



HOUSE BILL No. 4581

March 14, 1995, Introduced by Reps. Brackenridge, Dobb and Jaye and referred to the Committee on Tax Policy.

A bill to amend section 7cc of Act No. 206 of the Public Acts of 1893, entitled as amended "The general property tax act," as amended by Act No. 415 of the Public Acts of 1994, being section 211.7cc of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7cc of Act No. 206 of the Public Acts of
2 1893, as amended by Act No. 415 of the Public Acts of 1994, being
3 section 211.7cc of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 7cc. (1) A homestead is exempt from the tax levied by
6 a local school district for school operating purposes to the
7 extent provided under section 1211 of the school code of 1976,
8 Act No. 451 of the Public Acts of 1976, being section 380.1211 of
9 the Michigan Compiled Laws, if that owner claims an exemption as

1 provided in this section. Notwithstanding the tax day provided
2 in section 2, the status of property as a homestead shall be
3 determined on the date an affidavit claiming an exemption is
4 filed under subsection (2).

5 (2) An owner of property may claim an exemption under this
6 section by filing an affidavit on or before May 1 with the local
7 tax collecting unit in which the property is located. The affi-
8 davit shall state that the property is owned and occupied as a
9 homestead by that owner of the property on the date that the
10 affidavit is signed. The affidavit shall be on a form prescribed
11 by the department of treasury. Beginning in 1995, 1 copy of the
12 affidavit shall be retained by the owner, 1 copy shall be
13 retained by the local tax collecting unit until any appeal or
14 audit period under this act has expired, and 1 copy shall be for-
15 warded to the department of treasury pursuant to subsection (4).
16 Beginning in 1995, the affidavit shall require the owner claiming
17 the exemption to indicate if that owner has claimed another
18 exemption on property in this state that is not rescinded. If
19 the affidavit requires an owner to include a social security
20 number, that owner's number is subject to the disclosure restric-
21 tions in Act No. 122 of the Public Acts of 1941, being sections
22 205.1 to 205.31 of the Michigan Compiled Laws.

23 (3) A husband and wife who are required to file or who do
24 file a joint Michigan income tax return are entitled to not more
25 than 1 homestead exemption.

26 (4) Upon receipt of an affidavit filed under subsection (2)
27 and unless the claim is denied under subsection (6), the assessor

1 shall exempt the property from the collection of the tax levied
2 by a local school district for school operating purposes to the
3 extent provided under section 1211 of Act No. 451 of the Public
4 Acts of 1976 as provided in subsection (1) through the ~~+998-~~
5 1999 tax year or until December 31 of the year in which the prop-
6 erty is transferred or the owner rescinds the claim for
7 exemption. The local tax collecting unit shall forward copies of
8 affidavits to the department of treasury according to a schedule
9 prescribed by the department of treasury. An owner is required
10 to file a new claim for exemption on the same property in ~~+999-~~
11 2000 and every 4 years after ~~+999-~~ 2000.

12 (5) Not more than 90 days after exempted property is no
13 longer used as a homestead by the owner claiming an exemption,
14 that owner shall rescind the claim of exemption by filing with
15 the local tax collecting unit a rescission form prescribed by the
16 department of treasury. Beginning October 1, 1994, an owner who
17 fails to file a rescission as required by this subsection is
18 subject to a penalty of \$5.00 per day for each separate failure
19 beginning after the 90 days have elapsed, up to a maximum of
20 \$200.00. This penalty shall be collected under Act No. 122 of
21 the Public Acts of 1941, and shall be deposited in the state
22 school aid fund established in section 11 of article IX of the
23 state constitution of 1963. This penalty may be waived by the
24 department of treasury.

25 (6) If the assessor of the local tax collecting unit
26 believes that the property for which an exemption is claimed is
27 not the homestead of the owner claiming the exemption, effective

1 for taxes levied after 1994 the assessor may deny a new or
2 existing claim by notifying the owner and the department of trea-
3 sury in writing of the reason for the denial and advising the
4 owner that the denial may be appealed to the department of trea-
5 sury within 35 days after the date of the notice. The denial
6 shall be made on a form prescribed by the department of
7 treasury. If the assessor of the local tax collecting unit
8 believes that the property for which the exemption is claimed is
9 not the homestead of the owner claiming the exemption, for taxes
10 levied in 1994 the assessor may send a recommendation for denial
11 for any affidavit that is forwarded to the department of treasury
12 stating the reasons for the recommendation. If the assessor of
13 the local tax collecting unit believes that the property for
14 which the exemption is claimed is not the homestead of the owner
15 claiming the exemption and has not denied the claim, for taxes
16 levied after 1994 the assessor shall include a recommendation for
17 denial with any affidavit that is forwarded to the department of
18 treasury or, for an existing claim, shall send a recommendation
19 for denial to the department of treasury, stating the reasons for
20 the recommendation.

21 (7) The department of treasury shall determine if the prop-
22 erty is the homestead of the owner claiming the exemption. The
23 department of treasury may review the validity of exemptions for
24 the current calendar year and for the 3 immediately preceding
25 calendar years. If the department of treasury determines that
26 the property is not the homestead of the owner claiming the
27 exemption, the department shall send a notice of that

1 determination to the local tax collecting unit and to the owner
2 of the property claiming the exemption, indicating that the claim
3 for exemption is denied, stating the reason for the denial, and
4 advising the owner claiming the exemption of the right to appeal
5 the determination to the department of treasury and what those
6 rights of appeal are. The department of treasury may issue a
7 notice denying a claim if an owner fails to respond within 30
8 days of receipt of a request for information from that
9 department. An appeal to the department of treasury shall be
10 conducted according to the provisions for an informal conference
11 in section 21 of Act No. 122 of the Public Acts of 1941, being
12 section 205.21 of the Michigan Compiled Laws. Upon receipt of a
13 notice that the department of treasury has denied a claim for
14 exemption, the assessor shall remove the exemption of the prop-
15 erty and either correct the current tax roll to reflect, or place
16 on the next tax roll, previously unpaid taxes with interest and
17 penalties computed based on the interest and penalties that would
18 have accrued from the date the taxes were originally levied if
19 there had not been an exemption. Interest and penalties shall
20 not be assessed for any period before February 14, 1995.

21 However, if the property has been transferred to a bona fide pur-
22 chaser, the taxes, interest, and penalties shall not be billed on
23 the next tax statement by the local tax collecting unit to the
24 bona fide purchaser, and the local tax collecting unit shall
25 notify the department of treasury of the amount of tax due and
26 interest through the date of that notification. The department
27 of treasury shall then assess the owner who claimed the homestead

1 property tax exemption for the tax and interest plus penalty, if
2 any, as for unpaid taxes provided under Act No. 122 of the Public
3 Acts of 1941 and shall deposit any tax, interest, or penalty col-
4 lected into the state school aid fund.

5 (8) An owner may appeal a final decision of the department
6 of treasury to the residential and small claims division of the
7 Michigan tax tribunal within 35 days of that decision. An asses-
8 sor may appeal a final decision of the department of treasury to
9 the residential and small claims division of the Michigan tax
10 tribunal within 35 days of that decision if the assessor denied
11 the exemption under subsection (6), or, for taxes levied in 1994
12 only, the assessor forwarded a recommendation for denial to the
13 department of treasury under subsection (6). An owner is not
14 required to pay the amount of tax in dispute in order to appeal a
15 denial of a claim of exemption to the department of treasury or
16 to receive a final determination of the residential and small
17 claims division of the Michigan tax tribunal. However, interest
18 and penalties except as provided in subsection (7), if any, shall
19 accrue and be computed based on the interest and penalties that
20 would have accrued from the date the taxes were originally levied
21 as if there had not been an exemption.

22 (9) An affidavit filed by an owner for a homestead ~~shall~~
23 ~~rescind~~ RESCINDS all previous exemptions filed by that owner for
24 any other homestead. The department of treasury shall notify the
25 assessor of the local tax collecting unit in which the property
26 for which a previous exemption was claimed is located that the
27 previous exemption is rescinded by the subsequent affidavit.

1 Upon receipt of notice that an exemption is rescinded, the
2 assessor of the local tax collecting unit shall remove the exemp-
3 tion effective December 31 of the year in which the affidavit or
4 rescission form is filed with the local tax collecting unit.

5 (10) If the homestead is part of a unit in a multiple-unit
6 dwelling or a dwelling unit in a multiple-purpose structure, an
7 owner shall claim an exemption for only that portion of the total
8 taxable value of the property used as the homestead of that owner
9 in a manner prescribed by the department of treasury. If a por-
10 tion of a parcel for which the owner claims an exemption is used
11 for a purpose other than as a homestead, the owner shall claim an
12 exemption for only that portion of the taxable value of the prop-
13 erty used as the homestead of that owner in a manner prescribed
14 by the department of treasury.

15 (11) When a county register of deeds records a transfer of
16 ownership of a property, he or she shall notify the local tax
17 collecting unit in which the property is located of the
18 transfer.

19 (12) The department of treasury shall make available the
20 affidavit forms and the forms to rescind an exemption, which may
21 be on the same form, to all city and township assessors, county
22 equalization officers, county registers of deeds, and closing
23 agents. A person who prepares a closing statement for the sale
24 of property shall provide affidavit and rescission forms to the
25 buyer and seller at the closing and, if requested by the buyer or
26 seller after execution by the buyer or seller, shall file the
27 forms with the local tax collecting unit in which the property is

1 located. If a closing statement preparer fails to provide
2 homestead exemption affidavit and recission forms to the buyer
3 and seller, or fails to file the affidavit and recission forms
4 with the local tax collecting unit if requested by the buyer or
5 seller, the buyer may appeal to the department of treasury within
6 30 days of notice to the buyer that an exemption was not
7 recorded. If the department of treasury determines that the
8 buyer qualifies for the exemption, the department of treasury
9 shall notify the assessor of the local tax collecting unit that
10 the exemption is granted and the assessor of the local tax col-
11 lecting unit or, if the tax roll is in the possession of the
12 county treasurer, the county treasurer shall correct the tax roll
13 to reflect the exemption. This subsection does not create a
14 cause of action at law or in equity against a closing statement
15 preparer who fails to provide homestead exemption affidavit and
16 recission forms to a buyer and seller or who fails to file the
17 affidavit and recission forms with the local tax collecting unit
18 when requested to do so by the buyer or seller.

19 (13) An owner who owned and occupied a homestead on May 1 in
20 any year for which a homestead property tax exemption affidavit
21 was claimed to have been filed and for which the exemption was
22 not on the tax roll may file an appeal with the July board of
23 review or, if there is not a summer levy of school operating
24 taxes, with the December board of review. In 1994 an owner of
25 property that is a homestead on May 1 for which the local tax
26 collecting unit has not received a claim of exemption may claim

1 an exemption for 1994 in person or by mail at the July board of
2 review or the December board of review.

3 (14) In 1994 only, an owner who acquires a homestead after
4 April 30 for which an affidavit was not filed in 1994, may file
5 an affidavit as provided in subsection (2) not later than October
6 1, 1994. Upon receipt, the assessor shall exempt the property
7 from 50% of the number of mills levied in 1994 under section 1211
8 of Act No. 451 of the Public Acts of 1976 from which homesteads
9 are exempt, not to exceed 50% of the total number of mills from
10 which homesteads are exempt in 1994, on the December tax roll.
11 If there is not a December levy of the tax under section 1211 of
12 Act No. 451 of the Public Acts of 1976, the owner may appear in
13 person or by mail before the December board of review and obtain
14 a rebate as provided in section 53b of 50% of the number of mills
15 levied in 1994 under section 1211 of Act No. 451 of the Public
16 Acts of 1976 from which homesteads are exempt, not to exceed 50%
17 of the total number of mills from which homesteads are exempt in
18 1994. This subsection does not apply unless the 1994 assessment
19 of the property is based on the valuation of a homestead or a
20 portion of a structure that has become a homestead. An affidavit
21 filed under this subsection is subject to all the provisions of
22 this section.