Legislative Analysis

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WAIVE INTEREST DURING APPEAL OF PRINCIPAL RESIDENCE EXEMPTION DENIAL

House Bill 4406
Sponsor: Rep. Brandon Dillon
Committee: Tax Policy
Complete to 5-21-13

A SUMMARY OF HOUSE BILL 4406 AS INTRODUCED 3-12-13

House Bill 4406 provides that interest would not be calculated for the period during which the Hearings Division within the Department of Treasury is considering the appeal of a denial of a claim for the principal residence exemption claim. The bill is explained in more detail below.

The General Property Tax Act (1893 PA 206) 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. 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.

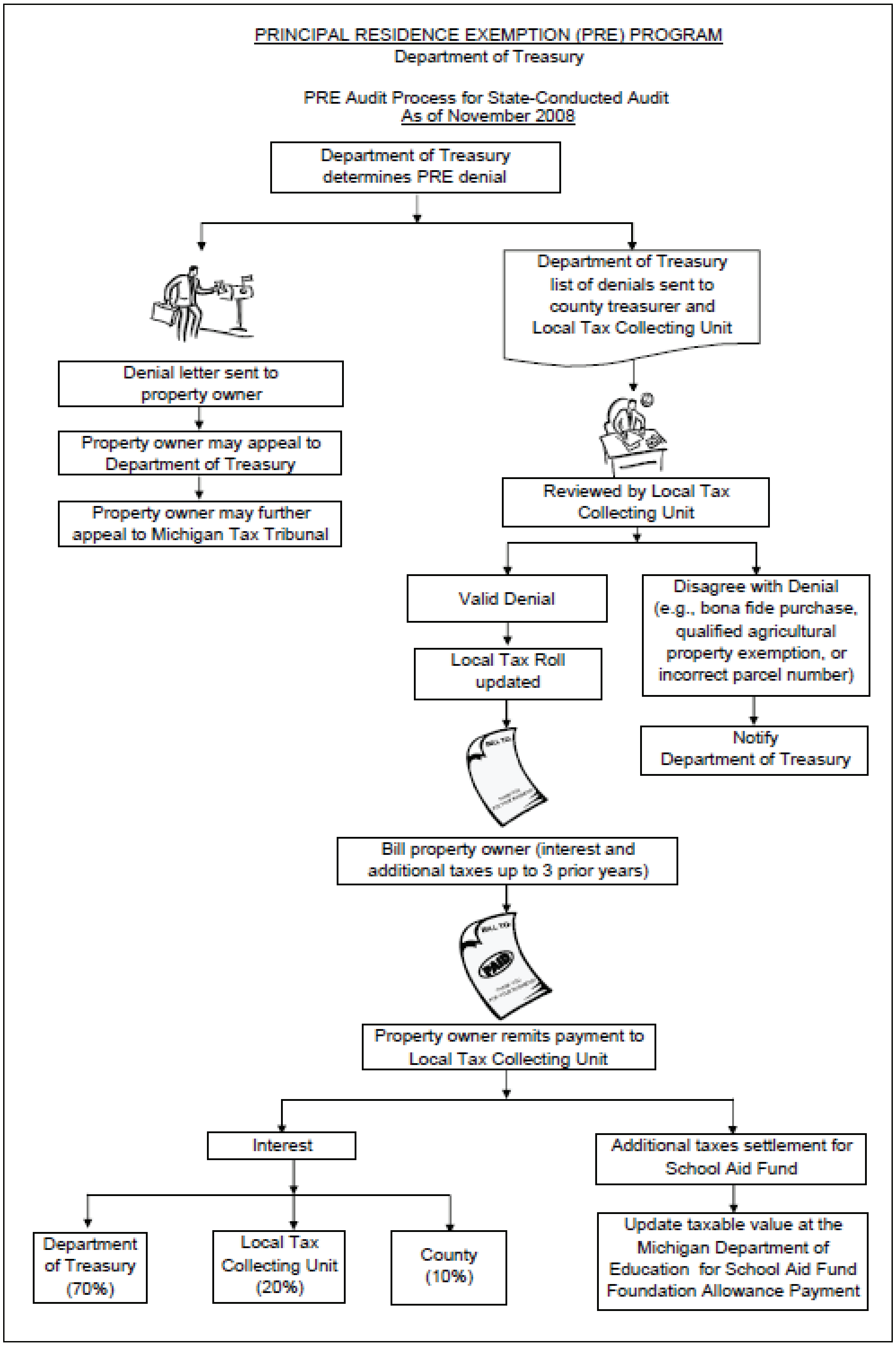
Under the act, as amended by 2003 PA 105, the Department of Treasury has the authority to conduct audits of principal residence exemption claims to ensure the validity of a claim for the current year and the immediately preceding three years.[1] If the department determines that the property is not the 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.

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. As noted earlier, House Bill 4406 provides that interest would not be calculated for the period during which the Hearings Division is considering the appeal of a denial of a claim for the principal residence exemption claim.

[1] See MCL 211.7cc (8). The state has a contract with Tax Management Associates to audit principal residence exemption claims, http://www.michigan.gov/documents/buymichiganfirst/1300371_362481_7.pdf. The act expressly permits counties (through a determination by the county treasurer or the equalization director with the concurrence of the board of commissioners) to audit principal residence exemption claims. The Department of Treasury is responsible to conduct audits in those counties that have not elected to do so. MCL 211.7cc(6) permits local assessors to deny new or existing claim for the current and previous three years, with a denial appealable to the Michigan Tax Tribunal within 35 days of the denial. MCL211.7cc(19)

Below is a flow chart of the process of state-conducted principal residence exemption audits.

Chart



Source: Office of the Auditor General, *Performance Audit of the Principal Residence Exemption Program*, March 2009

FISCAL IMPACT:

House Bill 4406 would lower the amount of interest collected as compared to current law. Under the provisions of the bill, interest could not be calculated for the period during which the Hearings Division is considering the appeal of a denial of a claim for the principal residence exemption claim. The extent of the fiscal impact is indeterminate but would lower revenues to the local tax collecting unit, county in which the property is located, and the Principal Residence Property Tax Exemption Audit Fund.

Under the General Property Tax Act, interest due on principal residence exemption claims denied by the Department of Treasury is shared among the local tax collecting unit (20%), the Department of Treasury (70%), and the county in which the property is located (10%). Interest retained by the Department of Treasury is to be deposited into the Principal Residence Property Tax Exemption Audit Fund, which is to be expended for the purpose of auditing principal residence exemption claims.

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