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BILL



ANALYSIS

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House Bill 4677 (Substitute H-2 as passed by the House)
Sponsor: Representative David G. Maturen
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 3-22-16

CONTENT

The bill would amend the General Property Tax Act to include under the definition of "transfer of ownership" for property tax assessment purposes an assessor's establishment of a separate tax parcel, at the request of the property owner, for a portion of a parcel that ceased to be qualified agricultural property but was not subject to a land division under the Land Division Act, and require the separate tax parcel to be subject to the agricultural recapture tax.

Under the General Property Tax Act, the taxable value of a parcel of property (adjusted for additions and losses) may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the parcel is taxed upon its State equalized valuation (50% of its true cash value). The Act defines "transfer of ownership" for this purpose and identifies transactions that do not constitute a transfer of ownership.

A transfer of qualified agricultural property is not considered a transfer of ownership if the person to whom the property is transferred files an affidavit with the assessor of the local tax collecting unit where the property is located and with the register of deeds for the county where the property is located. An owner of qualified agricultural property must inform a prospective buyer of the property that the property is subject to the recapture tax provided in the Agricultural Property Recapture Act if the property is converted by a change in use, as that term is defined under the Act.

If the property ceases to be qualified agricultural property at any time after being transferred, both of the following must occur:

- The taxable value of that property must be adjusted to its State equalized valuation (uncapped).
- The property is subject to the agricultural recapture tax.

Additionally, qualified agricultural property is exempt from tax levied by a local school district for school operating purposes. However, within 90 days after all or a portion of the exempted property is no longer considered qualified agricultural property, the owner must rescind the exemption for the applicable portion of the property by filing a rescission form with the local tax collecting unit. An owner who fails to file a rescission as required is subject to a penalty of \$5 per day for each separate failure to file after the 90 day limit, up to a maximum of \$200, although the Department of Treasury may waive the penalty. Any collected penalties must be deposited in the State School Aid Fund. The Department has the ability to waive penalties.

Under the bill, notwithstanding this requirement to rescind the exemption from school operating taxes, an assessor's establishment of a separate tax parcel, at the request of the property owner, for a portion of a parcel that ceased to be qualified agricultural property but was not subject to a land division under the Land Division Act or any local ordinance, would be considered a transfer of ownership. A transfer of ownership would occur only as to the portion of the parcel established as a separate tax parcel, and only that parcel would have its taxable value adjusted to its State equalized evaluation. The separate parcel would be subject to the agricultural recapture tax provided for under the Agricultural Property Recapture Act. The taxable value adjustment would have to be made as of December 31 in the year that the portion of the parcel established as a separate tax parcel ceased to be qualified agricultural property. A portion of a parcel subject to this provision would be considered a separate tax parcel only for these purposes.

(The General Property Tax Act defines "qualified agricultural property" as unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural uses as defined in the Natural Resources and Environmental Protection Act. Related buildings include a residence occupied by a person who is employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. Property used for commercial storage, processing, distribution, marketing, or shipping operations, or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner may not receive an exemption for that portion of the total State equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

Under the Agricultural Property Recapture Act, the agricultural recapture tax is the sum of the number of mills levied in the local tax collecting unit on the qualified agricultural property in each year of the period between the date of the first exempt transfer and the conversion by a change in use, not to exceed the seven years before the year in which the qualified agricultural property is converted by a change in use, multiplied by the difference in each year of the period between the true cash taxable value of the property and the property's taxable value as determined under the General Property Tax Act.)

MCL 211.27a

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate impact on State and local revenue, as well as State School Aid Fund expenditures. To the extent that the bill exempted a portion of an agricultural parcel from the recapture tax under the Agricultural Property Recapture Act and from the increase in taxable value when the property was transferred, local property tax revenue and State revenue from the State Education Tax would be reduced. However, to the extent that the bill could increase taxable values, State and local property tax revenue could increase. The amount of tax change would depend on the characteristics and value of each affected parcel and local millage rates. To the extent that the bill increased the value of land exempt from school operating mills, in the case of property that ceased to be qualified agricultural property, the bill would increase local unit revenue and decrease School Aid Fund expenditures needed to meet per-pupil funding guarantees.

Revenue from the State Education Tax is deposited in the School Aid Fund. The recapture tax is deposited into the Agriculture Preservation Fund, which is used for administrative costs of implementing farmland preservation and for grants to local governments to purchase agricultural conservation easements.

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.