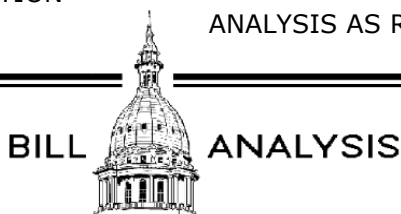




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Senate Bill 6 (Substitute S-1 as reported)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 6-12-15

RATIONALE

Amendments to the General Property Tax Act were enacted in 2013 to broaden the category of disabled veterans eligible to receive a property tax exemption for property they own and use as a homestead. The Act previously allowed a tax exemption for the homestead of a veteran with a service-connected disability who required the residence to be specially adapted to accommodate the disability and had received financial assistance from the U.S. Department of Veteran's Affairs (VA) to adapt the home. The exemption could continue for the surviving spouse of a disabled veteran upon the veteran's death, as long as the exemption had already been granted, and the spouse remained in the home and did not remarry. The changes in 2013 extended the exemption to a veteran who is permanently and totally disabled, as determined by the VA, as the result of military service and is entitled to veteran's benefits at the 100% rate. The amendments also continue the exemption for a disabled veteran's unremarried surviving spouse, whether the veteran dies before or after the original exemption is granted.

The Act does not define "homestead" for the purpose of the exemption, and the term has been interpreted by the State Tax Commission not to include contiguous parcels of land owned by a disabled veteran. Some believe that these parcels should be exempted. The Act also does not define "own", and the Tax Commission has indicated that the exemption may be granted only for property completely owned by a disabled veteran or an unremarried surviving spouse, with no exemption for property jointly owned by the veteran and another person. Since there are multiple reasons that the homeowner might want to add a son or daughter to the title of the property, some people believe that the exemption should apply in those situations. Also, it was discovered after the Act was amended that a service member who dies from service-connected causes while on active duty is not considered 100% disabled, and it has been suggested that the exemption should be available to the unremarried surviving spouse of such a veteran.

In addition, several challenges have been identified with the administration of the exemption. Apparently, there is confusion among local units of government regarding the process for granting the exemption, so it has been suggested that the process should be clarified and a standard form should be used for the application for exemption. Also, under the Act, taxes are canceled for the entire year that an eligible claimant acquires title to real property that is exempt, while some believe that the exemption should be prorated for any year in which the claimant does not own the property for the whole year.

CONTENT

The bill would amend the General Property Tax Act do the following:

- **Refer to residential or agricultural real property in the property tax exemption for the homestead of a disabled veteran.**
- **Exempt residential or agricultural real property owned and used as a homestead by the unremarried surviving spouse of a deceased Michigan veteran who died from service-connected causes while on active duty.**
- **Define the terms "homestead" and "own".**

- **Revise procedures for granting the exemption, and require the cancellation of taxes to be prorated for a year in which the eligible individual sold, purchased, inherited, or acquired by gift the homestead for which the exemption was claimed.**
- **Specify that the exemption would apply only to taxes collected under the Act, and not to any special assessments unless the act providing for the assessment provided otherwise.**

The Act allows an exemption from property taxes for property owned and used as a homestead by a disabled veteran who was honorably discharged from the Armed Forces of the United States. The bill would refer to residential real property or agricultural real property owned and used as a homestead by a disabled veteran. ("Disabled veteran" means a person who is a legal Michigan resident and who meets one of the following criteria:

- Has been determined by the U.S. Department of Veterans Affairs to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Has a certificate from the U.S. Veterans Administration certifying that he or she is receiving or has received pecuniary assistance due to disability for specially adapted housing.
- Has been rated by the U.S. Department of Veterans Affairs as individually unemployable.)

If an eligible disabled veteran dies either before or after the exemption is granted, the exemption remains available to and continues for his or her unremarried surviving spouse. The bill also would extend eligibility for the exemption to the unremarried surviving spouse of a deceased Michigan veteran who died from service-connected causes while on active duty in the Armed Forces of the United States. The bill would define "deceased Michigan veteran" as an individual who, immediately before death, served in the Armed Forces of the United States and was a legal resident of Michigan. "Unremarried surviving spouse" would mean an individual who was married to a disabled veteran or a deceased Michigan veteran when that veteran died and who, since the time of the veteran's death, has never been remarried.

Currently, to obtain the exemption, the property owner or his or her legal designee must file an affidavit with the supervisor or other assessing officer during the period beginning with the tax day for each year and ending upon final adjournment of the local board of review. Under the bill, the affidavit would have to be filed on a form prescribed by the State Tax Commission with the local tax collecting unit in which the property was located between January 1 and December 1 of the tax year for which the exemption was claimed.

Currently, the unremarried surviving spouse of a deceased disabled veteran must indicate that status on the affidavit. The bill would include a similar requirement for the unremarried surviving spouse of a deceased Michigan veteran.

The Act requires the county treasurer to cancel taxes subject to collection for any year in which an eligible disabled veteran has acquired title to exempt real property. The bill would delete this provision. Instead, after the affidavit was filed, the board of review would have to determine whether the requirements for the exemption had been met. If so, the board would have to grant the exemption and the treasurer for each local tax collecting unit would have to cancel for the current tax year any property taxes subject to collection that were paid or otherwise were or would have become due and payable from the eligible individual. In addition, the bill provides that if, during the calendar year, the individual sold, purchased, inherited, or acquired by gift the homestead for which the exemption was claimed, the cancellation of taxes would have to be in proportion to the number of months during the calendar year that the individual owned and occupied the homestead. The bill specifies that the exemption would apply only to taxes collected under the Act, and not to any special assessments unless the act providing for the assessment provided otherwise.

The bill would define "homestead" as the one place owned and occupied by a legal resident of the State as his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that will continue as a primary residence until another primary residence is established. The term would include the owner's dwelling, all of an owner's property classified as

residential or agricultural real property that is adjoining or contiguous to the dwelling and subject to ad valorem taxes, and all buildings on that property subject to ad valorem taxes. Property previously occupied by an individual currently residing in a nursing home or assisted living facility would remain that individual's homestead as long as he or she manifested an intent to return by satisfying all of the following conditions:

- He or she continued to own the property.
- He or she had not established a new homestead.
- He or she maintained or provided for the maintenance of the property.
- The property was not occupied, leased, or used for any business or commercial purpose.

Under the bill, "own" would mean any of the following:

- Sole ownership by a disabled veteran.
- Joint ownership or co-ownership by a disabled veteran and one or more of the following individuals: his or her spouse, including as tenants by the entirety; or his or her son, daughter, adopted son, or adopted daughter.
- Sole ownership by an unremarried surviving spouse of a deceased disabled veteran or a deceased Michigan veteran who died from service-connected causes while on active duty in the Armed Forces of the United States.

MCL 211.7b

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 bill would allow more people to claim the property tax exemption for disabled veterans. Currently, a disabled veteran may not receive the exemption if his or her home is jointly owned with one or more children. There are multiple reasons that a veteran may have joint ownership with a child, and that should not prevent him or her from qualifying for this exemption. The bill would allow that veteran to still receive the exemption. It also would extend the exemption to contiguous owned parcels of land, similar to the principal residence exemption. Some people own several parcels of land contiguous to the parcel on which their house sits, and a reasonable person would consider the whole plot of land to be that person's homestead. In addition, the unremarried surviving spouse of a Michigan veteran who died from service-connected causes while on active duty would be able to claim the exemption under the bill. Any legislation seeking to grant tax relief to the surviving spouse of a disabled veteran should give the same tax relief to a person whose spouse died while on active duty.

Supporting Argument

The bill would make it easier for local governments to administer the tax exemption, since people claiming it would have to use a form prescribed by the State Tax Commission. It also would give some relief to local governments by prorating the exemption for the year in which an eligible claimant acquired or ceased to own eligible property.

Opposing Argument

The bill would reduce the revenue to local governments and the School Aid Fund. Disabled veterans are not evenly distributed throughout the State, so some communities would be disproportionately affected. Since the State would not be required to reimburse communities for the lost revenue, local units could find it necessary to eliminate services or raise other taxes to make up the difference.

Response: The average impact on a locality from the exemption is reportedly 0.1% to 0.5% of revenue, while some localities lose as much as 1%, so the impact on local governments is not unreasonable compared to the benefit received by disabled veterans and their surviving spouses.

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

The bill would reduce both School Aid Fund and local unit revenue by an unknown amount that would depend on both the number of properties affected as well as the specific characteristics of affected property.

The bill would expand the number of individuals able to claim a property tax exemption as well as the property that would be included in an exemption. The expanded exemption would reduce School Aid Fund revenue by reducing the revenue received under the State Education Tax (SET). The bill also would reduce local unit revenue by reducing local property tax collections.

The Department of Treasury estimates that the bill would reduce property taxes by approximately \$6.0 million per year. Based on that estimate, the bill would reduce SET revenue by approximately \$1.0 million per year, with the remaining \$5.0 million reduction lowering local unit revenue.

Fiscal Analyst: David Zin

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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.