

# Legislative Analysis



## TAX EXEMPTION: DEVELOPMENT PROPERTY

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**House Bill 5017**

**Public Act 204 of 2013**

**Sponsor: Rep. Margaret E. O'Brien**

**House Committee: Tax Policy**

**Senate Committee: Finance**

**Complete to 7-29-14**

### A SUMMARY OF HOUSE BILL 5017 AS ENACTED

Generally speaking, the bill would provide an exemption from school operating property taxes (typically 18 mills) not only for new construction on development property, as is the case now, but also for the property on which the new construction is located, but only for a specified length of time.

Public Act 494 of 2012 previously amended the General Property Tax Act to provide that beginning November 1, 2012, new construction that is located on "development property" is exempt from the 18 mills (generally) levied for school operating purposes for three years or until the new construction is no longer located on development property.<sup>1</sup>

For the purpose of this exemption, "development property" meant real property on which a residential dwelling, condominium unit, or other residential structure was located, where that dwelling, unit, or structure was (1) not occupied and had never been occupied, (2) was available for sale, (3) was not leased, and (4) was not used for any business or commercial purpose. PA 494 did not provide an exemption for the land on which the construction was located.

#### **Property Tax Exemption**

Specifically, House Bill 5017, as enacted, does the following:

- Keeps the current exemption for new construction on development property in place for taxes levied from November 1, 2012, until December 30, 2013.
- Provides from November 1, 2013, through December 30, 2015, an exemption from school operating taxes (to the same extent as a principal residence) for development property on which exempt new construction is located.<sup>2</sup> This exemption for development property would be for two years or until the property is no longer development property, whichever occurs first.

<sup>1</sup> See a related STC bulletin, [http://www.michigan.gov/documents/treasury/Bulletin2013-3\\_417002\\_7.pdf](http://www.michigan.gov/documents/treasury/Bulletin2013-3_417002_7.pdf). "New Construction" is defined in the act (MCL 211.34d) as property not in existence on the immediately preceding tax day and not replacement construction. The STC bulletin advises that the exemption can only apply to construction that took place in 2012 or subsequent years.

<sup>2</sup> See a related STC bulletin, [http://www.michigan.gov/documents/treasury/Bulletin24of2013\\_443350\\_7.pdf](http://www.michigan.gov/documents/treasury/Bulletin24of2013_443350_7.pdf).

- Provides an exemption from school operating taxes to the same extent as a principal residence, beginning December 31, 2013, for eligible development property. This exemption would be for three years or until the property is no longer development property, whichever occurs first.
- Defines "eligible development property" to mean the following real property *not previously exempt* under 2012 PA 494:
  - (1) A residential dwelling, condominium unit, or other residential structure that was new construction after December 30, 2012, and that meets all of the following conditions: (1) is not occupied and has never been occupied; (2) is available for sale; (3) is not leased; and (4) is not used for any business or commercial purpose, except for one unit used as an on-site office. (In the case of a condominium or other residential structure that consists of multiple units, occupancy does not occur until all of the units are occupied. However, any unit that is occupied is not eligible for exemption under this section.)
  - (2) The land on which the residential dwelling, condominium unit, or other residential structure identified above is located.
- Amended the definition of "development property" as used in the 2012 act to allow an exception to the prohibition on using it for any business or commercial purpose; the amendment permits one unit to be used as on-site office in a specific development.

**Claiming the Exemption**

To claim the development property exemption, property owners must file an affidavit with the local tax collecting unit by June 1 for the immediately preceding winter tax levy, the immediately succeeding summer tax levy, and all subsequent tax levies or by November 1 for the immediately succeeding winter tax levy and all subsequent tax levies. Upon receipt of the affidavit, the local assessor would determine if the real property on which new construction is located is development property.

The property owner must file a form with the local tax collecting unit to rescind the exemption for development property within 90 days after all or a portion of the exempt development property is no longer development property.

**FISCAL IMPACT:**

As written, the bill would reduce local property tax revenues by an unknown amount. The magnitude of the loss depends on the taxable value of the real property that qualifies. This would require increased expenditures from the School Aid Fund to offset the lost revenue for local school districts and to maintain the foundation allowance.

## **BACKGROUND INFORMATION:**

The owner of development property must file a rescission with the local tax collecting unit within 90 days after all or a portion of exempted new construction is no longer located on development property.<sup>3</sup> Failure to file a rescission form after the 90-day period is subject to a penalty of \$5 per day, up to \$200.

Local assessors are responsible for determining whether real property described in the affidavit claiming the exemption is development property. Assessors may deny the claim for the exemption if the assessor determines that the new construction is not located on development property and provides the owner with written notice of the denial at least 14 days before a meeting of the Board of Review.

The assessor's determination may be appealed to the July or December Board of Review (for property not on the tax roll) or the March Board of Review (for an existing exemption), with the board's decision subject to appeal to the Michigan Tax Tribunal (Small Claims Division)

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■ 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.

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<sup>3</sup> See Treasury Form 5050, [http://www.michigan.gov/documents/treasury/5050\\_420765\\_7.pdf](http://www.michigan.gov/documents/treasury/5050_420765_7.pdf).