

Legislative Analysis



TAX EXEMPTION: DEVELOPMENT PROPERTY

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House Bill 5017

Sponsor: Rep. Margaret O'Brien

Committee: Tax Policy

Complete to 10-22-13

A SUMMARY OF HOUSE BILL 5017 AS INTRODUCED 9-26-13

Public Act 494 of 2012 provides 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.¹

House Bill 5017 would expand the current exemption to also include the development property. The exemption for development property would be retroactive and effective for taxes levied after November 1, 2012.

Under current law, "development property" means real property on which a residential dwelling, condominium unit, or other residential structure is located, where that dwelling, unit, or structure is (1) 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.

Regarding this last criterion, House Bill 5017 would provide an exception for an on-site office in a specific development.

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:

To claim the current exemption for new construction, the owner of development property must file an affidavit claiming the exemption with the local tax collecting unit on or before June 1 (for taxes beginning with the immediately succeeding summary taxes) or

¹ See a related STC bulletin, 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.

on or before November 1 (for taxes beginning with the immediately succeeding winter taxes).²

The owner of development property must file a rescission with the local tax collecting unit within 90 days after all or a portion of the exempted new construction is no longer located on development property.³ 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 the 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.

² See, Treasury Form 5033, http://www.michigan.gov/documents/treasury/5033_fillable_411774_7.pdf. The STC bulletin advises that the three-year limit on the exemption from school operating taxes begins with the date the affidavit claiming the exemption is filed, not the date the new construction is completed.

³ See Treasury Form 5050, http://www.michigan.gov/documents/treasury/5050_420765_7.pdf.