

Legislative Analysis



APPEAL OF INCORRECT UNCAPPING OF PROPERTY TAX ASSESSMENTS

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House Bill 4065 (Substitute H-1)
Sponsor: Rep. Bruce Caswell
Committee: Tax Policy

First Analysis (3-15-05)

BRIEF SUMMARY: The bill would permit the property tax bill to be corrected at the July or December board of review following an incorrect uncapping of a property tax assessment.

FISCAL IMPACT: The bill would have no significant fiscal impact.

THE APPARENT PROBLEM:

The General Property Tax act provides for the establishment of local boards of review to receive and review the tax assessment roll. The March board of review is charged with making corrections to the assessment roll, as appropriate, regarding the names listed, property descriptions, and the assessment and valuation of property. In addition, the March board of review also hears taxpayer appeals regarding, among other things, the assessment and valuation of property. The act also permits the board of review to meet in July and December to, among other things, correct a clerical error or mutual mistake of fact related to assessment figures, tax rates, and mathematical computations. The July and December boards, however, do not have the authority to hear any appeals regarding the assessment and valuation of property.

Under the General Property Tax Act, year-to-year increases in the taxable value of a parcel of property are generally limited to five percent or the rate of inflation, whichever is lower. However, when the ownership of the property is subsequently transferred, the taxable value is uncapped and reverts to the state equalized value (SEV), which typically is 50 percent of the property's market value.

In some instances, local assessors have mistakenly uncapped a property's assessment. When that occurs, the taxpayer can appeal to the March board of review. However, if the mistake is not caught by the March board of review, the mistake can only be corrected by the July or December boards of review if that mistake is due to a clerical error or mutual mistake of fact. According to committee testimony, if that erroneously uncapped property assessment is not correctable in July or December, the taxpayer is left with no recourse and is liable for the higher tax bill. Legislation permitting correcting an erroneous uncapping at the July or December board of review has been introduced.

THE CONTENT OF THE BILL:

House Bill 4065 would amend the General Property Tax Act to specify that if the taxable value of a parcel of property "pops up" to the SEV and the assessor determines that a transfer of ownership did not occur, the property's taxable value for the current year and three previous calendar years could be adjusted at the July or December board of review, and a corrected tax bill would be issued, either by the local tax collecting unit or the county treasurer, depending on whether the local unit or the county has possession of the tax roll.

MCL 211.27a

ARGUMENTS:

For:

The current structure of the General Property Tax Act provides taxpayers with little recourse if their property assessment is mistakenly uncapped by the local assessor. If the mistake is not appealed to the March board of the review, the taxpayer can only have the matter corrected by the July or December board of review if the assessment was due to a "clerical error" or a "mutual mistake of fact." However, it seems unlikely that an erroneously uncapped assessment would be the result of a "clerical error" or "mutual mistake of fact." In the context of the General Property Tax Act, a "clerical error" is an error of a typographical, transpositional, or mathematical nature. [See *International Place Apartments v. Ypsilanti Township*, 216 Mich App 104 (1996)] A "mutual mistake of fact" is a shared or common error, misconception, misunderstanding, or erroneous belief about a material fact, which in the context of the General Property Tax Act requires both the assessing officer and the taxpayer to have the same erroneous belief regarding the same material fact thereby causing both the excess assessment and excess payment of taxes. [See *Ford Motor Company v. Bruce Township*, 264 Mich App 1 (2004)]

POSITIONS:

The Department of Treasury is supportive of the bill. (3-9-05)

The Michigan Assessors Association supports the bill. (3-9-05)

The Michigan Association of Realtors supports the bill. (3-9-05)

The Michigan Farm Bureau supports the bill. (3-9-05)

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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.