Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 396 (as enacted) **PUBLIC ACT 18 of 2014**
Sponsor: Senator Tom Casperson
Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 4-3-14

RATIONALE

Some people believe that property owners should not be faced with higher tax bills when they rebuild structures due to a natural disaster. Although Michigan law limits the amount by which taxable value can rise from one year to the next, that amount can be increased if there are additions to the property. The General Property Tax Act defines "additions" for this purpose, and the definition includes construction that replaced property damaged or destroyed by accident or act of God. This can be problematic for property owners who wish to rebuild but will be unable to afford a higher tax bill. The issue was highlighted after the Duck Lake fire burned 33 square miles in the Upper Peninsula in October 2012. According to reports, the fire destroyed a total of 136 structures, including 49 homes. A year after the fire, many homeowners apparently had not rebuilt, or had not decided whether to do so, because the reconstruction would have a higher taxable value than the destroyed property, and the owners would have to pay higher property taxes. To address this situation and others like it, some suggested the law should allow replacement construction without an increase in taxable value, if the construction uses substantially the same materials as the original structure and does not significantly increase its size.

CONTENT

The bill amended the General Property Tax Act to provide for the taxable value of property to remain essentially unchanged if the property is reconstructed due to an accident or act of God, as long as substantially the same materials are used and the rebuilt structure is not more than 5% larger than the original property.

The bill took effect on February 25, 2014.

Under the Act, unless there is a transfer of ownership, the taxable value of property may not increase from one year to the next by more than 5% or the rate of inflation, whichever is less, minus any losses and plus all additions. The Act's definition of "additions" includes replacement construction, which means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the previous tax day, to the extent the construction's true cash value does not exceed the true cash value of the property that was damaged or destroyed by accident or act of God in the preceding three years.

The Act specifies a formula to calculate the value of the replacement construction, for purposes of determining the property's taxable value. This formula requires the true cash value of the replacement construction to be multiplied by a fraction based on the difference between the property's taxable value and its true cash value before the accident or act of God (in effect reducing the value of the replacement construction by that ratio).

Under the bill, however, after December 31, 2011, if the property's replacement construction is of substantially the same materials as determined by the State Tax Commission, if the square footage is not more than 5% greater than the property that was damaged or destroyed, and if the construction is completed by December 31 in the year three years after the accident or act of God occurred, the taxable value of the replacement construction will be equal to the taxable value of the property in the year immediately before the year in which it was damaged or destroyed, adjusted as otherwise provided for year-to-year increases.

The bill also specifies that any construction materials required to bring the property into compliance with applicable health, sanitary, zoning, safety, fire, or construction codes or ordinances must be considered to be substantially the same materials by the State Tax Commission for the sake of replacement construction.

MCL 211.34d

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 third-largest fire in Michigan's history, the Duck Lake fire decimated over 20,000 acres and destroyed 136 structures, including 49 houses and cabins. While some of the homeowners sold their property, rebuilt, or are rebuilding, others have remained in a state of limbo. Reportedly, instead of replacing their homes, some residents have been living in campers or even buses. For those who can afford to rebuild, or who have insurance that will cover the cost, the prospect of a higher property tax bill has been a deterrent. This situation has been unfair to the individuals who lost their homes through no fault of their own. It also has had a negative impact on the local economy, which has lost property tax revenue. In addition, the presence of campers and old buses where waterfront cottages and homes used to be not only affects the tax base but also makes the environment a less desirable place for others to rebuild.

The bill enables property owners to replace or repair structures that have been destroyed or damaged by a natural disaster, without an increase in taxable value (beyond the 5% or rate-of-inflation limit), if they rebuild using substantially the same materials as the original structure and do not increase the square footage by more than 5%. In addition, if the replacement construction requires any materials to bring the property into code compliance, the materials must be considered substantially the same.

Although this issue was brought to the forefront by the Duck Lake fire, the bill will benefit not only those affected by the fire, but also other property owners who have to rebuild after an accident or act of God. In addition, it applies not only to homes but also to other structures, such as barns and stores, which contribute to people's livelihood and local commerce.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will likely reduce, by an indeterminate and likely negligible amount, local unit and State revenue. The bill will affect a minimal number of properties, and the magnitude and direction of any impact will depend on their specific characteristics.

Fiscal Analyst: David Zin