



Senate Fiscal Agency
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Senate Bill 396 (as reported without amendment)
Sponsor: Senator Tom Casperson
Committee: Finance

(as passed by the Senate)

Date Completed: 11-1-13

RATIONALE

Some people believe that property owners should not be faced with higher tax bills when they rebuild structures due to a natural disaster. Although Michigan law limits the amount by which taxable value can rise from one year to the next, that amount can be increased if there are additions to the property. The General Property Tax Act defines "additions" for this purpose, and the definition includes construction that replaced property damaged or destroyed by accident or act of God. This can be problematic for property owners who wish to rebuild but will be unable to afford a higher tax bill. The issue was highlighted after the Duck Lake fire burned 33 square miles in the Upper Peninsula in October 2012. According to reports, the fire destroyed a total of 136 structures, including 49 homes. A year after the fire, many homeowners apparently have not rebuilt, or have not decided whether to do so, because the reconstruction would have a higher taxable value than the destroyed property, and the owners would have to pay higher property taxes. To address this situation and others like it, some have suggested the law should allow replacement construction without an increase in taxable value, if the construction uses substantially the same materials as the original structure and does not increase its size.

CONTENT

The bill would amend the General Property Tax Act to provide for the taxable value of property to remain essentially unchanged if the property were reconstructed due to an accident or act of God; and specify that construction required to bring the property into code compliance would not increase its taxable value.

Under the Act, unless there is a transfer of ownership, the taxable value of property may not increase from one year to the next by more than 5% or the rate of inflation, whichever is less, minus any losses and plus all additions. The Act's definition of "additions" includes replacement construction, which means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the previous tax day, to the extent the construction's true cash value does not exceed the true cash value of the property that was damaged or destroyed by accident or act of God in the preceding three years.

The Act specifies a formula to calculate the value of the replacement construction, for purposes of determining the property's taxable value. This formula requires the true cash value of the replacement construction to be multiplied by a fraction based on the difference between the property's taxable value and its true cash value before the accident or act of God (in effect reducing the value of the replacement construction by that ratio).

Under the bill, after December 31, 2011, if the property's replacement construction were of substantially the same materials and square footage, and if the construction were completed by December 31 in the year three years after the accident or act of God occurred, the taxable value of the replacement construction would be the taxable value of the damaged or destroyed property, adjusted annually as otherwise provided for year-to-year increases.

The bill also specifies that any construction improvements required to bring the property into compliance with applicable health, sanitary, zoning, safety, fire, or construction codes or ordinances could not increase the property's taxable value.

MCL 211.34d

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

The third-largest fire in Michigan's history, the Duck Lake fire decimated over 20,000 acres and destroyed 136 structures, including 49 houses and cabins. While some of the homeowners have sold their property or are rebuilding, others remain in a state of limbo. Reportedly, instead of replacing their homes, some are living in campers or even buses. For those who can afford to rebuild, or who have insurance that will cover the cost, the prospect of a higher property tax bill is a deterrent. This situation is unfair to the individuals who lost their homes through no fault of their own. It also has a negative impact on the local economy, which has lost property tax revenue. In addition, the presence of campers and old buses where waterfront cottages and homes used to be not only affects the tax base but also makes the environment a less desirable place for others to rebuild.

The bill would enable property owners to replace or repair structures that have been destroyed or damaged by a natural disaster, without an increase in taxable value (beyond the 5% or rate-of-inflation limit), if they rebuilt to the essentially same standard and the same square footage as the original structure. In addition, if the replacement construction included any improvements necessary to bring the property into code compliance, those improvements would not increase its taxable value.

Although this issue was brought to the forefront by the Duck Lake fire, the bill would benefit not only those affected by the fire, but also other property owners who had to rebuild after an accident or act of God. In addition, it would apply not only to homes but also to other structures, such as barns and stores, which contribute to people's livelihood and local commerce.

Response: It is not clear why the bill would limit a property owner to using substantially the same materials as used in the damaged or destroyed structure. If the original square footage were not exceeded, the owner should be allowed to use higher-quality materials without incurring an increase in taxable value. An upgraded structure would be good for the neighborhood and ultimately the tax base.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would likely reduce, by an indeterminate and likely negligible amount, local unit and State revenue. The bill would affect a minimal number of properties, and the magnitude and direction of any impact would depend on the specific characteristics of the affected properties.

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.