



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 129 through 132 (as enrolled)
Senate Bills 133, 134, and 135 (as enrolled)
House Bill 4192 (as enrolled)
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)
Representative John Stakoe (H.B. 4192)

Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 1-3-05

RATIONALE

Michigan law provides for both a "homestead" exemption from school operating taxes, and a credit against the income tax for property taxes paid on a residence, originally called the "homestead" credit. 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 nonexempt real 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 income 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 his or her household income. A taxpayer may claim the credit for only one home, and must be the occupant as well as the owner or renter of the home. Taxpayers whose income exceeds a certain limit are not eligible for the credit.

Many local treasurers complained that, since

PUBLIC ACTS 126-129 of 2003 **PUBLIC ACTS 140, 141, & 130 of 2003** **PUBLIC ACT 131 of 2003**

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

CONTENT

Senate Bills 129 and 133 amended 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 such property from property taxes levied by school districts for operating purposes. Senate Bill 133 also exempts certain aircraft from the property tax; and refers to the taxable value, rather than the State equalized value, of certain exempt property. The remaining bills amended various other statutes to delete references to "homestead" and, in some cases, replace them with references to "principal residence". The bills took effect January 1, 2004.

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

Senate Bill 129

Under the Revised School Code, a school district may levy up to 18 mills for school operating purposes on nonhomestead property, while a "homestead" was exempt from these taxes. Under the bill, a "principal residence" is exempt from school operating taxes. As before, qualified agricultural property also is exempt. The Code had stated that "homestead" and "qualified agricultural property" meant those terms as defined in the Code or in Section 7dd of the General Property Tax Act (a section that Senate Bill 133 amended). Senate Bill 129 repealed Section 1211d of the Code, which contained the definitions of "homestead", "qualified agricultural property", "owner", and "person"; and specifies that "principal residence", "qualified agricultural property", "owner", and "person" mean those terms as defined in Section 7dd of the General Property Tax Act.

Senate Bill 133

Principal Residence Exemption

The General Property Tax Act had exempted a "homestead" from the tax levied by a school district for school operating purposes to the extent provided under the Revised School Code. The Act defined "homestead" for this purpose as homestead or qualified agricultural property as those terms are defined in Section 7dd. Senate Bill 133 replaced 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 amended Section 7dd to delete the definition of "homestead". The bill included in the Act's definition of "principal residence" provisions had been contained in the previous definitions of "homestead" in the Act and the Revised School Code.

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

Aircraft Exemption

For taxes levied after December 31, 2000, the

bill exempts from the property tax aircraft excepted from the registration provisions of the State's Aeronautics Code and all other aircraft operating under the provisions of a certificate issued under Title 14, Part 121 of the Code of Federal Regulations (CFR), and all spare parts for those aircraft.

This provision is retroactive and is effective for taxes levied after December 31, 2000.

(The Aeronautics Code requires the registration of an aircraft tied down, moored, hangered, or based within this State. The registration provisions do not apply to the following:

- Aircraft engaged in scheduled passenger service flying in interstate or foreign commerce, and operating exclusively under a Federal certificate issued under 14 CFR Part 121.
- Aircraft owned by the U.S. government.
- Aircraft of a resident of another state or of a resident of this State that is tied down, moored, hangered, or based within another state, in compliance with that state's registration requirements, and operating within Michigan for 90 days or less a year.
- Aircraft owned by or registered to the United States, aircraft of the civil air patrol, or aircraft licensed by a foreign country with which the U.S. has reciprocity.
- Aircraft whose condition would preclude its operation, in the opinion of the Aeronautics Commission.

Title 14, Part 121 of the CFR prescribes rules governing the operations of a person who holds or is required to hold an Air Carrier Certificate or Operating Certificate under Part 119. That part applies to a person operating civil aircraft either 1) as an air carrier and/or commercial operator in air commerce, or 2) when common carriage is not involved, in operations of U.S.-registered civil airplanes seating 20 or more passengers or having a maximum payload capacity of 6,000 pounds or more.)

Other Personal Property Exemptions

The General Property Tax Act contains exemptions for certain personal property whose value does not exceed specified limits. This property includes up to \$5,000 worth of household furnishings, provisions, and fuel of a fraternity, sorority, or student cooperative house recognized by the educational institution where it is located; up to \$500

worth of a mechanic's working tools; and up to \$500 worth of personal property used by a householder in the operation of a business. Previously, the Act had referred to the "state equalized value" of the exempt property. The bill, instead, refers to the amount "in taxable value".

Senate Bill 130

The bill amended 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

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

Senate Bill 132

The bill amended 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 an exemption under the General Property Tax Act.

Senate Bill 134

The bill amended the State School Aid Act to replace references to "homestead" with references to "principal residence"; specify that "principal residence" and "qualified agricultural property" 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

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

House Bill 4192

The bill amended 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 et al. (S.B. 133)
388.1620 (S.B. 134)
565.957 (S.B. 135)
205.735 et al. (H.B. 4192)

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 income tax credit was created for homestead property, 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 the credit and the exemption each referred to "homestead", some taxpayers became confused regarding their eligibility 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 credit against his or her income tax liability if the taxpayer's property taxes exceed a certain percentage of his or her household income. 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 did not qualify for the income tax credit mistakenly thought they also were ineligible for the homestead exemption, failed to file an affidavit, and thus were billed for and paid school operating property taxes on their homesteads. In other cases, taxpayers correctly filed for a homestead exemption but did not claim a homestead credit (even though eligible), because they believed they already were receiving a tax break on their "homestead". Still others sometimes filed 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 make a clear distinction between the exemption and the homestead credit. This will help to reduce taxpayer confusion, and ensure that taxpayers receive the exemptions and credits to which they are entitled. The change in terminology also will make it easier for township treasurers to explain the exemption and the credit to the public.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have little to no impact on State revenue and no impact on local revenue or expenditures. The magnitude and direction of the impact depend how taxpayers react to the changed wording. If taxpayers were familiar with the exemption as a homestead exemption and, on net, did not fill out the appropriate affidavits when purchasing homes because they were expecting different forms, homestead property tax credits may increase and School Aid Fund expenditures decrease. Conversely, if the net change increases use of the exemption, homestead (principal residence) tax credits might decrease and School Aid Fund expenditures increase. The two impacts are not completely offsetting: Generally the income 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 will not affect State education tax revenue because all property, whether it receives the exemption or not, is taxed at 6 mills under the State education tax. Similarly, the bills will not affect local unit revenue 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 provisions regarding exempting certain aircraft are not expected to have any meaningful fiscal impact on the State or local units. The provisions altering certain exemptions for personal property also are expected not to have any meaningful impact on the State or local units.

The Department of Treasury reported 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

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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.