Legislative Analysis

LENDER RETAINS FULL PRINCIPAL RESIDENCE EXEMPTION ON FORECLOSED PROPERTIES

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Senate Bill 81 as passed by the Senate
Sponsor: Sen. Jack Brandenburg
House Committee: Tax Policy
Senate Committee: Finance
Complete to 3-17-15

SUMMARY:

As written, Senate Bill 81 would remove an existing provision in Section 7cc of the General Property Tax Act. Under that section a lending institution can maintain the principal residence exemption (PRE) on a home it owns through foreclosure but, even so, it must pay the equivalent of the local school operating millage (typically 18 mills). This means that although the exemption remains attached to the property to pass along seamlessly to an eligible purchaser, the lending institution must pay school taxes as if the exemption were not in place. The taxes are paid to the state to benefit the School Aid Fund; ordinarily these taxes would be paid to local school districts.

Under Senate Bill 81, a lending institution that owns foreclosed properties would no longer have to pay the equivalent of the local school operating millage in order to retain the existing PRE on the properties.

The current language was added to Section 7cc by Public Act 114 of 2012. Under the language added by that act, in addition to paying the equivalent of the school operating millage, the lending/ foreclosing entity must also abide by all of the following conditions in order to retain the principal residence exemption:

(1) The property is not occupied, other than by the person who claimed the exemption prior to the foreclosure or forfeiture.
(2) The property is for sale.
(3) The property is not leased to anyone other than the person who claimed the exemption prior to the foreclosure or forfeiture.
(4) The property is not used for any business or commercial purpose.

Senate Bill 81 would retain these four conditions as the only requirements the lending/foreclosing entity must meet in order to retain the principal residence exemption. The foreclosing entity must file a "conditional rescission form" to retain the principal residence exemption and must annually verify that the four conditions still apply.

These entities would also no longer pay an administrative fee assessed on these equivalent payments by local tax collecting units. Under Section 44 of the General Property Tax Act, local units can assess and retain a maximum of 1% of the total property tax bill as an administrative fee. This fee will be reduced when the 18-mill equivalent is no longer part of the lending/foreclosing entity's tax bill. Senate Bill 81 also removes this provision. Finally, this bill would reduce the amount of time the lending/foreclosing entity can retain the PRE from three years under current law, down to two years.

The bill would take effect 90 days after it is enacted.

MCL 211.7cc

FISCAL IMPACT:

As written, the bill could reduce School Aid Fund (SAF) revenue by $15-25 million annually. This estimate is based on statewide averages; the exact amount of the reduction will depend on the specific characteristics of the foreclosed properties, which cannot be known in advance.

While local tax collecting units collect the school operating millage equivalent at the same time and in the same manner as regular property taxes, the language under PA 114 of 2012 directed these specific funds to the Department of Treasury for deposit in the SAF. This is why the primary fiscal impact of this bill falls on the SAF, rather than on local units.

Losses to local units would primarily come from a reduction in the administrative fee they were previously allowed to collect and retain on these equivalent payments. This would amount to slightly less than 1% of the total impact of the bill, likely between $100,000 and $200,000 total for all local units. Local units could also see their school funding decrease if the losses to the SAF resulted in changes to the per-pupil funding guarantee.

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