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BILL ANALYSIS

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Senate Bill 1239 (as enacted)
Sponsor: Senator Cameron S. Brown
Senate Committee: Finance
House Committee: Tax Policy

**PUBLIC ACT 198 of 2008**

Date Completed: 7-6-09

**RATIONALE**

Under the General Property Tax Act, a county may elect to audit exemptions claimed for principal residences in the local tax collecting units in that county. If a county chooses not to audit the exemptions, the Department of Treasury is responsible for doing so. Previously, a county could decide every two years whether it would conduct the audits for the next two years. The election had to be made by October 1 of the year preceding the new two-year period. Some people believed that the two-year audit election cycle was too short and caused instability in the auditing process. To address this concern, it was suggested that the time between each election should be lengthened. It also was suggested that three months was not enough time for the Department to prepare to audit tax collecting units in a county, and that notice of a county's decision to opt out of auditing exemptions should be given earlier in the year.

**CONTENT**

**The bill amended the General Property Tax Act to do the following:**

-- **Require a county that elects to audit property tax exemptions for principal residences to make an election to audit exemptions every five years instead of two, beginning in 2009.**
-- **Allow an owner of property eligible for a conditional rescission who did not file a conditional rescission form with the local tax collecting unit by May 1, 2008, to file an appeal with the 2008 July or December board of review to claim a conditional rescission for the 2008 tax year.**

The bill took effect on July 11, 2008.

Audit of Exemptions

Under the Act, a county may elect to audit the exemptions claimed for a principal residence under Section 7cc in all local tax collecting units located in that county. The election to audit exemptions must be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. Previously, the initial election to audit exemptions had to require an audit period of two years. Subsequent elections to audit exemptions had to be made every two years and had to require two annual audit periods.

Under the bill, beginning in 2009, an election to audit exemptions must be made every five years and require five annual audit periods.

The Act requires a county to make an election to audit exemptions by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the Department of Treasury in the year in which an election to audit is made. If a county elects to audit the exemptions, the Department may continue to review the validity of exemptions as provided in the Act. If a county does not elect to audit the exemptions, the Department must conduct an audit of exemptions in the initial audit period for each local tax collecting unit in that county unless the Department has entered into an agreement with the assessor for a local tax collecting unit. Previously, the audit form had to be submitted by October 1 of the year in which an audit was made.

Under the bill, a county must submit an election to audit form to the assessor and the Department by April 1 preceding the October 1 in the year in which an election to audit is made.

(Under Section 7cc of the Act, a principal residence is exempt from the tax levied by a school district for school operating purposes to the extent provided under the Revised School Code. To claim the exemption, an owner of property must file an affidavit by May 1 with the local tax collecting unit in which the property is located. The affidavit must state that the property is owned and occupied as a principal residence by that property owner.)

Conditional Rescission Appeal

Under the Act, within 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, he or she must rescind the claim of exemption by filing a rescission form with the local tax collecting unit. If an owner is eligible for and claims an exemption for his or her current principal residence, he or she may retain an exemption for up to three tax years on property previously exempt as his or her principal residence if that property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. The owner may retain the exemption by filing a conditional rescission form with the local tax collecting unit by May 1.

An owner who on May 1 owned and occupied a principal residence for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding three years. If an appeal is received at least five days before the date of the December board of review, the local tax collecting unit must convene a December board of review and consider the appeal.

For the 2008 tax year only, the bill allowed an owner of property eligible for a conditional rescission who did not file a conditional rescission form prescribed by the Department with the local tax collecting unit on or before May 1, 2008, to file an appeal with the 2008 July board of review or 2008 December board of review to claim a conditional rescission for the 2008 tax year.

MCL 211.7cc

## 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

The bill will improve the stability and continuity of the exemption auditing process by increasing the time between counties' elections to audit. Through regular audits of exemptions for principal residences in a local tax collecting unit, the auditor--either the Department of Treasury or a county--develops an understanding of and familiarity with issues in that local tax collecting unit. After the Department or the county has conducted a few audits in a local tax collecting unit, the process becomes more efficient and the audits are easier to perform.

### Supporting Argument

The bill gives the Department six more months to prepare to conduct an audit in a county that elects not to conduct its own audit. Previously, a county could decide not to audit exemptions three months before an audit had to be conducted. Three months was not an adequate amount of time for the Department to prepare to conduct audits of exemptions in a county in which it may not have recently conducted audits. Nine months is a more reasonable amount of time for the Department to prepare.

Legislative Analyst: Suzanne Lowe

## FISCAL IMPACT

The bill likely will have a minimal impact on both State and local revenue and State and local expenditures. Because the bill requires a longer time commitment to perform audits, local units that elect to perform the audits themselves potentially will have higher expenditures while the State will face lower expenditures. Similarly, it is possible that fewer local units will elect to perform the audits, reducing local unit expenditures and increasing State expenditures.

Interest assessed as a result of the audits is distributed differently depending on the entity that denies an exemption. As a result, if the bill alters the entity performing the audits, the distribution of revenue also will be changed. To the extent that the State performs more audits, local units will receive less revenue from the interest and the State will receive more. Conversely, if the State performs fewer audits because more are performed at the local level, the State will receive less revenue and local units will receive more revenue.

The provisions regarding conditional rescissions are expected to have a negligible fiscal impact.

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.