

HOUSE BILL No. 4361

March 2, 1999, Introduced by Reps. Scranton, Caul, Mortimer and Tabor 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, TO THE
6 EXTENT PROVIDED IN THIS SECTION if an owner of that homestead
7 claims an exemption as provided in this section. Notwithstanding
8 the tax day provided in section 2, the status of property as a
9 homestead shall be determined on the date an affidavit claiming
10 an exemption is filed under subsection (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
3 local tax collecting unit in which the property is located. The
4 affidavit shall state that the property is owned and occupied as
5 a 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16 state that is not rescinded.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. AN
21 AFFIDAVIT FILED UNDER THIS SECTION PROVIDES THE FOLLOWING EXEMP-
22 TION FROM THE TAX LEVIED BY A LOCAL SCHOOL DISTRICT FOR SCHOOL
23 OPERATING PURPOSES UNDER SUBSECTION (1):

24 (A) FOR TAXES LEVIED BEFORE JANUARY 1, 1999, 100% IF FILED
25 BEFORE MAY 1.

26 (B) FOR TAXES LEVIED AFTER DECEMBER 31, 1998:

1 (i) ONE HUNDRED PERCENT IF FILED BEFORE MARCH 1.

2 (ii) FIFTY PERCENT IF FILED ON OR AFTER MARCH 1 AND BEFORE
3 AUGUST 1.

4 (iii) NO EXEMPTION IF FILED ON OR AFTER AUGUST 1.

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

8 (4) Upon receipt of an affidavit filed under subsection (2)
9 and unless the claim is denied under subsection (6), the assessor
10 shall exempt the property from the collection of the tax levied
11 by a local school district for school operating purposes to the
12 extent provided under section 1211 of ~~Act No. 451 of the Public~~
13 ~~Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211,
14 as provided in subsection (1) until December 31 of the year in
15 which the property is transferred or is no longer a homestead as
16 defined in section 7dd. The local tax collecting unit shall for-
17 ward copies of affidavits to the department of treasury according
18 to a schedule prescribed by the department of treasury.

19 (5) Not more than 90 days after exempted property is no
20 longer used as a homestead by the owner claiming an exemption,
21 that owner shall rescind the claim of exemption by filing with
22 the local tax collecting unit a rescission form prescribed by the
23 department of treasury. Beginning October 1, 1994, an owner who
24 fails to file a rescission as required by this subsection is
25 subject to a penalty of \$5.00 per day for each separate failure
26 beginning after the 90 days have elapsed, up to a maximum of
27 \$200.00. This penalty shall be collected under ~~Act No. 122 of~~

1 ~~the Public Acts of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and
2 shall be deposited in the state school aid fund established in
3 section 11 of article IX of the state constitution of 1963. This
4 penalty may be waived by the department of treasury.

5 (6) If the assessor of the local tax collecting unit
6 believes that the property for which an exemption is claimed is
7 not the homestead of the owner claiming the exemption, effective
8 for taxes levied after 1994 the assessor may deny a new or exist-
9 ing claim by notifying the owner and the department of treasury
10 in writing of the reason for the denial and advising the owner
11 that the denial may be appealed to the department of treasury
12 within 35 days after the date of the notice. The denial shall be
13 made on a form prescribed by the department of treasury. If the
14 assessor of the local tax collecting unit believes that the prop-
15 erty for which the exemption is claimed is not the homestead of
16 the owner claiming the exemption, for taxes levied in 1994 the
17 assessor may send a recommendation for denial for any affidavit
18 that is forwarded to the department of treasury stating the rea-
19 sons for the recommendation. If the assessor of the local tax
20 collecting unit believes that the property for which the exemp-
21 tion is claimed is not the homestead of the owner claiming the
22 exemption and has not denied the claim, for taxes levied after
23 1994 the assessor shall include a recommendation for denial with
24 any affidavit that is forwarded to the department of treasury or,
25 for an existing claim, shall send a recommendation for denial to
26 the department of treasury, stating the reasons for the
27 recommendation.

02125'99

1 (7) The department of treasury shall determine if the
2 property is the homestead of the owner claiming the exemption.
3 The department of treasury may review the validity of exemptions
4 for the current calendar year and for the 3 immediately preceding
5 calendar years. If the department of treasury determines that
6 the property is not the homestead of the owner claiming the
7 exemption, the department shall send a notice of that determina-
8 tion to the local tax collecting unit and to the owner of the
9 property claiming the exemption, indicating that the claim for
10 exemption is denied, stating the reason for the denial, and
11 advising the owner claiming the exemption of the right to appeal
12 the determination to the department of treasury and what those
13 rights of appeal are. The department of treasury may issue a
14 notice denying a claim if an owner fails to respond within 30
15 days of receipt of a request for information from that
16 department. An owner may appeal the denial of a claim of exemp-
17 tion to the department of treasury within 35 days of receipt of
18 the notice of denial. An appeal to the department of treasury
19 shall be conducted according to the provisions for an informal
20 conference in section 21 of ~~Act No. 122 of the Public Acts of~~
21 ~~1941, being section 205.21 of the Michigan Compiled Laws 1941 PA~~
22 ~~122, MCL 205.21.~~ Within 10 days after acknowledging an appeal of
23 a denial of a claim of exemption, the department of treasury
24 shall notify the assessor and the treasurer for the county in
25 which the property is located that an appeal has been filed.
26 Upon receipt of a notice that the department of treasury has
27 denied a claim for exemption, the assessor shall remove the

1 exemption of the property and, if the tax roll is in the local
2 tax collecting unit's possession, amend the tax roll to reflect
3 the denial and the local treasurer shall issue a corrected tax
4 bill for previously unpaid taxes with interest and penalties com-
5 puted based on the interest and penalties that would have accrued
6 from the date the taxes were originally levied if there had not
7 been an exemption. If the tax roll is in the county treasurer's
8 possession, the tax roll shall be amended to reflect the denial
9 and the county treasurer shall prepare and submit a supplemental
10 tax bill for any additional taxes, together with any interest and
11 penalties. For taxes levied in 1994 only, the county treasurer
12 shall waive any interest and penalties due if the owner pays the
13 supplemental tax bill not more than 30 days after the owner
14 receives the supplemental tax bill. Interest and penalties shall
15 not be assessed for any period before February 14, 1995.
16 However, if the property has been transferred to a bona fide pur-
17 chaser before additional taxes were billed to the seller as a
18 result of the denial of a claim for exemption, the taxes, inter-
19 est, and penalties shall not be billed to the bona fide purchas-
20 er, and the local tax collecting unit if the local tax collecting
21 unit has possession of the tax roll or the county treasurer if
22 the county has possession of the tax roll shall notify the
23 department of treasury of the amount of tax due and interest
24 through the date of that notification. The department of trea-
25 sury shall then assess the owner who claimed the homestead prop-
26 erty tax exemption for the tax and interest plus penalty accruing
27 as a result of the denial of the claim for exemption, if any, as

1 for unpaid taxes provided under ~~Act No. 122 of the Public Acts~~
2 ~~of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any
3 tax, interest, or penalty collected into the state school aid
4 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 rescinds
23 all previous exemptions filed by that owner for any other
24 homestead. The department of treasury shall notify the assessor
25 of the local tax collecting unit in which the property for which
26 a previous exemption was claimed is located that the previous
27 exemption is rescinded by the subsequent affidavit. Upon receipt

02125'99

1 of notice that an exemption is rescinded, the assessor of the
2 local tax collecting unit shall remove the exemption effective
3 December 31 of the year in which the property is transferred or
4 is no longer a homestead as defined in section 7dd. The assessor
5 of the local tax collecting unit in which that property is
6 located shall notify the treasurer in possession of the tax roll
7 for a year for which the exemption is rescinded. If the tax roll
8 is in the local tax collecting unit's possession, the tax roll
9 shall be amended to reflect the rescission and the local trea-
10 surer shall prepare and issue a corrected tax bill for previously
11 unpaid taxes with interest and penalties computed based on the
12 interest and penalties that would have accrued from the date the
13 taxes were originally levied if there had not been an exemption
14 for that year. If the tax roll is in the county treasurer's pos-
15 session, the tax roll shall be amended to reflect the rescission
16 and the county treasurer shall prepare and submit a supplemental
17 tax bill for any additional taxes, together with any interest and
18 penalties. However, if the property has been transferred to a
19 bona fide purchaser, the taxes, interest, and penalties shall not
20 be billed to the bona fide purchaser, and the local tax collect-
21 ing unit if the local tax collecting unit has possession of the
22 tax roll or the county treasurer if the county has possession of
23 the tax roll shall notify the department of treasury of the
24 amount of tax due and interest through the date of that
25 notification. The department of treasury shall then assess the
26 owner who received the homestead property tax exemption when the
27 property was not a homestead as defined in section 7dd for the

02125'99

1 tax and interest plus penalty accruing, if any, as for unpaid
2 taxes provided under ~~Act No. 122 of the Public Acts of 1941~~
3 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any tax,
4 interest, or penalty collected into the state school aid fund.

5 (10) An owner of property for which a claim of exemption is
6 rescinded may appeal that rescission with either the July or
7 December board of review in either the year for which the exemp-
8 tion is rescinded or in the immediately succeeding year. If an
9 appeal of a rescission of a claim for exemption is received not
10 later than 5 days prior to the date of the December board of
11 review, the local tax collecting unit shall convene a December
12 board of review and consider the appeal pursuant to this section
13 and section 53b. An owner of property for which a claim of
14 exemption is rescinded may appeal the decision of the board of
15 review to the residential and small claims division of the
16 Michigan tax tribunal within 35 days of that decision.

17 (11) If the homestead is part of a unit in a multiple-unit
18 dwelling or a dwelling unit in a multiple-purpose structure, an
19 owner shall claim an exemption for only that portion of the total
20 taxable value of the property used as the homestead of that owner
21 in a manner prescribed by the department of treasury. If a por-
22 tion of a parcel for which the owner claims an exemption is used
23 for a purpose other than as a homestead, the owner shall claim an
24 exemption for only that portion of the taxable value of the prop-
25 erty used as the homestead of that owner in a manner prescribed
26 by the department of treasury.

1 (12) When a county register of deeds records a transfer of
2 ownership of a property, he or she shall notify the local tax
3 collecting unit in which the property is located of the
4 transfer.

5 (13) The department of treasury shall make available the
6 affidavit forms and the forms to rescind an exemption, which may
7 be on the same form, to all city and township assessors, county
8 equalization officers, county registers of deeds, and closing
9 agents. A person who prepares a closing statement for the sale
10 of property shall provide affidavit and rescission forms to the
11 buyer and seller at the closing and, if requested by the buyer or
12 seller after execution by the buyer or seller, shall file the
13 forms with the local tax collecting unit in which the property is
14 located. If a closing statement preparer fails to provide home-
15 stead exemption affidavit and rescission forms to the buyer and
16 seller, or fails to file the affidavit and rescission forms with
17 the local tax collecting unit if requested by the buyer or
18 seller, the buyer may appeal to the department of treasury within
19 30 days of notice to the buyer that an exemption was not
20 recorded. If the department of treasury determines that the
21 buyer qualifies for the exemption, the department of treasury
22 shall notify the assessor of the local tax collecting unit that
23 the exemption is granted and the assessor of the local tax col-
24 lecting unit or, if the tax roll is in the possession of the
25 county treasurer, the county treasurer shall correct the tax roll
26 to reflect the exemption. This subsection does not create a
27 cause of action at law or in equity against a closing statement

1 preparer who fails to provide homestead exemption affidavit and
2 rescission forms to a buyer and seller or who fails to file the
3 affidavit and rescission forms with the local tax collecting unit
4 when requested to do so by the buyer or seller.

5 (14) An owner who owned and occupied a homestead ~~on May 1~~
6 for which the exemption PROVIDED UNDER SUBSECTION (2) was not on
7 the tax roll may file an appeal with the July board of review in
8 the year for which the exemption was claimed or the immediately
9 succeeding year or with the December board of review in the year
10 for which the exemption was claimed or the immediately succeeding
11 year. If an appeal of a claim for exemption that was not on the
12 tax roll is received not later than 5 days prior to the date of
13 the December board of review, the local tax collecting unit shall
14 convene a December board of review and consider the appeal pursu-
15 ant to this section and section 53b.

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

1 appear in person or by mail before the December board of review
2 and obtain a rebate as provided in section 53b of 50% of the
3 number of mills levied in 1994 under section 1211 of ~~Act No. 451~~
4 ~~of the Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451,
5 MCL 380.1211, from which homesteads are exempt, not to exceed 50%
6 of the total number of mills from which homesteads are exempt in
7 1994. If an affidavit is not filed as provided in this subsec-
8 tion, the owner may appear in person or by mail before the July
9 or December board of review in 1994 or the July or December board
10 of review in 1995 and obtain a rebate of 50% of the number of
11 mills levied in 1994 under section 1211 of ~~Act No. 451 of the~~
12 ~~Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL
13 380.1211, from which homesteads are exempt, not to exceed 50% of
14 the total number of mills from which homesteads are exempt in
15 1994. This subsection does not apply unless the 1994 assessment
16 of the property is based on the valuation of a homestead or a
17 portion of a structure that has become a homestead. An affidavit
18 filed under this subsection is subject to all the provisions of
19 this section.

20 (16) An owner who owns and occupies a homestead for which
21 the exemption was on the tax roll in 1995 and each year after
22 1995 and for which an exemption was not on the tax roll in 1994
23 may appeal to the department of treasury before December 31, 1997
24 to have an exemption placed on the 1994 tax roll if all of the
25 following conditions are satisfied:

1 (a) The owner owned and occupied that homestead on May 1,
2 1994 or the owner owned and occupied that homestead after May 1,
3 1994 but before October 3, 1994.

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

6 (c) The owner has owned and occupied that homestead since
7 1994.

8 (17) If the department of treasury grants a claim of exemp-
9 tion for 1994 under subsection (16), the county treasurer with
10 possession of the tax roll being adjusted shall amend the 1994
11 tax roll to reflect the exemption and shall issue a corrected tax
12 bill as follows:

13 (a) If the owner owned and occupied that homestead on May 1,
14 1994, that homestead is exempt from the tax levied in 1994 for
15 school operating purposes to the extent provided under
16 section 1211 of ~~Act No. 451 of the Public Acts of 1976~~ THE
17 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, pursuant to
18 subsection (1).

19 (b) If the owner owned and occupied that homestead after May
20 1, 1994 but before October 3, 1994, that homestead is exempt from
21 50% of the number of mills levied in 1994 under section 1211 of
22 ~~Act No. 451 of the Public Acts of 1976~~ pursuant to
23 ~~subsection (14)~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL
24 380.1211.

25 (18) If the department of treasury denies a claim of exemp-
26 tion for 1994 under subsection (16), an owner may appeal that

1 denial to the residential and small claims division of the
2 Michigan tax tribunal within 35 days of that denial.

3 (19) If the assessor or treasurer of the local tax collect-
4 ing unit believes that the department of treasury erroneously
5 denied a claim for exemption, the assessor or treasurer may
6 submit written information supporting the owner's claim for
7 exemption to the department of treasury within 35 days of the
8 owner's receipt of the notice denying the claim for exemption.
9 If, after reviewing the information provided, the department of
10 treasury determines that the claim for exemption was erroneously
11 denied, the department of treasury shall grant the exemption and
12 the tax roll shall be amended to reflect the exemption.

13 (20) If granting the exemption under this section results in
14 an overpayment of the tax, a rebate, including any interest paid,
15 shall be made to the taxpayer by the local tax collecting unit if
16 the local tax collecting unit has possession of the tax roll or
17 by the county treasurer if the county has possession of the tax
18 roll within 30 days of the date the exemption is granted. The
19 rebate shall be without interest.

20 (21) If an exemption under this section is erroneously
21 granted, an owner may request in writing that the department of
22 treasury withdraw the exemption. If an owner requests that an
23 exemption be withdrawn, the department of treasury shall issue an
24 order notifying the local assessor that the exemption issued
25 under this section has been denied based on the owner's request.
26 If an exemption is withdrawn, the property that had been subject
27 to that exemption shall be immediately placed on the tax roll by

1 the local tax collecting unit if the local tax collecting unit
2 has possession of the tax roll or by the county treasurer if the
3 county has possession of the tax roll as though the exemption had
4 not been granted. A corrected tax bill shall be issued for the
5 tax year being adjusted by the local tax collecting unit if the
6 local tax collecting unit has possession of the tax roll or by
7 the county treasurer if the county has possession of the tax
8 roll. If an owner requests that an exemption under this section
9 be withdrawn before that owner is contacted in writing by either
10 the local assessor or the department of treasury regarding that
11 owner's eligibility for the exemption and that owner pays the
12 corrected tax bill issued under this subsection within 30 days
13 after the corrected tax bill is issued, that owner is not liable
14 for any penalty or interest on the additional tax. An owner who
15 pays a corrected tax bill issued under this subsection more than
16 30 days after the corrected tax bill is issued is liable for the
17 penalties and interest that would have accrued if the exemption
18 had not been granted from the date the taxes were originally
19 levied.

20 (22) For tax years beginning on and after January 1, 1994, a
21 cooperative housing corporation is entitled to a full or partial
22 exemption ~~under this section~~ AS PROVIDED IN SUBSECTION (2) for
23 the tax year in which the cooperative housing corporation files
24 all of the following with the local tax collecting unit in which
25 the cooperative housing corporation is located: ~~if filed on or~~
26 ~~before May 1 of the tax year, or for the tax year following the~~

