

IMPORTANT CHANGE IN THE PRINCIPAL RESIDENCE EXEMPTION RULES

The legislature has changed the deadlines and procedures for the Principal Residence Exemption. If you are buying or selling a residence in Cascade, you should become familiar with the new requirements. The following notice was issued by the Michigan State Tax Commission explaining the new law:

On May 1, 2012, Governor Snyder signed Public Act 114 of 2012 (2011 Senate Bill 349), which amended Section 211.7cc of Public Act 206 of 1893, the General Property Tax Act. The Act makes two significant changes:

It establishes two deadlines by which a Principal Residence Exemption may be filed.

It creates a new conditional rescission for “foreclosure entities.”

Affidavit Deadline. The deadline for a property owner to file a “Principal Residence Exemption (PRE) Affidavit” (Form 2368) for taxes levied after December 31, 2011, changed from May 1 to June 1, and a second deadline of November 1 was added. As a result, property owners that occupy a property as a principal residence and submit Form 2368 to the local tax collecting unit on or before June 1, 2012, may qualify for a PRE beginning with the 2012 summer tax levy. If a property owner occupies a property as a principal residence at any time from June 2, 2012 to November 1, 2012 and submits Form 2368 to the local tax collecting unit on or before November 1, 2012, that property owner may qualify for a PRE beginning with the 2012 winter tax levy. This dual deadline will continue throughout future tax years, but is not retroactive to previous tax years. **If the property is owned and occupied some time from May 2 to November 1, Public Act 114 does not allow the owner to go to the Board of Review if Form 2368 is not timely filed. Therefore, it is important that all assessors and local unit staff are aware of the change to help ensure timely filings.**

Department of Treasury staff is working on updating Form 2368 to accommodate this change. Please continue to use the current version (Rev. 09-09) of Form 2368 until the updated form is available. For PRE forms, visit www.michigan.gov/PRE and click on “PRE Related Forms.” The updated Form 2368 will be available in a few weeks under the “What’s New” section of the website.

Foreclosure Entity Conditional Rescission. The second change made by Public Act 114 is to allow a land contract vendor, bank, credit union, or other lending institution (foreclosure entity) to retain a PRE on foreclosed property by filing a foreclosure entity conditional rescission with the local tax collecting unit on or before June 1 or November 1 provided the property meets other statutory requirements. If a foreclosure entity conditional rescission is filed timely and accepted for the first year, the foreclosure entity must annually verify to the assessor of the local tax collecting unit on or before December 31 that the property continues to qualify for the

foreclosure entity conditional rescission. This new “foreclosure entity conditional rescission” has separate and distinct requirements and should not be confused with the current “owner’s conditional rescission.”

The opportunity for a foreclosure entity to apply and qualify for a foreclosure entity conditional rescission begins with the 2012 tax year and is not retroactive to previous tax years. As a result, if a foreclosure entity conditional rescission is filed with the local tax collecting unit on or before June 1, 2012, the foreclosure entity may retain the PRE beginning with the 2012 summer tax levy. If a foreclosure entity conditional rescission is filed at any time from June 2, 2012 to November 1, 2012 the foreclosure entity may retain the PRE beginning with the 2012 winter tax levy. **Boards of Review have no authority with regard to a conditional rescission and cannot institute a conditional rescission if a deadline is missed or for previous tax years.**

In order to qualify for a foreclosure entity conditional rescission, Public Act 114 establishes all of the following requirements:

The foreclosure entity must submit a Foreclosure Entity Conditional Rescission of Principal Residence Exemption, new form currently being drafted, by June 1 or November 1 of the first year of the claim.

The foreclosure entity must be a land contract vendor, bank, credit union, or other lending institution.

The foreclosure entity must own the property as a result of a foreclosure.

The property must have been subject to a PRE immediately preceding the foreclosure.

The property cannot be occupied.

The property must be for sale.

The property cannot be leased to any person other than the person who claimed the PRE immediately preceding the foreclosure.

The property must not be used for any business or commercial purpose.

The foreclosure entity must pay to the tax-collecting unit an amount equal to the amount of taxes that the foreclosure entity would have paid if the property were not subject to a PRE and must pay an administration fee equal to the property tax administration fee imposed under Section 44 of the General Property Tax Act.

The foreclosure entity must annually verify the foreclosure entity conditional rescission by December 31.

The foreclosure entity must rescind the exemption upon a transfer of ownership.

The payment required of the foreclosure entity is to be collected by the local tax collecting unit at the same time and in the same manner as taxes that would have been collected were the property not subject to a PRE. The payment must be distributed to the Department of Treasury for deposit into the state school aid fund. The administration fee is to be retained by the local tax collecting unit. If the foreclosure entity fails to make the required payment, the local tax collecting unit must deny the foreclosure entity conditional rescission, retroactively, effective on December 31 of the immediately preceding year. If the foreclosure entity's conditional rescission is denied, the local tax collecting unit must remove the PRE and any additional taxes, penalties, and interest must be collected from the foreclosure entity.

Department of Treasury staff is drafting a form entitled "Foreclosure Entity Conditional Rescission of Principal Residence Exemption" which will be available in the next few weeks at www.michigan.gov/PRE under the "What's New" section. In addition, staff is working on Frequently Asked Questions and changes to other various resources posted on the Department's website. As updated items are available, they will be distributed accordingly. You may also monitor the PRE web page for changes under the "What's New" section.

If you need immediate assistance related to Public Act 114, please call the PRE Unit at (517) 373-1950 or e-mail at PTE-Section@michigan.gov. We will address the issues as expeditiously as possible.