

EXCEPTION TO UNCAPPING TAXABLE VALUE FOR CERTAIN LIFE ESTATES & LIFE LEASES

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House Bill 4930 as enacted
Public Act 243 of 2015
Sponsor: Rep. Aric Nesbitt
House Committee: Tax Policy
Senate Committee:
Complete to 1-13-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill allows property that was subject to a life estate or life lease to be transferred to a relative after the life estate or life lease has expired or terminated without being considered a "transfer of ownership," thus preventing the taxable value of that property from being uncapped and re-established based on market value. In other words, such property would continue to enjoy the benefit of the constitutionally established limit on annual increases in taxable values. This only applies to residential property not used for commercial purposes after the transfer.

Under the General Property Tax Act, 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, the assessment of a parcel "pops up" to 50 percent of the market value (which is referred to as state equalized valuation, or SEV). The property tax act defines when a "transfer of ownership" has occurred—and when it has not—for the purpose of resetting the assessment based on market value.

Generally speaking, the act provides that the transfer of property subject to a life estate or life lease not retained solely by the transferor of the property (i.e., the person making the transfer) is a transfer of ownership that results in a "pop-up" of the taxable value of the property at the time of the transfer. If the property subject to the life estate or life lease is retained solely by the transferor, then the property's taxable value results in a "pop-up" at the expiration of the life estate or life lease no matter to whom it is transferred.

House Bill 4930 creates an exception to the paragraph above and provides, beginning December 31, 2014, that the transfer of that portion of residential real property that had been subject to a life estate or life lease retained by the transferor resulting from the expiration or termination of that life estate or life lease is not a "transfer of ownership" if the transferee of the property (i.e., the person to whom the property is transferred) is the mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter of the transferor or transferor's spouse, and the residential real property is not used for any commercial purpose following the transfer.

Upon request by the Department of Treasury or the local assessor, the transferee must furnish proof within 30 days that the transferee meets the requirements specified above. A transferee who fails to comply with such a request is subject to a fine of \$200.

The bill also contains an unrelated technical amendment that substitutes "married couple" for "husband and wife" in the same section of the act.

FISCAL IMPACT:

As written, the bill could reduce both state and local tax revenue relative to current law. By leaving the taxable value cap in place on affected properties, local units will not see the increase in their property tax base that would have occurred under current law. This also means that tax base for the State Education Tax (SET) will grow more slowly under the legislation than under current law. Both of these effects amount to a reduction in local and School Aid Fund (SAF) revenues. The loss of local revenue collected for local schools could increase SAF expenditures (and transfers from the General Fund to the SAF), should funding fall below the per-pupil guarantee. A cost estimate cannot be made, since the cost depends on the number of properties affected, their current taxable value, and the local millage rate, data that is not available in advance.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.