

Legislative Analysis



SCHOOL TAX REDUCTION FOR SUPPORTIVE HOUSING PROPERTY

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House Bill 5437 as enrolled
Public Act 454 of 2008
Sponsor: Rep. Steve Tobocman

House Bill 6492 as enrolled
Public Act 455 of 2008
Sponsor: Rep. Joe Hune

House Bill 6493 as enrolled
Public Act 456 of 2008
Sponsor: Rep. John Stakoe

House Committee: Intergovernmental, Urban and Regional Affairs
Senate Committee: Finance

Second Analysis (12-30-08)

BRIEF SUMMARY: The bills would exempt "supportive housing property" from the 18-mill local school operating levy; and create a certification process for "supportive housing property" to be undertaken by the Michigan State Housing Development Authority (a process prohibiting the Authority from certifying more than 250 individual living units each year). The focus is on nonprofit housing consisting of not more than six individual living units that are occupied solely by persons with low and moderate incomes who are eligible recipients of the public mental health system.

FISCAL IMPACT: The fiscal impact of these bills depends on the number of parcels that would be designated as supportive housing property. These bills would reduce school operating property taxes and require increased payments from the State School Aid Fund.

THE APPARENT PROBLEM:

According to the Community Housing Network, Michigan has for nearly two decades led the nation in developing community-based alternatives to high-cost state institutions for those of our citizens having physical and mental disabilities. Throughout the state, nonprofit organizations make use of a variety of subsidies to provide affordable rental housing to disabled adults, although the need far exceeds the demand.

For example, Liberty Hill Housing Corporation--a nonprofit affordable housing organization whose mission is to create integrated, affordable, accessible housing options for low-income families and people with disabilities--serves over 2,600 people with development disabilities in Wayne County by offering leased housing. Among its services, Liberty Hill modifies homes to assist handicappers, and offers foreclosure

prevention counseling. The corporation currently owns and manages 60 homes in 18 southeastern Michigan communities, and is closely affiliated with Community Living Services, Inc., a Medicaid-funded organization that provides support and services to people with developmental disabilities.

The existing demand for nonprofit affordable housing is far greater than the number of available units. High operating costs hamper housing availability. Too often the rents that must be charged are too high for disabled people to afford. High property tax costs--including school operating taxes--price the housing at too high a level, both for disabled occupants and for the non-profit corporations that maintain the units.

Until 2008, many multi-site nonprofit charitable housing groups qualified for local property tax exemptions under Michigan statute. However, a Michigan Supreme Court ruling in *Liberty Hill Housing v Livonia* (SC docket No. 131531) found that a charitable housing group must occupy the property it rents to qualify for a property tax exemption. In that ruling, the court applied a far narrower definition of the term "occupy" than was customarily in use.

The new interpretation, now in effect, came about because in 2003 and 2004, Liberty Hill Housing sought a charitable tax exemption for five houses in the city of Livonia. The city denied the exemption request, quoting the Michigan statute, and noting that it applied only to property "owned and occupied by a nonprofit charitable institution which is occupied by that nonprofit charitable institution solely for the purposes for which it was incorporated." [MCL 211.7o(1)] The trial court found that Liberty Hill did not occupy the houses and so was not entitled to the exemption. The Supreme Court concurred, holding that Liberty did not occupy the houses merely by selecting tenants in accordance with its charitable purpose. Because Liberty did not maintain a physical presence on the leased properties, the court concluded that Liberty was not entitled to the exemption.

In order to lower the property tax burden of nonprofit groups that offer affordable housing to the disabled, legislation has been introduced to specifically exempt nonprofit "supportive housing property" from the 18 mill property tax assessment levied by local school districts for school operating purposes.

THE CONTENT OF THE BILLS:

The bills would provide a tax exemption for "supportive housing property." This kind of residential property would be exempt from the 18 mills levied by a local school district for school operating purposes, to the extent provided under Section 1211 of the Revised School Code (see House Bill 6492), if an owner claimed an exemption.

The focus is on nonprofit housing occupied solely by persons with low and moderate incomes who are eligible recipients of the public mental health system and that consists of not more than six individual living units.

House Bill 5437 would amend the General Property Tax Act (MCL 211.1 to 211.157).

House Bill 6492 would amend the Revised School Code (MCL 380.1211).

House Bill 6493 would amend the State Housing Development Authority Act (MCL 125.1401) to put in place a process for the designation of "supportive housing property" to be followed by the Michigan State Housing Development Authority.

A more detailed description of each bill follows.

House Bill 5437

House Bill 5437 would amend the General Property Tax Act to specify that beginning December 31, 2008, "supportive housing property" would be exempt from the tax levied by a local school district for school operating purposes, to the extent provided under the Revised School Code, if an owner of the housing claimed an exemption.

Under the bill, an owner of supportive housing property could claim an exemption by filing an affidavit on or before December 31 with the local tax collecting unit in which the housing was located. The affidavit would have to state that the property was owned and occupied as supportive housing, and be on a form prescribed by the Department of Treasury (which would retain a completed copy after it was filed). Upon the receipt of an affidavit, the assessor would exempt the property from the collection of the tax levied by a local school district.

Not more than 90 days after the property was no longer supportive housing, an owner would be required to rescind the claim of exemption. An owner who failed to do so would be subject to a penalty of \$5 per day, beginning after the 90 days had elapsed, up to a maximum of \$200. (The penalty would be deposited in the State School Aid Fund.) If the local assessor believed that property was not supportive housing, then the applicant's claim could be denied, in writing. The denial could void the exemption for the current year, and for the three immediately preceding calendar years. A denial could be appealed to the State Tax Commission within 35 days.

Once the exemption was removed, the tax roll would be corrected, and the local or county treasurer (as applicable) would be required to issue a corrected tax bill for any additional taxes, including interest and penalties, within 30 days. Taxes levied in a corrected or supplemental tax bill would be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected tax bill was issued. (However, if the property had been transferred to a *bona fide* purchaser before additional taxes were billed to the seller, then the taxes, interest, and penalties would not be a lien on the property, and would not be billed to the purchaser.) The bill requires that the local or county treasurer (whichever had possession of the tax roll) notify the Department of Treasury of the amount of taxes due, including interest, and penalties, through the date of notification. The department must then assess the owner who claimed the exemption for the tax, interest, and penalties accrued as a result of the denial. Money collected by the treasurer would be deposited into the state school aid fund.

Finally, the bill requires that the Department of Treasury make available the affidavit forms, and the forms to rescind an exemption, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents.

The bill specifies that "supportive housing property" means real property certified as supportive housing property under chapter 3B of the State Housing Development Authority Act.

House Bill 6492

House Bill 6492 would amend the Revised School Code to define "supportive housing property" to mean real property certified as supportive housing property under Chapter 3b of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1459 to 125.1459b.

The bill would exempt "supportive housing property" from the 18 mills that elected school board officials levy for the purpose of operating their local public schools, and allow the school board members to levy fewer mills on "supportive housing property," reducing the levy by up to the number of mills required to be levied on a principal residence.

House Bill 6493

House Bill 6493 would amend the State Housing Development Authority Act to specify that not more than 90 days after an owner of property submitted an application (on a form provided by the authority), the authority would have to determine if the property was "supportive housing property." If the authority determined that it was, the property would be so certified, and the owner would then file the certified notification of the exemption with the local assessing officer before November 1 of the year prior to the tax year in which the exemption was to begin. An owner or the relevant local government unit could appeal a denial by the authority to the circuit court of the county where the property was located.

The bill requires the authority to certify property as supportive housing property on a first-come, first-served basis. It specifies that not more than 25 percent of the number of living units to be certified be located in a single county. However, if, by October 1, the total number of living units had been less than 250 units, then the authority could certify living units on a first-come, first-served basis in counties that had received 25 percent of the living units for that year.

House Bill 6493 would define "supportive housing property" to mean property that meets all of the following requirements: (1) is owned by an organization exempt under Section 501(c)(3) of the Internal Revenue Code; (2) is occupied by one or more persons each having incomes at or below 30 percent of the area median income, and who each individually received services for not less than one hour per month (either directly from or contracted for by an organization identified above), which services include, but are not limited to, mental health, substance abuse, counseling, and assistance with daily living; and (3) consists of not more than six individual living units.

The bill would define "area median income" to mean the median income for the area as determined under Section 8 of the United States Housing Act of 1937, 42 USC 1437f, as adjusted for family size. The term "income" is defined to mean an amount determined in a manner consistent with the determination of lower income families under section 8 of the United States Housing Act of 1937, 42 USC 1437f.

BACKGROUND INFORMATION:

For further information about the Michigan State Housing Development Authority, visit <http://www.michigan.gov/msdha>.

For further information about the Michigan Housing and Community Development Fund visit <http://www.livinginmichigan.org>.

ARGUMENTS:

For:

Those who operate nonprofit housing programs for the poor and disabled, such as the Community Housing Network, note that it is very difficult to maintain existing housing units at affordable rents due, in large part, to property tax costs. Further, securing funding for development of very much needed additional units is hampered by high operating costs, again, due in large measure to property tax costs.

The property tax burden for nonprofit affordable housing agencies is now far weightier, since the recent ruling of the Michigan Supreme Court in *Liberty Hill Housing v Livonia* (SC docket No. 131531). Until 2008, many multi-site nonprofit charitable housing groups qualified for local property tax exemptions under Michigan statute. [See "The Apparent Problem," earlier in the analysis.] However, a Michigan Supreme Court ruling in *Liberty Hill Housing* found that a charitable housing group must occupy the property it rents to qualify for a property tax exemption. In that ruling, the court applied a far narrower definition of the term "occupy" than was customarily in use.

Affordable housing reduces both the rate of homelessness and the demand on already overstretched human services systems, and it promotes opportunities for self-sufficiency, making stability and employment possible for those whose lives were once incoherent and chaotic. These bills would lower the cost of, and make more widely available, nonprofit affordable housing options for the poor and disabled.

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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.