

Legislative Analysis



EXCLUDE CERTAIN AGRICULTURAL LAND FROM SALES STUDIES WHEN SOLD

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Senate Bill 372 (as reported from committee without amendment)

Sponsor: Sen. Bruce Caswell

House Committee: Agriculture

Senate Committee: Finance

(Enacted as Public Act 162 of 2013)

First Analysis (10-30-13)

BRIEF SUMMARY: The bill would exclude agricultural property from sales studies if, at the time of an ownership transfer, an affidavit attesting that the property will remain in agricultural use has not been filed.

FISCAL IMPACT: As written, the bill would likely have an indeterminate, but minimal impact on state and local revenues. Because the number of agricultural properties affected is expected to be small, it is unlikely that excluding them would have a significant impact on sales studies.

THE APPARENT PROBLEM:

Generally speaking, assessors and county equalization departments perform sales studies that consider the sale prices of similarly classified property that has recently been sold to ensure that properties within a classification are assessed equally and in proportion to fair market value.

According to testimony, there are instances where agricultural land is sold with the intent of developing the land for industrial or commercial use, which would increase the sale price of the land. In those situations, some believe the agricultural land should be excluded from sales studies in order to prevent the assessment for that classification of property from being distorted or increased. If agricultural land is sold with the intent of changing its use and the sale price is considerably higher than comparable land within the agricultural classification, the sale could cause the assessed value of the remaining agricultural land in the jurisdiction to rise.

To remedy that type of situation, Senate Bill 372 proposes to exclude agricultural property that is sold for a non-agricultural use from sales studies.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act (at MCL 211.8 & 211.27) to exclude agricultural property from sales studies if, at the time of an ownership transfer, an affidavit attesting that the property will remain in agricultural use has not been filed.*

*[*The affidavit referred to in the bill is the one that is filed by the new owner when property is sold in order to attest that the land will remain in agricultural use; this protects the property from being subject to the uncapping (or "pop-up") of taxable value that otherwise occurs when property is transferred. Although this bill does not deal directly with the "pop-up" of taxable value, it uses the same affidavit as the basis for whether property will be included in sales studies.*

Under Section 27a(7)(n), when such an affidavit is filed, the sale of property does not qualify as a "transfer of ownership" for the purpose of uncapping taxable value. Under the state's property tax laws, there is a cap on how much taxable value can increase from one year to the next for one owner. When property is sold the taxable value "pops up" for the new owner to 50% of market value. Qualified agricultural property that remains in agricultural use under a new owner is exempt from this increase in taxable value.]

Under the bill, when finalizing sales studies for agricultural real property, an assessor and equalization director would have to determine if an affidavit for the property has been filed under Section 27a(7)(n). If an affidavit has not been filed, the property would have to be reviewed to determine if its classification as agricultural property is correct or if it needs to be reclassified. The assessor for the local tax collecting unit where the property is located would have to contact the property owner to determine why an affidavit was not filed. Under the bill, unless there are convincing facts to the contrary, the sale of qualified agricultural real property for which an affidavit has not been filed would be excluded from a sales study.

ARGUMENTS:

For:

According to testimony, if agricultural land sells for more than its assessed value because its future use is non-agricultural, it could increase the value of other agricultural property in the jurisdiction and potentially lead to higher assessments. As noted above, such a situation could arise if a parcel of agricultural land is sold to someone with the intent of developing it for an industrial or commercial use, since the buyer may pay a substantially higher sale price than would normally be paid for agricultural land. The inclusion of such sales in a sales study, when the land is not going to remain in agricultural use, could cause the fair market value of the entire classification of land to be artificially increased and potentially lead to agricultural land in the jurisdiction that will remain in agricultural use to increase.

Senate Bill 372 would address that situation by utilizing the existing affidavit that identifies agricultural property that will remain in agricultural use after there is a change in ownership. If the affidavit is not filed upon a change in ownership the assessor in the local tax collecting unit would have to contact the new owner to determine why an affidavit was not filed, and unless there are convincing facts that the land should be included, the sale of agricultural land for which an affidavit has not been filed would be excluded from a sales study. The bill is intended to ensure that sales studies only include

land that will remain in agricultural use so as not to distort the true value of the land remaining in that classification.

Against:

There was no opposition at the committee level.

POSITIONS:

Michigan Department of Treasury supports the bill. (10-16-13)

Michigan Farm Bureau supports the bill. (10-16-13)

Michigan Townships Association supports the bill. (10-16-13)

Michigan Assessors Association is neutral on the bill. (10-16-13)

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■ 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.