

HOUSE BILL No. 4961

June 20, 2007, Introduced by Reps. Calley, Rick Jones and Marleau and referred to the Committee on Tax Policy.

A bill to amend 1976 PA 225, entitled

"An act to defer the collection of special assessments on homestead properties; to provide for conditions of eligibility for such a deferment; to prescribe the powers and duties of the department of treasury, local assessing officers, and local collecting officers; to provide for the advancement of moneys by the state to indemnify special assessment districts for losses from deferment of collections; to provide for the advancement of money by the state to an owner for the repayment of loans used by the owner to pay special assessments; to provide for the collection of deferred special assessments and interest thereon, and the disposition of these collections; to make an appropriation; and to prescribe penalties,"

by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 8a, 9, and 10 (MCL 211.761, 211.762, 211.763, 211.764, 211.765, 211.766, 211.767, 211.768, 211.768a, 211.769, and 211.770), the title and sections 2, 3, 4, and 10 as amended by 1980 PA 403 and section 8a as amended by 1981 PA 59, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to defer the collection of special assessments **AND** **PROPERTY TAXES** on homestead properties; to provide for conditions of eligibility for such a deferment; to prescribe the powers and duties of the department of treasury, local assessing officers, and local collecting officers; to provide for the advancement of ~~moneys~~ **MONEY** by the state to indemnify special assessment districts **AND** **LOCAL TAX COLLECTING UNITS** for losses from deferment of collections; to provide for the advancement of money by the state to an owner for the repayment of loans used by the owner to pay special assessments **AND PROPERTY TAXES**; to provide for the collection of deferred special assessments **AND PROPERTY TAXES** and interest thereon, and the disposition of these collections; to make an appropriation; and to prescribe penalties.

Sec. 1. As used in this act:

(a) "Department" means the department of treasury.

(b) "Totally and permanently disabled" means a person ~~as defined~~ **DESCRIBED** in ~~42 U.S.C. section 416~~ **SECTION 416(i) OF THE SOCIAL SECURITY ACT, 42 USC 416.**

(c) "Homestead" means a dwelling or a unit in a multiple-unit dwelling, owned and occupied as a home by ~~the~~ **AN** owner, ~~thereof,~~ including all contiguous unoccupied real property owned by the ~~person~~ **OWNER**. Homestead includes a dwelling and an outbuilding used in connection with a dwelling, situated on the ~~lands~~ **PROPERTY** of another.

(d) "Owner" includes a person eligible for the exemption specified in this act, who is purchasing a homestead under a

1 mortgage or land contract, ~~or~~ who owns a dwelling situated on the
2 leased lands of another, or **WHO** is a tenant-stockholder of a
3 cooperative housing corporation.

4 (e) "Special assessment" means an assessment against real
5 property calculated on a benefit or ad valorem basis for curb and
6 gutter, sidewalk, sewer, water, or street paving; a drain; a
7 connection fee or similar charge for a sewer or water system; or
8 the land contract on a parcel of property acquired under the
9 circumstances set forth in section ~~3(2)~~ **3(3)**. Special assessment
10 does not include charges for current service.

11 Sec. 2. (1) The payment of special assessments ~~assessed~~ **AND**
12 **PROPERTY TAXES LEVIED** and due and payable on a homestead in any
13 year in which the owner meets all of the terms and conditions of
14 this act shall be deferred until 1 year after the owner's death,
15 subject to further order by the probate court or until the
16 homestead or any part of the homestead is conveyed or transferred
17 to another or a contract to sell **THE HOMESTEAD** is entered into. The
18 death of a spouse ~~shall~~ **DOES** not terminate the deferment of special
19 assessments **OR PROPERTY TAXES** for a homestead owned by husband and
20 wife under tenancy by the entirety as long as the surviving
21 spouse does not remarry. Special assessments **AND PROPERTY TAXES**
22 deferred under this act may be paid in full at any time.

23 (2) If the collecting officer or the department determines
24 that legal or equitable title to a homestead or any part of a
25 homestead for which special assessments **OR PROPERTY TAXES** are
26 deferred under this act is conveyed or transferred or a contract to
27 sell the homestead or part of a homestead is entered into, and the

1 deferment is not terminated, the owner or owner's estate ~~shall be~~
 2 **IS** subject to an interest rate of 1% per month or fraction of a
 3 month, on the amount deferred, computed from the date of
 4 conveyance, transfer, or contractual agreement. The amount of
 5 interest shall be payable to the collecting officer and transmitted
 6 by that office pursuant to section 9.

7 (3) The department shall notify each owner whose special
 8 assessments **OR PROPERTY TAXES** are authorized to be deferred under
 9 this act that if legal or equitable title to the homestead or any
 10 part of the homestead is conveyed or transferred or a contract to
 11 sell the homestead or part of the homestead is entered into, the
 12 deferment is terminated and the amount deferred is immediately due
 13 and payable, plus interest as provided in subsection (2).

14 Sec. 3. (1) An owner of a homestead who is 65 years of age or
 15 older, ~~or who is totally and permanently disabled,~~ **WHO CLAIMS A**
 16 **DEPENDENCY EXEMPTION UNDER SECTION 30(2) OF THE INCOME TAX ACT OF**
 17 **1967, 1967 PA 281, MCL 206.30, FOR A CHILD WHO IS LESS THAN 18**
 18 **YEARS OLD, OR WHO IS AN ADULT IN NEED OF PROTECTIVE SERVICES AS**
 19 **DEFINED IN SECTION 11 OF THE SOCIAL WELFARE ACT, 1939 PA 280, MCL**
 20 **400.11, AND WHO IS** a citizen of the United States, a resident of
 21 this state for 5 or more years, and the sole owner of the homestead
 22 for ~~5-3~~ or more years is eligible for the deferment of special
 23 assessments **AND PROPERTY TAXES LEVIED** on that homestead pursuant to
 24 this act. The owner and the owner's spouse shall not have received
 25 during the last calendar year household income as defined in
 26 section 508 of ~~Act No. 281 of the Public Acts of 1967, as amended,~~
 27 ~~being section 206.508 of the Michigan Compiled Laws,~~ **THE INCOME TAX**

1 ~~ACT OF 1967, 1967 PA 281, MCL 206.508, in excess of \$8,000.00, this~~
2 ~~amount shall be increased to \$10,000.00. for the determination of~~
3 ~~eligibility for a deferment after December 31, 1982. The gross~~
4 ~~amount of the~~ **A special assessment DEFERRED UNDER THIS ACT,**
5 ~~exclusive of interest, shall not be less than \$300.00.~~

6 (2) The maximum dollar amount of household income required by
7 subsection (1) to be eligible for the deferment of special
8 assessments **OR PROPERTY TAXES** under this act shall be adjusted each
9 year, beginning on January 1, 1984, pursuant to the annual average
10 percentage increase or decrease in the Detroit consumer price index
11 ~~—all items~~ as defined and reported by the United States department
12 of labor, bureau of labor statistics. ~~The adjustment shall be made~~
13 ~~by multiplying the annual average percentage increase or decrease~~
14 ~~in the Detroit consumer price index for the prior calendar year by~~
15 ~~the current maximum dollar amount of the household income~~
16 ~~requirement as adjusted by this subsection. The resultant product~~
17 ~~shall be added to the maximum dollar amount of the household income~~
18 ~~requirement as adjusted by this subsection and then rounded off to~~
19 ~~the nearest whole number, which shall be the new household income~~
20 ~~requirement for the current year.~~

21 (3) ~~After January 1, 1975, a~~ **A** ~~person 65 years of age or older~~
22 ~~who otherwise qualifies under this section for deferral of special~~
23 ~~assessments~~ **OR PROPERTY TAXES** ~~who fails~~ **FAILED** to pay a prior
24 delinquent special assessment **OR PROPERTY TAX ASSESSMENT** and
25 ~~thereby lost the property~~ **HIS OR HER HOMESTEAD** to the local unit of
26 government ~~who purchased the property through tax~~ **FORFEITURE,**
27 **FORECLOSURE, AND** sale may reacquire the property from the local

1 unit of government through a land contract. ~~The~~ **A** land contract for
2 a ~~parcel of property~~ **HOMESTEAD** reacquired under the circumstances
3 ~~set forth in this~~ subsection shall be treated as a special
4 assessment for purposes of this act.

5 (4) ~~The owner of a homestead who is 65 years of age or older~~
6 ~~or is totally and permanently disabled, a citizen of the United~~
7 ~~States, a resident of this state for 5 or more years, and the sole~~
8 ~~owner of the homestead for 5 or more years, in the year the special~~
9 ~~assessment was levied, and~~ **A PERSON WHO QUALIFIES UNDER THIS**

10 **SECTION FOR DEFERRAL OF SPECIAL ASSESSMENTS OR PROPERTY TAXES** who
11 has borrowed money from a lending institution to pay a special
12 assessment **OR PROPERTY TAXES** before ~~the effective date of this~~
13 ~~subsection, shall be~~ **JANUARY 8, 1981 IS** eligible to receive money
14 from the special revolving fund created in section 10, to be used
15 ~~for the purpose of repaying~~ **TO REPAY** the lending institution the
16 principal amount used by the person to pay the special assessment
17 **OR PROPERTY TAXES**. The department shall cause a lien on the
18 homestead in favor of the state to be recorded with the appropriate
19 register of deeds, indicating the amount of the money paid and
20 identifying the homestead. Money paid from the fund under this
21 subsection shall be treated as if the money had been paid as
22 deferred **PROPERTY TAXES OR** special assessment.

23 Sec. 4. An owner may apply to the local assessing officer for
24 deferment of the payment of special assessments on the owner's
25 homestead. **AN OWNER MAY APPLY TO THE DEPARTMENT FOR DEFERMENT OF**
26 **THE PAYMENT OF PROPERTY TAXES LEVIED ON THE OWNER'S HOMESTEAD.** The
27 application shall be made upon an affidavit form to be furnished

1 and made available by the department at convenient locations
2 throughout the state. The affidavit form shall contain the
3 following statement in 10-point ~~boldface~~**BOLDFACED** type located
4 immediately above the affiant's signature: "If this deferment is
5 authorized the state will place a lien on your property." **THE**
6 **AFFIDAVIT SHALL CONTAIN A STATEMENT THAT THE OWNER APPLYING FOR THE**
7 **DEFERMENT OF SPECIAL ASSESSMENTS OR PROPERTY TAXES UNDER THIS ACT**
8 **HAS RECEIVED OR HAS APPLIED FOR ALL CREDITS AVAILABLE TO THAT OWNER**
9 **UNDER SECTIONS 520 AND 522 OF THE INCOME TAX ACT OF 1967, 1967 PA**
10 **281, MCL 206.520 AND 206.522.** A person making a false affidavit for
11 the purpose of obtaining deferment of special assessments **OR**
12 **PROPERTY TAXES** under this act is guilty of perjury. If the
13 homestead is owned jointly by husband and wife, each spouse shall
14 sign and file the affidavit. If the homestead is encumbered by a
15 mortgage or an unpaid balance on a land contract, a deferment of
16 special assessments **OR PROPERTY TAXES** shall not be made without the
17 written consent of the mortgagee or the land contract vendor, which
18 shall be filed with the affidavit. The affidavit shall be filed
19 with the local assessing officer **FOR THE DEFERMENT OF SPECIAL**
20 **ASSESSMENTS AND WITH THE DEPARTMENT FOR THE DEFERMENT OF PROPERTY**
21 **TAXES** at least 30 days ~~after~~**BEFORE** the due date of a special
22 assessment or installment of a special assessment **OR PROPERTY TAX**
23 **BILL** for which deferment is requested.

24 **SEC. 4A. THE APPLICATION PROVIDED FOR IN SECTION 4 SHALL**
25 **CONTAIN BOTH OF THE FOLLOWING:**

26 **(A) A STATEMENT THAT THE OWNER APPLYING FOR THE DEFERMENT HAS**
27 **PROPERTY AND CASUALTY INSURANCE ON THAT OWNER'S HOMESTEAD IN AN**

1 AMOUNT NOT LESS THAN THE AMOUNT OF ALL SPECIAL ASSESSMENTS AND
2 PROPERTY TAXES DEFERRED.

3 (B) AN ASSIGNMENT TO THE STATE OF THE OWNER'S INTEREST IN THE
4 PROPERTY AND CASUALTY INSURANCE ON THAT OWNER'S HOMESTEAD IN AN
5 AMOUNT EQUAL TO THE TOTAL AMOUNT OF ALL SPECIAL ASSESSMENTS AND
6 PROPERTY TAXES DEFERRED.

7 Sec. 5. (1) Upon receipt of the affidavit, the local assessing
8 officer **FOR THE DEFERMENT OF A SPECIAL ASSESSMENT AND THE**
9 **DEPARTMENT FOR THE DEFERMENT OF PROPERTY TAXES** shall promptly
10 examine it to determine if the applicant meets the requirements of
11 this act and shall make an inspection of the property and property
12 records and conduct an investigation and survey as ~~it deems~~
13 necessary. An applicant shall not be compelled to supply
14 information not reasonably essential to a proper determination of
15 the eligibility of the owner and the homestead for the relief
16 provided under this act. The local assessing officer **FOR THE**
17 **DEFERMENT OF A SPECIAL ASSESSMENT AND THE DEPARTMENT FOR THE**
18 **DEFERMENT OF PROPERTY TAXES** shall promptly make ~~its~~ **A** decision with
19 respect to an application under this section and shall notify the
20 applicant of ~~its~~ **THAT** decision not later than the due date for a
21 special assessment **OR FOR THE PROPERTY TAXES** involved in the
22 application. A decision of the local assessing officer ~~shall be~~ **IS**
23 final except as otherwise provided ~~pursuant to~~ **UNDER** the **STATE**
24 constitution **OF 1963**.

25 (2) **THE DEPARTMENT SHALL ANNUALLY DO ALL OF THE FOLLOWING FOR**
26 **THE DEFERMENT OF PROPERTY TAXES UNDER THIS ACT:**

27 (A) **DETERMINE THAT THE PERSON ON WHOSE BEHALF PROPERTY TAXES**

1 ARE DEFERRED IS ELIGIBLE FOR THE DEFERRAL OF PROPERTY TAXES UNDER
2 SECTION 3.

3 (B) SECURE AN ASSIGNMENT TO THIS STATE OF ANY CREDIT ALLOWED
4 UNDER SECTIONS 520 OR 522 OF THE INCOME TAX ACT OF 1967, 1967 PA
5 281, MCL 206.520 AND 206.522, PAYABLE TO THE PERSON ON WHOSE BEHALF
6 THE PROPERTY TAXES ARE DEFERRED DURING THE PERIOD IN WHICH PROPERTY
7 TAXES ARE DEFERRED ON THAT PERSON'S HOMESTEAD, WHICH CREDIT SHALL
8 BE APPLIED TO ANY LIEN IMPOSED ON THAT HOMESTEAD UNDER THIS ACT.

9 (C) DETERMINE THAT THE PERSON ON WHOSE BEHALF PROPERTY TAXES
10 ARE DEFERRED HAS PROPERTY AND CASUALTY INSURANCE ON HIS OR HER
11 HOMESTEAD IN AN AMOUNT NOT LESS THAN THE AMOUNT OF ALL SPECIAL
12 ASSESSMENTS AND PROPERTY TAXES DEFERRED AND THAT THE PERSON ON
13 WHOSE BEHALF PROPERTY TAXES ARE DEFERRED HAS ASSIGNED TO THE STATE
14 HIS OR HER INTEREST IN THAT PROPERTY AND CASUALTY INSURANCE IN AN
15 AMOUNT EQUAL TO THE TOTAL AMOUNT OF ALL SPECIAL ASSESSMENTS AND
16 PROPERTY TAXES DEFERRED.

17 Sec. 6. The department shall pay the entire balance owing,
18 including delinquent amounts, of the special assessment **OR PROPERTY**
19 **TAX** of an applicant who qualifies under this act. The department
20 shall transmit to the collecting officer the sum of money required
21 to indemnify the local special assessment district **OR LOCAL TAX**
22 **COLLECTING UNIT** for a revenue loss resulting from the deferment of
23 the special assessment **OR PROPERTY TAX**. At the same time, the
24 department shall ~~cause the recording of~~ **RECORD** a lien in favor of
25 the state with the register of deeds **OF THE COUNTY IN WHICH THE**
26 **HOMESTEAD IS LOCATED** and notify the county treasurer **OF THE COUNTY**
27 **IN WHICH THE HOMESTEAD IS LOCATED** of the special assessment **OR**

1 **PROPERTY TAXES** deferred, indicating the amount deferred for
 2 **PROPERTY TAXES AND FOR** each special assessment and identifying the
 3 homestead. ~~The IF PAYMENT IS MADE AS REQUIRED BY THIS SECTION, THE~~
 4 county treasurer shall keep a record of the notice and shall
 5 require that the homestead be included in the subsequent return of
 6 delinquent taxes by each collecting officer, that the property is
 7 identified on the delinquent roll as provided in this act, and that
 8 the amount of special assessment **OR PROPERTY TAXES** shown on the
 9 roll as due and unpaid are the same as the amount approved by the
 10 department for deferment. The sum received by the collecting
 11 officer from the department shall be distributed ~~to the several~~
 12 ~~special assessment districts in direct proportion to their~~
 13 ~~respective shares of the total of special assessments deferred in~~
 14 the same manner that distribution would be made had the same amount
 15 been received from the payment of the special assessments **OR**
 16 **PROPERTY TAXES**. ~~The IF PAYMENT IS MADE AS REQUIRED BY THIS SECTION,~~
 17 **THE** collecting officer shall enter on the current tax roll opposite
 18 each homestead for which deferment is allowed a notation that
 19 payment is deferred pursuant to this act.

20 Sec. 7. The treasurer of ~~any~~ **A** city, township, or village,
 21 required by ~~Act No. 206 of the Public Acts of 1893, as amended,~~
 22 ~~being sections 211.1 to 211.157 of the Michigan Compiled Laws~~ **THE**
 23 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157,** to
 24 make a return of delinquent taxes to the county treasurer, shall
 25 include in the delinquent tax roll all homesteads for which
 26 deferment of special assessments ~~are~~ **OR PROPERTY TAXES IS** approved,
 27 and shall enter on the delinquent tax roll opposite each ~~such item~~

1 **SPECIAL ASSESSMENT OR PROPERTY TAX LEVY** a notation that payment is
 2 deferred ~~pursuant to~~ **UNDER** this act. In a city collecting its own
 3 delinquent taxes, the treasurer ~~similarly~~ shall note on the city
 4 tax record of each ~~such~~ property **FOR WHICH SPECIAL ASSESSMENTS OR**
 5 **PROPERTY TAXES ARE DEFERRED** that payment is deferred ~~pursuant to~~
 6 **UNDER** this act. The collection of special assessments **OR PROPERTY**
 7 **TAXES** deferred ~~for all such homesteads~~ **UNDER THIS ACT** shall be made
 8 ~~thereafter only~~ in accordance with this act, any law, ordinance, or
 9 charter to the contrary notwithstanding.

10 Sec. 8. Upon termination of the deferment of special
 11 assessments **OR PROPERTY TAXES** under this act, the collection
 12 procedures of ~~Act No. 206 of the Public Acts of 1893, as amended~~
 13 **THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157,**
 14 and any provisions of any law, ordinance, or charter applicable to
 15 the collection of delinquent taxes in a city collecting its own
 16 delinquent taxes, suspended ~~by the terms of~~ **UNDER** this act during
 17 the period of deferment, shall again apply to the deferred special
 18 assessments ~~the same as they would have applied had no~~ **OR PROPERTY**
 19 **TAXES AS IF A** deferment **HAD NOT** been authorized and all of the
 20 special assessments **OR PROPERTY TAXES** had been levied initially in
 21 the ~~third~~ year preceding the calendar year in which the deferment
 22 was terminated, except that the provisions of those laws,
 23 ordinances, and charters with respect to collection fees, interest,
 24 penalties, and other charges shall not be applicable to the
 25 collection of, or foreclosure of the lien for special assessments
 26 **OR PROPERTY TAXES** deferred. ~~hereunder.~~ The lien for deferred
 27 special assessments **OR PROPERTY TAXES** shall be for the amount of

1 the special assessments **OR PROPERTY TAXES** only and shall not have
2 any additional fee, penalty, or interest added except as provided
3 in this act.

4 Sec. 8a. (1) Except for an owner or owner's estate qualifying
5 for deferment of special assessments under this act before January
6 8, 1981, the payment of special assessments **OR PROPERTY TAXES**
7 deferred under this act made by the owner or owner's estate shall
8 include interest computed for periods after January 8, 1981, at a
9 rate of 1/2 of 1% per month or fraction of a month.

10 (2) The department shall notify each owner whose special
11 assessments **OR PROPERTY TAXES** are authorized to be deferred under
12 this act of the interest rate provided in this section.

13 (3) The lien created in section 6 for special assessments **OR**
14 **PROPERTY TAXES** deferred under this act shall include ~~an amount of~~
15 interest as provided in this section.

16 (4) The department of treasury shall refund to each owner who,
17 ~~before the effective date of this subsection~~ **JANUARY 8, 1981**, paid
18 their special assessment **OR PROPERTY TAXES** and was subject to the
19 interest payment of subsection (1), an amount equal to the
20 difference between the interest paid and the interest ~~which~~ **THAT**
21 would have been due at a rate of 1/2 of 1% per month or fraction of
22 a month.

23 (5) If a deferment of a special assessment was terminated by
24 an owner solely by payment of the deferred special assessment after
25 January 8, 1981, and before ~~the effective date of this subsection~~
26 **JUNE 4, 1981**, the owner may reapply within 60 days of the effective
27 date of this subsection to the local assessing officer for

1 reinstitution of the previously deferred special assessment and the
2 department of treasury shall refund the amount of the special
3 assessment paid and redeferred to the owner.

4 Sec. 9. Upon receipt of payment of special assessments **OR**
5 **PROPERTY TAXES** deferred under this act, the collecting officer
6 shall ~~forthwith~~ transmit the amount received to the department as
7 reimbursement for the sums ~~therefore~~ advanced ~~—~~to indemnify the
8 local special assessment districts **OR LOCAL TAX COLLECTING UNIT**.

9 Sec. 10. (1) There is created a special revolving fund within
10 the department to pay special assessments **AND PROPERTY TAXES** under
11 this act and the sum of \$3,000,000.00 of the principal of the
12 Michigan veterans' trust fund shall be used for this investment
13 purpose.

14 (2) An amount ~~which~~ **THAT** is paid by the department to a local
15 assessment district **OR LOCAL TAX COLLECTING UNIT** for a deferred
16 special assessment **OR DEFERRED PROPERTY TAXES** shall be paid from
17 the special revolving fund created in subsection (1).

18 (3) From the amounts received by the department as payment for
19 deferred special assessments **OR PROPERTY TAXES** under this act, the
20 department shall credit, on a quarterly basis, 1/2 of the total
21 amount received to the special revolving fund created in this
22 section, and shall transmit the remainder of this quarterly payment
23 to the Michigan veterans' trust fund **UNTIL THE INITIAL**
24 **\$3,000,000.00 SET FORTH IN SUBSECTION (1) IS REPAID TO THE MICHIGAN**
25 **VETERANS' TRUST FUND.**

26 (4) **AFTER THE INITIAL \$3,000,000.00 SET FORTH IN SUBSECTION**
27 **(1) IS REPAID TO THE MICHIGAN VETERANS' TRUST FUND, THE DEPARTMENT**

1 SHALL CREDIT, ON A QUARTERLY BASIS, THE TOTAL AMOUNT RECEIVED TO
2 THE SPECIAL REVOLVING FUND CREATED IN THIS SECTION.

3 (5) ~~(4)~~—Interest received pursuant to section 8a, and civil
4 penalties received pursuant to section 2, shall be credited in full
5 to the special revolving fund created in this section.

6 (6) ~~(5)~~—Amounts required to be transmitted to the Michigan
7 veterans' trust fund under subsection (3) shall be reduced by the
8 amount of principal and earnings ~~which was~~ returned to the Michigan
9 veterans' trust fund before ~~the effective date of this subsection~~
10 JANUARY 8, 1981.