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BILL ANALYSIS

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Senate Bill 1232 (as introduced 3-25-08)
Sponsor: Senator Gilda Z. Jacobs
Committee: Finance

Date Completed: 7-15-08

CONTENT

The bill would amend the General Property Tax Act to allow a person who was at least 65 years old, who purchased an eligible principal residence (with a State equalized valuation (SEV) less than the SEV of his or her current principal residence), to claim a exemption from the tax for the increase in the eligible principal residence's taxable value in excess of the adjusted taxable value of the current residence, if the taxable value of the eligible principal residence were adjusted upon the transfer of ownership. The bill also would do the following:

- Require a person claiming the exemption to rescind it when the property was no longer an eligible principal residence.**
- Prescribe a penalty for an owner who failed to rescind an exemption as required.**
- Allow a local tax assessor to deny or modify an existing exemption if he or she believed that property for which it had been granted was not an eligible principal residence.**

Pop-Up Tax Exemption

Under the State Constitution, 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 (SEV), 50% of its true cash value. (In other words, the taxable value "pops up" upon a transfer of ownership.) These provisions are reflected in Section 27a of the General Property Tax Act. Section 27a(3) provides that, upon a transfer of ownership of property, the property's taxable value for the calendar year following the year of the transfer is the property's SEV for that year.

Under the bill, beginning December 31, 2009, if the ownership of an eligible principal residence were transferred to a qualified purchaser and the taxable value of the eligible principal residence were adjusted under Section 27a(3), the increase in the eligible principal residence's taxable value in excess of the adjusted taxable value of the qualified purchaser's current principal residence would be exempt from the collection of property taxes until there was a subsequent transfer of ownership of the eligible principal residence. Upon the transfer of ownership, the taxable value of the eligible principal residence would have to be adjusted pursuant to Section 27a(3).

To claim an exemption for an eligible principal residence, an owner would have to file an affidavit claiming the exemption with the local tax collecting unit by May 1. The affidavit would have to be in a form prescribed by the Department of Treasury. Upon receiving the affidavit, the assessor of the local tax collecting unit would have to determine if the property was an eligible principal residence. If he or she determined that the property was an eligible principal residence, the assessor would have to exempt it until December 31 of the year in which the property was no longer an eligible principal residence.

A husband and wife who are required to file or who file a joint Michigan income tax return would be entitled to only one exemption under the bill. Only one spouse, however, would have to be a qualified purchaser.

The bill would define "qualified purchaser" as a person who meets all of the following:

- Is a person to whom ownership of an eligible principal residence is transferred.
- Is at least 65 years of age in the year in which ownership of an eligible principal residence is transferred.
- Has claimed a principal residence on his or her current principal residence for at least three years.

"Eligible principal residence" would mean a parcel for which a principal residence exemption is claimed by a qualified purchaser for which the SEV for the year in which ownership was transferred to the qualified purchaser is less than the SEV of the qualified purchaser's current principal residence. "Current principal residence" would mean the principal residence of a qualified purchaser for which an exemption was rescinded by the qualified purchaser under Section 7cc(5), in the year in which ownership of an eligible principal residence was transferred to the qualified purchaser.

"Adjusted taxable value" would mean the taxable value of a qualified purchaser's current principal residence in the year in which ownership of an eligible principal residence was transferred to the qualified purchaser, adjusted as provided in Section 27a(3).

"Principal residence exemption" would mean the exemption from the tax levied by a school district for school operating purposes under the Revised School Code, provided under 7cc of the General Property Tax Act. (Under Section 7cc, a principal residence is exempt from school operating taxes if an owner of the property files an affidavit by May 1 with the local tax collecting unit in which the property is located. Under Section 7cc(5), within 90 days after exempted property is no longer used as a principal residence by the owner claiming the exemption, he or she must rescind the claim of exemption by filing a rescission form with the local tax collecting unit.)

Failure to Rescind an Exemption

Within 90 days after all or any portion of the property exempt under the bill was no longer an eligible principal residence, the person claiming the exemption would have to rescind it by filing a rescission form with the local tax collecting unit. An owner who failed to do so would be subject to a penalty of \$5 per day for each separate failure beginning 90 days after all or any portion of exempt property was no longer eligible, up to \$200.

Appeal to Board of Review

An owner of property that was an eligible principal residence on May 1 for which an exemption was not on the tax roll could file an appeal with the July or December board of review in the year the exemption was claimed or the immediately succeeding year. An owner of property that was an eligible principal residence on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed could appeal that denial to the

July board of review for summer taxes or, if there were not a summer levy, to the December board of review.

If the assessor of the local tax collecting unit believed that property for which an exemption had been granted was not an eligible principal residence, the assessor could deny or modify an existing exemption by giving written notice to the person claiming the exemption at the time required for providing a notice under Section 24c (which requires an assessor to give notice of an increase in the tentative SEV or taxable value for the year). A taxpayer could appeal the assessor's determination to the board of review meeting under Section 30 (which provides for the board of review to meet in March). A decision of the board of review could be appealed to the residential and small claims division of the Michigan Tax Tribunal.

Withdrawal of an Exemption

If an exemption under the bill were erroneously granted, an owner could request in writing that the local tax collecting unit withdraw the exemption. If an owner requested that an exemption be withdrawn, the local assessor would have to notify the owner that the exemption had been denied based on that owner's request. If an exemption were withdrawn, the property that had been subject to it would have to be immediately placed on the tax roll as though the exemption had not been granted, and a corrected tax bill would have to be issued for the tax year being adjusted, by the local tax collecting unit if the unit had possession of the tax roll or by the county treasurer if the county had possession of the tax roll.

If an owner requested that an exemption be withdrawn before he or she was contacted in writing by the local assessor regarding that owner's eligibility for the exemption and that owner paid the corrected tax bill issued within 30 days after it was issued, he or she would not be liable for any penalty or interest on the additional tax. An owner who paid a corrected tax bill more than 30 days after it was issued would be liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

Proposed MCL 211.700

Legislative Analyst: Craig Laurie

FISCAL IMPACT

On average, the bill would be expected to reduce State education tax revenue to the State by slightly less than \$1.0 million per year and to reduce local units' revenue by approximately \$4.0 million per year. However, the impact of the bill could make significant swings from year to year. The actual amount of the reduction would depend upon a number of factors: the number of individuals age 65 or greater who would qualify under the bill and purchase a home, the average selling price of the homes, the applicable millage rates affecting sale properties, and how long it had been since a home was last sold, as well as the price of the home at its previous sale.

Many of these factors can vary substantially from year to year as well as between local units. For example, home sales reported by the Michigan Association of Realtors declined 21.7% between 2005 and 2006. Within the last 20 years, home sales reported by the Michigan Association of Realtors have varied from a low of 48,800 units to a high of 137,600 units. Similarly, the difference between taxable value and the sale price can vary significantly between properties. On a community-wide basis, in 2003 taxable value ranged from an average of 45% of market value in Home Township in Newaygo County to 94% in Cascade Township in Kent County. In 2003, market value was more than double taxable value in seven local units and within 10% of market value in another seven local units, and averaged approximately three-fourths of market value statewide. Individual properties would exhibit even greater variability. Furthermore, homestead millage rates also vary

significantly across local units, as do home prices. For example, some townships levy no local millages while the average homestead millage rate in Detroit exceeds 65 mills. Average home sale prices in 2007 varied from \$37,955 in the Detroit area to \$206,688 in the Livingston area.

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.