



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4200 (Substitute S-1 as reported)  
Sponsor: Representative Michael Lahti  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 12-16-09

### **RATIONALE**

Under the General Property Tax Act, a principal residence is exempt from the tax levied by a local school district for school operating purposes, which typically means that the property is taxed at the rate of six mills, rather than 18. The definition of "principal residence" generally includes only the owner's dwelling and adjacent residential property. It has been suggested that adjacent timber-cutover property belonging to the owner also should be included, making that property subject to the lower tax rate. Timber-cutover is a classification of real property that evidently is being phased out. Apparently, many local assessors have reclassified timber-cutover as residential property, either on their own initiative or upon a property owner's petition. In some cases, however, timber-cutover property was not reclassified but the owner was taxed as though it had been. When the Department of Treasury performs a principal residence audit, as required by the Act, and discovers this discrepancy, the tax bill is adjusted and the property owner becomes liable for several years of back taxes plus interest. Although the property can be reclassified going forward, some people believe that property owners should be entitled to some relief under these circumstances.

### **CONTENT**

**The bill would amend the General Property Tax Act to do the following:**

- Extend the principal residence exemption to timber-cutover property adjoining a dwelling, beginning December 31, 2007.**

- Allow an owner of timber-cutover property adjoining a dwelling who did not claim an exemption for that property, or whose claim was denied, before May 1, 2009, to file an appeal to claim an exemption for the 2008 and 2009 tax years.**
- Provide that, if the exemption were granted, any penalty, interest, or tax resulting from the property's not being exempt would have to be waived.**

The bill would be retroactive and effective for the 2008 tax year.

Under Section 7cc of the Act, a principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided in the Revised School Code, if the owner of the principal residence claims an exemption as required by the Act. The Act defines "principal residence" as the one place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return. Except as otherwise provided, the term includes only the portion of a dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling. It also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling, and other property described in the Act.

Under the bill, beginning December 31, 2007, "principal residence" also would include all of an owner's unoccupied property classified as timber-cutover real

property under Section 34c of the Act that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. (Section 34c, which lists the classifications of assessable property, states that timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size, cutover forest land with little or no merchantable products, and marsh land or other barren land. When a typical purchase of this type of land is for residential or recreational uses, the classification must be changed to residential.)

For the 2008 and 2009 tax years only, if an owner of property classified as timber-cutover real property adjoining or contiguous to the owner's principal residence did not claim an exemption for the property classified as timber-cutover under Section 7cc before May 1, 2009, or if the owner's claim for exemption under Section 7cc for that property were denied before May 1, 2009, the owner could file an appeal with the December 2009 or the July 2010 board of review to claim a principal residence exemption for the property classified as timber-cutover real property for the 2008 and 2009 tax years.

If an exemption were granted for the 2008 or 2009 tax year, the tax roll would have to be corrected and any delinquent and unpaid penalty, interest, and tax resulting from the property's not having been exempt under Section 7cc for that tax year would have to be waived.

MCL 211.7cc & 211.7dd

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Under Section 7cc of the General Property Tax Act, the Department of Treasury is required to determine whether property is the principal residence of the person claiming the exemption, and the Department may review the validity of the exemption for the current calendar year and the three preceding years. If the Department determines that property is not the owner's principal residence, the exemption is denied

(subject to the property owner's right to appeal), and the tax roll must be amended. The local assessor then is required to issue a bill for unpaid taxes with interest at the rate of 1.25% per month and penalties.

Evidently, this is what has happened in regard to some timber-cutover property. As described above, some principal residence owners thought that adjacent timber-cutover property had been reclassified as residential, and were being taxed for that land as though it were subject to the principal residence exemption. When the Department discovered that the property had not in fact been reclassified, the owners became liable for up to three years of additional taxes plus interest and penalties. Since the owners had no reason to believe that the property had not been reclassified, it would be fair to give them some relief. Thus, the bill would treat adjacent timber-cutover property as part of the owner's principal residence, going back to the beginning of 2008, give the owner an opportunity to claim an exemption or appeal a denial for the 2008 and 2009 tax years, and waive interest, penalties, and back taxes if the exemption were granted or the appeal were successful.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would increase School Aid Fund expenditures by an unknown and potentially negligible amount. In 2009, the taxable value for all property classified as timber-cutover totaled \$136.1 million. The portion of this value that would be affected by the bill is unknown, but if all of it were affected, the impact would be less than \$2.5 million per tax year affected. While the bill would reduce local unit property tax revenue, School Aid Fund expenditures would increase in order to maintain per-pupil funding guarantees.

Fiscal Analyst: David Zin

H0910\4200a

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.