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House Bill 4668 (Substitute H-2 as passed by the House)
House Bill 4669 (Substitute H-1 as passed by the House)
Sponsor: Representative Frank Foster
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 2-22-12

CONTENT

House Bill 4668 (H-2) would add Section 16a to Public Act 230 of 1897, which provides for the formation of summer resort corporations, to do the following:

- Require the taxable and assessed values of a corporation's real property to be allocated among stockholder lessees so that each was fairly assessed for the leased property and for real property improvements available for the stockholders' common and exclusive use.
- Allow the corporation to propose to the local assessor the percentage he or she should use to allocate the values of the corporation's property.
- Specify that the taxable and assessed values of property available for stockholder lessees' common and exclusive use would be zero, if the values were allocated as provided in the bill.
- Provide that, if a stockholder lessee assigned a lease and transferred the related stock, the price paid for the transfer would include the value of the property subject to the lease.

House Bill 4669 (H-1) would amend the General Property Tax Act to specify that a transfer of ownership would not include a change to the assessment roll or tax roll resulting from the application of Section 16a of Public Act 230 of 1897; and to describe what would constitute a transfer of ownership in the event of a transfer of stock in a summer resort corporation.

The bills are tie-barred.

House Bill 4668 (H-2)

Public Act 230 of 1897 allows five or more people to form a corporation for the purpose of owning land for a summer resort. If the corporate bylaws allow stockholders to select lots to build on, the property of the corporation must be platted, and the lots may be leased to the stockholders.

Under Section 16a, proposed by the bill, if a corporation's real property had been platted and lots had been leased to stockholders as provided in the Act, all of the taxable and assessed values of the property within the plat would have to be allocated to the stockholder lessees so that each lessee was fairly assessed for all of the following:

- The real property each lessee leased from the corporation.
- Any of the corporation's real property improvements that were within the plat and were available for the common and exclusive use of the stockholder lessees, including their guests.

A corporation could propose to the local assessor the percentage he or she should use to allocate the taxable and assessed values of the corporation's property within the plat to the property leased by the stockholders. The total proposed allocation would have to equal 100%. The allocation also would have to be the same as, or calculated using the same methodology as, the corporation used in the previous tax year to allocate its real property taxes to the stockholders for payment to the corporation, if the corporation made such an allocation.

If the assessor allocated taxable and assessed values as proposed, that allocation would be presumed to be a fair assessment of the allocated values. If a stockholder lessee appealed the allocation, the lessee would have the burden of proof to establish by clear and convincing evidence that the values allocated by the assessor violated Section 16a.

If taxable and assessed values were allocated under Section 16a, the following would apply to any real property within the plat that was owned by the corporation and available for the common and exclusive use of the stockholder lessees in any subsequent year:

- The taxable and assessed values would be zero, because the value of that property would be included in the assessment of the property leased by the stockholders.
- If a stockholder assigned a lease and transferred the related stock, the value of the property subject to the lease would be deemed to be included in the price paid for a transfer of the real property interests of a lessee; and the purchase price paid would not be the presumptive true cash value of the property transferred.

If a stockholder assigned a lease and transferred the related stock, a property transfer affidavit would have to be filed as provided in the General Property Tax Act.

House Bill 4669 (H-1)

Under Michigan law, the taxable value of a parcel of property (adjusted for additions and losses) may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the parcel is taxed upon its State equalized valuation (50% of its true cash value). The General Property Tax Act defines "transfer of ownership" for this purpose and identifies transactions that do not constitute a transfer of ownership.

The term "transfer of ownership" includes a conveyance of an ownership interest in a corporation, partnership, limited liability company, or other legal entity if the ownership interest conveyed is more than 50% of the corporation, partnership, limited liability company, or other legal entity. The bill would make an exception to this provision.

Under the bill, both of the following would apply to a corporation subject to Public Act 230 of 1897:

- A transfer of stock of the corporation would be a transfer of ownership only with respect to the real property that was assessed to the transferor lessee stockholder.
- A cumulative conveyance of more than 50% of the corporation's stock would not constitute a transfer of ownership of the corporation's real property.

In addition, "transfer of ownership" would not include a change to the assessment roll or tax roll resulting from the application of proposed Section 16a of Public Act 230.

Proposed MCL 455.16a (H.B. 4668)
MCL 211.27a (H.B. 4669)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would reduce State and local property tax revenue by an unknown amount that would depend on the specific characteristics of affected properties, including the frequency such properties would be conveyed (and the associated transaction amounts) under transfers identified in the bill.

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.