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BILL ANALYSIS



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House Bill 5017 (Substitute H-1 as passed by the House)
Sponsor: Representative Margaret O'Brien
House Committee: Tax Policy
Senate Committee: Economic Development

Date Completed: 12-2-13

CONTENT

The bill would amend Section 7ss of the General Property Tax Act, which exempts new construction on development property from school operating taxes for up to three years, to do the following:

- **Limit the current exemption to taxes levied through December 30, 2013.**
- **Exempt from school operating taxes, between November 1, 2013, and December 30, 2015, development property on which exempt new construction was located, for up to two years, to the extent provided for a principal residence.**
- **Beginning December 31, 2013, exempt eligible development property from school operating taxes, for up to three years, to the extent provided for a principal residence.**
- **Establish deadlines to claim the exemptions.**
- **Require assessors to determine whether property was development property or eligible development property.**
- **Require an owner to rescind the exemption for property that was no longer development property or eligible development property.**

Definitions

Section 7ss defines "new construction" as the term is defined in Section 34d of the Act (i.e., property not in existence on the immediately preceding tax day and not replacement construction).

"Development property" means real property on which a residential building, condominium unit, or other residential structure is located, which dwelling, unit, or structure meets all of the following conditions:

- Is not and has never been occupied.
- Is available for sale.
- Is not leased.
- Is not used for any business or commercial purpose.

Under the bill, the last restriction would not apply to real property used as an on-site office in a specific development. In the case of a specific development that consisted of multiple units, only one such unit would be eligible for exclusion from this restriction as an on-site office.

The bill would define "eligible development property" as all of the following real property not previously exempt under Section 7ss:

- A residential dwelling, condominium unit, or other residential structure that was new construction after December 30, 2012, and that meets the conditions described below.
- The land on which the residential dwelling, condominium unit, or other residential structure is located.

The conditions a residential dwelling, condominium unit, or other residential structure would have to meet would be the same as required for development property. Also, in the case of a condominium or other residential structure that consists of multiple units, occupancy would not occur until all of the units were occupied, but any unit that was occupied would not be eligible for exemption under Section 7ss.

Current Exemption for New Construction

Currently, for taxes levied after November 1, 2012, new construction on development property is exempt from the collection of the tax levied by a local school district for operating purposes, for three years or until the new construction is no longer located on development property, whichever occurs first.

Under the bill, this exemption would apply for taxes levied after November 1, 2012, through December 30, 2013.

To claim this exemption, an owner of development property must file an affidavit with the local tax collecting unit by June 1 for the next summer tax levy and all subsequent tax levies, or by November 1 for the next winter tax levy and all subsequent tax levies. Under the bill, the affidavit would have to have been filed by June 1, 2013, or November 1, 2013.

Exemption for Development Property through 12-30-15

Beginning November 1, 2013, through December 30, 2015, development property on which currently exempt new construction was located would be exempt from the collection of local school operating taxes to the same extent provided for a principal residence, for two years or until the property was no longer development property, whichever occurred first.

To claim this exemption, an owner of development property would have to file an affidavit with the local tax collecting unit by June 1 for the preceding winter tax levy, the next summer tax levy, and all applicable subsequent tax levies, or by November 1 for the following winter tax levy and all applicable subsequent tax levies.

Upon receiving the affidavit, the assessor would have to determine if the real property on which new construction was located was development property. If it were, the assessor would have to exempt the development property from the collection of local school operating taxes to the same extent provided for a principal residence, for two years or until the property was no longer development property, whichever occurred first.

Exemption for Eligible Development Property

Beginning December 31, 2013, eligible development property would be exempt from the collection of local school operating taxes to the same extent provided for a principal residence, for three years or until the property was no longer eligible development property, whichever occurred first.

To claim the exemption, an owner of eligible development property would have to file an affidavit with the local tax collecting unit by June 1 for the next summer tax levy and all

applicable subsequent tax levies, or by November 1 for the next winter tax levy and all applicable subsequent tax years.

Upon receiving the affidavit, the assessor would have to determine if the real property on which new construction was located was eligible development property. If it were, the assessor would have to exempt the property from the collection of school operating taxes as provided above.

Rescission of Exemption

The Act requires an owner to rescind the exemption for new construction by filing a rescission form with the local tax collecting unit within 90 days after all or a portion of the new construction is no longer located on development property.

The bill also would require an owner to rescind an exemption for development property within 90 days after all or part of it was no longer development property, or an exemption for eligible development property within 90 days after all or part of it was no longer eligible development property.

Currently, if an owner of exempted new construction fails to file a rescission form as required, the owner is subject to a penalty of \$5 per day after the 90-day period has elapsed, up to a maximum of \$200. The bill would extend this to an owner of development property or eligible development property who failed to file a rescission form.

Exemption Appeal; Denial; Withdrawal

The bill would include development property and eligible development property in provisions that allow an owner to appeal to the board of review if an exemption claimed for new construction was not on the tax roll or was denied, or if an assessor determines that an existing exemption was not properly granted and denies or modifies the exemption.

The bill also would include development property and eligible development property in provisions that allow an owner to withdraw an exemption that was not properly granted.

MCL 211.7ss

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce local school operating revenue by an unknown amount that would depend on the specific characteristics of the affected property. Any loss would require increased School Aid Fund expenditures in order to maintain per-pupil funding guarantees.

In 2012, the taxable value of development property totaled \$145.6 million, of which an unknown portion is exempt under existing law. However, an 18-mill tax levied against that total would generate \$2.6 million in revenue.

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.