

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bills 129 through 132 (Substitutes S-1 as reported)
Senate Bill 133 (Substitute S-2 as reported)
Senate Bills 134, 135, and 136 (Substitutes S-1 as reported)
Sponsor: Senator Nancy Cassis (S.B. 129)
Senator Jason E. Allen (S.B. 130)
Senator Patricia L. Birkholz (S.B. 131)
Senator Valde Garcia (S.B. 132)
Senator Michelle A. McManus (S.B. 133)
Senator Laura M. Toy (S.B. 134)
Senator Bill Hardiman (S.B. 135)
Senator Bev Hammerstrom (S.B. 136)
Committee: Finance

Date Completed: 3-10-03

RATIONALE

Michigan law provides for both a "homestead" exemption from school operating taxes, and a "homestead" credit against the income tax. Public Act 237 of 1994 created the homestead exemption as part of the package of legislation enacted to implement Proposal A (the school finance reform proposal approved by the voters in 1994). While all real property (other than specifically exempted property) is subject to the six-mill State education tax, a taxpayer's homestead is exempt from local school operating mills. (In general, school districts may levy up to 18 mills on nonhomestead property, with voter approval.) The owner of a homestead must file an affidavit with the local tax collecting unit to claim the exemption. A taxpayer may claim only one homestead exemption.

The homestead property tax credit, enacted in 1973, allows a taxpayer to claim a credit against the State income tax when filing his or her State income tax return. In general, the credit equals 60% of the amount by which the taxpayer's property taxes exceed 3.5% of the taxpayer's household income. A taxpayer may have only one homestead for purposes of the credit, and must be the occupant as well as the owner or renter of the homestead. Taxpayers whose income exceeds a certain limit are not eligible for the credit.

Many local treasurers have complained that, since the passage of Proposal A, substantial numbers of taxpayers have become confused and have had difficulty distinguishing between the homestead exemption and the homestead credit. Reportedly, this has caused some taxpayers who filed a homestead exemption not to claim a homestead credit, and vice versa. It has been suggested that this confusion could be lessened or eliminated if the homestead exemption were called, instead, the "principal residence" exemption.

CONTENT

Senate Bills 129 (S-1) and 133 (S-2) would amend the Revised School Code and the General Property Tax Act, respectively, to replace the term "homestead" with the term "principal residence" in provisions that exempt homestead property from school operating property taxes levied by school districts. Senate Bills 130-132 and 134-136 would amend various other statutes to delete references to "homestead" and, in some cases, replace them with references to "principal residence". The bills would take effect January 1, 2004.

Senate Bill 133 is tie-barred to all of the other bills, which are tie-barred to Senate Bill 133. The bills are described below.

Senate Bill 129 (S-1)

Under the Revised School Code, a school district may levy up to 18 mills for school operating purposes on nonhomestead property, while homestead property (including qualified agricultural property) is exempt from these taxes. The Code states that "homestead" and "qualified agricultural property" mean those terms as defined in the Code or in Section 7dd of the General Property Tax Act (a section that Senate Bill 133 (S-2) would amend). Senate Bill 129 (S-1) would refer to "principal residence" instead of "homestead"; delete the Code's definitions of "homestead" and "qualified agricultural property"; and specify that "principal residence" and "qualified agricultural property" would mean those terms as defined in Section 7dd.

Senate Bill 133 (S-2)

The General Property Tax Act states that a homestead is exempt from the tax levied by a school district for school operating purposes to the extent provided under the Revised School Code. The Act defines "homestead" for this purpose as homestead or qualified agricultural property as those terms are defined in Section 7dd. Senate Bill 133 would replace the term "homestead" with "principal residence" in these provisions and in provisions that prescribe the process for an owner to claim an exemption.

The bill would amend Section 7dd to delete the definition of "homestead". The bill would include in the Act's definition of "principal residence" provisions that are contained in the current definitions of "homestead" in the Act and the Revised School Code. The bill would retain the Act's present definition of "qualified agricultural property".

The bill provides that if a property owner filed an affidavit for a homestead exemption before January 1, 2004, that affidavit would be the affidavit required for a principal residence exemption, and would remain in effect until rescinded.

Senate Bill 130 (S-1)

The bill would amend the Neighborhood Enterprise Zone Act to replace references to "homestead" with references to "principal

residence" in provisions that prescribe a specific tax on facilities in a neighborhood enterprise zone.

Senate Bill 131 (S-1)

The bill would amend the State Real Estate Transfer Tax Act to eliminate references to "homestead" in provisions that refer to homestead property for which a homestead exemption is claimed under the General Property Tax Act.

Senate Bill 132 (S-1)

The bill would amend Public Act 27 of 2002, which provides for the development of blighted property, to remove a reference to "homestead" in a provision that refers to a homestead exemption under the General Property Tax Act.

Senate Bill 134 (S-1)

The bill would amend the State School Aid Act to replace references to "homestead" with references to "principal residence"; specify that "principal residence" and "qualified agricultural property" would mean those terms as defined in Section 7dd of the General Property Tax Act; and remove the School Aid Act's definitions of "homestead" and "qualified agricultural property".

Senate Bill 135 (S-1)

The bill would amend the Seller Disclosure Act to replace a reference to "homestead" with a reference to "principal residence" on the seller's disclosure statement.

Senate Bill 136 (S-1)

The bill would amend the Tax Tribunal Act to replace references to "homestead" with references to "principal residence" in provisions pertaining to claims for exemption.

- MCL 380.1211 et al. (S.B. 129)
- 207.779 (S.B. 130)
- 207.526 (S.B. 131)
- 125.2802 (S.B. 132)
- 211.7u (S.B. 133)
- 388.1620 (S.B. 134)
- 565.957 (S.B. 135)
- 205.735 (S.B. 136)

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

Twenty years after the homestead property tax credit was created, the implementation of Proposal A added statutory provisions for a homestead exemption. The credit and the exemption offer two separate ways for taxpayers to reduce their tax burdens, and qualified taxpayers may claim either or both. Because both the credit and the exemption refer to "homestead", some taxpayers have been or become confused regarding their ability to qualify for one or both.

A taxpayer may claim a homestead exemption in order to exempt his or her homestead (the primary place of residence) from school operating property taxes, regardless of the level of the taxpayer's income or the amount of the taxes. A taxpayer may claim a homestead credit, against his or her income tax liability, if the taxpayer's property taxes exceed a certain percentage of his or her household income (determined by the formula used in the calculation). Further, individuals with household incomes that exceed \$82,650 in a tax year are not eligible for the credit no matter how much property tax they paid that year.

Apparently, some taxpayers who do not qualify for the homestead credit mistakenly think they also are ineligible for the homestead exemption, fail to file an affidavit, and thus are billed for and pay school operating property taxes on their homesteads. In other cases, taxpayers correctly file for a homestead exemption but do not claim a homestead credit (even though eligible), because they believe they already are receiving a tax break on their "homestead". Still others sometimes file for more than one homestead exemption, in violation of the General Property Tax Act, claiming one exemption for their home and another for their vacation home.

By replacing references to the "homestead" exemption with references to the "principal residence" exemption, the bills would make a clear distinction between the exemption and the homestead credit. This would help to

reduce existing and future taxpayer confusion, and ensure that taxpayers receive the exemptions and credits to which they are entitled. The change in terminology also would make it easier for township treasurers to explain the exemption and the credit to the public.

Legislative Analyst: George Towne

FISCAL IMPACT

The bills would have little to no impact on State revenues and no impact on local revenues or expenditures. The magnitude and direction of the impact depends how taxpayers would react to the changed wording. If taxpayers are familiar with the exemption as a homestead exemption and, on net, do not fill out the appropriate affidavits when purchasing homes because they are expecting different forms, homestead property tax credits could increase and School Aid Fund expenditures decrease. Conversely, if the net change increased use of the exemption, homestead property tax credits could decrease and School Aid Fund expenditures increase. The two impacts are not completely offsetting: Generally the homestead property tax credit provides for less than 100% of the property taxes paid, while the School Aid Fund expenditures will offset 100% of the changes in property taxes.

The bills would not affect State education tax revenues because all property, whether it receives the exemption or not, is taxed at 6 mills under the State education tax. Similarly, the bills would not affect local unit revenues because, while the exemption eliminates the 18-mill levy for school operating purposes from the property's tax base, School Aid Fund expenditures to the local unit offset any revenue reduction.

The Department of Treasury reports that the bills would result in additional costs to the Department regarding production and distribution of forms and computer programming. No estimate on the amount of the costs to the Department is available.

Fiscal Analyst: David Zin
Bill Bowerman

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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.