

# HOUSE BILL No. 6279

September 17, 2002, Introduced by Reps. Ruth Johnson, Cassis, Newell, Toy, Woronchak, Birkholz, Palmer, Vander Veen, Voorhees, Richardville, Ehardt, Cameron Brown, Meyer, Van Woerkom, Rocca, Caul, Pappageorge, DeRossett and Kooiman and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled "Tax tribunal act," by amending sections 35, 37, 43, and 62a (MCL 205.735, 205.737, 205.743, and 205.762a), section 35 as amended by 2000 PA 165, section 37 as amended by 1996 PA 505, and section 43 as amended and section 62a as added by 1994 PA 254.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 35. (1) A proceeding before the tribunal is original  
2 and independent and is considered de novo. For an assessment  
3 dispute as to the valuation of property or if an exemption is  
4 claimed, the assessment must be protested before the board of  
5 review before the tribunal acquires jurisdiction of the dispute  
6 under subsection (2), except as otherwise provided in this  
7 section for a year in which the July or December board of review  
8 has authority to determine a claim of exemption for qualified

1 agricultural property or for an appeal of a denial of a  
2 ~~homestead~~ PRINCIPAL RESIDENCE exemption by the department of  
3 treasury, and in section 37(5) and (7). For a dispute regarding  
4 a determination of a claim for exemption of qualified agricul-  
5 tural property for a year in which the July or December board of  
6 review has authority to determine a claim of exemption for quali-  
7 fied agricultural property, the claim for exemption must be  
8 presented to either the July or December board of review before  
9 the tribunal acquires jurisdiction of the dispute. For a special  
10 assessment dispute, the special assessment must be protested at  
11 the hearing held for the purpose of confirming the special  
12 assessment roll before the tribunal acquires jurisdiction of the  
13 dispute.

14 (2) The jurisdiction of the tribunal in an assessment dis-  
15 pute is invoked by a party in interest, as petitioner, filing a  
16 written petition on or before June 30 of the tax year involved.  
17 Except in the residential property and small claims division, a  
18 written petition is considered filed by June 30 of the tax year  
19 involved if it is sent by certified mail on or before June 30 of  
20 that tax year. In the residential property and small claims  
21 division, a written petition is considered filed by June 30 of  
22 the tax year involved if it is postmarked by first-class mail or  
23 delivered in person on or before June 30 of the tax year  
24 involved. All petitions required to be filed or served by a day  
25 during which the offices of the tribunal are not open for busi-  
26 ness shall be filed by the next business day. In all other  
27 matters, the jurisdiction of the tribunal is invoked by a party

1 in interest, as petitioner, filing a written petition within 30  
2 days after the final decision, ruling, determination, or order  
3 that the petitioner seeks to review, or within 35 days if the  
4 appeal is pursuant to section 22(1) of 1941 PA 122, MCL 205.22.  
5 Except in the residential property and small claims division, a  
6 written petition is considered filed if it is sent by certified  
7 mail or delivered in person on or before expiration of the period  
8 in which an appeal may be made as provided by law. In the resi-  
9 dential and small claims division, a written petition is consid-  
10 ered filed if it is postmarked by first-class mail or delivered  
11 in person on or before expiration of the period in which an  
12 appeal may be made as provided by law. An appeal of a contested  
13 tax bill shall be made within 60 days after mailing by the  
14 assessment district treasurer and the appeal is limited solely to  
15 correcting arithmetic errors or mistakes and is not a basis of  
16 appeal as to disputes of valuation of the property, the  
17 property's exempt status, or the property's equalized value  
18 resulting from equalization of its assessment by the county board  
19 of commissioners or the state tax commission. Service of the  
20 petition on the respondent shall be by certified mail. For an  
21 assessment dispute, service of the petition shall be mailed to  
22 the assessor of that governmental unit if the respondent is the  
23 local governmental unit. Except for petitions filed under  
24 chapter 6, a copy of the petition shall also be sent to the sec-  
25 retary of the school board in the local school district in which  
26 the property is located and to the clerk of any county that may  
27 be affected.

1           (3) The petition or answer may be amended at any time by  
2 leave of the tribunal and in compliance with its rules. If a tax  
3 was paid while the determination of the right to the tax is pend-  
4 ing before the tribunal, the taxpayer may amend his or her peti-  
5 tion to seek a refund of that tax.

6           (4) A person or legal entity may appear before the tribunal  
7 in his or her own behalf, or may be represented by an attorney or  
8 by any other person.

9           Sec. 37. (1) The tribunal shall determine a property's tax-  
10 able value pursuant to section 27a of the general property tax  
11 act, ~~Act No. 206 of the Public Acts of 1893, being section~~  
12 ~~211.27a of the Michigan Compiled Laws~~ 1893 PA 206, MCL 211.27A.

13           (2) The tribunal shall determine a property's state equal-  
14 ized valuation by multiplying its finding of true cash value by a  
15 percentage equal to the ratio of the average level of assessment  
16 in relation to true cash values in the assessment district, and  
17 equalizing that product by application of the equalization factor  
18 that is uniformly applicable in the assessment district for the  
19 year in question. The property's state equalized valuation shall  
20 not exceed 50% of the true cash value of the property on the  
21 assessment date.

22           (3) The petitioner has the burden of proof in establishing  
23 the true cash value of the property. The assessing agency has  
24 the burden of proof in establishing the ratio of the average  
25 level of assessments in relation to true cash values in the  
26 assessment district and the equalization factor that was

1 uniformly applied in the assessment district for the year in  
2 question.

3 (4) If the taxpayer paid additional taxes as a result of the  
4 unlawful assessments on the same property after filing the peti-  
5 tion, or if in subsequent years an unlawful assessment is made  
6 against the same property, the taxpayer, not later than the  
7 filing deadline prescribed in section 35(2), except as otherwise  
8 provided in subsections (5) and (7), may amend the petition to  
9 join all of the claims for a determination of the property's tax-  
10 able value, state equalized valuation, or exempt status and for a  
11 refund of payments based on the unlawful assessments. The motion  
12 to amend the petition to add a subsequent year shall be accom-  
13 panied by a motion fee equal to 50% of the filing fee to file a  
14 petition to commence an appeal for that property in that year. A  
15 sum determined by the tribunal to have been unlawfully paid or  
16 underpaid shall bear interest from the date of payment to the  
17 date of judgment and the judgment shall bear interest to date of  
18 its payment. However, a sum determined by the tribunal to have  
19 been underpaid shall not bear interest for any time period prior  
20 to 28 days after the tribunal's decision. Interest required by  
21 this subsection shall accrue for periods before April 1, 1982 at  
22 a rate of 6% per year, shall accrue for periods after  
23 March 31, 1982 but before April 1, 1985 at a rate of 12% per  
24 year, and shall accrue for periods after March 31, 1985 but  
25 before April 1, 1994 at a rate of 9% per year. After March 31,  
26 1994 but before January 1, 1996, interest shall accrue at an  
27 interest rate set monthly at a per annum rate based on the

1 auction rate of the 91-day discount treasury bill rate for the  
2 first Monday in each month, plus 1%. After December 31, 1995,  
3 interest shall accrue at an interest rate set each year based on  
4 the average auction rate of 91-day discount treasury bills in the  
5 immediately preceding state fiscal year as certified by the  
6 department of treasury, plus 1%. The department of treasury  
7 shall certify the interest rate within 60 days after the end of  
8 the immediately preceding fiscal year. The tribunal shall order  
9 the refund of all or part of a property tax administration fee  
10 paid in connection with taxes that the tribunal determines were  
11 unlawfully paid.

12 (5) A motion to amend a petition to add subsequent years is  
13 not necessary in the following circumstances:

14 (a) For petitions filed after December 31, 1987, if the tri-  
15 bunal has jurisdiction over a petition alleging that the property  
16 is exempt from taxation, the appeal for each subsequent year for  
17 which an assessment has been established shall be added automati-  
18 cally to the petition. However, upon leave of the tribunal, the  
19 petitioner or respondent may request that any subsequent year be  
20 excluded from appeal at the time of the hearing on the petition.

21 (b) If the residential property and small claims division of  
22 the tribunal has jurisdiction over a petition, the appeal for  
23 each subsequent year for which an assessment has been established  
24 shall be added automatically to the petition. The residential  
25 property and small claims division shall automatically add to an  
26 appeal of a final determination of a claim for exemption of a  
27 ~~homestead~~ PRINCIPAL RESIDENCE or of qualified agricultural

1 property each subsequent year in which a claim for exemption of  
2 that ~~homestead~~ PRINCIPAL RESIDENCE or that qualified agricul-  
3 tural property is denied. However, upon leave of the tribunal,  
4 the petitioner or respondent may request that any subsequent year  
5 be excluded from appeal at the time of the hearing on the  
6 petition.

7 (6) The notice of the hearing on a petition shall include a  
8 statement advising the petitioner of the right to amend his or  
9 her petition to include or exclude subsequent years as provided  
10 by subsections (4) and (5).

11 (7) If the final equalization multiplier for the tax year is  
12 greater than the tentative multiplier used in preparing the  
13 assessment notice and as a result of action of the state board of  
14 equalization or county board of commissioners a taxpayer's  
15 assessment as equalized is in excess of 50% of true cash value,  
16 that person may appeal directly to the tax tribunal without a  
17 prior protest before the local board of review. The appeal shall  
18 be filed under this subsection on or before the third Monday in  
19 August and shall be heard in the same manner as other appeals of  
20 the tribunal. An appeal pursuant to this subsection shall not  
21 result in an equalized value less than the assessed value multi-  
22 plied by the tentative equalization multiplier used in preparing  
23 the assessment notice.

24 Sec. 43. (1) If the date set by law for the payment of  
25 taxes has passed, the tribunal shall not make a final decision on  
26 the entire proceeding until the taxes are paid. This requirement  
27 may be waived at the tribunal's discretion.

1           (2) This section only applies to taxes paid under the  
2 general property tax act, ~~Act No. 206 of the Public Acts of~~  
3 ~~1893, as amended, being sections 211.1 to 211.157 of the Michigan~~  
4 ~~Compiled Laws, or Act No. 189 of the Public Acts of 1953, as~~  
5 ~~amended, being sections 211.181 and 211.182 of the Michigan~~  
6 ~~Compiled Laws~~ 1893 PA 206, MCL 211.1 TO 211.157, OR 1953 PA 189,  
7 MCL 211.181 TO 211.182.

8           (3) This section does not apply to an appeal to the residen-  
9 tial property and small claims division of the tribunal under  
10 section 62a of a denial of a claim for exemption of a ~~homestead~~  
11 PRINCIPAL RESIDENCE or of qualified agricultural property under  
12 ~~Act No. 206 of the Public Acts of 1893 from taxes levied under~~  
13 ~~section 1211 of the school code of 1976, Act No. 451 of the~~  
14 ~~Public Acts of 1976, being section 380.1211 of the Michigan~~  
15 ~~Compiled Laws~~ THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL  
16 211.1 TO 211.157, FROM TAXES LEVIED UNDER SECTION 1211 OF THE  
17 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

18           Sec. 62a. (1) The residential property and small claims  
19 division created under section 61 has exclusive jurisdiction over  
20 an appeal of a final determination of a claim for exemption of a  
21 ~~homestead~~ PRINCIPAL RESIDENCE by the department of treasury or  
22 of qualified agricultural property under the general property tax  
23 act, ~~Act No. 206 of the Public Acts of 1893, being~~  
24 ~~sections 211.1 to 211.157 of the Michigan Compiled Laws~~ 1893 PA  
25 206, MCL 211.1 TO 211.157, from taxes levied under section 1211  
26 of the ~~school code of 1976, Act No. 451 of the Public Acts of~~



1 ~~1976, being section 380.1211 of the Michigan Compiled Laws~~  
2 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

3 (2) An appeal of a final determination of a claim for exemp-  
4 tion of a ~~homestead~~ PRINCIPAL RESIDENCE under ~~Act No. 206 of~~  
5 ~~the Public Acts of 1893~~ THE GENERAL PROPERTY TAX ACT, 1893 PA  
6 206, MCL 211.1 TO 211.157, shall be filed not later than 35 days  
7 after the department of treasury determines a claim for  
8 exemption. An appeal is considered filed if it is postmarked by  
9 first-class mail or delivered in person within 35 days after the  
10 department of treasury denies a claim for exemption.

11 (3) An appeal of a final determination of a claim for exemp-  
12 tion of qualified agricultural property under ~~Act No. 206 of the~~  
13 ~~Public Acts of 1893~~ THE GENERAL PROPERTY TAX ACT, 1893 PA 206,  
14 MCL 211.1 TO 211.157, shall be filed not later than 30 days after  
15 the July or December board of review determines a claim for  
16 exemption. An appeal is considered filed if it is postmarked by  
17 first-class mail or delivered in person within 30 days after the  
18 July or December board of review denies a claim for exemption.

19 Enacting section 1. This amendatory act does not take  
20 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6283  
21 (request no. 07067'02) of the 91st Legislature is enacted into  
22 law.