



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 606 (as enacted)
Sponsor: Senator Mike Shirkey
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 144 of 2016

Date Completed: 10-26-16

RATIONALE

The General Property Tax Act exempts an individual's principal residence from the tax levied by a school district for school operating purposes (typically 18 mills), to the extent provided in the Revised School Code. To claim the principal residence exemption (PRE), the homeowner must file with the local tax collecting unit an affidavit stating that he or she owns and occupies the property as a principal residence. When the property is no longer used as a principal residence, the owner is required to rescind the claim of exemption, although an owner may retain the exemption under certain circumstances. Apparently, there was concern that the language in the Act created confusion for Michigan residents who were in the U.S. Armed Forces and serving abroad. Although it was reported that servicemen and servicewomen rarely had problems receiving and retaining a PRE, it was suggested that the Act should address the potential ambiguity.

CONTENT

The bill amended the General Property Tax Act to allow an individual to continue to claim a principal residence exemption if he or she is deployed or stationed elsewhere for active duty as a member of the United States Armed Forces while satisfying certain conditions; and allow a member of the Armed Forces who owns a principal residence while deployed or an individual who does not occupy his or her principal residence while residing in a nursing home or assisted living facility to file an appeal when an exemption was not on the tax roll.

The bill took effect on June 7, 2016.

Principal Residence Exemption

Under the Act, if a person previously occupied property as his or her principal residence but currently lives in a nursing home or assisted living facility, the person may retain the PRE if he or she demonstrates an intent to return to the property by satisfying all of the following conditions:

- The person continues to own the property while living in a nursing home or assisted living facility.
- The person has not established a new principal residence.
- The person maintains or provides for the maintenance of the property.
- The property is not occupied, is not leased, and is not used for any business or commercial purpose.

The bill also allows an owner of property who previously occupied that property as his or her principal residence to continue to retain the exemption on that property if he or she is absent while on active duty as a member of any branch of the United States Armed Forces, including the Coast Guard, a reserve component of any branch of the United States Armed Forces, or the National

Guard, as long as he or she establishes an intent to return to that property by satisfying all of the following conditions:

- The owner continues to own that property while absent on active duty.
- The owner has not established a new principal residence.
- The owner maintains or provides for the maintenance of that property while absent on active duty.
- Except as otherwise provided in Section 7dd(c), the property is not used for any business or commercial purpose.

(Section 7dd(c) defines "principal residence" as the one place where an owner of the property has his or her true, fixed, and permanent home to which he or she intends to return to whenever absent, and that will remain his or her principal residence until another one is established. Except as otherwise provided, "principal residence" includes only that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling or unit.

"Principal residence" includes 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 of the dwelling or unit is less than 50% of the total square footage of living space in the dwelling or unit. In addition, property that qualified as a principal residence will continue to qualify as a principal residence for three years after all or any portion of the dwelling or unit included in or constituting the residence is rented or leased to another person as a residence if all of the following conditions are satisfied:

- The owner of the dwelling or unit is absent while on active duty in the United States Armed Forces.
- The dwelling or unit would otherwise qualify as the owner's principal residence.
- The owner files an affidavit with the assessor of the local tax collecting unit before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty.)

Tax Roll Omission Appeal

Under the Act, a person who owned and occupied a principal residence on June 1 or November 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding three years. If an appeal of a claim for exemption that was not on the tax roll is received within five days before the date of the December board of review, the local tax collecting unit must convene a December board of review and consider the appeal pursuant to the Act.

The bill also allows an owner of property who previously occupied that property as his or her principal residence but did not occupy that property on June 1 or November 1 while residing in a nursing home or assisted living facility under the circumstances described above, or while absent on active duty as a member of any branch of the United States Armed Forces, including the Coast Guard, a reserve component of any branch of the U.S. Armed Forces, or the National Guard, as described above, for which an exemption was not on the tax roll, to file an appeal with the July board of review or December board of review in the year that the exemption was claimed or the immediately succeeding three years.

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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

Members of the military should not have to worry about receiving principal residence exemptions while they are serving in the U.S. Armed Forces worldwide. In one reported instance, a serviceman

returned to Michigan after serving abroad only to find that he owed the State money because he did not receive the PRE while he was away. Although the PRE was eventually allowed for the time the person was absent, it took months to resolve the discrepancy and required him to proceed through a hearing.

The bill's language codifying the PRE for individuals serving elsewhere in the U.S. Armed Forces is similar to the specific provisions for individuals living in assisted living facilities already in the Act, and should prevent any tension or future inconvenience like the one described above.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill will have no fiscal impact on State or local government. According to the Department of Treasury, the Act was interpreted previously to extend the principal residence exemption to active duty service members stationed elsewhere. There also is an existing exception that allows active duty service members deployed elsewhere to retain the PRE while renting the residence to another person for three years, if the property would otherwise qualify as a principal residence and the owner attests that it is his or her intent to return to the dwelling as a principal residence at the conclusion of active duty.

Fiscal Analyst: Elizabeth Pratt

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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.