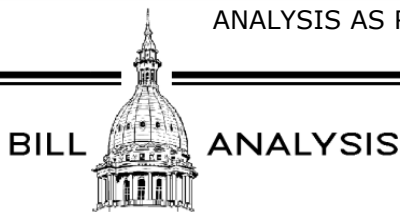




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Senate Bill 831 (Substitute S-2 as reported)
Sponsor: Senator Mike Nofs
Committee: Finance

(Senate-passed version)

Date Completed: 5-6-14

RATIONALE

Under the General Property Tax Act, an individual's principal residence is exempt from the taxes levied by a local school district for school operating purposes (which typically are 18 mills). A homeowner may claim one principal residence exemption (PRE) by filing an affidavit with the local tax collecting unit. Subject to several exceptions, within 90 days after exempted property is no longer used as a principal residence, the owner is required to rescind the claim of exemption by filing a rescission form with the local tax collecting unit, and the exemption will terminate at the end of the year. This also applies upon the death of the owner. The property will become subject to school operating taxes after the end of the year in which the owner dies, unless it is conveyed to an eligible new owner who claims the PRE by the deadline for filing an affidavit.

It has been pointed out that this tax treatment can present a hardship to a decedent's estate or heirs. Depending on the time of year the owner died, and how long it takes to sell the property, the home may have to be sold without the PRE in place, and there may be a period of time when the school operating taxes must be paid. To address this situation, it has been suggested that a close relative who inherits property that was subject to the PRE should be allowed to retain the exemption for several years, even if the property is not that person's principal residence or the person claims the PRE on another home.

CONTENT

The bill would amend the General Property Tax Act to allow an owner to retain the principal residence exemption on inherited property for up to three years, under certain circumstances.

(The Act's definition of "owner", for purposes of the PRE, includes a person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession, i.e., inheritance in the absence of a valid will.)

Specifically, if an owner were related to a decedent within the first degree by blood or affinity, the bill would allow the owner to retain the PRE on property that the decedent conveyed to the owner by will or intestate succession, if the property had previously been exempt as the decedent's principal residence. The property would have to be for sale and could not be occupied, leased, or used for any business or commercial purpose. If these conditions were met, the owner could retain the PRE for up to three years.

To retain the exemption, the owner would have to file a conditional rescission form with the local tax collecting unit, within the time period for filing an affidavit claiming the PRE. (The Act requires an owner to file an affidavit by June 1 for the upcoming summer tax levy and all subsequent tax levies, or by November 1 for the upcoming winter tax levy and all subsequent tax levies.)

The PRE for property conveyed to an owner by will or intestate succession under these circumstances would be in addition to an exemption for property for which the owner was eligible and claimed a PRE as his or her principal residence.

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ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would provide property tax relief to people who inherit a home from a deceased parent, sibling, child, or spouse and otherwise could not retain the principal residence exemption on the home either because it is not their principal residence or because they claim a PRE on other property. When a homeowner dies, it can take time for the estate to be probated and for the property to be sold. In some cases, the home might need to be repaired and cleaned out before it can be listed for sale. Depending on the market, there may some delay before a buyer is found and the closing takes place. Furthermore, a grieving relative simply might not be able to accomplish the necessary tasks in a short period of time. Meanwhile, the property will become subject to school operating taxes on January 1 following the year in which the former owner died. In addition, a person can be charged a penalty of up to \$200 for failing to file a form rescinding the exemption.

Under the bill, a person who met the proposed criteria would have up to three years to dispose of an inherited residence before it became subject to school operating taxes. This would treat families with compassion and fairness at a time when a greater tax burden can exacerbate financial and emotional stress.

Permitting the PRE to be retained for three years would not be inconsistent with existing law. The Act already allows an owner who claims a PRE on his or her current principal residence to file a conditional rescission form and retain the exemption for up to three years on property previously exempt as his or her principal residence, if that property is for sale, unoccupied, not leased, and not used for any business or commercial purpose. Subject to similar conditions, a person who previously occupied property as his or her personal residence but now lives in a nursing home or assisted living facility may retain the PRE while he or she continues to own the residence and provide for its maintenance. In addition, a bank, credit union, or other lender that forecloses on a home is allowed to retain the exemption for up to three years, as long as the property is for sale, is not occupied by or leased to anyone except the former homeowner, and is not used for any business or commercial purpose.

Opposing Argument

The bill would be unprecedented despite the current provisions that allow a homeowner to retain a PRE under particular circumstances. In those situations, the exemption is retained either by a person who formerly occupied the home and is trying to sell it, or by the homeowner who presently is in a nursing home or assisted living. Under the bill, however, the PRE could be retained by a new owner who never lived in the house and had no relationship with it whatsoever.

In the case of a bank or other lender that retains the PRE on foreclosed property, the exemption is preserved for a future buyer but the institution does not receive a financial break. Instead of paying the school operating taxes, it must pay an equivalent amount that is deposited in the School Aid Fund. Although there are proposals to limit or eliminate this requirement, it is current law.

Response: Senate Bill 831 (S-2) represents a matter of fairness. People do not have a choice about when a close relative dies, and are not necessarily prepared to inherit property and pay a high tax bill. The legislation would allow the PRE to be retained only for a reasonable length of time under a limited set of circumstances.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase State School Aid Fund expenditures by an unknown, and likely negligible, amount. The actual increase would depend on the number of properties affected, as well as their specific characteristics. Local school district revenue would not be affected because, while the bill would reduce revenue to local school districts, that reduction would be offset by an equal increase in School Aid Fund expenditures in order to maintain per-pupil funding guarantees.

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.