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BILL ANALYSIS

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Senate Bill 77 (as enrolled)
Sponsor: Senator Jud Gilbert, II
Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 12-14-10

CONTENT

The bill would amend the General Property Tax Act to allow a land contract vendor, bank, credit union, or other lending institution to retain the principal residence exemption on foreclosed property for up to three years, but not after December 31, 2014; require the vendor or lending institution to pay an amount equal to what it otherwise would have paid in school operating taxes, which would be deposited in the School Aid Fund; and require the vendor or institution to pay an administration fee, which would be divided between the local tax collecting unit and the Department of Treasury.

Under the Act, a person's principal residence is exempt from the tax levied by a local school district for school operating purposes, which means that the property typically is taxed at the rate of six mills, rather than 24. (Nonexempt property is subject to school operating taxes under Section 1211 of the Revised School Code, which are usually 18 mills, as well as the six-mill State Education Tax.) When the home is sold, the property remains exempt from school operating taxes until the end of the year. Within 90 days after exempted property is no longer used as a principal residence by the owner claiming the exemption, the owner is required to rescind the claim of exemption. An owner may retain the exemption for up to three years by filing a conditional rescission form with the local tax collecting unit, if the property is for sale and is not occupied, leased, or used for any business or commercial purpose.

Under the bill, beginning in the 2011 tax year through the 2014 tax year, if a land contract vendor, bank, credit union, or other lending institution owned property as a result of foreclosing on it, and the property had been exempt as a principal residence immediately before the foreclosure, the land contract vendor, bank, credit union, or lending institution could retain the exemption for up to three years, but not after December 31, 2014. The property would have to be for sale and could not be occupied, could not be leased to anyone except the person who claimed the principal residence exemption before the foreclosure, and could not be used for any business or commercial purpose.

The land contract vendor, bank, credit union, or other lending institution would have to pay an amount equal to the amount that it would have paid under Section 1211 of the Revised School Code if it had not retained the exemption. The payment would have to be collected by the local tax collecting unit at the same time and in the same manner as taxes collected under the General Property Tax Act, and would have to be distributed to the Department of Treasury for deposit into the State School Aid Fund.

The land contract vendor, bank, credit union, or other lending institution also would have to pay a property tax administration fee imposed under the Act. The local tax collecting unit would have to retain half of the fee and distribute the balance to the Department.

If the land contract vendor, bank, credit union, or other lending institution transferred ownership of the property, it would have to rescind the exemption and notify the treasurer of the local tax collecting unit of the transfer. The treasurer would have to refund a pro rata portion of the last payment made, based on the number of days in the year that the vendor, bank, credit union, or lending institution owned the property.

If the land contract vendor, bank, credit union, or other lending institution failed to make a required payment, the local tax collecting unit would have to deny the conditional exemption. The denial would be retroactive and effective on December 31 of the preceding year.

A land contract vendor, bank, credit union, or other lending institution could claim an exemption under the bill by filing a conditional rescission form by May 1 with the local tax collecting unit. As required for a person filing a conditional rescission under current law, the vendor, bank, credit union, or lending institution would have to verify annually to the local assessor that the property was for sale and was not occupied, leased (except to the previous homeowner), or used for a business or commercial purpose.

MCL 211.7cc

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would affect both State and local revenue and expenditures by an unknown amount depending on the number of properties affected and the specific characteristics of those properties. The bill would increase School Aid Fund revenue and the demands on School Aid Fund expenditures by equal amounts. Local school district revenue would be reduced but School Aid Fund expenditures would increase in order to maintain per-pupil funding. The bill also would provide an additional increase in State revenue equal to one-half percent of the increase in School Aid Fund revenue, from the administration fee. The bill indicates the additional increase would be distributed to the Department of Treasury but does not indicate the disposition of the funds.

The bill would decrease local unit revenue in two additional ways: 1) The bill would require local units to remit one-half of their administration fee to the State, and 2) the bill would require local treasurers to provide pro-rated refunds when property was sold, even though the payments being refunded were remitted to the State. The bill also would increase local unit expenses by an unknown amount by requiring local treasurers and assessors to account for foreclosed property in a different manner than they account for than other properties.

Fiscal Analyst: David Zin