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

BILL ANALYSIS

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

Senate Bill 24 (Substitute S-1 as reported) *(Senate-passed version)*
Sponsor: Senator Mike Nofs
Committee: Finance

Date Completed: 3-9-15

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 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 a time, 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 a person to retain the PRE on inherited property for up to two years, without using the property as a principal residence and in addition to claiming the PRE on other property.

Specifically, beginning December 31, 2015, if an owner were related to a decedent within the first degree by blood or affinity, the owner would be allowed to retain an exemption on property conveyed to him or her by will or intestate succession (inheritance in the absence of a valid will), if the property had previously been exempt as the decedent's principal residence in the immediately preceding tax year. 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 two years.

(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.)

To retain the exemption, the owner would have to file a conditional rescission form prescribed by the Department of Treasury 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 owner also would have to file a property transfer affidavit with the appropriate assessing office within 45 days of the transfer of ownership.

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.

The bill would take effect 90 days after being signed into law.

MCL 211.7cc

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.

Under the bill, a person who met the proposed criteria would have up to two 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 two 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.

Legislative Analyst: Ryan M. Bergan

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

SAS\A1516\s24a