



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 176 (Substitute S-3 as passed by the Senate)
Senate Bill 330 and 364 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Sylvia Santana (S.B. 176)
Senator Mary Cavanaugh (S.B. 330)
Senator John Damoose (S.B. 364)
Committee: Finance, Insurance, and Consumer Protection

Date Completed: 7-6-23

INTRODUCTION

Taken together, the bills would amend the General Property Tax Act to require a property tax exemption on real property used and owned as a homestead by a disabled veteran or the veteran's surviving spouse granted on or after January 1, 2025, to remain in effect until it was rescinded by the individual granted the exemption or denied by the assessor. Senate Bill 176 (S-3) would prescribe the methods to prorate the exemption for a qualified individual who did not use and own the property as a homestead for the entire tax year. Senate Bill 330 (S-1) proposes a local assessor audit program for purposes of auditing the exemption and allowing an assessor to deny a new claim or rescind an existing claim. Senate Bill 364 (S-1) would amend the Act to include, for tax year 2023 only, a denial of an exemption described above by the board of review as a "qualified error" that could be corrected upon appeal to a board of review.

Senate Bill 176 and Senate Bill 330 are tie-barred. Senate Bill 364 is tie-barred to Senate Bill 176.

BRIEF RATIONALE

Currently, a disabled veteran's surviving spouse may claim the disabled veteran property tax exemption even after the veteran's death if the veteran would have been otherwise eligible. On May 19, 2022, the Michigan Court of Appeals issued a decision in *Lockhart v. Ontonagon Township*, Case No. 356883, relating to the eligibility of a surviving spouse of a disabled veteran. The Court determined that the surviving spouse could not claim the exemption because the deed to the home was not in the name of the disabled veteran prior to his passing. It has been suggested that the exemption apply to any property used and owned as a homestead by the surviving spouse.

BRIEF FISCAL IMPACT

The bills would have an unknown and likely minimal fiscal impact on State and local property tax revenue, as well as local expenditure.

MCL 211.7b (S.B. 176)
Proposed MCL 211.7c (S.B. 330)
MCL 211.53b (S.B. 364)

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CONTENT

Senate Bill 176 (S-3) would amend the General Property Tax Act to do the following:

- Specify that a property tax exemption on real property used and owned as a homestead by a disabled veteran's surviving spouse would apply to any property used and owned as a homestead by the surviving spouse, including property acquired after the disabled veteran's death.
- Specify that an exemption granted on real property used and owned as a homestead by a disabled veteran or the veteran's surviving spouse on or after January 1, 2025, would remain in effect without subsequent reapplication until rescinded as described in **Senate Bill 330 (S-1)**.
- Prescribe the method a local treasurer would have to take to prorate the tax exemption for a qualified individual described above who did not use and own the property as a homestead for the entire tax year.

Senate Bill 330 (S-1) would amend the General Property Tax Act to do the following:

- Require a property tax exemption on real property used and owned as a homestead by a disabled veteran or the veteran's surviving spouse to remain in effect until it was rescinded by the individual granted the exemption or denied by the assessor.
- Require a local assessing unit to implement an audit program that included the audit of all information filed pertaining to an exemption described above and allow an assessor to deny a new claim, or an existing claim, following an audit.
- Require a local or county treasurer to remove an exemption from the tax rolls if rescinded or denied and issue a corrected or supplemental (new) tax bill.
- Prescribe a 1.0% interest on any tax set forth in a new tax bill.

Senate Bill 364 (S-1) would amend the General Property Tax Act to include, for tax year 2023 only, a denial by the board of review of an exemption described above as a "qualified error" which could be corrected upon appeal to a board of review.

Senate Bill 176 (S-3)

The General Property Tax Act exempts from taxation under the Act real property used and owned as a homestead by a disabled veteran who was discharged honorably from the United States Armed Forces. The Act also extends this exemption to a surviving spouse of a disabled veteran if the veteran is eligible for the exemption immediately before death. The surviving spouse qualifies for the exemption if the surviving spouse does not remarry. Under the bill, the surviving spouse's exemption would apply to all property taxes for the current year that had been paid by the disabled veteran or the surviving spouse of a disabled veteran, any property that the surviving spouse used and owned as a homestead, including property acquired after the decedent's death, and all property taxes for the current year that would have been owed by that disabled veteran or surviving spouse of a disabled veteran if the property were not exempt.

The assessor exemption or denial of an exemption is described **Senate Bill 330 (S-1)**.

"Own" or "owned" would mean, for a disabled veteran, legal title to the property is held solely by that individual or jointly by that individual and that individual's spouse; for a surviving spouse of a disabled veteran who immediately before death was eligible for the exemption and the surviving spouse did not remarry, the term would mean legal title to the property is held solely to the individual.

Under the bill, if the individual who qualified for the exemption did not use and own the property as a homestead for the entire tax year the exemption would have to be prorated as described below.

The proration would have to be based on the closing or other purchase documents, if any, executed by or on behalf of qualified disabled veteran or qualified surviving spouse of a disabled veteran. That individual would have to provide a copy of the closing or other purchase documents with the application claiming the exemption. The local treasurer would have to use the closing or other purchase documents when calculating the amount of taxes to be exempted. There could be no refund of any property taxes not levied in the current tax year paid pursuant to the closing or other purchase documents to the seller by the exempt individual.

If closing or other purchase documents were not provided, the method of proration would have to be based on a proration under which the local treasurer calculated the amount of property taxes levied in the current tax year to be exempted by dividing the total property taxes levied in the year by 365 and then multiplying that number by the number of days the individual would use and own the property as a homestead.

Additionally, the proration would have to be based on a proration that considered the effective date of any removal of the exemption, which the assessor would have to designate as the date of the relevant conveyance or disposition. Using that date, the local treasurer would have to calculate the amount of property taxes levied in the year by 365 and then multiply that number by the number of days the individual, while qualified for the exemption, used and owned the property as a homestead.

Senate Bill 330 (S-1)

Currently, to obtain the exemption, the property owner must file with the supervisor or other assessing officer an affidavit during the period beginning with the tax day for each year and ending at the time of the final adjournment of the local board of review. Instead, under the bill, an individual eligible for the exemption would have to file an application for the exemption in a form and manner prescribed by the State Tax Commission (Commission) with the assessing officer for the local assessing unit within the year the exemption was claimed. The county treasurer would have to cancel taxes subject to the Act's collection for any year in which the disabled veteran or surviving spouse was eligible for the exemption.

Under the bill, the exemption granted above on or after January 1, 2025, would remain in effect without subsequent reapplication until it was rescinded by the individual who was granted it or was denied by the assessor. An individual could rescind the exemption by filing a form rescinding the exemption with the local assessing unit within 45 days after the individual ceased to use and own as a homestead the exempted property or the individual no longer met the qualifications under the Act for the exemption.

The bill would require a local assessing unit to implement an audit program, as prescribed by the Commission, that included the audit of all information filed pertaining to an exemption. If property were determined to be ineligible for exemption because of an audit, the individual who was granted the exemption would be subject to repayment of additional taxes including interest to be paid as provided below. The audit could not occur more than once every three years.

The bill would allow an assessor to deny a new claim, or an existing claim following an audit. The assessor would have to notify the individual of the denial of the new or existing claim, the reason for the denial, and that the denial could be appealed to the Residential and Small Claims Division of the Tax Tribunal within 35 days of the notice. The assessor could deny a

claim for exemption for the current year and for the three immediately preceding calendar years.

If the tax roll were in the local tax collecting unit's possession, it would have to amend the tax roll to reflect the removal of the exemption. Within 30 days of the discovery date, the local treasurer would have to issue a corrected tax bill for any additional taxes with interest at the rate of 1.0% per month or fraction of a month computed from the date the taxes were last payable without interest.

If the tax roll were in the county treasurer's possession, it would have to amend the tax roll to reflect the removal of the exemption. Within 30 days of the discovery date, the county treasurer would have to issue a supplemental tax bill for any additional taxes with interest at the rate of 1.0% per month or fraction of a month computed from the date the taxes were last payable without interest.

Interest on any tax set forth in a corrected or supplemental tax bill would be issued at the rate of 1.0% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill would have to be returned as delinquent on March 1 in the year immediately succeeding the year in which the tax bill was issued.

Senate Bill 364 (S-1)

Section 53b of the Act sets forth procedures under which qualified errors can be corrected upon appeal to a board of review, which must meet in July and December for this purpose. (As a rule, qualified errors are clerical mistakes affecting property assessments.)

The Act includes in the definition of "qualified error" an issue beyond the control of a disabled veteran or his or her unremarried surviving spouse that causes a denial of an exemption for real property used and owned as a homestead by that disabled veteran or the veteran's surviving spouse. The Act specifies that an issue beyond control means an error made by the local tax collecting unit in the processing of a timely filed exemption affidavit or a delay in the determination by the United States Department of Veterans Affairs that a veteran is permanently and totally disabled because of military service and entitled to veterans' benefits at the rate of 100%.

The bill would include among the list of issues beyond the control of a disabled veteran or his or her unmarried surviving spouse a denial by the board of review of an exemption described above, for tax year 2023 only.

FISCAL IMPACT

Senate Bill 176 (S-3) would make several changes to the exemption process. First, the bill would change the authority for approving and denying exceptions from the interpretation of current law. The Commission interprets the current language in Section 7b(1) as making the board of review responsible for approving and denying exemptions under the Section. The bill would eliminate the option to file an exemption claim with the supervisor of a local unit and would delegate the authority for approving and denying exemptions with the assessing officer. This shift in authority is not anticipated to have any fiscal impact.

Senate Bill 330 (S-1) would create a new section in statute that would require local units to implement an audit program for the exemptions; however, the bill would specify that audits could not occur more frequently than every three years. As a result, it is unclear if and when any audits might take place because the language would effectively permit a local unit to never conduct audits. For example, if a local unit opted to audit exemptions once every 100 years, the audit program would still meet the requirement that audits not occur more frequently than every three years. While audits would increase local unit expenditures by an

unknown amount, to the extent that any audits discovered improper exemption claims, audits would also increase State and local property tax revenue by an unknown amount that would depend on the specific characteristics of any affected property and local millage rates.

Senate Bill 364 (S-1) would reduce State and local property tax revenue by a likely minimal amount. The bill would only allow a board of review to reconsider previous exemption denials made for the 2023 tax year and would eliminate any limitations on what aspects of the exemption request could be reconsidered. The bill would only have a fiscal impact if a previously denied exemption were to be approved upon reconsideration. The reconsidered exemption, if approved, would decrease State and local property tax revenue by an unknown amount that would depend on the specific characteristics of any affected property and local millage rates.