

Legislative Analysis



PROPERTY TAX TRANSFER OF OWNERSHIP: TRUST PROPERTIES

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House Bill 5552 (Substitute H-1)

Sponsor: Rep. Peter Pettalia

Committee: Tax Policy

Complete to 7-29-14

A SUMMARY OF HOUSE BILL 5552 AS PASSED BY THE HOUSE 6-4-14

House Bill 5552 (H-1) would expand the persons to whom (or from whom) residential real property may be transferred under a trust without subjecting the property to the "pop-up" tax.

Under the General Property Tax Act, the taxable value of a parcel of property cannot increase from one year to the next by more than the rate of inflation or five percent, whichever is less. However, when there is a transfer of ownership, the assessment of a parcel "pops up" to 50% of the market value (which is referred to as state equalized valuation, or SEV). The property tax act defines when a transfer of ownership has occurred for the purpose of resetting the assessment based on market value.

Generally speaking, the act provides that the conveyance of a parcel to a trust, conveyance of a parcel by distribution from a trust, a change in sole present beneficiary of a trust, and conveyance by distribution under a will or by intestate succession are transfers of ownership that result in a "pop-up" of a parcel's taxable value. (Generally, in these situations, however, conveyances by or to a spouse are not considered to be transfers of ownership).

House Bill 5552 provides that the conveyance of a residential real property to a trust, conveyance of residential real property by distribution from a trust, a change in sole present beneficiary of residential real property from a trust, and conveyance of residential real property by distribution under a will or by intestate succession are not transfers of ownership where the beneficiary is the settlor's spouse, mother, father, brother, sibling, child, grandchild (or similar "step" relation), son-in-law, daughter-in-law, or legal ward, if the use of that residential real property does not change.

FISCAL IMPACT:

As written, the bill could reduce both state and local tax revenue relative to current law. By leaving the taxable value cap in place on affected properties, local units will not see the increase in their property tax base that would have occurred under current law. This also means that tax base for the State Education Tax (SET) will grow more slowly under this legislation than under current law. Both of these effects amount to a reduction in local and School Aid Fund (SAF) revenues. The loss of local revenue collected for local

schools could increase SAF expenditures (and transfers from the General Fund to the SAF), should funding fall below the per-pupil guarantee. A cost estimate cannot be made, since the cost depends on the number of properties affected, their current taxable value, and the local millage rate, data that is not available in advance.

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