

HOUSE BILL No. 5340

February 2, 2012, Introduced by Rep. Gilbert and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
by amending section 37 (MCL 205.737), as amended by 2006 PA 174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37. (1) The tribunal shall determine a property's taxable
2 value pursuant to section 27a of the general property tax act, 1893
3 PA 206, MCL 211.27a.

4 (2) The tribunal shall determine a property's state equalized
5 valuation by multiplying its finding of true cash value by a
6 percentage equal to the ratio of the average level of assessment in
7 relation to true cash values in the assessment district, and
8 equalizing that product by application of the equalization factor
9 that is uniformly applicable in the assessment district for the
10 year in question. The property's state equalized valuation shall

1 not exceed 50% of the true cash value of the property on the
2 assessment date.

3 (3) The petitioner has the burden of proof in establishing the
4 true cash value of the property. The assessing agency has the
5 burden of proof in establishing the ratio of the average level of
6 assessments in relation to true cash values in the assessment
7 district and the equalization factor that was uniformly applied in
8 the assessment district for the year in question.

9 (4) If the taxpayer paid additional taxes as a result of the
10 unlawful assessments on the same property after filing the
11 petition, or if in subsequent years an unlawful assessment is made
12 against the same property, the taxpayer, not later than the filing
13 deadline prescribed in section 35 for a proceeding before the
14 tribunal that is commenced before January 1, 2007 or section 35a
15 for a proceeding before the tribunal that is commenced after
16 December 31, 2006, except as otherwise provided in subsections (5)
17 and (7), may amend the petition to join all of the claims for a
18 determination of the property's taxable value, state equalized
19 valuation, or exempt status and for a refund of payments based on
20 the unlawful assessments. The motion to amend the petition to add a
21 subsequent year shall be accompanied by a motion fee equal to 50%
22 of the filing fee to file a petition to commence an appeal for that
23 property in that year. A sum determined by the tribunal to have
24 been unlawfully paid or underpaid shall bear interest from the date
25 of payment to the date of judgment and the judgment shall bear
26 interest to date of its payment. However, a sum determined by the
27 tribunal to have been underpaid shall not bear interest for any

1 time period prior to 28 days after the tribunal's decision.
2 Interest required by this subsection shall accrue for periods
3 before April 1, 1982 at a rate of 6% per year, shall accrue for
4 periods after March 31, 1982 but before April 1, 1985 at a rate of
5 12% per year, and shall accrue for periods after March 31, 1985 but
6 before April 1, 1994 at a rate of 9% per year. After March 31, 1994
7 but before January 1, 1996, interest shall accrue at an interest
8 rate set monthly at a per annum rate based on the auction rate of
9 the 91-day discount treasury bill rate for the first Monday in each
10 month, plus 1%. After December 31, 1995 **BUT BEFORE JANUARY 1, 2012,**
11 interest shall accrue at an interest rate set each year based on
12 the average auction rate of 91-day discount treasury bills in the
13 immediately preceding state fiscal year as certified by the
14 department of treasury, plus 1%. The department of treasury shall
15 certify the interest rate within 60 days after the end of the
16 immediately preceding fiscal year. **AFTER DECEMBER 31, 2011,**
17 **INTEREST SHALL ACCRUE AT 3 PERCENTAGE POINTS ABOVE THE ADJUSTED**
18 **PRIME RATE. AS USED IN THIS SECTION, "ADJUSTED PRIME RATE" MEANS**
19 **THE AVERAGE PREDOMINANT PRIME RATE QUOTED BY NOT FEWER THAN 3**
20 **COMMERCIAL BANKS TO LARGE BUSINESSES, AS DETERMINED BY THE**
21 **DEPARTMENT OF TREASURY. THE ADJUSTED PRIME RATE IS TO BE BASED ON**
22 **THE AVERAGE PRIME RATE CHARGED BY NOT FEWER THAN 3 COMMERCIAL BANKS**
23 **DURING THE 6-MONTH PERIOD ENDING ON MARCH 31 AND THE 6-MONTH PERIOD**
24 **ENDING ON SEPTEMBER 30. THREE PERCENTAGE POINTS SHALL BE ADDED TO**
25 **THE ADJUSTED PRIME RATE AND THE RESULTING SUM SHALL BE DIVIDED BY**
26 **12 TO ESTABLISH THE CURRENT MONTHLY INTEREST RATE. THE RESULTING**
27 **CURRENT MONTHLY INTEREST RATE BASED ON THE 6-MONTH PERIOD ENDING**

1 MARCH 31 BECOMES EFFECTIVE ON THE FOLLOWING JULY 1, AND THE
2 RESULTING CURRENT MONTHLY INTEREST RATE BASED ON THE 6-MONTH PERIOD
3 ENDING SEPTEMBER 30 BECOMES EFFECTIVE ON JANUARY 1 OF THE FOLLOWING
4 YEAR. The tribunal shall order the refund of all or part of a
5 property tax administration fee paid in connection with taxes that
6 the tribunal determines were unlawfully paid.

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

9 (a) If the tribunal has jurisdiction over a petition alleging
10 that the property is exempt from taxation, the appeal for each
11 subsequent year for which an assessment has been established shall
12 be added automatically to the petition. However, upon leave of the
13 tribunal, the petitioner or respondent may request that any
14 subsequent year be excluded from appeal at the time of the hearing
15 on the petition.

16 (b) If the residential property and small claims division of
17 the tribunal has jurisdiction over a petition, the appeal for each
18 subsequent year for which an assessment has been established shall
19 be added automatically to the petition. The residential property
20 and small claims division shall automatically add to an appeal of a
21 final determination of a claim for exemption of a principal
22 residence or of qualified agricultural property each subsequent
23 year in which a claim for exemption of that principal residence or
24 that qualified agricultural property is denied. However, upon leave
25 of the tribunal, the petitioner or respondent may request that any
26 subsequent year be excluded from appeal at the time of the hearing
27 on the petition.

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

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