

Legislative Analysis



PRINCIPAL RESIDENCE EXEMPTION

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House Bill 4534 as reported from committee

Sponsor: Rep. Bradley Slagh

Committee: Local Government and Municipal Finance

Complete to 2-15-22

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

SUMMARY:

House Bill 4534 would amend the General Property Tax Act to change how certain residential property owners may claim a principal residence exemption they were eligible for but did not receive, for example due to missing a filing deadline. Currently the taxpayer must go before the July or December board of review for approval of the exemption. The bill would allow local assessors to approve the exemption in those cases. The bill also would change how certain documents are forwarded or filed.

Principal residence exemption

Currently under the act, an owner who is eligible for the exemption but whose exemption was not on the tax roll can file an appeal with the July or December board of review for the year in which the exemption was not claimed or for the three years immediately after that year. This right of appeal also applies to an owner who is maintaining an exemption despite not living at the property, as described above, and whose exemption was not on the tax roll. (These provisions generally address cases where an owner missed the filing deadline, for example, or filed a timely exemption claim that was misplaced.)

The bill would eliminate appeals to a board of review in these cases and instead provide that an owner eligible for the principal residence exemption but whose exemption was not on the tax roll (including an owner validly maintaining an exemption while living elsewhere) may file an affidavit with the local tax collecting unit claiming an exemption for the current calendar year or the immediately preceding three calendar years.¹ The affidavit would be on a form prescribed by the Department of Treasury. If requested by the local tax collecting unit, the owner would have to provide proof within 30 days that he or she qualified for the exemption in the relevant year.

Filing and forwarding of notifications and forms

Currently, when an assessor denies a claim for exemption, he or she notifies the Department of Treasury in writing unless the county has elected to audit exemptions as allowed under the act, in which case the assessor notifies the county treasurer or county equalization director. The bill would require the assessor to notify the county treasurer in *all* cases and forward a copy of a denial to the Department of Treasury upon request. Similarly, a county that has elected to audit exemptions would no longer have to notify the Department of Treasury in writing of its denial of a claim, but instead would forward a copy of a denial upon request.

¹ Note that this time frame differs from that under current law, which allows an appeal for the year the exemption is claimed or the three years after that. Under the bill, the owner could file an affidavit for the current year or the three years before that.

The bill also would change the filing and forwarding of conditional rescission forms. As noted above, an owner may typically claim only one primary residence exemption. A property owner who changes residence must rescind the exemption on his or her prior residence within 90 days. However, a conditional rescission allows an owner to receive an exemption on both the current property and the previously exempted property as long as the previous residence is for sale, is not occupied or leased, and is not used for a business or commercial purpose.

Currently, a local tax collecting unit must forward a copy of a conditional rescission form to the Department of Treasury on a schedule prescribed by the department. The bill instead would require the local unit to retain a copy and forward a copy to the Department of Treasury upon request. The bill also would delete a provision that now requires the department to notify the relevant assessor of any rescission that is necessitated because the owner has filed an affidavit claiming the principal residence exemption on a new property. (Because under the bill the department would no longer routinely receive conditional rescissions, presumably it could not be certain which new claims for exemption require the rescission of an earlier exemption.)

MCL 211.7cc and 211.53b

BACKGROUND:

Generally speaking, residential property that is owned and occupied by a Michigan resident as a principal residence² is exempt from the tax levied by a local school district for school operating purposes. This is known as the principal residence exemption. (Principal residences are subject to the six-mill state education tax but exempt from the local school operating levy, which is capped at 18 mills.) A homeowner is typically entitled to only one such exemption, and the owner must rescind the claim of exemption when the property is no longer used as a principal residence.³

An owner may file an affidavit for the exemption by June 1 for that year's summer tax levy (and all subsequent tax levies) or by November 1 for the winter tax levy (and all subsequent ones). The exemption information is then posted to the local property tax roll.

There are exceptions to the requirement that the owner must live at the principal residence to be eligible for the exemption. The following owners can retain an exemption while not living at their principal residence as long as they manifest an intent to return to that property:

- One who is in a nursing home, assisted living facility, or other place of convalescence.
- One who is away while on active duty in the U.S. Armed Forces, their reserve components, or the National Guard.
- One who has vacated their property because it was damaged or destroyed.

To manifest an intent to return, the owner cannot have established a new principal residence, the owner must continue to own and maintain (or rebuild) the property, and the property cannot be used for a business or commercial purpose. There are also conditions regarding whether the property can be occupied or leased in the owner's absence that vary by type of absent owner.

² The act defines "principal residence," in part, as "the one place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established."

³ There are exceptions. https://www.michigan.gov/documents/taxes/2856_PRE_guidelines_607370_7.pdf

FISCAL IMPACT:

As written, the bill is unlikely to have any significant state or local revenue impact. The non-homestead mills collected at the local level are used exclusively for local K-12 funding. To the extent that the bill would allow for principal residence exemptions that might not otherwise have been granted in a given year, and thus lower K-12 funding, the School Aid Fund would need to increase expenditures to the affected districts to maintain the foundation allowance. However, as previously noted, any impact is likely to be very small.

POSITIONS:

The Jamestown Township Assessor testified in support of the bill. (12-8-21)

The following entities indicated support for the bill:

- Department of Treasury (12-8-21)
- Michigan Municipal League (12-8-21)
- Michigan Townships Association (12-8-21)
- Michigan Realtors (1-26-22)
- Michigan Assessors Association (1-26-22)

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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.