

PRINCIPAL RESIDENCE EXEMPTION AMENDMENTS

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House Bill 4406 (Substitute H-2)
Sponsor: Rep. Brandon Dillon
Committee: Tax Policy

Complete to 7-29-14

A SUMMARY OF HOUSE BILL 4406 AS REPORTED FROM COMMITTEE

House Bill 4406 (H-2) would make several amendments to the General Property Tax Act (1893 PA 206) regarding the principal residence exemption (PRE), which provides an exemption for a taxpayer's owner-occupied principal residence from the 18 mills (generally) levied for school operating purposes.¹

Principal Residence Exemption Affidavit

The General Property Tax Act provides an exemption for a taxpayer's owner-occupied principal residence from the 18 mills levied for school operating purposes. In order to claim a principal residence exemption, property owners must file an affidavit with the local tax collecting by June 1 or November 1, with the exemption applying to taxes levied thereafter.²

The act requires that one copy of the affidavit be retained by the owner, one copy be filed with the Department of Treasury, and one copy be retained by the local tax collecting unit until any appeal or audit period has expired.

House Bill 4406 (H-2), instead, requires that a copy of the affidavit be retained by the owner and one copy be retained by the local tax collecting unit.

The bill further provides that notwithstanding the affidavit filing requirement, an owner of property would be considered to have claimed the PRE if the annual assessment notice or tax bill indicated that the property was receiving an exemption and if the owner failed to file a request to rescind the PRE, informing the local assessor that the property was no longer eligible for the PRE.³

Limits on the Number of PREs Claimed

The bill provides that a person is not entitled to a PRE if that person has claimed a substantially similar exemption, deduction, or credit on property in another state that is

¹ Generally speaking, "principal residence" is defined as the one place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established. For more information on the PRE, see the Department of Treasury's website, http://www.michigan.gov/taxes/0,1607,7-238-43535_43539---,00.html.

² http://www.michigan.gov/documents/2368f_2605_7.pdf.

³ http://www.michigan.gov/documents/2602f_2607_7.pdf.

not rescinded. House Bill 4406 (H-2) clarifies that a PRE is not allowed if the person claimed *or received* a similar tax benefit in another state.

Request to Rescind a PRE

The act provides that owners of property no longer used as a principal residence must file a request to rescind a PRE with the local tax collecting unit not later than 90 days after that property is no longer a principal residence. House Bill 4406 (H-2) provides that this rescission form would have to be retained by the local tax collecting unit, with a copy forwarded to the Department of Treasury upon request.

Assessor Denial of a PRE Claim

The act provides that if the local assessor believes that a property subject to the PRE is not the principal residence of the owner claiming the exemption, the local assessor may deny a new or existing claim by providing notice to the owner and the Department of Treasury. House Bill 4406 (H-2) would require the assessor to notify the county treasurer, rather than the Department of Treasury, if a PRE claim is denied.

If a PRE claim is denied by the local assessor, the owner may file an appeal with the Michigan Tax Tribunal (Small Claims Division) within 35 days after being notified of the denial. The bill would allow an appeal to the MTT to be made within 60 days.

The bill would also require the local assessor to annually send to the Department of Treasury a list of the parcels for which a PRE claim was denied.

If the assessor denies an existing claim for a PRE, the tax rolls must be corrected within 30 days. The bill would require the tax roll to be corrected within 60 days.

Department of Treasury PRE Audits

Under the act, as amended by 2003 PA 105, the Department of Treasury has the authority to conduct audits of principal residence exemption claims to ensure the validity of a claim for the current year and the immediately preceding three years. If the department determines that the property is not the principal residence of the owner claiming the exemption, the department may deny the claim. The property owner may appeal the denial of the claim to the Hearings Division within the Department of Treasury within 35 days of notice of the denial. The decision of the Hearings Division can be appealed to the Michigan Tax Tribunal within 35 days of the decision. House Bill 4406 (H-2) would change both of these 35-day time periods to 60 days. Similar to an earlier provision, the bill would also require that the tax rolls be corrected to reflect the Treasury denial within 60, rather than 30 days.

Additional Interest and Taxes

During the appeal of a Department of Treasury denial of the principal residence exemption claim, interest accrues at a rate of 1.25% per month from the date taxes were last due without interest and penalty. The bill would require the local tax collecting unit and the county treasurer to provide an annual summary report to the Department of Treasury on the amount of additional taxes and interest billed due to the PRE denial.

The bill also provides that upon receipt of a timely appeal of a Treasury denial of a PRE claim, interest would not accrue after six months from the date the department received the appeal. Interest on any corrected or supplemental tax bill would begin to accrue after the date of the notice or informal conference or upon the date the appeal is withdrawn by the owner, whichever occurs first, at a rate of 1.25% per month.

County PRE Audits

The act also permits counties to elect to audit PRE claims. Similar to earlier provisions, the bill would no longer require the county to notify the Department of Treasury if it denies a PRE claim, and would permit denials to be appealed to the MTT within 60 days, rather than 35 days. The bill would require counties to provide the Department of Treasury with an annual report on the result of county PRE audit activities.

Multiple PRE Affidavits

In MCL 211.7cc(15), the act provides that the filing of a PRE affidavit rescinds all previous exemptions filed by the owner (notwithstanding the requirement to file a request of rescission), and further requires the Department of Treasury to notify the local tax collecting units in which the previous PRE was claimed. House Bill 4406 (H-2) would delete these provisions.

The act further provides that when a PRE is rescinded, the local assessor would remove the exemption effective December 31 of the year in which the affidavit was filed. In subsection (5), the act requires the owner to rescind the PRE within 90 days of when the property is no longer a principal residence. The bill, amending subsection (15), provides that if the 90-day period described in subsection (5) includes 2 calendar years, the local assessor would have to remove the exemption effective December 31 of the first year.

FISCAL IMPACT:

House Bill 4406 (H-2) would have an indeterminate, but likely negligible, fiscal impact on the Department of Treasury. Under the provisions of the bill, interest could continue to be collected up to six months after the date the department received an appeal of the department's denial of the principal residence exemption claim. With respect to local governments, the bill would alter administrative responsibilities related to principal residence exemptions (noted above), but those changes would not likely impose a net cost on local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.