



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 805 (as introduced 11-9-11)
Sponsor: Senator Mike Green
Committee: Finance

Date Completed: 9-12-12

CONTENT

The bill would amend the General Property Tax Act to exclude from the term "transfer of ownership" a conveyance of land by distribution under a will that made the land subject to a conservation easement under State law or eligible for a Federal tax deduction as a qualified conservation contribution.

Under Michigan law, 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), which is 50% of its true cash value. This is often referred to as the "pop-up" tax because the taxable value "pops up" when the property is transferred. The General Property Tax Act defines "transfer of ownership" for this purpose and identifies transactions that constitute a transfer of ownership and others that are excluded.

Beginning on the bill's effective date, "transfer of ownership" would not include a conveyance of land by distribution under a will, but not buildings or structures located on the land, that met one or both of the following conditions:

- As a result of the conveyance, the land was made subject to a conservation easement under Part 21 of the Natural Resources and Environmental Protection Act (NREPA).
- As a result of the conveyance, the land or an interest in it was made eligible for a deduction as a qualified conservation contribution under Section 170(h) of the Internal Revenue Code.

As used above, "conservation easement" would mean that term as defined in Section 2140 of NREPA (i.e., "an interest in land that provides limitations on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water..., which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition").

(Section 170 of the Internal Revenue Code allows a deduction for charitable contributions. As a rule, the section denies the deduction for contributions of partial interests in property, but makes an exception for qualified conservation contributions. Section 170(h) defines "qualified conservation contribution" as a contribution of a qualified real property interest to

a qualified organization exclusively for conservation purposes, and defines the terms used in that provision.)

MCL 211.27a

BACKGROUND

Public Act 446 of 2006 amended definition of "transfer of ownership" in the General Property Tax Act to exclude a transfer of land, but not buildings or structures located on the land, if the land is subject to a conservation easement under Part 21 of the Natural Resources and Environmental Protection Act; or if a transfer of ownership of the land or a transfer of an interest in it is eligible for a deduction as a qualified conservation contribution under Section 170(h) of the Internal Revenue Code. This exclusion eliminated the "pop-up" tax for land enrolled in permanent conservation easements in Michigan.

The Department of Agriculture and Rural Development's Conservation Easement Donation Brochure describes a conservation easement as follows:

"A conservation easement is a voluntary, legally recorded agreement between a landowner and the State of Michigan (or another qualified conservation organization) that restricts land to agricultural and open space uses. The easement, once donated to the State of Michigan, is held in perpetuity and cannot be sold or transferred to another entity. The easement generally prohibits or limits any subdivision, development, or any activity that would diminish the agricultural or open space value of the land. A conservation easement donation...provides a flexible approach to permanently protecting land while keeping it in private ownership."

The brochure points out that a conservation easement donation is considered a charitable donation and may provide a Federal income tax deduction. In addition, by restricting the value of the land using a conservation easement, the landowner may reduce the total value of his or her estate.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce School Aid Fund revenue under the State Education Tax, and local revenue, by an unknown, and likely negligible, amount that would depend on the number of properties affected and their specific characteristics. Because there may be properties where the bill could affect revenue from school operating levies, the bill also would potentially increase School Aid Fund expenditures, in order to meet per-pupil funding guarantees, by an unknown and negligible amount.

Fiscal Analyst: David Zin

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