

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

MAY 23 1989

Mich. State Law Library

Senate Bill 305 (Substitute S-1 as reported)
Sponsor: Senator Norman D. Shinkle
Committee: Finance

Date Completed: 4-24-89

RATIONALE

Under Section 27(2) of the General Property Tax Act, as amended by Public Act 293 of 1976 (which was known as the Mathieu-Gast Home Improvement Act of 1976), an assessor, beginning December 31, 1976, "shall not consider expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property is sold". Prior to the passage of the Mathieu-Gast Home Improvement Act assessors could increase the assessment on property if it were determined that a repair or maintenance increased the value of the property.

Section 27(2) has been the subject of two property tax disputes that were recently ruled upon by the Court of Appeals. In 1987, in Fisher v Sunfield Township, the Court reversed the decision of the Michigan Tax Tribunal, which had found that the value of improvements to property (made by the taxpayer, Fisher), rather than the actual expenditures for improvements, should be exempted in determining true cash value. The Court of Appeals said that the Tax Tribunal had erred in holding that it is the contribution to cash value of the property rather than the actual expenditures that should be excluded from the computation of true cash value. The Court said, "...we are inclined to believe that the Legislature intended the actual amount expended to be included for purposes of nonconsideration in assessing the true cash value of residential property" (163 Mich App 735). In another case decided in 1988, Coyne v Highland Township, the Court reversed the Tax Tribunal, which had found that repairs or maintenance performed before December 31,

1976, (the date cited in the Act) should not be excluded from consideration in determining an assessment. The Court disagreed, saying that, "...the act clearly directs our attention to when the assessor makes his assessment, not to when the work is done. Had the Legislature intended to make the date of the work the triggering event, it could have clearly provided so by stating that the assessor should not consider expenditures made or work performed before December 31, 1976" (169 Mich App 401). Some people believe that the Court's construction, in each case, was not what the Legislature had in mind--that the Act attempted to limit repairs not to be considered in determining assessments to those made after December 30, 1976; and to exclude from true cash value the increase in value caused by a repair instead of the cost of the repair. It has been suggested that Section 27(2) should be amended to reflect this intent clearly.

CONTENT

The bill would amend Section 27(2) of the General Property Tax Act to provide that an assessor, when determining the true cash value of property for assessment purposes, could not consider an increase in true cash value that was the result of expenditures for normal repairs and maintenance made after December 30, 1976, until the property was sold. Further, the bill provides that Section 27(2) would apply only to single family residential property, rather than only to "residential property" as currently provided.

MCL 211.27

FISCAL IMPACT

The bill would have an indeterminate fiscal impact. Data are not available on the average increase in home market value due to normal maintenance and repair.

ARGUMENTS

Supporting Argument

The Mathieu-Gast Home Improvement Act was enacted to allow homeowners to repair and maintain their homes after 1976 without being punished for their efforts by an increased assessment, and thus increased property taxes. The Act didn't provide homeowners with a reward for keeping up their property; rather, it attempted to prevent increased assessments for normal maintenance. In two recent Court of Appeals decisions the Court found that: 1) repairs made before December 31, 1976, should be excluded from the determination of true cash value and; 2) the actual cost of repairs should be excluded from the determination of true cash value, instead of the increase in value caused by the repairs. The bill would make it clear that the exclusion from determination applies only to repairs made after 1976, and that an increase in true cash value caused by repairs or maintenance cannot be used for assessment purposes.

Legislative Analyst: G. Towne
Fiscal Analyst: N. Khouri

A8990/S305A

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.