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BILL ANALYSIS

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House Bill 4173 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Representative David C. Maturen
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bill would amend the Real Estate Transfer Tax Act to do the following:

-- Revise the exemption for the conveyance of a principal residence that has not increased in value since its purchase, and delete a requirement that the State Treasurer impose a penalty of 20% of the tax if, after the exemption is claimed, the Treasurer finds that the sale was for a value other than true cash value.
-- Allow a seller, or a buyer who paid the tax on behalf of the seller, to request a refund of the tax paid if he or she believed that the property was eligible for an exemption at the time of the transfer.

Section 6 of the Act lists various instruments and conveyances that are exempt from the real estate transfer tax. One exemption is for the conveyance of property that qualifies for the principal residence exemption, if the State equalized valuation (SEV) of the property is less than or equal to the SEV on the date of purchase or on the date of acquisition by the seller or transferor. The bill also would require the transaction to be for a price at which a willing buyer and a willing seller would arrive through an arms-length transaction. The bill would allow the seller or the buyer who paid the tax on behalf of the seller to request a refund if he or she believed that the property was eligible for this exemption at the time of transfer. These amendments would be retroactive and apply to a sale, exchange, assignment, or transfer on or after June 24, 2011.

In addition, the bill would allow a seller or buyer who paid the tax on behalf of the seller to request a refund if the seller or buyer believed that the property was eligible for any exemption under Section 6. The Department would have to pay the refund if it determined that the property was eligible at the time of the transfer. These amendments would be retroactive and apply to a sale, exchange, assignment, or transfer beginning four years immediately preceding the bill's effective date.

MCL 207.523 & 207.526 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce State School Aid Fund revenue by an unknown amount depending upon the number of properties affected, as well as their specific characteristics. Furthermore, the average number of transfers in which a buyer or seller pays the tax, although the transfer is exempt, is unknown. Similarly, it is unknown how many transactions involving a principal residence have been subject to the 20% penalty under Section 6(u), which the bill would eliminate. The tax generated $233.4 million during FY 2013-14.

Because of the retroactive provisions of the bill, revenue would likely be reduced more during the first year the bill was effective than in later years. Although Section 6 generally indicates the characteristics of transfers and instruments that are exempt from the tax, the amendments to that section would authorize refunds under Section 6(u) and the changes would be retroactive to June 24, 2011. However, the amendments to Section 3(4) would be retroactive only to four years before the bill became effective but would affect refunds associated with any of the exemptions in Section 6, not just those in Section 6(u).

Date Completed: 10-21-15 Fiscal Analyst: David Zin

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