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

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1335 (as introduced 5-12-10)
Sponsor: Senator Cameron S. Brown
Committee: Senior Citizens and Veterans Affairs

Date Completed: 6-9-10

CONTENT

The bill would amend the General Property Tax Act to allow a person who was at least 65 years old, who purchased an elder-friendly principal residence in a neighborhood enterprise zone, to claim a exemption from the tax for the increase in the residence's taxable value in excess of the adjusted taxable value of the person's current residence.

Pop-Up Tax Exemption

Under the Act and 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. Specifically, Section 27a(3) of the Act 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 (resulting in what is commonly called the "pop-up tax").

Under the bill, beginning December 31, 2010, 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 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.

To claim the exemption, an owner would have to file an affidavit with the local tax collecting unit by May 1. Upon receiving the affidavit, the local assessor 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 as provided in the bill.

A husband and wife filing a joint Michigan income tax return would be entitled to only one exemption under the bill, but only one spouse would have to be a qualified purchaser.

Upon the transfer of ownership of an eligible principal residence subject to the exemption, its taxable value would have to be adjusted pursuant to Section 27a(3).

The bill would define "qualified purchaser" as a person who meets both 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.

"Eligible principal residence" would mean an elder-friendly dwelling located in a neighborhood enterprise zone for which a principal residence exemption is claimed by a qualified purchaser. "Elder-friendly dwelling" would mean a residential dwelling that includes one or more of the following:

-- No step entries.
-- One-level living.
-- Door widths that are 32 inches or more.
-- Hallways that are at least 36 inches wide.
-- Door thresholds that are flush with the floor.
-- Use of lever door handles and rocker-type light switches.

(The Neighborhood Enterprise Zone Act allows eligible local governmental units to designate neighborhood enterprise zones within which the owner or developer of a homestead or other facility may receive a certificate that entitles the owner or developer to reduced taxes on the structure.)

"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) of the General Property Tax Act (described below), 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.)

Appeal to Board of Review

Under the bill, 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 following 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 no summer levy, to the December board of review.

If the local assessor believed that property for which an exemption had been granted was not an eligible principal residence, he or she could deny or modify an existing exemption by giving written notice to the person claiming the exemption. A taxpayer could appeal the assessor's determination to the board of review meeting 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 that the local tax collecting unit withdraw the exemption. If an owner did so, the local assessor would have to notify the owner that the exemption had been denied based on that owner's request. The property 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 or by the county treasurer, depending on who had possession of the tax roll.

If an owner requested that an exemption be withdrawn before the local assessor contacted the owner in writing regarding his or her eligibility for the exemption, and the owner paid the corrected tax bill 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 211.7oo

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

To the extent that the bill led to an increase in purchases of elder-friendly principal residences in neighborhood enterprise zones than would otherwise have occurred, this additional activity would represent a potential revenue loss to the general government jurisdictions comprising the zones. The loss in revenue would depend on the number and value of elder-friendly residential property transactions that occurred once the bill was enacted. The State also would potentially incur increased expenditures due to the need to replace lost school operating property taxes.

Fiscal Analyst: Eric Scorsone

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.