

Legislative Analysis



APPEAL OF INCORRECT UNCAPPING OF PROPERTY TAX ASSESSMENTS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4065 as enrolled
Public Act 23 of 2005
Sponsor: Rep. Bruce Caswell
House Committee: Tax Policy
Senate Committee: Finance

Second Analysis (7-21-05)

BRIEF SUMMARY: The bill would permit a property tax bill to be corrected at the July or December board of review following an incorrect uncapping of a property tax assessment.

FISCAL IMPACT: The bill would have no significant fiscal impact.

THE APPARENT PROBLEM:

The General Property Tax act provides for the establishment of local boards of review to receive and review the tax assessment roll. The March board of review is charged with making corrections to the assessment roll, as appropriate, regarding the names listed, property descriptions, and the assessment and valuation of property. In addition, the March board of review hears taxpayer appeals of assessments and valuations. The act also permits the board of review to meet in July and December to correct clerical errors and mutual mistakes of fact related to assessment figures, tax rates, and mathematical computations. The July and December boards, however, do not have the authority to hear any appeals regarding the assessment and valuation of property.

Under the General Property Tax Act, year-to-year increases in the taxable value of a parcel of property are generally limited to five percent or the rate of inflation, whichever is lower. However, when the ownership of the property is transferred, the taxable value is uncapped and reverts to the state equalized value (SEV), which typically is 50 percent of the property's market value.

In some instances, local assessors have mistakenly uncapped a property's assessment. When that occurs, the taxpayer can appeal to the March board of review. However, if the mistake is not caught by the March board of review, the mistake can only be corrected by the July or December boards of review if that mistake is due to a clerical error or mutual mistake of fact. According to committee testimony, if that erroneously uncapped property assessment is not correctable in July or December, the taxpayer is left with no recourse and is liable for the higher tax bill. Legislation permitting correcting an erroneous uncapping at the July or December board of review has been introduced.

THE CONTENT OF THE BILL:

House Bill 4065 would amend the General Property Tax Act to specify that if the taxable value of a parcel of property "pops up" to the state equalized value (SEV), and the assessor determines that a transfer of ownership did not occur, the property's taxable value for the current year and three previous calendar years could be adjusted at the July or December board of review, notwithstanding the limitation provided in Section 53b(1) of the act on the number of years for which a correction may be made. If the property's taxable value is adjusted, a corrected tax bill would be issued, either by the local tax collecting unit or the county treasurer, depending on who has possession of the tax roll. An adjustment would be considered to be the correction of a clerical error. (Under Section 53b(1), corrections for clerical errors may be made only in the year in which the error was made or the following year.)

MCL 211.27a

ARGUMENTS:

For:

The current structure of the General Property Tax Act reportedly provides a taxpayer with little recourse if a property assessment is mistakenly uncapped by the local assessor. If the mistake is not appealed to the March board of the review, the taxpayer can only have the matter corrected by the July or December board of review if the assessment was due to a "clerical error" or a "mutual mistake of fact." However, it seems unlikely that an erroneously uncapped assessment would be the result of a "clerical error" or "mutual mistake of fact." In the context of the General Property Tax Act, a "clerical error" is an error of a typographical, transpositional, or mathematical nature. [See *International Place Apartments v. Ypsilanti Township*, 216 Mich App 104 (1996)] A "mutual mistake of fact" is a shared or common error, misconception, misunderstanding, or erroneous belief about a material fact, which in the context of the General Property Tax Act requires both the assessing officer and the taxpayer to have the same erroneous belief regarding the same material fact thereby causing both the excess assessment and excess payment of taxes. [See *Ford Motor Company v. Bruce Township*, 264 Mich App 1 (2004)]

The bill will allow an assessment that had been uncapped incorrectly to be corrected at the July or December board of review (in addition to the March board of review). It allows the correction to be made for the current year and three previous calendar years.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.