

Legislative Analysis



PENALTY FOR FAILING TO REPORT TRANSFER OF PROPERTY TO ASSESSOR

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House Bill 4860 (Substitute H-1)

Sponsor: Rep. Jim Stamas

Committee: Tax Policy

Complete to 5-16-12

A SUMMARY OF HOUSE BILL 4860 AS REPORTED FROM COMMITTEE

The bill would increase the penalty for failure to notify the local assessor of a transfer of ownership of industrial and commercial real property, with the amount based on the sale price of the transferred property.

The current penalty is \$5 per day, up to a maximum of \$200. This applies now to all property owners, and would continue to apply to residential property transfers. The penalty is distributed to the local tax collecting unit. The governing body of a local tax collecting unit can waive the penalty by resolution. (The bill would not change the distribution of the penalty or the permitted waiver.)

The bill would amend the General Property Tax Act (MCL 211.7b). Under that act, the buyer, grantee, or other transferee of property is required to notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the State Tax Commission that states the parties to the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description.

The new penalty, for industrial and commercial real property only, would be:

- \$20 per day for each separate failure, beginning after the 45 days have elapsed, up to a maximum of \$1,000, if the sale price of the transferred property is \$100 million or less.
- \$20,000, beginning after the 45 days have elapsed, if the sale price of the transferred property is more than \$100 million. However, if the appropriate assessing officer determines that the failure to notify was due to reasonable cause and not the willful neglect of the buyer, grantee, or other transferee, the lower \$20 per day penalty would be imposed (up to \$1,000). If the assessing officer determined that willful neglect existed, the assessing officer would have to send prompt written notice of that determination. A buyer, grantee, or transferee assessed the higher penalty could appeal the determination to the Michigan Tax Tribunal.

BACKGROUND AND DISCUSSION:

The term "transfer of ownership" is a key term in the act's property assessment provisions because of its application to the cap on property assessments. Generally speaking, under Michigan law, the taxable value of a parcel of property cannot increase from one year to the next by more than the rate of inflation or five percent, whichever is less. However, when there is a transfer of ownership, generally speaking, the assessment of a parcel "pops up" to 50% of market value.

The purpose of the bill is to provide a large enough incentive for property owners to notify assessors of the transfer of property. Of course, the legal requirement is itself sufficient for many commercial industrial property taxpayers, but for others the current penalty is so low that it is worthwhile to pay a fine when the violation is discovered rather than report a sale that could result in a higher tax assessment and liability. Compliance with the law, as noted, allows local units to take account of recent sales in determining property values and tax levels. The failure to comply, bill proponents say, can cost local units substantial amounts of revenues when large properties are transferred and the transfer goes unreported.

FISCAL IMPACT:

Without being able to identify the affected properties, a fiscal impact cannot be determined. However, it can be expected that the bill would increase revenue to affected tax collecting units.

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