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TRANSFER TAX EXEMPTION: STUDENT-BUILT PROPERTY

House Bill 4426 (Substitute H-1) First Analysis (5-12-99)

Sponsor: Rep. Gene DeRossett
Committee: Tax Policy

THE APPARENT PROBLEM:

One of the elements of the new school financing system introduced with the passage of Proposal A in 1994 is the State Real Estate Transfer Tax Act. This act levies a three-quarters of one percent tax on the transfer of real property from one party to another. (The actual rate is set at \$3.75 for each \$500 or fraction of \$500 of the total value of the property being transferred.) The liability for the tax is on the seller. A number of kinds of instruments and transfers are exempt from the act. For example, if a government entity is the grantor (i.e., seller) of property, the tax does not apply. Apparently, some high school building trades programs that construct houses work through affiliated nonprofit organizations. The homes (or other buildings) the students construct are actually sold by the nonprofit organization, with the profits going back into the vocational program. These sales are subject to the state real estate transfer tax (although they would not be if the building being sold were owned directly by a school district or intermediate school district). Legislation has been introduced that would extend the tax exemption currently available to public entities to nonprofit entities affiliated with vocational education programs.

THE CONTENT OF THE BILL:

The bill would amend the State Real Estate Transfer Act to exempt buildings constructed by students in vocational education programs and transferred by a nonprofit entity.

Specifically, the bill would exempt a written instrument conveying an interest in property that met all of the following criteria:

-- The property was being transferred from a nonprofit entity affiliated with a vocational education program operated by a local school district, a private or parochial K-12 school system, an intermediate school district, or a consortium of local or intermediate districts;

-- A home or building had been constructed on the property primarily by students in the vocational program; and

-- the nonprofit entity had not used the exemption more than two times per calendar year.

MCL 207.526

FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated that the bill as introduced would reduce school aid revenues by about \$120,000 per year. This estimate is based on information suggesting that the bill would affect 91 homes with an average market value of \$175,000. (HFA fiscal note dated 3-30-99)

ARGUMENTS:

For:

It is fair and reasonable to extend the public entity exemption from the state real estate transfer tax to nonprofits affiliated with vocational education programs building houses (or other buildings) for sale. The benefits from the bill to students participating in such programs would far outweigh any very minor revenue losses. A school district that itself sells property is exempt from the tax; this bill would simply extend that exemption to benefit student home building programs organized as nonprofits. A representative of such a program in southwest Washtenaw County has explained that the local nonprofit there is operated by local business leaders who donate their time and expertise to a program involving 34 to 36 juniors and seniors each year from the Chelsea, Dexter, Manchester, Milan, and Saline school districts. Profits from the completed building project go back into the program to support the next year's project, student scholarships, and outreach activities. These

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building trades programs provide students with valuable educational experiences that will prepare them for opportunities in the construction industry (and in the workforce generally).

Against:

It would be a mistake to begin carving out additional exceptions to the state transfer tax. To do so would likely encourage other petitioners, undoubtedly engaged in worthy endeavors, to request similar treatment. Although this bill has little impact fiscally, over time the continual addition of exemptions would erode the tax base. All of the revenues from this tax go to state school aid. It should be noted that the governor made this argument last session in vetoing a bill that would have exempted religious organizations from the tax (although a more limited exemption covering real estate transfers between religious organizations was later approved). The tax would not appear to be a serious impediment to the sale of student-constructed homes; the tax is absorbed into the sale price negotiated between a buyer and a seller.

POSITIONS:

The Southwestern Washtenaw County Student Homebuilding Program supports the bill. (5-11-99)

The Ann Arbor Board of Realtors supports the bill. (5-11-99)

The Michigan Association of Homebuilders and the Homebuilders Association of Washtenaw County have indicated support for the bill. (5-11-99)

The Michigan Chamber of Commerce supports the bill. (5-11-99)

The Department of Treasury is opposed to the bill. (5-11-99)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.