Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 77 (Substitute S-2 as reported)
Sponsor: Senator Jud Gilbert, II
Committee: Finance

Date Completed: 8-31-10

RATIONALE

A concern has been raised regarding the filing deadline for a homeowner to claim an exemption from school operating taxes. Under the General Property Tax Act, a person's principal residence is exempt from the tax levied by a local school district for school operating purposes, which typically means that the property is taxed at the rate of six mills, rather than 24. (Nonexempt property is subject to school operating taxes, which are usually 18 mills, as well as the six-mill State Education Tax.) To claim the exemption, the property owner must file an affidavit with the local tax collecting unit by May 1. When the home is sold, the property remains exempt from school operating taxes until the end of the year, and the new owner has until the following May 1 to file an affidavit claiming the exemption. In some cases, however, a person will purchase residential property that was not subject to the exemption. For example, if a house was the seller's vacation home or second home, it would not have been exempt because it was not the seller's principal residence. Also, if someone buys vacant property and builds a new house, the property will not have been exempt. Another scenario involves homes that were subject to foreclosure and not sold before May 1 of the following year.

Under these and other circumstances, there will be a period of time when the home is subject to school operating taxes. If an affidavit claiming the exemption is not filed by May 1 of a year, the property will remain nonexempt for the balance of the year. To address these situations, some people believe that homeowners should be able to file an affidavit later in the year.

CONTENT

The bill would amend the General Property Tax Act to establish a second deadline for a property owner to file an affidavit claiming the principal residence exemption.

The current filing deadline of May 1 would apply for taxes levied before January 1, 2010.

For taxes levied after December 31, 2009, a taxpayer would have to file an affidavit by May 1 for the next summer tax levy and all subsequent tax levies, or by October 1 for the next winter tax levy and all subsequent tax levies.

The bill would make the same change regarding the filing deadline for a cooperative housing corporation to claim a full or partial principal residence exemption.

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 would offer property tax relief to home-buyers who cannot file an affidavit claiming the principal residence exemption until after May 1. As described above, if someone purchases a nonexempt home, it will be subject to school operating taxes for the balance of the year if an affidavit is not filed by the May 1 deadline. For example, if an affidavit is filed on August 1, under current law the property will remain nonexempt for the rest of the year. If the local school district collects all of its operating taxes in the winter, the winter tax levy will be based on 24 mills: the 18-mill school operating tax and the six-mill State Education Tax (SET). If the school district splits its tax collection between summer and winter, the winter tax levy will be 18 mills: nine mills of school operating taxes and six mills in SET. Under the bill, however, in either case the property would be subject only to the six-mill SET. In these situations, allowing local assessors to reclassify property for the winter property tax bill could result in considerable savings for the affected homeowners.

Opposing Argument
The bill would have an arbitrary impact on taxpayers based on whether their local school district levies all 18 mills of operating taxes in summer, levies all 18 mills in winter, or splits the levy between summer and winter. Three different taxpayers buying identical homes on the same date could be treated differently depending solely on when their school district collects taxes. Even if this would not violate the constitutional requirement that property taxes be uniform—because school operating taxes are not subject to that mandate—there still could be an equal protection question. Apart from these issues, it simply would not be appropriate to subject people to different tax treatment in this manner.

Opposing Argument
The bill is not needed in most situations. In the typical transaction involving a home sold after May 1, the seller's principal residence exemption will continue until the end of the year. The buyer will have the benefit of the exemption even though the May 1 deadline was not met, and he or she simply will have to file an affidavit by the following May 1 in order for the exemption to continue. Also, the Act allows an owner to retain a principal residence exemption for up to three years on an unoccupied home that is for sale and is not leased. This allows a home to remain on the market for several years without losing its exempt status, which benefits both the owner and the eventual buyer.

Even in a foreclosure situation, the home will remain exempt until the end of the year. If the home is not sold until the following year, the buyer will not pay a full year of school operating taxes—assuming that the parties to the transaction agree that the buyer's tax liability will not begin until after the sale, or even until the following year. The same is true in other situations in which nonexempt homes are sold.

Another situation involves vacant property, which is not exempt from school operating taxes. If someone buys the land and builds a home on it, but does not claim the exemption until after May 1, the property will remain nonexempt for the year but the tax roll will continue to reflect only the value of the land without the house. Allowing an owner to claim the exemption under these circumstances would, in effect, confer principal residence status on vacant land.

Opposing Argument
The bill does not sufficiently address the roles of local assessors and county treasurers. Allowing property to be reclassified for a winter tax levy would require both the tax bill and the tax roll to be revised. It also would necessitate reporting to the Department of Education. Although county treasurers currently report principal residence exemptions to the Department, the bill would not require them to report adjustments made as a result of claims filed after May 1.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase school aid costs by an unknown and potentially significant amount, depending on the number of new exemption certificates filed (as a result of home sales, new construction, changes in living arrangements, the locations of affected property, etc.). The Department of Treasury estimates that under current sales levels and property values, the bill would increase school aid costs by approximately $4.0 million to $5.0 million per year in the near future. Local school districts would experience a loss of locally raised revenue, increasing demands on the School Aid Fund in order to meet per-pupil funding guarantees. Unless additional revenue would be directed to the School Aid Fund to offset the increased demands, the bill would decrease overall funds available to schools statewide.

Fiscal Analyst: David Zin