Legislative Analysis

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PRINCIPAL RESIDENCE EXEMPTION ON FORECLOSED PROPERTIES

House Bill 4135
Sponsor: Rep. Frank Foster
Committee: Tax Policy

Complete to 3-19-13

A REVISED SUMMARY OF HOUSE BILL 4135 AS INTRODUCED 1-30-13

Under the General Property Tax Act, generally speaking, beginning in the 2012 tax year, a lender that becomes the owner of property that had been a principal residence as a result of a foreclosure or forfeiture is able, under certain conditions, to retain the principal residence property tax exemption on that property for up to three years. However, in this situation, although the lender keeps the exemption in place (for transfer to a future purchaser), the lender must pay the property taxes as if the exemption were not in place.

This means the lender must pay the equivalent of the 18-mills in local school operating property taxes, along with an administrative fee. The local unit retains the administrative fee, and the tax revenue is forwarded to the Department of Treasury for deposit into the State School Aid Fund. (Usually these 18 mills would remain with the home school district.)

Under House Bill 4135, the lender/owner (or foreclosing entity) would not have to pay the equivalent of the school operating taxes in these cases. The principal residence exemption would remain in place and only the 6-mill State Education Tax would be levied.

The set of provisions being amended were added to Section 7cc of the General Property Tax Act by Public Act 114 of 2012 (Senate Bill 349). That section deals with the principal residence exemption. The principal residence exemption is the exemption provided to owner-occupied homes; these taxpayers typically are exempt from the 18-mills of local school operating taxes but pay the 6-mill State Education Tax. Other taxpayers pay the full 24 mills.

Currently, as a result the 2012 legislation, the lender/foreclosing entity) can retain the principal residence exemption if all of the following conditions are met:

(1) the property is not occupied, other than by the person who claimed the exemption prior to the foreclosure or forfeiture; (2) the property is for sale; (3) the property is not leased to anyone other than the person who claimed the exemption prior to the foreclosure or forfeiture; and (4) the property is not used for any business or commercial purpose. The lender must file a "conditional rescission form" to retain the principal residence exemption and must annually verify that the four conditions still apply.

FISCAL IMPACT:

The Department of Treasury testified that they estimate the bill would reduce School Aid Fund revenue by $30 million to $50 million annually.

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