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BILL



ANALYSIS

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Senate Bill 349 (as reported without amendment)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 1-5-12

RATIONALE

Concerns have 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 is usually 18 mills. 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 exempt. 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 year after the foreclosure.

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 after May 1 and receive a prorated exemption.

CONTENT

The bill would amend the General Property Tax Act to allow a property owner to file an affidavit claiming the principal residence exemption at any time after tax day in a tax year; require tax liability to be prorated if an affidavit were filed after May 1; and require taxes to be rebated if an affidavit were filed after May 1 and an exemption resulted in an overpayment.

Under the bill, the May 1 deadline to file an affidavit claiming the exemption would apply for taxes levied before January 1, 2011. For taxes levied after December 31, 2010, an owner would have to file an affidavit at any time after tax day (the preceding December 31) in a tax year. If an affidavit were filed by May 1, the property would be exempt from taxes levied for school operating purposes. If an affidavit were filed after May 1, the property's liability for school operating taxes in that tax year would have to be calculated according to the following formula:

	# of days from the preceding
Local school	December 31 until the
operating tax x	<u>date the affidavit is filed</u>
	# of days in the tax year

If an affidavit were filed after May 1 and granting the exemption resulted in an overpayment of the tax, a rebate would have to be made to the taxpayer as provided in the Act.

In addition, the Act allows a cooperative housing corporation to claim a full or partial principal residence exemption for the tax

year in which it files an affidavit form and other documents specified in the Act, if those items are filed with the local tax collecting unit by May 1. The bill would make the same changes as described above, regarding the filing deadline, the calculation of the exemption, and the requirement for a rebate.

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 include the entire 18-mill school operating tax. If the school district splits its tax collection between summer and winter, the winter tax levy will include nine mills of school operating taxes. Under the bill, however, in either case the property taxes for the year would be prorated, based on when the affidavit was filed. For example, if an affidavit were filed on August 1, 2012, the formula in the bill would produce a tax rate of approximately 10.5 mills. If summer taxes already had been paid based on a higher rate, the bill would require a rebate of the overpayment.

This equitable approach would result in savings to homeowners and could help would-be buyers obtain financing, since they would not have to qualify at the nonhomestead rate. These changes could boost the housing market in Michigan.

Opposing Argument

The bill presents several potential problems, including the administrative burden that a daily proration would impose. Since the tax rate would have to be prorated for any

eligible home-buyer who filed an affidavit after May 1, a tax collecting unit could be required to compute up to 244 different tax rates for the remaining days of a tax year. This could result in considerable work for local units and confusion for all concerned.

Also, the bill would require a rebate to the taxpayer in the event of an overpayment. If the taxes to be refunded had been paid by the former owner, then the rebate presumably would be owed to that person, rather than the home-buyer filing the affidavit. The whereabouts of the former owner would not necessarily be known to the tax collecting unit, however. Having to track that person down would add to the administrative burden and costs imposed on local units.

The requirement for a rebate also could create a new opportunity for embezzlement. The actual administration of tax collection involves multiple stages and officials, creating a system of checks and balances. Under the bill, however, there potentially could be one person in a tax collecting unit determining who would receive a refund and how much would be paid, and each transaction would have to be audited separately.

Combined, these factors would impose significant demands on local units, which could lead to a Headlee challenge unless the local units were reimbursed for the cost of compliance. If the deadline is to be changed, a more manageable approach would be to create one or more additional filing deadlines or move the deadline to later in the year.

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 properties, etc.). 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 were 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

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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.