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BILL ANALYSIS



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Senate Bill 887 (as passed by the Senate)
Sponsor: Senator Mark C. Jansen
Committee: Finance

(as enrolled)

Date Completed: 1-14-10

RATIONALE

Section 7d of the General Property Tax Act contains a tax exemption for housing owned and operated by a nonprofit entity, the State, or a local unit, for occupancy or use solely by elderly or disabled families. An amendment enacted in 2008 extended the exemption to housing owned by a limited dividend housing corporation, and established new procedures for a property owner to claim the exemption. An exemption must be approved by the local assessor, and each year the owner must submit an affidavit confirming eligibility to the assessor and the Department of Treasury. If an affidavit is not submitted, the exemption is revoked. In addition, each year the appropriate collecting officer must send the Department a statement for payment in lieu of taxes, and the State Treasurer must send a payment to the local treasurer.

As the Department of Treasury has pointed out, the collecting officer's statement must include the base valuation of the property and a calculation of the payment in lieu of taxes based on the mills levied, but the requirement for the State Treasurer to make a payment refers to the property's base valuation. Unless this inconsistency is addressed, the Department is unsure how to determine the amount of payments in lieu of taxes. In addition, according to the Department, the eligible parcels are stable in value and number, making the annual filings and calculations unnecessary. The Department has suggested streamlining the process for claiming an exemption, and requiring the State Treasurer to make fixed annual payments.

CONTENT

The bill would amend Section 7d of the General Property Tax Act to revise provisions for the exemption of housing owned by a nonprofit corporation or association, the State, a political subdivision of the State, an instrumentality of the State, or a limited dividend housing corporation, for elderly or disabled families. The bill would do the following:

- **Delete requirements for property owners to submit annual affidavits of eligibility and for collecting officers to prepare annual statements for payment in lieu of taxes.**
- **Delete a requirement that the State Treasurer make payments in lieu of taxes based on the property's value.**
- **Require the State Treasurer to make annual payments in lieu of taxes based on the amount of taxes paid in 2008, for property exempt before 2009.**
- **For property not exempt before 2009, or for new construction to exempt property, require the local tax collecting unit to calculate a payment in lieu of taxes based on the number of mills levied in the first year for which the exemption was valid.**
- **Require the State Treasurer to prorate the payments if insufficient funds were appropriated to make all payments in full.**
- **Allow the Department of Treasury to deny an exemption.**
- **Give the Department standing to appeal issues concerning tax liability**

for exempt property in the Michigan Tax Tribunal and all courts of the State.

The Act requires the assessor of the local tax collecting unit to approve or disapprove a property owner's claim for exemption, and notify the owner of the approval or disapproval. Under the bill, the assessor also would have to notify the Department of Treasury, which could deny an exemption.

The owner of exempt property would have to notify the local tax collecting unit and the Department of any change in the property that would affect the exemption.

Currently, if a claim for exemption is approved, the owner annually must submit to the Department and the assessor an affidavit confirming eligibility for an exemption. If an affidavit is not submitted, the exemption is revoked and the property must be assessed and taxed as provided in the Act. The bill would delete these provisions.

The Act requires the appropriate collecting officer to prepare a statement for payment in lieu of taxes, and forward it to the Department by December 1 each year, if property for which an exemption is claimed would have been subject to taxation if an exemption had not been granted. The statement must include a description of the property; the name and address of the corporation, association, or limited dividend housing corporation that owns the property; the base valuation of the property; and the total amount of payment in lieu of taxes. The payment must be calculated by multiplying the base valuation by the number of mills levied by all taxing units in the local tax collecting unit, excluding any mills that would have been levied under Section 1211 of the Revised School Code (mills levied for school operating purposes) and under the State Education Tax (SET) Act.

The bill would delete these provisions, as well as provisions for determining the base valuation of the property. (That determination depends on whether the property was exempt before January 20, 2009, which is the effective date of amendments extending the exemption to property owned by a limited dividend housing corporation. For property exempt

before that date, the base valuation is the property's taxable value on the assessment roll in the 2008 tax year. For property not exempt before that date, the base valuation is the taxable value in the year in which a claim for exemption is made or, for new construction, the taxable value in the year in which construction is completed and a certificate of occupancy or similar document is issued.)

Currently, within 60 days after receiving statements from collecting officers, the State Treasurer must forward to the treasurers of the local tax collecting units warrants based on the amount of the property's base valuation. The bill would delete this requirement.

The bill would require the State Treasurer, upon verification, to make a payment in lieu of taxes if property for which an exemption was claimed would have been subject to taxation if an exemption had not been granted. For property exempt before January 1, 2009, the payment would have to equal the amount of taxes paid on the property for the 2008 tax year, excluding any mills that would have been levied under Section 1211 of the Revised School Code and the SET Act.

For property not exempt before January 1, 2009, and for new construction to property exempt before that date, the local tax collecting unit would have to calculate a payment, on a form prescribed by the Department, by multiplying the taxable value of the property in the first year for which the exemption was valid by the number of mills levied in that year by all taxing units in the local tax collecting unit, excluding any mills that would have been levied under Section 1211 of the Revised School Code and the SET Act.

The bill would require all payments to be forwarded to the local tax collecting units by December 15 each year. The Department could require local tax collecting units to receive payments through electronic funds transfer.

If insufficient funds were appropriated to make all payments in full, the Department would have to prorate the payments made.

Currently, local tax collecting units must distribute the amount received in the same

manner and in the same proportions as general ad valorem taxes collected under the General Property Tax Act. The bill would refer to taxes collected under the Act excluding any distribution that would have been made under Section 1211 of the Revised School Code and the SET Act.

The bill specifies that the Department of Treasury would have standing to appeal the assessed value, taxable value, State equalized valuation, exempt status, classification, and all other issues concerning tax liability for property exempt under Section 7d in the Michigan Tax Tribunal and all courts of the State.

MCL 211.7d

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

Before Public Act 585 of 2008 amended the exemption for housing occupied by seniors and disabled families, the General Property Tax Act required the State Treasurer to make payments to local tax collecting units for the amount of tax revenue they lost as a result of the exemption. The current requirement for payments in lieu of taxes, however, refers to the subsection that requires a local collecting officer's statement to include the base valuation of the property, rather than the subsection that requires the statement to include the amount of payment in lieu of taxes and provides for the calculation of that amount based on mills levied. Unless this inconsistency is corrected, the Act appears to require the State Treasurer to send local treasurers the amount of an exempt property's value.

At the same time, Public Act 585 added new procedural requirements for claiming the exemption. The annual filing requirement, however, could trip up an owner who neglects to file an affidavit, causing the owner to lose the exemption. The requirements also generate unnecessary paperwork for the Department, which reports that the value and number of exempt parcels are stable.

The bill would streamline the process for claiming an exemption by eliminating the requirements for owners to file annual affidavits and for collecting officers to file statements and recalculate the amount of payments each year. Instead, the State Treasurer would send the same amount of payments in lieu of taxes each year for exempt property, based on the amount of taxes paid in 2008. For newly exempt property or new construction, the exemption would be based on what the tax liability would be in the first year the exemption was valid. As a result of these changes, the incorrect reference to a subsection in the current language would be moot, and the amount of payments would not have to be adjusted every year.

In addition, under the bill, the State Treasurer would have the authority to prorate payments if appropriations were insufficient.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a negligible impact on State and local finances. Eliminating the annual submission confirming eligibility for the exemption would reduce local administrative efforts negligibly but also increase the opportunities for abuse. The proration provisions would not alter the funds available to make any required payments but would provide direction to the State in instances in which the appropriation is less than the required amount.

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.