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BILL ANALYSIS



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Senate Bill 886 (as enacted)
Sponsor: Senator Jud Gilbert, II
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 243 of 2008

Date Completed: 9-2-08

RATIONALE

Under the General Property Tax Act, a taxpayer's principal residence is exempt from the tax levied by a school district for school operating purposes. As a rule, an owner may not claim the exemption on a residence that is being rented by another person. Active duty military personnel, however, often are deployed overseas or transferred away from their Michigan homes. Because some are required to perform military duty outside the State, they receive housing allowances based on costs in their duty location, but these allowances might not cover the costs of the service members' Michigan residence. During their absence, they may choose to rent out their home in order to help with mortgage payments and other expenses that might not be covered by their housing allowance or are otherwise difficult to afford without their civilian salary. When an owner attempted to minimize costs by renting out his or her house during active duty commitments, however, he or she would lose the principal residence exemption and experience increased tax liability.

Some people suggested that because a home owner serving on active duty may experience financial difficulties, he or she should be able to claim a principal residence exemption even if the residence is rented to another person.

CONTENT

The bill amended the definition of "principal residence in the General Property Tax Act to allow property that qualifies as a principal residence to

continue to qualify as a principal residence for three years after all or any portion of the dwelling or unit included in or constituting the principal residence is rented or leased to another person as a residence if the owner of the dwelling or unit is absent while on active duty in the Armed Forces of the United States, and the dwelling or unit otherwise qualifies as the owner's principal residence.

Under the bill, the owner must file an affidavit with the assessor of the local tax collecting unit on or before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the Armed Forces of the United States. In 2008 only, the owner may file an affidavit on or before December 31. A copy of an affidavit must be forwarded to the Department of Treasury pursuant to a schedule it prescribes.

Under the Act, a principal residence is exempt from the tax levied by a school district for school operating purposes to the extent provided under the Revised School Code. To claim the exemption, an owner of property must file an affidavit by May 1 with the local tax collecting unit in which the property is located. The affidavit must state that the property is owned and occupied as a principal residence by that property owner. A person may not claim the exemption if any of the following apply:

-- The person's spouse has claimed the exemption.

- The person or his or her spouse has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.
- The person has filed a nonresident Michigan income tax return and is not an active duty military personnel stationed in this State with his or her principal residence in Michigan.
- The person has filed an income tax return in a state other than Michigan as a resident, and is not an active duty military personnel stationed in this State with his or her principal residence in Michigan.

A person also may not claim the exemption if he or she previously rescinded an exemption for the same property, there has not been a subsequent transfer of ownership of that property, and either 1) the person has claimed an exemption for any other property for that tax year, or 2) the person has rescinded an exemption on other property, the exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

"Principal residence" means 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 continues as a principal residence until another principal residence is established. Principal residence includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner.

Principal residence includes only that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling or unit. Principal residence includes any portion of a dwelling or unit of an owner that is rented or leased to another person as a residence as long as the rented or leased portion of the dwelling or unit is less than 50% of the total square footage of living space in that dwelling or unit.

Under the bill, these provisions apply except as otherwise provided in the definition.

The bill took effect on July 17, 2008.

MCL 211.7dd

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 bill will help service men and women keep their homes while on active duty by allowing them to claim a principal residence exemption while they rent their homes to other people. When active duty military personnel are deployed overseas or transferred, they typically have personal and financial matters to address before and during the deployment or transfer. Some may find that housing allowances, which are based on the location of duty, not on the location of residence, are not enough to pay for the expenses of their principal residence, and decide to rent out the house while away. The bill reduces housing costs for active duty military personnel by minimizing the tax liability of their principal Michigan residence while they make money through renting out their homes.

To ensure that only qualified owners receive the exemption, the bill limits it to three years and requires an owner to file an affidavit attesting that it is his or her intention to occupy the home as a principal residence once he or she returns from active duty.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill will alter the distribution between local school operating revenue to schools and School Aid Fund payments to those schools by an unknown and likely minimal amount. The bill also may have a secondary impact on homestead property tax refunds of an unknown and likely minimal amount. The number of properties used as a principal residence by a member of the Armed Forces who is absent on active duty is unknown, as is the number of these properties that are being rented or leased.

Under law, the owner of property not subject to the principal residence exemption is required to pay a levy, usually 18 mills, for school operating purposes. School Aid Fund expenditures make up the difference between locally generated school operating revenue and guaranteed per-pupil funding

levels. As a result, as local property owners pay greater amounts for school operating purposes, the State is required to pay less to the school district to meet the funding guarantees.

Both renters and homeowners, with certain income restrictions, are eligible to claim a credit for a portion of property taxes that are paid and that exceed a specified percentage of household income. Landlords are not able to claim the credit on rental properties. As a result, the bill will change the distribution of some property tax credits under the individual income tax and also may alter affected taxpayers' eligibility for the credits.

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.