Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4753 (Substitute H-2 as reported without amendment)
Sponsor: Representative Peter Pettalia
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 8-28-12

RATIONALE

Under Michigan law, the taxable value of a parcel of property (adjusted for additions and losses) may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the parcel is taxed upon its State equalized valuation (SEV), which is 50% of its true cash value. This is often referred to as the "pop-up" tax because the taxable value "pops up" when the property is transferred. The General Property Tax Act defines "transfer of ownership" for this purpose and identifies transactions that constitute a transfer of ownership and others that are excluded. It has been suggested that an additional exception should be made for the transfer of residential property to close relatives. In many cases, for example, parents might wish to transfer their house to a son or daughter, but the increase in taxable value could lead to unaffordably high taxes. Some people believe that the pop-up tax should not apply under these circumstances.

CONTENT

The bill would amend the General Property Tax Act to delete from the definition of "transfer of ownership", beginning December 31, 2013, a transfer of residential real property if the transferee were related to the transferor by blood or affinity to the first degree and the use of the property did not change following the transfer.

"Residential real property" would mean property classified as residential real property under Section 34c of the Act.

MCL 211.27a

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

By helping to keep ownership affordable after a transfer, the bill would enable Michigan residents to retain and enjoy property that has been part of their families' history for generations. In many cases, the pop-up tax can force a family to sell their property to an outsider, because the son or daughter who otherwise would acquire the property cannot afford the higher taxes. This might be especially true in the case of elderly parents who have owned their home for many years, and whose taxable value has not been adjusted to the SEV since 1994, when the assessment cap was enacted. Because the bill's pop-up tax exception would apply only to transfers to individuals related to the first degree—parents and children—its scope would be very narrow. In addition, the parcel transferred would have to remain residential property.

Response: It is not clear why the bill would not apply until December 31, 2013. If the proposal represents good public policy, then perhaps it should be implemented sooner.

Opposing Argument

Local units of government would lose the tax revenue they otherwise can expect to receive when property is transferred and the taxable value is uncapped. Municipalities rely on this revenue to provide essential services, and the pop-up tax allows them to collect property taxes on the actual value of real property. In addition, although the bill would apply only to residential property, it would not be limited to homesteads, and there would be no limit on the number of parcels that could be transferred within a family or the number of times a single parcel could be transferred to first-degree relatives.

Response: The bill can be viewed as revenue neutral because it would preserve the revenue that is currently collected. Although some future revenue increases would be foregone, the impact on individual local units would be minor, according to the Department of Treasury.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would lower State and local property tax revenue, as well as increase School Aid Fund expenditures, by an unknown amount that would depend on the specific characteristics of any property affected by the bill. The bill would eliminate any potential "pop up" in property taxes when property was transferred under the provisions of the bill. While the bill would not reduce property tax revenue from current levels, it would lower collections after a transfer from what they would be under current law. The effective reduction in property tax revenue would affect local governments and local school districts, as well as State School Aid Fund revenue from the State Education Tax. To the extent that per-pupil funding allowances were maintained, the bill would increase School Aid Fund expenditures to offset the loss of revenue to local school districts.

Fiscal Analyst: David Zin