

EXTENSION FOR PROPERTY TAX LATE CHARGES

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House Bill 5761 (proposed substitute H-2)

House Bill 5810 (proposed substitute H-1)

Sponsor: Rep. James A. Lower

Committee: Local Government and Municipal Finance

Complete to 6-3-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bills 5761 and 5810 would add two sections to the General Property Tax Act that would suspend the collection of late charges on property taxes until February 28, 2021.

Generally under the act, taxes levied in the previous year and unpaid are returned as delinquent to the county treasurer on March 1st. Under the bills, payments on summer 2020 property taxes made on or before September 30, 2020, would be considered timely. If summer 2020 taxes were unpaid after that date, the property would be returned as delinquent to the county treasurer on October 1, 2020.

However, unpaid qualified late charges on unpaid summer 2020 taxes and assessments could not be assessed until February 28, 2021.

Both bills convey the legislature's intent to appropriate funds from the state's general fund, which Treasury could use to compensate county treasurers for the additional cost of borrowing to finance the delinquent tax revolving fund. Under HB 5761, funds to compensate county treasurers for late charges are intended to be appropriated within 45 days of the expiration of the one-year extension. Then, a county treasurer receiving such a payment would distribute the payment to the local taxing units in proportion to the taxes levied by each unit.

House Bill 5761

The bill would provide that a local tax collecting unit could only bill or otherwise attempt to collect late charges by having the county treasurer apply to the state for its payment of the unpaid *qualified late charges* by filing the applicable application and all supporting affidavits with the Department of Treasury promptly after the one-year extension expired.

Qualified late charge would mean the fees and interest charges that accrue relating to the forfeiture, foreclosure, and sale for the enforcement and collection of delinquent taxes under the General Property Tax Act on unpaid summer 2020 taxes during the time the property was returned as delinquent until February 28, 2021, if the owner (1) experienced economic hardship as a result of the COVID-19 pandemic or the government's response to the pandemic, or both, (2) has filed an affidavit attesting as much by August 28, 2020, and (3) is not a party to an escrow agreement or other agreement obligating an individual or legal entity to pay those summer 2020 property taxes for that property owner.

The local tax collecting unit, in turn, would have to transmit copies of any affidavits where the property owner has attested to economic hardship as a result of the COVID-19 pandemic or the government's response to the pandemic, along with its return of delinquent summer 2020 taxes, by February 28, 2021.

Proposed MCL 211.78t

House Bill 5810

Despite the provision that states that unpaid taxes are considered delinquent on September 30, 2020, HB 5810 provides that local tax collecting units would have to allow taxpayers the opportunity to enter into **partial payment plans**, whereby owners could pay their summer 2020 taxes until the last day that winter 2020 taxes could be collected and have them considered timely. Such payment plans would be offered for portions of unpaid summer 2020 taxes amounting to at least \$50.

As described above, certain taxpayers who experienced economic hardship because of the pandemic would qualify for the proposed collection process. However, a property owner that fraudulently claimed eligibility would be guilty of a misdemeanor punishable by imprisonment in the county jail for 30 days to six months, or a fine of \$500 to \$2,500, or both. An assessor for a local tax collecting unit would have to report a property owner suspected of violation to the county prosecuting attorney.

Beginning October 1, 2020, unpaid summer taxes and assessments would be due and payable to the county on behalf of the local taxing units, and subject to payment, including payment accomplished by issuance of revolving fund notes, from the delinquent tax revolving fund, by December 31, 2020.

Additionally, except as provided in HB 5761, the fees and interest as provided in the act apply to delinquent summer 2020 taxes beginning October 1, 2020, and continuing through February 28, 2021. Beginning March 1, 2021, interest imposed on any unpaid balance would have to be reduced to a noncompounded rate of 1/2 of 1% per month or fraction of a month pursuant to a written payment plan between the foreclosing governmental unit and the taxpayer.

Finally, for all other purposes relating to the forfeiture, foreclosure, and sale for the enforcement and collection of delinquent taxes, unpaid summer 2020 taxes returned as delinquent would be treated as having been returned on March 1.

MCL 211.78a and proposed MCL 211.44e

The bills are tie-barred together, meaning that neither could take effect unless both were enacted.

FISCAL IMPACT:

As written, the bills would exempt taxpayers that are adversely affected economically by the coronavirus pandemic from being subject to penalties and interest on delinquent summer 2020 property tax payments. The bills include language that the intent of the legislature is for the state to appropriate necessary funding to reimburse tax collecting units for the loss of penalties and interest. In the event such an appropriation is made, general fund revenue would decline by an unknown amount.

However, because statute cannot mandate an appropriation, there is no actual requirement that the funds be made available. In that instance, if the local tax collecting units were unable to collect those fees on their own, the revenue loss would be shifted to local governments.

Under provisions of HB 5810, a property owner who fraudulently claims eligibility for paying summer 2020 taxes and assessments after the official due date would be guilty of a misdemeanor punishable by imprisonment in the county jail or by a fine. This provision would have an indeterminate fiscal impact on local units of government. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.