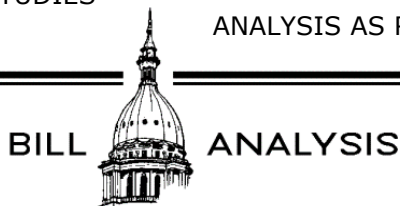




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Senate Bill 372 (as reported without amendment)
Sponsor: Senator Bruce Caswell
Committee: Finance

(as enrolled)

Date Completed: 10-3-13

RATIONALE

Michigan law provides for various classifications of real property, such as agricultural and commercial, and requires the assessment of property within each classification to be equalized. Therefore, county and State officials must ensure that property taxes are assessed equally and in proportion to fair market value across all municipalities. To help accomplish this, local assessors and county equalization departments perform sales studies, which look at the prices of similarly situated property that has recently sold. In some cases, however, agricultural property is sold for a nonagricultural use, such as industrial or commercial development, which can raise the sales price of the property. Some people have suggested that, in these situations, the property should be excluded from sales studies of agricultural property, to prevent the assessment of that class of property from being distorted and inappropriately increased.

CONTENT

The bill would amend the General Property Tax Act to require agricultural property to be excluded from sales studies if, upon a transfer of ownership, an affidavit attesting that the property would remain agricultural had not been filed.

Specifically, the bill would require an assessor and equalization director, in finalizing sales studies for property classified under the Act as agricultural real property, to determine whether an affidavit for the property had been filed under Section 27a(7)(n). (As explained below, that section exempts a transfer of agricultural property from the "pop up" tax if the transferee files an affidavit attesting that the property will remain agricultural.)

If an affidavit had not been filed, the property would have to be reviewed to determine whether classification as agricultural real property was correct or should be changed. The assessor for the local tax collecting unit where the property was located would have to contact the property owner to determine why the owner did not file an affidavit.

Unless there were convincing facts to the contrary, the sale of property classified as agricultural real property for which an affidavit under Section 27a(7)(n) had not been filed could not be included in a sales study.

MCL 211.8 & 211.27

BACKGROUND

Under Michigan law, the taxable value of a parcel of property may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the property is taxed upon its State equalized valuation, which is 50% of its true cash value. This is commonly referred to as the "pop-up" tax.

Section 27a of the General Property Tax Act defines "transfer of ownership" for this purpose and identifies types of conveyances that do or do not constitute a transfer of ownership. Under Section 27a(7)(n), "transfer of ownership" does not include a transfer of qualified agricultural property if the person to whom the property is transferred files an affidavit with the local assessor and with the register of deeds for the county in which the property is located, attesting that the property will remain qualified agricultural property.

"Qualified agricultural property" means unoccupied property and related buildings classified as agricultural property, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in Section 36101 of the Natural Resources and Environmental Protection Act (NREPA). Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use, who has not claimed a principal residence exemption on other property.

(Section 36101 of NREPA defines "agricultural use", for the purpose of agricultural conservation easements, as the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; maple syrup production; Christmas trees; and other similar uses and activities.)

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

If the sales price of property within a class is more than the property's assessed value, then the overall taxation of property in that class may increase after a sales study is performed. This might occur when farmland is sold to a person who intends to use it for a nonagricultural purpose, since the buyer is likely to pay more than what someone else would pay for farmland. Including this transaction in a study of agricultural property sales, therefore, artificially increases the fair market value of the entire class, potentially increasing the assessment of property that actually is used for agricultural purposes.

To avoid this situation, the bill would take advantage of an existing process that identifies property that will remain agricultural after it is sold or otherwise transferred. If the new owner did not file an affidavit to prevent his or her taxes from being uncapped after the transfer, then the local taxing officials would have to investigate whether the property should remain classified as agricultural. Unless they determined that it should be, the property would have to be excluded from sales studies of agricultural property.

Opposing Argument

The bill would continue the pattern of chipping away at local revenue. Rather than making incremental changes that reduce collections at the local level, the State needs to take a comprehensive approach to tax exemptions and exceptions.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate and likely negligible impact on local unit and State revenue. The bill would apply to a minimal number of agricultural properties, which would be mixed with multiple nonagricultural properties when sales studies were conducted. The magnitude and direction of any impact would depend on the specific characteristics of the agricultural property and the number and characteristics of other properties involved in a sales study.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.