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BILL



ANALYSIS

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Senate Bill 6 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 6-14-16

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 State Tax Commission has interpreted the term 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 various reasons that the homeowner might want to add a son or daughter to the title to the property, some people believe that the exemption should apply in those situations. Also, after the Act was amended, it was discovered that a service member who dies from service-related 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 claiming the exemption. Also, under the Act, taxes are canceled for the entire year in which an eligible claimant acquires title to exempt real property, while some believe that the cancelation of taxes should depend on when the exemption was claimed.

CONTENT

The bill would amend Section 7b of 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 or his or her unremarried surviving spouse.**
- **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 in the United States Armed Forces.**
- **Require an affidavit to be filed by June 1 to claim the exemption for the following summer and winter tax levies, or by November 1 to claim the exemption for the winter tax levy.**

- **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 specified otherwise.**
- **Provide that, if the total amount of all taxes collected by a local tax collecting unit were reduced in excess of 5% by the exemptions granted under Section 7b, the State would have to provide reimbursement in an amount equal to that excess, upon appropriation.**
- **Add definitions of "own" and "homestead".**

Eligibility

Section 7b of 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. Under the bill, this would apply if the disabled veteran were eligible for the exemption immediately before death. 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, for as long as the spouse remained unremarried. 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.

The bill would define "unremarried surviving spouse" as either of the following:

- An individual who was married to a disabled veteran when that veteran died and who, since the time of the veteran's death, has never been remarried.
- An individual who was married to a deceased Michigan veteran when that veteran died from service-connected causes while on active duty in the United States Armed Forces and who, since the time of the veteran's death, has never been remarried.

Affidavit; Grant of Exemption

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, instead, an individual eligible for the exemption or his or her legal designee annually would have to file with the local tax collecting unit an affidavit on a form prescribed by the State Tax Commission. The affidavit would have to be filed by June 1 to claim the exemption for the immediately succeeding summer and winter tax levies, or by November 1 to claim the exemption for the next winter tax levy. The status of property as exempt would have to be determined on the date the affidavit was filed.

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 assessor for the local tax collecting unit would have to determine whether the Act's requirements were met. If the requirements were met, the assessor would have to grant the exemption. If granted, the exemption would apply until December 31 of the year in which the affidavit was filed.

The bill specifies that the exemption under Section 7b would apply only to taxes collected under the Act, and not to any special assessment unless the act providing for the assessment provided otherwise.

Local Unit Reimbursement

If the total amount of all taxes collected by a local tax collecting unit were reduced in excess of 5% by exemptions granted under Section 7b, the State would be required to provide reimbursement in an amount equal to the excess, upon appropriation.

Definitions

The bill would define "own" as 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.

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. Except as provided below, the term would include only that portion of a dwelling or unit in a multiple-unit dwelling that would be subject to ad valorem taxes without the exemption under Section 7b and that is owned and occupied by an owner of the dwelling or unit. "Homestead" also would include all of an owner's unoccupied property classified as residential real property or agricultural real property that is adjoining or contiguous to the dwelling, that would be subject to ad valorem taxes without the exemption, and that is owned and occupied by the owner. Contiguity would not be broken by a boundary between local tax collecting units, a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the two parcels separated by the purchased or condemned property were a single parcel before the sale or condemnation.

Except as otherwise provided, "homestead" would include any portion of a dwelling or unit of an owner that is rented or leased to another person as a residence as long as that portion is less than 50% of the total square footage of living space in that dwelling or unit.

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.

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 son or daughter, and that should not prevent the veteran from qualifying for the exemption. The bill would allow a disabled veteran to continue to claim the exemption in this situation. It also would extend the exemption to contiguous parcels of land owned by an eligible veteran, similar to what is allowed for the principal residence exemption. Many people own one or more 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, as allowed for the principal residence exemption, the bill would permit a veteran to retain the exemption while living in a nursing home or assisted living facility, if certain conditions were met.

Further, the bill would extend eligibility for the exemption to the unremarried surviving spouse of a Michigan veteran who died from service-connected causes while on active duty. Any legislation granting 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 requiring an affidavit to be filed by specified dates in order for the exemption to apply to a year's summer and winter taxes, or winter taxes only. Property taxes would not always be canceled for the entire year in which an exemption was claimed.

Opposing Argument

The bill would reduce 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. The State would be required to reimburse local units for the lost revenue only if it amounted to more than 5% of all taxes collected, and only the excess over 5% would have to be reimbursed. Also, any reimbursement would be contingent on appropriations.

Response: The average impact on a locality from the exemption is reportedly 0.1% to 0.5% of revenue, while some local units lose as much as 1%. It is unlikely that expanding eligibility would have an unreasonable impact on local government compared to the benefit received by disabled veterans and their surviving spouses.

Legislative Analyst: Suzanne Lowe

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 homesteads 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 \$7.0 million per year. Based on that estimate, the bill would reduce SET revenue by approximately \$1.2 million per year, with the remaining \$5.8 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.