

Legislative Analysis



REVISE PROPERTY TAX "POVERTY" EXEMPTIONS AND AMEND FORECLOSURE PROVISIONS

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House Bill 5257
Sponsor: Rep. Gabe Leland

House Bill 5261
Sponsor: Rep. Goeff Hansen

House Bill 5258
Sponsor: Rep. Robert Dean

House Bill 5262
Sponsor: Rep. Jon Switalski

House Bill 4050
Sponsor: Rep. Bettie Cook Scott

House Bill 5263
Sponsor: Rep. Shanelle Jackson

House Bill 5259
Sponsor: Rep. Bert Johnson

House Bill 5264
Sponsor: Rep. Richard Ball

House Bill 5260
Sponsor: Rep. Woodrow Stanley

House Bill 5265
Sponsor: Rep. Tim Melton

Committee: Urban Policy
Complete to 8-25-09

A SUMMARY OF HOUSE BILLS 4050 INTRODUCED 1-22-09 AND HOUSE BILLS 5257-5265 AS INTRODUCED 8-19-09

The bills would amend various sections of the General Property Tax Act (MCL 211.1 et seq.) 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 5257

House Bill 5257 creates a uniform statewide protocol for determining property tax exemptions on principal residences "by reason of poverty." (The bill specifies that a qualified taxpayer who, by reason of poverty, is unable to pay taxes, is eligible for exemption. Factors used to determine eligibility would include, but not be limited to, the specific income and asset levels of the person claiming an exemption, and total household income and assets. (Principal residences are owner-occupied homes.)

The application and renewal affidavit for an exemption would be in a form prescribed by the Department of Treasury, and designed to ensure uniformity, clarify, simplicity, and ease of use by applicants.

The current provisions in Section 7u of the General Property Tax Act would be eliminated and replaced with the new provisions of House Bill 5257. The current law makes certain homeowners eligible for poverty exemptions on an annual basis at the

discretion of the local supervisor or board of review. It states, *the principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation under this act.* House Bill 5257 strikes "in the judgment of the supervisor and board of review" and rewrites virtually the entire Section 7u governing poverty exemptions.

Granting Exemptions. If a qualified taxpayer was eligible for an exemption, the local board of review and supervisor would grant the exemption for the tax year in which the application was filed, and could also grant the exemption for the two immediately preceding tax years, if the qualified taxpayer would have been eligible. If the person claiming the tax exemption were not eligible, the board of review and supervisor could grant the exemption for the two immediately preceding tax years, had the person been eligible at that time. If the board of review and supervisor granted the exemption for the two preceding tax years, any exempted and unpaid taxes, interest, penalties, and fees would be extinguished. Any taxes paid in the two immediately preceding tax years would be refunded to the taxpayer by the local tax collecting unit, if the local unit had possession of the tax roll, or by the county treasurer, if the county had possession of the tax roll, within 30 days of the date the exemption was granted. The refund would be without interest. The board of review and supervisor would then report the exemption and the refund to the Department of Treasury in a form prescribed by the department.

If a qualified taxpayer were granted an exemption for a tax year, then he or she could submit a renewal affidavit to claim an exemption in the immediately succeeding tax year.

Under the bill, if a person claiming the exemption met the applicable household income requirement contained in the law and the asset level, if any, then the board of review and supervisor would exempt a percentage of the taxable value of that person's principal residence, as determined by the board of review and supervisor.

The bill specifies that the governing body of the local tax collecting unit make available to the public the eligibility requirement for the exemption, as well as application forms and renewal affidavits. If a qualified taxpayer were granted an exemption, the local tax collecting unit would then mail a renewal affidavit in the immediately succeeding tax year. The local tax collecting unit would also publish a notice of the availability of, and the eligibility requirements for, the exemption in a newspaper of general circulation within the local tax collecting unit.

Denial of Exemptions. Under the bill, the board of review and supervisor could deny an exemption for one or more of the following reasons: (1) the board and supervisor determined the taxpayer was not eligible as a qualified taxpayer; (2) the board and supervisor determined that the claim for exemption was based on fraud; (3) the board and supervisor determined that taxpayer had no interest in the property, and that the claim for exemption was an attempt to avoid the collection of taxes; (4) the board and supervisor determined that a person who did not occupy the property held an ownership interest in the property, and that person did not satisfy the applicable household income requirement

or the asset level (unless the person claiming the exemption could demonstrate that he or she did not receive any support from that other person); (5) the board and supervisor determined that there were substantial and compelling reasons why there should be a deviation from the application household income requirement or the asset level, and those substantial and compelling reasons (which would have to be specific to the applicant and not systematically used to deny otherwise eligible applicants) were communicated in writing; and (6) the state equalized valuation of the principal residence for which an exemption was claimed was substantially greater than the average state equalized valuation of a principal residence in the local tax collecting unit.

The bill specifies that filing an application for exemption or a renewal affidavit would serve as an appearance before the board of review and supervisor, and would preserve an applicant's right to appeal the board decision. A qualified taxpayer who filed an application or a renewal affidavit could also appeal the assessment on the property for which the exemption was claimed.

Qualified Taxpayer. The bill would define "qualified taxpayer" to mean a person who meets all of the following requirements:

- Owns and occupies as a principal residence the property for which an exemption is claimed.
- Files an application for exemption with the supervisor or board of review, accompanied by federal and state income tax returns for all persons residing the principal residence, including any property tax credit returns, filed in the immediately preceding tax year or in the current tax year.
- Produces a valid driver license, state personal identification card, or other form of identification, if requested by the supervisor or board of review.
- Produces a deed, land contract, or other evidence of ownership of the property for which an exemption is requested, if requested by the supervisor or board of review.
- Has household income that meets one of the following requirements:
 - Is equal to or less than the federal poverty guidelines published annually in the federal register by the U.S. Department of Health and Human Services (See chart later); or
 - Is equal to or less than alternative income guidelines adopted by the governing body of the local tax collecting unit (as long as they are not less than the income eligibility requirements set forth above; that is, the requirements could not make it harder for a taxpayer to qualify).
- A local tax collecting unit could establish an asset level as a criterion for exemption. If the local tax collecting unit had established an asset level as a criterion for exemption, then the asset level of the person claiming an exemption could not exceed that level. A local tax collection unit would not consider any of the following in calculating the asset level of a person claiming an exemption under this section:

- State equalized valuation of the principal residence of the person claiming an exemption.
- Any individual item of tangible personal property with a value of less than \$5,000, excluding cash, stocks, bonds, and similar items of value.
- Cash, stocks, bonds, and similar items of value with an aggregate value of less than \$5,000.
- An account established under the Individual or Family Development Account Program Act, 2006 PA 513, MCL 206.701 to 206.711.
- An account established under the Michigan Education Savings Program Act, or any other qualified tuition program approved under Section 529 of the Internal Revenue Code.
- One automobile per household.

NOTE: Following are the 2009 federal poverty guidelines for the 48 contiguous states as listed in the Federal Register.

Size of Family Unit	Poverty Guidelines (100%)
1	\$10,830
2	\$14,570
3	\$18,310
4	\$22,050
5	\$25,790
6	\$29,530
7	\$33,270
8	\$37,270
For each additional person, add	\$3,740

House Bill 5258

House Bill 5258 specifies that a local tax assessor may provide notification of the exemption available to a taxpayer in a separate mailing made not less than 10 days before the meeting of the board of review. The separate mailing would include, but need not be limited to, the following statement:

"Under Michigan law, if you are unable to pay the taxes due on your home for reasons of poverty, you may be eligible for a full or partial exemption. Please contact your local assessor's office for more details."

The bill also specifies that for taxes levied after December 31, 2009, if a separate notice is not provided, the mailing that includes the assessment notice would have to include the statement noted above.

House Bill 4050

House Bill 4050 would specify the word "taxes" as used in Section 78B to 79A, does not include delinquent water bills or any other delinquent utility bills unless both of the following occur: (1) the water bill, or other utility bill collections, provide a source of repayment of public bonds or notes issued before the effective date this amendatory act is added; and (2) the terms of the public bonds or notes require collection of the water or other utility bills.

House Bill 5259-5261

House Bill 5259 would amend section 30 of the General Property Tax Act to revise the notice of delinquent taxes. Currently, a non-resident taxpayer may file his or her appearance, protest, and papers in support of the protest by letter and his or her appearance is not required. Under the bill, a resident or non-resident taxpayer could file his or her appearance, protest, and papers by letter and the township or city would include a statement notifying taxpayers of the option in each assessment notice and on each notice or publication of the meeting of the board of review.

House Bill 5260 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 the provision but revise it to say, "The date, stating the month, day, and year . . ."

The bill would 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 5261 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 5262

House Bill 5262 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 5263

House Bill 5263 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; and (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 5263 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 5264

House Bill 5264 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 with 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 5264 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 owners of the property identified under subsection (1), to a person entitled to notice of the return of delinquent taxes under Section 78a(4) (that is, those paying a fee to the county treasurer to receive copies of such notices), and to the occupant, if any, at the address for the property listed in the tax rolls or ascertained during the personal visit to the property under section 78i, if the address is evident.*

House Bill 5265

House Bill 5265 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 each person with a legal interest in an improved property, and to the occupant, if any, at the address for the property listed in the tax rolls or ascertained during the personal visit to the property under Section 78i, if the address is evident. 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 following is the fiscal impact statement from HFA on a similar package of bills introduced in the 2007-08 legislative session.

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.