Legislative Analysis

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REQUIRE LOCAL UNITS TO KEEP PROPERTY TRANSFER AFFIDAVIT CONFIDENTIAL

House Bill 5665
Sponsor: Rep. Kevin Cotter
Committee: Tax Policy

Complete to 9-23-14

A SUMMARY OF HOUSE BILL 5665 AS INTRODUCED 6-11-2014

House Bill 5665 would amend Section 27a of the General Property Tax Act to stipulate that a Property Transfer Affidavit (Treasury form L-4260) is confidential, and can only be made available to the county tax or equalization department for the county in which the transferred property is located.

Currently, when property is transferred the form must be filed within 45 days by the transferee with the assessor's office in the local unit of government where the property is located. Once submitted, the affidavit is made available to the county tax or equalization department. These forms are not confidential, which is explicitly noted on the form itself. Transfers which must be recorded in this way include transfers of real property, as well as transfers of personal property that are buildings on leased land, leasehold improvements (as defined in MCL 211.8(h)), and leasehold estates (as defined in MCL 211.(i) & (j)). Transfers of ownership are defined under Section 27a of the General Property Tax Act (MCL 211.27a (6)), and include transfers of real and personal property, as well as transfers of a majority ownership interest in a business (not including the transfer of corporate stock).

MCL 211.27a

BACKGROUND INFORMATION:

While the bill would make the Property Transfer Affidavit form confidential, it does not explicitly make the information confidential, meaning that real estate agents would have an informational advantage over members of the general public. Sale prices would no longer public be information, but may still be accessible through real estate industry data sharing services. Currently, there are 14 states with similar confidentiality requirements for real estate transactions: Alaska, Idaho, Indiana, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, New Mexico, North Dakota, Texas, Utah, and Wyoming.

FISCAL IMPACT:

As written, the bill would have an indeterminate effect on state and local revenues. Neither the magnitude nor direction of the impact can be estimated in advance. The confidentiality requirement could distort real estate prices from what they would have been otherwise by restricting pricing information in the property market, and by creating the potential for asymmetric information between buyers or sellers and the real estate agents that represent them. School Aid Fund revenue (through the State Education Tax and Real Estate Transfer Tax) and local property tax revenue would be affected to the extent of this distortion. There is no way to know in advance how markets and consumers would adapt to the change proposed by this bill, specifically whether these distortions in price were primarily positive or negative, therefore the bill's fiscal impact is unknown.

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