

Legislative Analysis



REVISE PROPERTY TAX "POVERTY" EXEMPTIONS AND AMEND FORECLOSURE PROVISIONS

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House Bill 6162
Sponsor: Rep. Steve Tobocman

House Bill 6167
Sponsor: Rep. Edward Gaffney, Jr.

House Bill 6163
Sponsor: Rep. Robert Dean

House Bill 6168
Sponsor: Rep. Andy Meisner

House Bill 6164
Sponsor: Rep. Bettie Cook Scott

House Bill 6169
Sponsor: Rep. Shanelle Jackson

House Bill 6165
Sponsor: Rep. Bert Johnson

House Bill 6170
Sponsor: Rep. Richard Ball

House Bill 6166
Sponsor: Rep. Mike Simpson

House Bill 6171
Sponsor: Rep. Tim Melton

Committee: Intergovernmental, Urban, and Regional Affairs
Complete to 6-9-08

A SUMMARY OF HOUSE BILLS 6162 - 6171 AS INTRODUCED 5-22-08

The bills would amend various sections of the General Property Tax Act to revise protocols concerning property tax "poverty" exemptions; foreclosures on tax-delinquent property by governmental units; and property tax notices. A more detailed description of each bill follows.

House Bill 6162

House Bill 6162 would repeal and replace the current provisions in the act under which local supervisors and boards of review provide "poverty exemptions" in whole or in part to property owners who "by reason of poverty, are unable to contribute toward the public charges." Under current law, local units adopt individual and household income and asset guidelines (based on federal poverty guidelines or a less restrictive locally-determined alternative) on which to base their decisions and must make those available to the public.

Instead, under the bill, a homeowner or farm owner with household income at 200 percent or less of federal poverty guidelines would be eligible for an exemption equal to 100 percent of taxable value of the principal residence (a full exemption). A homeowner who meets a locally-established alternative income guideline set at greater than 200 percent of poverty would be eligible for an exemption equal to 50 percent of taxable value. (A chart of federal poverty guidelines is found later.) As now, the exemption

would not apply to the property of a corporation. The process and documentation for claiming an exemption would be similar to current law.

Additionally, a local tax collecting unit could establish an asset test (but it could not take into account the value of the principal residence, any item of personal property with a value of less than \$5,000, or cash, stocks, bonds, and similar items with an aggregate value of less than \$5,000). Further, a homeowner would not be eligible if the principal residence had a state equalized value 200 percent or more of the median value of a principal residence in the local tax collection unit.

The governing body of the local tax collecting unit would have to make available to the public the eligibility requirements for the exemption, and also the application forms and renewal affidavits. If the taxpayer was granted an exemption, then the tax collecting unit would mail a renewal affidavit to that taxpayer in the immediately following year. The tax collection unit would be required to publish notice of the availability of, and the eligibility requirements for, the exemption in a local newspaper.

The application and renewal affidavit for an exemption would be in a form prescribed by the Department of Treasury, to ensure uniformity, clarity, simplicity, and ease of use by applicants. The application for an exemption would have to be filed, as is currently the case, after January 1 but before the day prior to the last day of the local board of review.

If a taxpayer is eligible for an exemption, the board of review would grant the exemption for the tax year in which the application was filed, and for the immediately preceding tax year if the taxpayer would have been eligible for an exemption that year. If the board of review did so, any exempted and unpaid taxes, interest, penalties, and fees for the immediately preceding tax year would be extinguished.

An application for exemption with the supervisor or the board of review would have to be accompanied by federal and state income tax returns for all persons residing in the principal residence, including any property tax credit returns, filed in the immediately preceding tax year, or in the current tax year. As is the case currently, the homeowner would have to produce a valid driver license, state personal identification card, or other form of identification, if requested by the supervisor or board of review and would also have to produce on request a deed, land contract, or other evidence of ownership of the property for which an exemption was sought.

The local board of review could deny an exemption for one or more of the following reasons: (1) the person claiming the exemption was not a qualified taxpayer; (2) the claim for exemption was based on fraud; (3) the qualified taxpayer had no interest in the property for which an exemption was claimed, and the claim was an attempt to avoid the collection of taxes; or (4) the state equalized valuation of the principal residence for which an exemption was claimed was 200 percent or more greater than the median value of a principal residence in the local tax collection unit.

Under the bill, filing an application for exemption or a renewal affidavit would count as an appearance before the board of review, and would preserve the applicant's right to appeal the decision of the board. A qualified taxpayer who filed an application for exemption or a renewal affidavit could also appeal the assessment on the property for which the exemption was claimed before the board of review in the same tax year.

Following are the 2008 federal poverty guidelines for the 48 contiguous states as listed in the Federal Register on January 23, 2008.

Size of Family Unit	Poverty Guidelines
1	\$ 10,400
2	\$ 14,000
3	\$ 17,600
4	\$ 21,200
5	\$ 24,800
6	\$ 28,400
7	\$ 32,000
8	\$ 35,600
For each additional person, add	\$ 3,600

House Bill 6163

House Bill 6163 would require that local tax assessors include in their annual property tax notices the following statement for all property classified as residential real property:

"If you do not have the financial resources necessary to pay the taxes due on your principal residence, you may be eligible for a full or partial exemption. Please contact your local assessor's office for more details."

House Bill 6164

House Bill 6164 would exclude water and utility bills as items included in the definition of delinquent taxes.

The bill also would eliminate an obsolete requirement that a county treasurer provide, at the request of tax lien holders, a list identifying the parcels of property for which tax delinquency forfeiture notices are required.

House Bills 6165-6167

House Bills 6165 and 6166 each would amend a different section to revise the notice of delinquent property taxes. Currently the notice must list the date that property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer. The bill would retain this provision but revise it to say, "the date, stating the month, day, and year..."

The bills also eliminate an obsolete provision: a requirement that a county treasurer provide notice of tax delinquency to a person issued a tax certificate for property returned for delinquent taxes, under section 71 of the act, a subsection repealed by the legislature in 1999.

House Bill 6167 would revise the second notice of forfeiture when property taxes are unpaid. Currently the notice must list the date that property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer. The bill would retain this provision but revise it to say, "the date, stating the month, day, and year..."

House Bill 6168

House Bill 6168 would permit a county treasurer to waive additional interest on delinquent taxes if the property is withheld from the petition for foreclosure under Section 211.78h. [This section of the act gives local units of government the authority to foreclose on properties having unpaid property taxes by petitioning the circuit court. If the petition is granted, the court's judgment vests absolute title to each parcel of property to the local unit of government, without right of redemption by the former property owner. This section of the law also allows local units to withhold certain kinds of property from the petition for foreclosure, including, among other things, property held by a person undergoing substantial financial hardship.]

House Bill 6169

House Bill 6169 would revise the eligibility requirements that a local government can use to withhold tax delinquent property from its petition for foreclosure that it files with the circuit court. This section of the act gives local units of government the authority to foreclose on properties having unpaid property taxes, by petitioning the circuit court. If the petition is granted, the court's judgment vests absolute title to each parcel of property to the local unit of government, without right of redemption by the former property owner.

Section 78h of the law also allows local units to withhold certain kinds of property from the petition for foreclosure, including, among other things, property held by a person undergoing substantial financial hardship. Currently that property can be withheld if the taxing jurisdiction has a publicly available written policy. That written policy must require all of the following: (1) the person requesting that the property be withheld holds the title to the property; (2) the household income of the person requesting that the property be withheld meets the federal poverty income standards as defined and determined annually by the U.S. Office of Management and Budget, or alternative guidelines adopted by the foreclosing governmental unit, provided the guidelines include all persons who would otherwise meet the federal poverty guidelines.

House Bill 6169 would retain these provisions but revise them to specify that the household income of the person requesting that the property be withheld from the petition for foreclosure be *200 percent or less of the federal poverty guidelines published*

annually in the Federal Register by the U.S. Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902. The bill also would require that any alternative guidelines include all people with this level of income. Finally, the bill specifies that property withheld from a petition for foreclosure could be withheld from one or more subsequent petitions for foreclosure.

House Bill 6170

House Bill 6170 would revise the notice requirements for show cause and tax foreclosure hearings.

Currently under the law, a foreclosing governmental unit must search its records, and notify those owners having a property interest of the show cause hearing, and the foreclosure hearing. To do so, government officials must send notice of those hearings, by certified mail, return receipt requested, not less than 30 days before the show cause hearing. House Bill 6170 would retain these notice provisions, and also specify that *the foreclosing government unit or its authorized representative shall also send notice of the show cause hearing under Section 78j and the foreclosure hearing under Section 78k by first-class mail to the property, to those owners of the property identified under subsection (1), and to a person entitled to notice of the return of delinquent taxes under section 78a(4)* (that is, those paying a modest fee to the county treasurer to receive copies of such notices).

House Bill 6171

House Bill 6171 would revise the notice of judgment concerning the foreclosure of a property because of delinquent property taxes.

The bill would require the foreclosing governmental unit to send a notice of judgment by first-class mail to the property, and to each person with a legal interest in the property. The notice of judgment must state the last date on which the property may be redeemed, noting that that date will be March 31 immediately succeeding the entry of a judgment foreclosing the property, or in a contested case, within 21 days of the entry of a judgment.

FISCAL IMPACT:

The bills would reduce local property tax revenue by an unknown amount. They would also reduce revenue collected via the State Education Tax that is designated for the School Aid Fund. Because the exemptions are only available for principal residences or qualified agricultural property, which are already exempt from the 18-mills earmarked for local schools, local education funding would not be affected.

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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.