



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4135 (Substitute H-5 as passed by the House)
Sponsor: Representative Frank Foster
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 4-29-14

CONTENT

The bill would amend the General Property Tax Act to limit a requirement that a bank or other lending institution pay what it otherwise would have paid in school operating taxes if it retains the principal residence exemption on foreclosed property. Under the bill, this would apply to property acquired by foreclosure or forfeiture in 2012, 2013, or 2014. The bill also would delete a provision that allows the property to be leased to the former homeowner.

Under the Act, a principal residence is not subject to the taxes levied by a local school district for school operating purposes under Section 1211 of the Revised School Code (typically 18 mills), if the homeowner files an affidavit with the local tax collecting unit and meets eligibility criteria. As a rule, when the person no longer owns or occupies the property as his or her principal residence, the exemption must be rescinded and the property will be subject to school operating taxes. This occurs when a home mortgage is foreclosed, unless the foreclosing bank, credit union, other lending institution, or land contract vendor retains the principal residence exemption (PRE). If it does so, however, that party must pay an amount equal to what it would have paid under Section 1211 of the Revised School Code if the exemption had not been retained. The payment must be collected by the local tax collecting unit at the same time and in the same manner as taxes are collected under the Act, and must be distributed to the Department of Treasury for deposit into the State School Aid Fund.

In addition, the bank, credit union, other lending institution, or land contract vendor must pay an administration fee equal to the property tax administration fee imposed under Section 44 of the Act. (Section 44 allows a local tax collecting unit to add and keep a fee of up to 1% of the total tax bill for taxes paid before February 15 of the following year, and allows additional amounts for delinquent taxes.)

The bill provides that, if a land contract vendor, bank, credit union, or other lending institution acquired ownership in 2012, 2013, or 2014 only as a result of a foreclosure or forfeiture of a recorded instrument under Chapter 31, 32, or 57 of the Revised Judicature Act, or through deed or conveyance in lieu of a foreclosure or forfeiture on that property, the land contract vendor, bank, credit union, or other lending institution would have to pay an amount equal to what it would have had to pay under Section 1211 of the Revised School Code if the exemption had not been retained, together with an administration fee.

(Chapter 31 of the Revised Judicature Act governs the foreclosure of mortgages and land contracts through judicial proceedings. Chapter 32 applies to the foreclosure of mortgages by advertisement. Chapter 57 provides for summary proceedings to recover the possession

of premises, and includes situations in which an executory contract for the purchase of property is forfeited.)

Currently, in order for a bank, credit union, other lending institution, or land contract vendor to retain the PRE, the property may not be occupied by anyone other than the person who claimed the exemption before the foreclosure or forfeiture, must be for sale, may not be used for any business or commercial purpose, and may not be leased to anyone other than the person who claimed the PRE before the foreclosure or forfeiture. Under the bill, the property could not be leased to any person.

MCL 211.7cc

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce State School Aid Fund revenue by an unknown amount. The actual decrease would depend on the number of properties affected, as well as their specific characteristics. Revenue would decline because foreclosing institutions would no longer need to pay an amount equivalent to the local school operating levies for properties that were acquired through foreclosure if they were acquired before 2012 or after 2015, and the School Aid Fund would no longer receive this revenue.

While 52,853 foreclosures were recorded during 2013, available data suggest there were 43,262 foreclosed homes for sale in February 2014, with a median foreclosure sales price of \$50,000 per home. It is unknown how many of those homes would be affected by the bill's changes, because homes for sale could have gone through foreclosure years ago and many recently foreclosed homes might not yet be on the market. If all of those 43,262 foreclosed homes for sale were affected by the bill, it would reduce School Aid Fund revenue by approximately \$20.0 million per year.

Fiscal Analyst: David Zin

S1314\4135sa

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.