Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 432 (as enacted) **PUBLIC ACT 239 of 2022**
Sponsor: Senator Wayne A. Schmidt
Senate Committee: Economic and Small Business Development
House Committee: Local Government and Municipal Finance

Date Completed: 12-20-22

CONTENT

The bill amended the State Housing Development Authority Act to do the following:

-- **Exempt a housing project that is being developed or rehabilitated for workforce housing and that is located in a municipality that approves the project from all ad valorem property taxes imposed by the State or by any political subdivision, public body, or taxing district of the State.**
-- **Prescribe the amount of annual service charge that an owner of a project described above must pay in lieu of taxes.**
-- **Require the owner of the housing project to allocate the benefits of any tax exemption exclusively to low-income individuals or families, workforce housing, or to the maintenance and preservation of the housing project.**

The bill took effect December 13, 2022.

Under the Act, except as otherwise provided, if a housing project owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is financed with a Federally aided or Michigan State Housing Development Authority-aided mortgage or advance or grant from the Authority, then the housing project is exempt from all ad valorem property taxes imposed by the State or by any political subdivision, public body, or taxing district in which the project is located.

Under the bill, this exemption also applies to a housing project that is being developed for workforce housing that is located in a municipality and is subject to a municipal ordinance that is adopted by the governing body of that municipality to approve a housing project for tax exemption. The approval or denial of a tax exemption must be in accordance with an ordinance or resolution concerning the selection of workforce housing projects that are adopted by the governing body. If the housing project is eligible for an exemption, the local assessing officer must provide a copy of the certified notification of the exemption to the treasurer of the county in which the project is located, within five days after receiving the certified notification of exemption.

(The bill defines "workforce housing" as retail units or other housing options that are reasonably affordable to, and occupied by, a household whose total household income is not greater than 120% of the area median income and published by the United States Department of Housing and Urban Development. "Area median income" means that term as defined in Section 59: the median income for an area as determined under Federal law.)

The Act requires the owner of a housing project exempt from taxation to pay to the municipality in which the project is located an annual service charge for public service in lieu of taxes. Previously, the municipality could establish or change, by ordinance and by any amount it chose, the service charge paid in lieu of taxes by all or any class of housing projects exempt from taxation under the Act; however, the service charge could not exceed the amount in taxes that an owner would have otherwise paid but for the Act. Subject to provisions described below, the owner had to pay an annual service charge in accordance with the following:

-- For a new construction project, an amount that was the greater of the tax on the property on which the project is located for the tax year preceding the date on which construction is commenced or 10% of the annual shelter rents obtained from the project.
-- For a rehabilitation project, an amount that was the lesser of the of the tax on the property on which the project is located for the tax year preceding the date on which rehabilitation was commenced or 10% of the annual shelter rents obtained from the project.

The bill eliminated the above provisions. Instead, all the following apply to the amount that an owner must pay as a service charge:

-- Subject to the provisions below and for a new construction project, the owner must pay an annual service charge equal to an amount that is the greater of the tax on the property on which the project is located for the tax year preceding the date on which construction is commenced or 10% of the annual shelter rents obtained from the project.
-- Subject to the provisions below and for a rehabilitation project, an amount that is lesser of the tax on the property on which the project is located for the tax year preceding the date on which rehabilitation is commenced or 10% of the annual shelter rents obtained from the project.
-- Subject to the provisions below, a municipality may establish or change by ordinance and by any amount it chooses, the service charge paid in lieu of taxes by all or any class of housing projects exempt from taxation under the Act; however, the service charge may not exceed the amount in taxes that an owner would have otherwise paid if the housing project were not tax exempt.
-- Notwithstanding the service charges prescribed above, a service charge paid in lieu of taxes for the part of a housing project that is exempt and occupied by individuals or families other than low-income individuals or families must be equal to the full amount of the taxes that would be paid on that portion of the housing project if the housing project were not tax exempt.
-- Notwithstanding the service charges prescribed above, a service charge paid each year in lieu of taxes for that part of a housing project that is tax exempt and not used for workforce housing must be equal to the full amount of the taxes that would be paid on that portion of the housing project if the housing project were not tax exempt.
-- The annual service charge prescribed above must be increased by the additional amount if, within 45 days after the treasurer of the county's receipt of the certified notification of the exemption, the county board of commissioners for that county passes a resolution by majority vote that provides that the additional amount must be paid and that the approval of the resolution is in accordance with an ordinance or resolution adopted by the county board of commissioners concerning the factors to be considered.

The bill requires any additional amount received to be distributed to the county in which the housing project is located. ("Additional amount" means an amount equal to the difference between the millage rate levied for operating purposes by the county in which the housing project is located multiplied by the current taxable value of that housing project and the amount of the annual service charge paid by the housing project as prescribed by the bill that is distributed to the county in which the housing project is located. "Taxable value" means taxable values as calculated under Section 27a of the General Property Tax Act. Section 27a of the General Property Tax Act specifies that the taxable value of each parcel of property is the lesser of the property's taxable value in the immediately preceding year minus losses, multiplied by 1.05 or the inflation rate, and the property's current State equalized valuation.)

The bill requires the owner of the housing project to allocate the benefits of any tax exemption exclusively to low-income individuals or families, workforce housing, or to the maintenance and preservation of the housing project as safe, decent, and sanitary affordable or workforce housing. (The bill defines "low-income individuals or families" as individuals and families eligible to move into any housing project that is tax exempt as defined by the Authority under its rules or a municipality by ordinance. The bill allows a municipality to redefine the term by ordinance on the basis of the conditions existing in that municipality.)

The bill requires the exemption from taxation granted as described above to remain in effect for no more than 15 years if the housing project remains subject to a covenant running with the land that restricts the use of the housing project to workforce housing.

MCL 125.1415a Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill will have a negative fiscal impact on the State and an indeterminate fiscal impact on local governments. Exempting workforce housing projects from property taxes will reduce revenue to local governments as well as reduce revenue and increase costs to the School Aid Fund (SAF). The exemption will reduce revenue for the State Education Tax and, since school operating mills also will be reduced, costs to the SAF will increase if the foundation allowance is maintained. Exempted property will have to pay to the city, village, or township in which it is located a service charge in lieu of taxes for public services. The specific fiscal impact on a local community largely will be determined by the amount of the service charge and the specific services funded by the charge, both of which will depend on choices made by the local unit of government. Since any exemption will need to be approved by the local government, any fiscal impact will depend on decisions made by those units of government, as well as the specific characteristics of the exempted facilities.

Fiscal Analyst: Ryan Bergan

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