House Legislative Analysis Section
House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

PRINCIPAL RESIDENCE ASSURANCE PROGRAM

Senate Bills 520 and 586 as passed by the Senate
Sponsor: Rep. Cameron Brown
Committee: Tax Policy

Complete to 6-25-03

A SUMMARY OF SENATE BILLS 520 AND 586 AS PASSED BY THE SENATE 6-17-03

Senate Bill 520 would amend the General Property Tax Act (MCL 211.7c et al.) to make a number of changes to provisions dealing with the administration of the homestead property tax exemption; that is, the exemption provided in law for owner-occupied principal residences from local school operating taxes. The homestead exemption was a key element in Proposal A enacted in 1994, which created a new school finance system. Senate Bill 586 would make complementary amendments to the Revenue Act (MCL 205.28). In brief, Senate Bill 520 would do the following

- Allow a county treasurer or county equalization director (with the concurrence of the board of commissioners) to audit homestead exemptions in all local tax collecting units located in the county.

- Require the Department of Treasury, for taxes levied after December 31, 2005, to conduct an annual audit of exemptions for the current calendar year for each county that does not elect to audit exemptions.

- Allow local assessors and county officials, where a county has elected to conduct audits, to deny a claim for an exemption for the current year and for the three immediately preceding calendar years.

- Assess interest and penalties on taxpayers when an existing claim for exemption is denied; the corrected tax bill for previously unpaid taxes would include interest at 1.25 percent per month and penalties computed from the date taxes were last payable without interest or penalty.

- Distribute the interest collected on previously unpaid taxes among the local unit, the county, and the Department of Treasury, with the level of government denying the exemption receiving 70 percent of the interest collected. Interest would be distributed as follows: If the local assessor denies the exemption, then 70 percent to the local unit; 10 percent to the state; and 20 percent to the county. If the Department of Treasury denies the exemption, then 20 percent to the local unit; 70 percent to the department; and 10 percent to the county. If the county treasurer or equalization director denies the exemption, then 20 percent to the local unit; 10 percent to the state department; and 70 percent to the county.

- Require the interest distributed to a county to be deposited into a restricted fund to be used solely for the administration of homestead property tax exemptions, with the money to lapse to the county general fund on the December 31 in the year three years after the first distribution of

- interest and each December 31 thereafter; and require that interest distributed to the Department of Treasury be deposited into the homestead property tax exemption audit fund (which the bill would create) to be spent only, upon appropriation, for the purpose of auditing homestead exemption affidavits.

- Specify that if property for which an exemption had been denied had been sold to a bona fide purchaser before any additional taxes had been billed to the seller as a result of the denial, then the taxes, interest, and penalties would not be billed to the purchaser, but would be assessed to the previous owner who had improperly claimed the exemption, with the Department of Treasury responsible for the collection.

- Grant an "amnesty period" so that an exemption erroneously granted based on an affidavit filed before October 1, 2003 could be withdrawn at the request of the owner without any interest or penalty on the additional tax due if the request was received by the Department of Treasury no later than November 1, 2003.

- Allow denials of exemptions by local assessors to be appealed to the residential and small claims division of the Tax Tribunal (rather than to the Department of Treasury).

- Specify that a person would not be entitled to a homestead exemption if any of the following conditions occur: the person has claimed a substantially similar exemption, deduction, or credit on property in another state that has not been rescinded; the person or his or her spouse owns property in another state for which the person or spouse claims a substantially similar exemption, deduction, or credit, unless the person and spouse file separate income tax returns; the person has filed a nonresident Michigan income tax return; or the person has filed an income tax return in a state other than this state as a resident.

- Require the affidavit claiming an exemption to indicate if the owner "or the owner's spouse" has claimed another exemption on property in the state that has not been rescinded "or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded" (the new language is in quotation marks).

- Require specified information to be shared among units of government. (1) The Department of Treasury would be required to provide annually to the county treasurer or equalization director (or to designees) a list of parcels of property located in the county for which an exemption could be erroneously claimed. The county officials, in turn, would have to forward copies of the treasury list to each local assessor within 10 days of receiving the list. (2) Before May 1, 2004 and before May 1, 2005, each county treasurer would have to forward to the Michigan Department of Education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding four calendar years. (3) If a local assessor denied a claim for a homestead exemption in a county in which the county treasurer or equalization director had elected to audit exemptions, then the assessor would have to notify the treasurer or equalization director of the denial. Senate Bill 586 would amend the Revenue Act to permit the Department of Treasury to disclose information for the purpose of administering the General Property Tax Act and would prohibit a person who received the information from willfully disclosing it for any purpose other than the administration of that act. The Revenue Act contains penalties for such disclosure.

• For taxes levied after December 31, 2003, change the deadline for filing a claim for a homestead exemption from May 1 to tax day of each year (December 31); meaning that an affidavit would have to be filed by December 31 in order for the homestead exemption to be in effect at any time during the following year.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency made preliminary estimates of an earlier version of the Senate Bill 520 (Substitute S-2) indicating that it would increase school district revenues by about $51 million the first fiscal year; $27 million in the next year; and $18 million per year in years thereafter. (The bill has been amended since these estimates were made, and it now includes an amnesty period that presumably would reduce revenues. A Department of Treasury spokesperson told the House Committee on Tax Policy that $35 million in increased revenue for the first year was a reasonably prudent estimate.) The SFA notes that these increases to school districts would also represent a reduction in school aid fund expenditures by the state government. The SFA's preliminary estimates also indicate that revenues received by counties would increase $2.8 million in the first year; $1.5 million in the second year; and $1 million per year thereafter. Revenues received by local assessing units would increase by $6.3 million in the first year; $3.3 million in the second year; and by $2.2 million each year thereafter. The state would receive in revenue an additional $0.9 million the first year; $0.5 million the second year; and $0.3 million each year thereafter. See the Senate Fiscal Agency floor analysis dated 6-13-03 for further descriptions of revenue estimates, including a discussion of the methodology used. Note again, that those estimates are on an earlier version of Senate Bill 520.

POSITIONS:

The Department of Treasury supports the bill. (6-25-03)

The Michigan Association of Counties has indicated support for the bill. (6-18-03)

The Michigan Townships Association has indicated support for the bill. (6-18-03)

The Michigan Home Builders Association has indicated support for the bill. (6-18-03)

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.