homestead exemption for a previous year and the exemption resulted in an overpayment, the taxpayer would receive a rebate. The rebate would be paid by either the local tax collecting unit or the county treasurer, depending on who had possession of the tax roll. The rebate, which would be without interest, would have to be made within 30 days of the exemption being granted. The county treasurer could deduct the rebate from the local unit's subsequent distribution of taxes or could bill the local unit its share of the rebate. If the assessor denied the appeal, the owner could file an appeal with the July or December board of review in the year in which the exemption was being claimed or in the immediately succeeding year. If an appeal of a claim for exemption was received not later than five days prior to the date of the July or December board of review, the local unit would have to convene a July or December board of review and consider the appeal.

House Bills 4660 and 5743 (3-21-02)

BACKGROUND INFORMATION:

The school financing system put in place following the passage of Proposal A in 1994 features a 6-mill state education property tax on both homestead and non-homestead property and 18 mills of local school operating taxes on non-homestead property. This means homesteads pay the 6-mill state tax but not the local school operating tax. Some districts levy extra "hold harmless" property taxes sufficient to maintain their above-average spending levels prior to the passage of Proposal A. These are levied on homesteads. Further, voters can approve "enhancement" taxes on homestead and non-homestead property, up to three mills, on an intermediate school district-wide basis.

FISCAL IMPLICATIONS:

The House Fiscal Agency estimates that the bills as reported from the House Committee on Tax Policy could result in rebates to taxpayers of from \$6 to \$8 million. (3-20-02)

ARGUMENTS:

For:

The bills would correct an element of unfairness in the state's property tax laws. Owners of homesteads (owner-occupied principal residences) are entitled to an exemption from local school operating property taxes and should not be penalized for not being aware of, or being confused about, the procedure by which the exemption is claimed. Otherwise, homeowners will pay taxes they are not subject to. And yet this is what occurs now. If a homeowner fails to file the proper affidavit, he or she can get the exemption by going to the local board of review. But the board of review can only grant the exemption for the year in which the appeal is made and the prior year. The taxpayer is stuck paying the extra taxes for the other years. While some people believe a homeowner should be able to go back indefinitely to claim the homestead exemption that was due, these bills at least allow a homeowner to claim the current year and three preceding years. This matches the "look back" period allowed the Department of Treasury, which can assess past taxes for that period of time if a person has a homestead exemption but is not entitled to it. Moreover, the bills would permit the homeowner to make the appeal for past exemptions to the local assessor. This will simplify the process and hasten any rebates due. If the assessor is unwilling to grant the past exemptions, the homeowner can then go to the board of review.

Reportedly, some homeowners just do not realize that they are eligible for this exemption or that they must take action to receive it. First-time homebuyers and homeowners new to the state may not be familiar with the state's property tax system. Testimony before the House Tax Policy Committee suggested that some homeowners confuse the homestead exemption with the homestead property tax credit. The credit, claimed when filing income tax returns, has specific eligibility standards and income limits that many homeowners can meet. The homestead exemption, however, is available to owner-occupied principal residences generally.

Against:

There are some concerns about the role given the local assessor in these bills. Tax officials say it represents a significant departure from current assessor responsibilities, particularly in that it would allow the assessor to make a change to the tax roll that would not be subject to oversight by the local board of review. Assessors may not have the information needed to make this decision. Further, the bill would result in a loss of state revenue. In the past, some people have opposed expanding opportunities for taxpayers to get past exemptions on the grounds that taxpayers ought to be aware of their obligations and responsibilities and that there ought to be some reasonable deadline beyond which rebates are not available. Over time, as this relatively new system becomes routine, this problem should become less and less common.

POSITIONS:

The Michigan Association of County Treasurers has indicated support for the bills. (3-20-02)

The Michigan Assessors Association has no official position on House Bill 5743 but has concerns about its workability. The association had opposed House Bill 4660 as introduced but has not officially reviewed the substitute, although it is considered an improvement. (3-20-02)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.