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BILL ANALYSIS

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Senate Bill 65 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Ron Jelinek
Committee: Finance

Date Completed: 8-9-06

RATIONALE

There are a number of charitable community organizations working to increase home ownership in Michigan by providing homes to families that otherwise could not afford to buy one, usually for the cost of building or restoring the homes. Sometimes these groups hold the property for months or years while the homes are being built or refurbished and suitable owners are found. During this time, the charitable housing organizations are responsible for paying taxes on the property. Nonprofit housing organizations do not have large budgets, usually relying heavily on donated labor and materials, and the expense of paying property taxes is often significant for them. Some people believe that local governing bodies should be allowed to exempt property held by certain nonprofit housing organizations from the property tax for a limited period of time.

CONTENT

The bill would amend the General Property Tax Act to allow a local governing body to exempt certain nonprofit-owned single family dwellings or duplexes from the property tax for a maximum of two years.

Under the bill, the governing body of a local tax collecting unit could adopt a resolution to exempt eligible nonprofit housing property from the tax collected under the Act. The clerk of the local tax collecting unit would have to give written notice to the tax assessor of that unit and the legislative body of each taxing unit that levied ad valorem property taxes in that unit. Before acting on the resolution, the governing body would

have to give the assessor and a representative of the affected taxing units an opportunity for a hearing. A copy of the resolution would have to be filed with the State Tax Commission.

The exemption would take effect on the December 31 immediately after the adoption of the resolution or the issuance of a building permit for the eligible nonprofit housing property, whichever was later. The exemption would remain in effect for two years, until the property was occupied by a low-income person under a lease agreement, or until ownership of the property was transferred, whichever came first.

The bill would define "eligible nonprofit housing property" as a single family dwelling or duplex owned by a charitable nonprofit housing organization, which the organization intended to transfer to a low-income person after construction or renovation of the dwelling or duplex was completed to be used as that person's principal residence. "Charitable nonprofit housing organization" would mean a charitable nonprofit organization whose primary purpose was the construction or renovation of residential housing for conveyance to a low-income person.

"Low-income person" would mean a person with a family income of not more than 80% of the statewide median gross income, who was eligible to participate in the charitable nonprofit housing organization's program based on criteria established by that organization.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Charitable housing organizations provide low-cost housing to Michigan residents who otherwise would be unable to afford to purchase their own home. Usually, the organizations pass the cost of paying the taxes on to the purchasers of the home by increasing the sales price. Under the bill, residential property could be taken off the property tax roll for up to two years while a nonprofit housing organization owned it. Eventually, the bill could lead to increased property tax revenue when the new owners began paying taxes on the improved home. Since most of the property that is donated to housing organizations for improvement is either dilapidated or abandoned, there is little, if any, tax revenue generated from the property before it is improved. Nevertheless, by making it more affordable for nonprofit housing organizations to hold property, the bill could increase home ownership among low-income residents.

Opposing Argument

While it is clear that the bill would assist organizations such as Habitat for Humanity, a recent decision by the Michigan Supreme Court has led to confusion as to what qualifies as a charitable institution, and could lead to the developers of large-scale housing projects receiving the property tax exemption if the projects had a charitable component. In May 2006, the Michigan Supreme Court decided *Wexford Medical Group v City of Cadillac*, which held that a health care facility that had an annual budget of \$10 million and more than 40,000 patient visits during the years in question was exempt from ad valorem property taxes as a charitable institution despite the fact that only 13 patients took advantage of its charitable care program in 2000 and 2001 combined, and received care valued at a total of \$2,400 (474 Mich 192). The Court found, among other things, that the General Property Tax Act does not define "charitable institution" and contains no threshold establishing how much of an organization's resources must be directed toward charitable purposes to qualify for the

exemption. It is possible that a housing development company could organize itself in such a manner that it also could qualify as a charitable institution under the bill and receive the proposed tax exemption by using a portion of its income for charitable purposes.

Additionally, the bill would not allow the governing body of a tax collecting unit to choose which organizations would receive the exemption. If the governing body approved the exemption for a group such as Habitat for Humanity, a developer also could receive the exemption if it were able to qualify as a charitable nonprofit organization that sought to provide housing for low-income people.

Response: In addition to being a charitable nonprofit organization, to qualify for the exemption, a "charitable nonprofit housing organization" would need to have as its primary purpose the construction or renovation of residential housing for conveyance to a low income person. It is unlikely that a for-profit developer would be eligible for the exemption under this definition.

Opposing Argument

While the impact of the lost property tax revenue from one home would not be considerable for a community, some small Michigan cities have several charitable nonprofit housing organizations. If each had several houses receiving the property tax exemption during a year, the lost revenue could be significant, especially in communities already having financial difficulties.

Response: Granting the exemption would be within the discretion of a local unit.

Opposing Argument

If a city, village, or township voted to offer the property tax exemption to nonprofit housing organizations, the county containing that local unit also would lose its portion of the revenue. A county should be allowed to opt in or out of the exemption. Additionally, since it is unlikely that all of the local tax collecting units in a county would offer the exemption, county residents who lived outside of the communities offering the exemption would end up subsidizing it.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would reduce State and local property tax revenue, and increase School Aid Fund expenditures, by an unknown and likely negligible amount. It is unknown how many properties would be affected by the bill, the value of those properties, the applicable millage rates, the average duration of the exemption, the location of the properties, or whether a local unit would approve the necessary resolution. The reduction in State property tax revenue would lower School Aid Fund revenue. Expenditures from the School Aid Fund would increase to offset any reduction in local school operating revenue in order to maintain per-pupil funding guarantees.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.