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## HOMESTEAD EXEMPTION: APPEAL FOR THREE PRIOR YEARS

House Bill 5743 as enrolled  
Public Act 624 of 2002  
Second Analysis (1-9-03)

Sponsor: Rep. Nancy Cassis  
House Committee: Tax Policy  
Senate Committee: Finance

### ***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. For example, testimony before the House Tax Policy Committee suggested that some taxpayers confuse the homestead exemption with the homestead property tax credit that can be claimed on income tax forms. A person can qualify for the first without qualifying for the other. Critics find this situation 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:***

The bill would amend the General Property Tax Act to allow a homeowner to claim a homestead property

tax exemption for up to three previous years and to claim a rebate for overpayment of taxes for those years and for the year in which the appeal was filed. Specifically, the bill would allow a taxpayer who owned and occupied a homestead on May 1 [of any given year] for which the homestead exemption was not on the tax roll to file an appeal with the July board of review or the December board of review in the year for which the exemption was claimed or in the immediately succeeding three years (rather than in the year in which the exemption was claimed or in the immediately succeeding year).

This means that a correction to the tax roll that grants a homestead exemption can be made for the year in which the appeal was filed and for the three immediately preceding tax years (rather than for the year in which the appeal was made and one preceding year). The act already provides that if an appeal results in a determination that an overpayment has been made [by the taxpayer], then a rebate is to be made to the taxpayer.

MCL 211.7cc and 211.53b

### ***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.

House Bill 5743 (1-9-03)

It should be noted that this change to the General Property Tax Act was earlier contained in two bills reported together by the House Tax Policy Committee, House Bill 4660 and House Bill 5743. Only House Bill 5743, which was substituted in the Senate so as to be able to stand alone, was enacted.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency has said that the bill, based on estimates of home sales and prices in Michigan as well as the number of potential appeals per year, could result in rebates to taxpayers in the range of \$6 million to \$8 million [in the first year]. (HFA analysis dated 4-17-03) The additional cost would be to state government since the local schools would receive their basic grant money in any case.

### ***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 for claiming the exemption. 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 grant a homeowner the ability 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. 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 homestead property tax credit (or circuit breaker) is claimed when filing income tax returns and has specific eligibility standards and income limits that many homeowners cannot meet.

The homestead exemption from local school operating property taxes, however, is available to owner-occupied principal residences in general.

#### ***Against:***

The bill would result in a loss of state revenue. In the past, some people have opposed expanding opportunities for taxpayers to get exemptions for previous years 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.

Analyst: C. Couch

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■ 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.