

HOUSE BILL No. 5735

April 2, 1998, Introduced by Reps. Brown, Tesanovich, Harder, Callahan, Prusi, Schermesser, DeHart and Kelly and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 7cc (MCL 211.7cc), as amended by 1996 PA
476.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7cc. (1) A homestead is exempt from the tax levied by
2 a local school district for school operating purposes to the
3 extent provided under section 1211 of the revised school code,
4 ~~Act No. 451 of the Public Acts of 1976, being section 380.1211~~
5 ~~of the Michigan Compiled Laws~~ 1976 PA 451, MCL 380.1211, if an
6 owner of that homestead claims an exemption as provided in this
7 section. Notwithstanding the tax day provided in section 2, the
8 status of property as a homestead shall be determined on the date
9 an affidavit claiming an exemption is filed under subsection
10 (2).

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16 state that is not rescinded.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

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

24 (4) Upon receipt of an affidavit filed under subsection (2)
25 and unless the claim is denied under subsection (6), the assessor
26 shall exempt the property from the collection of the tax levied
27 by a local school district for school operating purposes to the

1 extent provided under section 1211 of ~~Act No. 451 of the Public~~
2 ~~Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211,
3 as provided in subsection (1) until December 31 of the year in
4 which the property is transferred or is no longer a homestead as
5 defined in section 7dd. The local tax collecting unit shall for-
6 ward copies of affidavits to the department of treasury according
7 to a schedule prescribed by the department of treasury.

8 (5) Not more than 90 days after exempted property is no
9 longer used as a homestead by the owner claiming an exemption,
10 that owner shall rescind the claim of exemption by filing with
11 the local tax collecting unit a rescission form prescribed by the
12 department of treasury. Beginning October 1, 1994, an owner who
13 fails to file a rescission as required by this subsection is
14 subject to a penalty of \$5.00 per day for each separate failure
15 beginning after the 90 days have elapsed, up to a maximum of
16 \$200.00. This penalty shall be collected under ~~Act No. 122 of~~
17 ~~the Public Acts of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and
18 shall be deposited in the state school aid fund established in
19 section 11 of article IX of the state constitution of 1963. This
20 penalty may be waived by the department of treasury.

21 (6) If the assessor of the local tax collecting unit
22 believes that the property for which an exemption is claimed is
23 not the homestead of the owner claiming the exemption, effective
24 for taxes levied after 1994 the assessor may deny a new or exist-
25 ing claim by notifying the owner and the department of treasury
26 in writing of the reason for the denial and advising the owner
27 that the denial may be appealed to the department of treasury

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

17 (7) The department of treasury shall determine if the prop-
18 erty is the homestead of the owner claiming the exemption. The
19 department of treasury may review the validity of exemptions for
20 the current calendar year and for the 3 immediately preceding
21 calendar years. If the department of treasury determines that
22 the property is not the homestead of the owner claiming the
23 exemption, the department shall send a notice of that determina-
24 tion to the local tax collecting unit and to the owner of the
25 property claiming the exemption, indicating that the claim for
26 exemption is denied, stating the reason for the denial, and
27 advising the owner claiming the exemption of the right to appeal

1 the determination to the department of treasury and what those
2 rights of appeal are. The department of treasury may issue a
3 notice denying a claim if an owner fails to respond within 30
4 days of receipt of a request for information from that
5 department. An owner may appeal the denial of a claim of exemp-
6 tion to the department of treasury within 35 days of receipt of
7 the notice of denial. An appeal to the department of treasury
8 shall be conducted according to the provisions for an informal
9 conference in section 21 of ~~Act No. 122 of the Public Acts of~~
10 ~~1941, being section 205.21 of the Michigan Compiled Laws~~ 1941 PA
11 122, MCL 205.21. Within 10 days after acknowledging an appeal of
12 a denial of a claim of exemption, the department of treasury
13 shall notify the assessor and the treasurer for the county in
14 which the property is located that an appeal has been filed.
15 Upon receipt of a notice that the department of treasury has
16 denied a claim for exemption, the assessor shall remove the
17 exemption of the property and, if the tax roll is in the local
18 tax collecting unit's possession, amend the tax roll to reflect
19 the denial and the local treasurer shall issue a corrected tax
20 bill for previously unpaid taxes with interest and penalties com-
21 puted based on the interest and penalties that would have accrued
22 from the date the taxes were originally levied if there had not
23 been an exemption. If the tax roll is in the county treasurer's
24 possession, the tax roll shall be amended to reflect the denial
25 and the county treasurer shall prepare and submit a supplemental
26 tax bill for any additional taxes, together with any interest and
27 penalties. THIS STATE SHALL REIMBURSE A LOCAL TAX COLLECTING

1 UNIT OR COUNTY FOR ALL COSTS INCURRED IN RESCINDING AN EXEMPTION
2 AND ISSUING A CORRECTED TAX BILL PURSUANT TO THIS SUBSECTION. For
3 taxes levied in 1994 only, the county treasurer shall waive any
4 interest and penalties due if the owner pays the supplemental tax
5 bill not more than 30 days after the owner receives the supple-
6 mental tax bill. Interest and penalties shall not be assessed
7 for any period before February 14, 1995. However, if the prop-
8 erty has been transferred to a bona fide purchaser before addi-
9 tional taxes were billed to the seller as a result of the denial
10 of a claim for exemption, the taxes, interest, and penalties
11 shall not be billed to the bona fide purchaser, and the local tax
12 collecting unit if the local tax collecting unit has possession
13 of the tax roll or the county treasurer if the county has posses-
14 sion of the tax roll shall notify the department of treasury of
15 the amount of tax due and interest through the date of that
16 notification. The department of treasury shall then assess the
17 owner who claimed the homestead property tax exemption for the
18 tax and interest plus penalty accruing as a result of the denial
19 of the claim for exemption, if any, as for unpaid taxes provided
20 under ~~Act No. 122 of the Public Acts of 1941~~ 1941 PA 122, MCL
21 205.1 TO 205.31, and shall deposit any tax, interest, or penalty
22 collected into the state school aid fund.

23 (8) An owner may appeal a final decision of the department
24 of treasury to the residential and small claims division of the
25 Michigan tax tribunal within 35 days of that decision. An asses-
26 sor may appeal a final decision of the department of treasury to
27 the residential and small claims division of the Michigan tax

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

13 (9) An affidavit filed by an owner for a homestead rescinds
14 all previous exemptions filed by that owner for any other
15 homestead. The department of treasury shall notify the assessor
16 of the local tax collecting unit in which the property for which
17 a previous exemption was claimed is located that the previous
18 exemption is rescinded by the subsequent affidavit. Upon receipt
19 of notice that an exemption is rescinded, the assessor of the
20 local tax collecting unit shall remove the exemption effective
21 December 31 of the year in which the property is transferred or
22 is no longer a homestead as defined in section 7dd. The assessor
23 of the local tax collecting unit in which that property is
24 located shall notify the treasurer in possession of the tax roll
25 for a year for which the exemption is rescinded. If the tax roll
26 is in the local tax collecting unit's possession, the tax roll
27 shall be amended to reflect the rescission and the local

1 treasurer shall prepare and issue a corrected tax bill for
2 previously unpaid taxes with interest and penalties computed
3 based on the interest and penalties that would have accrued from
4 the date the taxes were originally levied if there had not been
5 an exemption for that year. If the tax roll is in the county
6 treasurer's possession, the tax roll shall be amended to reflect
7 the rescission and the county treasurer shall prepare and submit
8 a supplemental tax bill for any additional taxes, together with
9 any interest and penalties. However, if the property has been
10 transferred to a bona fide purchaser, the taxes, interest, and
11 penalties shall not be billed to the bona fide purchaser, and the
12 local tax collecting unit if the local tax collecting unit has
13 possession of the tax roll or the county treasurer if the county
14 has possession of the tax roll shall notify the department of
15 treasury of the amount of tax due and interest through the date
16 of that notification. The department of treasury shall then
17 assess the owner who received the homestead property tax exemp-
18 tion when the property was not a homestead as defined in section
19 7dd for the tax and interest plus penalty accruing, if any, as
20 for unpaid taxes provided under ~~Act No. 122 of the Public Acts~~
21 ~~of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any
22 tax, interest, or penalty collected into the state school aid
23 fund.

24 (10) An owner of property for which a claim of exemption is
25 rescinded may appeal that rescission with either the July or
26 December board of review in either the year for which the
27 exemption is rescinded or in the immediately succeeding year. If

1 an appeal of a rescission of a claim for exemption is received
2 not later than 5 days prior to the date of the December board of
3 review, the local tax collecting unit shall convene a December
4 board of review and consider the appeal pursuant to this section
5 and section 53b. An owner of property for which a claim of
6 exemption is rescinded may appeal the decision of the board of
7 review to the residential and small claims division of the
8 Michigan tax tribunal within 35 days of that decision.

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

19 (12) When a county register of deeds records a transfer of
20 ownership of a property, he or she shall notify the local tax
21 collecting unit in which the property is located of the
22 transfer.

23 (13) The department of treasury shall make available the
24 affidavit forms and the forms to rescind an exemption, which may
25 be on the same form, to all city and township assessors, county
26 equalization officers, county registers of deeds, and closing
27 agents. A person who prepares a closing statement for the sale

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

23 (14) An owner who owned and occupied a homestead on May 1
24 for which the exemption was not on the tax roll may file an
25 appeal with the July board of review in the year for which the
26 exemption was claimed or the immediately succeeding year or with
27 the December board of review in the year for which the exemption

1 was claimed or the immediately succeeding year. If an appeal of
2 a claim for exemption that was not on the tax roll is received
3 not later than 5 days prior to the date of the December board of
4 review, the local tax collecting unit shall convene a December
5 board of review and consider the appeal pursuant to this section
6 and section 53b.

7 (15) In 1994 only, an owner who owns and occupies a home-
8 stead after May 1 and before October 3 for which an affidavit was
9 not filed in 1994 may file an affidavit as provided in subsection
10 (2) not later than October 3, 1994. Upon receipt, the assessor
11 shall exempt the property from 50% of the number of mills levied
12 in 1994 under section 1211 of ~~Act No. 451 of the Public Acts of~~
13 ~~1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, from
14 which homesteads are exempt, not to exceed 50% of the total
15 number of mills from which homesteads are exempt in 1994, on the
16 December tax roll. If there is not a December levy of the tax
17 under section 1211 of ~~Act No. 451 of the Public Acts of 1976~~
18 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, the owner may
19 appear in person or by mail before the December board of review
20 and obtain a rebate as provided in section 53b of 50% of the
21 number of mills levied in 1994 under section 1211 of ~~Act No. 451~~
22 ~~of the Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451,
23 MCL 380.1211, from which homesteads are exempt, not to exceed 50%
24 of the total number of mills from which homesteads are exempt in
25 1994. If an affidavit is not filed as provided in this subsec-
26 tion, the owner may appear in person or by mail before the July
27 or December board of review in 1994 or the July or December board

1 of review in 1995 and obtain a rebate of 50% of the number of
2 mills levied in 1994 under section 1211 of ~~Act No. 451 of the~~
3 ~~Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL
4 380.1211, from which homesteads are exempt, not to exceed 50% of
5 the total number of mills from which homesteads are exempt in
6 1994. This subsection does not apply unless the 1994 assessment
7 of the property is based on the valuation of a homestead or a
8 portion of a structure that has become a homestead. An affidavit
9 filed under this subsection is subject to all the provisions of
10 this section.

11 (16) An owner who owns and occupies a homestead for which
12 the exemption was on the tax roll in 1995 and each year after
13 1995 and for which an exemption was not on the tax roll in 1994
14 may appeal to the department of treasury before December 31, 1997
15 to have an exemption placed on the 1994 tax roll if all of the
16 following conditions are satisfied:

17 (a) The owner owned and occupied that homestead on May 1,
18 1994 or the owner owned and occupied that homestead after May 1,
19 1994 but before October 3, 1994.

20 (b) If a claim of exemption was denied in 1994, the owner
21 did not timely appeal that denial as provided in this section.

22 (c) The owner has owned and occupied that homestead since
23 1994.

24 (17) If the department of treasury grants a claim of exemp-
25 tion for 1994 under subsection (16), the county treasurer with
26 possession of the tax roll being adjusted shall amend the 1994

1 tax roll to reflect the exemption and shall issue a corrected tax
2 bill as follows:

3 (a) If the owner owned and occupied that homestead on May 1,
4 1994, that homestead is exempt from the tax levied in 1994 for
5 school operating purposes to the extent provided under
6 section 1211 of ~~Act No. 451 of the Public Acts of 1976~~ THE
7 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, pursuant to
8 subsection (1).

9 (b) If the owner owned and occupied that homestead after May
10 1, 1994 but before October 3, 1994, that homestead is exempt from
11 50% of the number of mills levied in 1994 under section 1211 of
12 ~~Act No. 451 of the Public Acts of 1976 pursuant to~~
13 ~~subsection (14)~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL
14 380.1211.

15 (18) If the department of treasury denies a claim of exemp-
16 tion for 1994 under subsection (16), an owner may appeal that
17 denial to the residential and small claims division of the
18 Michigan tax tribunal within 35 days of that denial.

19 (19) If the assessor or treasurer of the local tax collect-
20 ing unit believes that the department of treasury erroneously
21 denied a claim for exemption, the assessor or treasurer may
22 submit written information supporting the owner's claim for
23 exemption to the department of treasury within 35 days of the
24 owner's receipt of the notice denying the claim for exemption.
25 If, after reviewing the information provided, the department of
26 treasury determines that the claim for exemption was erroneously

1 denied, the department of treasury shall grant the exemption and
2 the tax roll shall be amended to reflect the exemption.

3 (20) If granting the exemption under this section results in
4 an overpayment of the tax, a rebate, including any interest paid,
5 shall be made to the taxpayer by the local tax collecting unit if
6 the local tax collecting unit has possession of the tax roll or
7 by the county treasurer if the county has possession of the tax
8 roll within 30 days of the date the exemption is granted. The
9 rebate shall be without interest.

10 (21) If an exemption under this section is erroneously
11 granted, an owner may request in writing that the department of
12 treasury withdraw the exemption. If an owner requests that an
13 exemption be withdrawn, the department of treasury shall issue an
14 order notifying the local assessor that the exemption issued
15 under this section has been denied based on the owner's request.
16 If an exemption is withdrawn, the property that had been subject
17 to that exemption shall be immediately placed on the tax roll by
18 the local tax collecting unit if the local tax collecting unit
19 has possession of the tax roll or by the county treasurer if the
20 county has possession of the tax roll as though the exemption had
21 not been granted. A corrected tax bill shall be issued for the
22 tax year being adjusted by the local tax collecting unit if the
23 local tax collecting unit has possession of the tax roll or by
24 the county treasurer if the county has possession of the tax
25 roll. If an owner requests that an exemption under this section
26 be withdrawn before that owner is contacted in writing by either
27 the local assessor or the department of treasury regarding that

1 owner's eligibility for the exemption and that owner pays the
2 corrected tax bill issued under this subsection within 30 days
3 after the corrected tax bill is issued, that owner is not liable
4 for any penalty or interest on the additional tax. An owner who
5 pays a corrected tax bill issued under this subsection more than
6 30 days after the corrected tax bill is issued is liable for the
7 penalties and interest that would have accrued if the exemption
8 had not been granted from the date the taxes were originally
9 levied.

10 (22) For tax years beginning on and after January 1, 1994, a
11 cooperative housing corporation is entitled to a full or partial
12 exemption under this section for the tax year in which the coop-
13 erative housing corporation files all of the following with the
14 local tax collecting unit in which the cooperative housing corpo-
15 ration is located if filed on or before May 1 of the tax year, or
16 for the tax year following the year in which all of the following
17 are filed if filed after May 1 of the tax year:

18 (a) An affidavit form.

19 (b) A statement of the total number of units owned by the
20 cooperative housing corporation and occupied as the principal
21 residence of a tenant stockholder as of the date of the filing
22 under this subsection.

23 (c) A list that includes the name, address, and social
24 security number of each tenant stockholder of the cooperative
25 housing corporation occupying a unit in the cooperative housing
26 corporation as his or her principal residence as of the date of
27 the filing under this subsection.

1 (d) A statement of the total number of units of the
2 cooperative housing corporation on which an exemption under this
3 section was claimed and that were transferred in the tax year
4 immediately preceding the tax year in which the filing under this
5 section was made.