

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 114

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 34d (MCL 211.34d), as amended by 2014 PA 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 34d. (1) As used in this section or section 27a, or
2 section 3 or 31 of article IX of the state constitution of 1963:

3 (a) For taxes levied before 1995, "additions" means all
4 increases in value caused by new construction or a physical
5 addition of equipment or furnishings, and the value of property
6 that was exempt from taxes or not included on the assessment unit's
7 immediately preceding year's assessment roll.

8 (b) For taxes levied after 1994, "additions" means, except as
9 provided in subdivision (c), all of the following:

1 (i) Omitted real property. As used in this subparagraph,
2 "omitted real property" means previously existing tangible real
3 property not included in the assessment. Omitted real property
4 shall not increase taxable value as an addition unless the
5 assessing jurisdiction has a property record card or other
6 documentation showing that the omitted real property was not
7 previously included in the assessment. The assessing jurisdiction
8 has the burden of proof in establishing whether the omitted real
9 property is included in the assessment. Omitted real property for
10 the current and the 2 immediately preceding years, discovered after
11 the assessment roll has been completed, shall be added to the tax
12 roll pursuant to the procedures established in section 154. For
13 purposes of determining the taxable value of real property under
14 section 27a, the value of omitted real property is based on the
15 value and the ratio of taxable value to true cash value the omitted
16 real property would have had if the property had not been omitted.

17 (ii) Omitted personal property. As used in this subparagraph,
18 "omitted personal property" means previously existing tangible
19 personal property not included in the assessment. Omitted personal
20 property shall be added to the tax roll pursuant to section 154.

21 (iii) New construction. As used in this subparagraph, "new
22 construction" means property not in existence on the immediately
23 preceding tax day and not replacement construction. New
24 construction includes the physical addition of equipment or
25 furnishings, subject to the provisions set forth in section
26 27(2)(a) to (o). For purposes of determining the taxable value of
27 property under section 27a, the value of new construction is the

1 true cash value of the new construction multiplied by 0.50.

2 (iv) Previously exempt property. As used in this subparagraph,
3 "previously exempt property" means property that was exempt from ad
4 valorem taxation under this act on the immediately preceding tax
5 day but is subject to ad valorem taxation on the current tax day
6 under this act. For purposes of determining the taxable value of
7 real property under section 27a:

8 (A) The value of property previously exempt under section 7u
9 is the taxable value the entire parcel of property would have had
10 if that property had not been exempt, minus the product of the
11 entire parcel's taxable value in the immediately preceding year and
12 the lesser of 1.05 or the inflation rate.

13 (B) The taxable value of property that is a facility as that
14 term is defined in section 2 of 1974 PA 198, MCL 207.552, that was
15 previously exempt under section 7k is the taxable value that
16 property would have had under this act if it had not been exempt.

17 (C) The value of property previously exempt under any other
18 section of law is the true cash value of the previously exempt
19 property multiplied by 0.50.

20 (v) Replacement construction. As used in this subparagraph,
21 "replacement construction" means construction that replaced
22 property damaged or destroyed by accident or act of God and that
23 occurred after the immediately preceding tax day to the extent the
24 construction's true cash value does not exceed the true cash value
25 of property that was damaged or destroyed by accident or act of God
26 in the immediately preceding 3 years. Except as otherwise provided
27 in this subparagraph, for purposes of determining the taxable value

1 of property under section 27a, the value of the replacement
2 construction is the true cash value of the replacement construction
3 multiplied by a fraction, the numerator of which is the taxable
4 value of the property to which the construction was added in the
5 immediately preceding year and the denominator of which is the true
6 cash value of the property to which the construction was added in
7 the immediately preceding year, and then multiplied by the lesser
8 of 1.05 or the inflation rate. However, after December 31, 2011,
9 for purposes of determining the taxable value of property under
10 section 27a, if the property's replacement construction is of
11 substantially the same materials as determined by the state tax
12 commission, if the square footage is not more than 5% greater than
13 the property that was damaged or destroyed, and if the replacement
14 construction is completed not later than December 31 in the year 3
15 years after the accident or act of God occurred, the replacement
16 construction's taxable value shall be equal to the taxable value of
17 the property in the year immediately preceding the year in which
18 the property was damaged or destroyed, adjusted annually as
19 provided in section 27a(2). Any construction materials required to
20 bring the property into compliance with any applicable health,
21 sanitary, zoning, safety, fire, or construction codes or ordinances
22 shall be considered to be substantially the same materials by the
23 state tax commission for the sake of replacement construction under
24 this section.

25 (vi) An increase in taxable value attributable to the complete
26 or partial remediation of environmental contamination existing on
27 the immediately preceding tax day. The department of environmental

1 quality shall determine the degree of remediation based on
2 information available in existing department of environmental
3 quality records or information made available to the department of
4 environmental quality if the appropriate assessing officer for a
5 local tax collecting unit requests that determination. The increase
6 in taxable value attributable to the remediation is the increase in
7 true cash value attributable to the remediation multiplied by a
8 fraction, the numerator of which is the taxable value of the
9 property had it not been contaminated and the denominator of which
10 is the true cash value of the property had it not been
11 contaminated.

12 ~~—— (vii) An increase in the value attributable to the property's~~
13 ~~occupancy rate if either a loss, as that term is defined in this~~
14 ~~section, had been previously allowed because of a decrease in the~~
15 ~~property's occupancy rate or if the value of new construction was~~
16 ~~reduced because of a below market occupancy rate. For purposes of~~
17 ~~determining the taxable value of property under section 27a, the~~
18 ~~value of an addition for the increased occupancy rate is the~~
19 ~~product of the increase in the true cash value of the property~~
20 ~~attributable to the increased occupancy rate multiplied by a~~
21 ~~fraction, the numerator of which is the taxable value of the~~
22 ~~property in the immediately preceding year and the denominator of~~
23 ~~which is the true cash value of the property in the immediately~~
24 ~~preceding year, and then multiplied by the lesser of 1.05 or the~~
25 ~~inflation rate.~~

26 (vii) ~~(viii)~~ Public services. As used in this subparagraph,
27 "public services" means water service, sewer service, a primary

1 access road, natural gas service, electrical service, telephone
2 service, sidewalks, or street lighting. For purposes of determining
3 the taxable value of real property under section 27a, the value of
4 public services is the amount of increase in true cash value of the
5 property attributable to the available public services multiplied
6 by 0.50, and shall be added in the calendar year following the
7 calendar year when those public services are initially available.

8 (c) For taxes levied after 1994, additions do not include
9 increased value attributable to any of the following:

10 (i) Platting, splits, or combinations of property.

11 (ii) A change in the zoning of property.

12 (iii) For the purposes of the calculation of the millage
13 reduction fraction under subsection (7) only, increased taxable
14 value under section 27a(3) after a transfer of ownership of
15 property.

16 (d) "Assessed valuation of property as finally equalized"
17 means taxable value under section 27a.

18 (e) "Financial officer" means the officer responsible for
19 preparing the budget of a unit of local government.

20 (f) "General price level" means the annual average of the 12
21 monthly values for the United States consumer price index for all
22 urban consumers as defined and officially reported by the United
23 States department of labor, bureau of labor statistics.

24 (g) For taxes levied before 1995, "losses" means a decrease in
25 value caused by the removal or destruction of real or personal
26 property and the value of property taxed in the immediately
27 preceding year that has been exempted or removed from the

1 assessment unit's assessment roll.

2 (h) For taxes levied after 1994, "losses" means, except as
3 provided in subdivision (i), all of the following:

4 (i) Property that has been destroyed or removed. For purposes
5 of determining the taxable value of property under section 27a, the
6 value of property destroyed or removed is the product of the true
7 cash value of that property multiplied by a fraction, the numerator
8 of which is the taxable value of that property in the immediately
9 preceding year and the denominator of which is the true cash value
10 of that property in the immediately preceding year.

11 (ii) Property that was subject to ad valorem taxation under
12 this act in the immediately preceding year that is now exempt from
13 ad valorem taxation under this act. For purposes of determining the
14 taxable value of property under section 27a, the value of property
15 exempted from ad valorem taxation under this act is the amount
16 exempted.

17 (iii) ~~AN~~ **PRIOR TO DECEMBER 31, 2013, AN** adjustment in value, if
18 any, because of a decrease in the property's occupancy rate, to the
19 extent provided by law. For purposes of determining the taxable
20 value of real property under section 27a, the value of a loss for a
21 decrease in the property's occupancy rate is the product of the
22 decrease in the true cash value of the property attributable to the
23 decreased occupancy rate multiplied by a fraction, the numerator of
24 which is the taxable value of the property in the immediately
25 preceding year and the denominator of which is the true cash value
26 of the property in the immediately preceding year.

27 (iv) A decrease in taxable value attributable to environmental

1 contamination existing on the immediately preceding tax day. The
2 department of environmental quality shall determine the degree to
3 which environmental contamination limits the use of property based
4 on information available in existing department of environmental
5 quality records or information made available to the department of
6 environmental quality if the appropriate assessing officer for a
7 local tax collecting unit requests that determination. The
8 department of environmental quality's determination of the degree
9 to which environmental contamination limits the use of property
10 shall be based on the criteria established for the categories set
11 forth in section 20120a(1) of the natural resources and
12 environmental protection act, 1994 PA 451, MCL 324.20120a. The
13 decrease in taxable value attributable to the contamination is the
14 decrease in true cash value attributable to the contamination
15 multiplied by a fraction, the numerator of which is the taxable
16 value of the property had it not been contaminated and the
17 denominator of which is the true cash value of the property had it
18 not been contaminated.

19 (i) For taxes levied after 1994, losses do not include
20 decreased value attributable to either of the following:

21 (i) Platting, splits, or combinations of property.

22 (ii) A change in the zoning of property.

23 (j) "New construction and improvements" means additions less
24 losses.

25 (k) "Current year" means the year for which the millage
26 limitation is being calculated.

27 (l) "Inflation rate" means the ratio of the general price level

1 for the state fiscal year ending in the calendar year immediately
2 preceding the current year divided by the general price level for
3 the state fiscal year ending in the calendar year before the year
4 immediately preceding the current year.

5 (2) On or before the first Monday in May of each year, the
6 assessing officer of each township or city shall tabulate the
7 tentative taxable value as approved by the local board of review
8 and as modified by county equalization for each classification of
9 property that is separately equalized for each unit of local
10 government and provide the tabulated tentative taxable values to
11 the county equalization director. The tabulation by the assessing
12 officer shall contain additions and losses for each classification
13 of property that is separately equalized for each unit of local
14 government or part of a unit of local government in the township or
15 city. If as a result of state equalization the taxable value of
16 property changes, the assessing officer of each township or city
17 shall revise the calculations required by this subsection on or
18 before the Friday following the fourth Monday in May. The county
19 equalization director shall compute these amounts and the current
20 and immediately preceding year's taxable values for each
21 classification of property that is separately equalized for each
22 unit of local government that levies taxes under this act within
23 the boundary of the county. The county equalization director shall
24 cooperate with equalization directors of neighboring counties, as
25 necessary, to make the computation for units of local government
26 located in more than 1 county. The county equalization director
27 shall calculate the millage reduction fraction for each unit of

1 local government in the county for the current year. The financial
2 officer for each taxing jurisdiction shall calculate the compounded
3 millage reduction fractions beginning in 1980 resulting from the
4 multiplication of successive millage reduction fractions and shall
5 recognize a local voter action to increase the compounded millage
6 reduction fraction to a maximum of 1 as a new beginning fraction.
7 Upon request of the superintendent of the intermediate school
8 district, the county equalization director shall transmit the
9 complete computations of the taxable values to the superintendent
10 of the intermediate school district within that county. At the
11 request of the presidents of community colleges, the county
12 equalization director shall transmit the complete computations of
13 the taxable values to the presidents of community colleges within
14 the county.

15 (3) On or before the first Monday in June of each year, the
16 county equalization director shall deliver the statement of the
17 computations signed by the county equalization director to the
18 county treasurer.

19 (4) On or before the second Monday in June of each year, the
20 treasurer of each county shall certify the immediately preceding
21 year's taxable values, the current year's taxable values, the
22 amount of additions and losses for the current year, and the
23 current year's millage reduction fraction for each unit of local
24 government that levies a property tax in the county.

25 (5) The financial officer of each unit of local government
26 shall make the computation of the tax rate using the data certified
27 by the county treasurer and the state tax commission. At the annual

1 session in October, or, for a county or local tax collecting unit
2 that approves under section 44a(2) the accelerated collection in a
3 summer property tax levy of a millage that had been previously
4 billed and collected as in a preceding tax year as part of the
5 winter property tax levy, before a special meeting held before the
6 annual levy on July 1, the county board of commissioners shall not
7 authorize the levy of a tax unless the governing body of the taxing
8 jurisdiction has certified that the requested millage has been
9 reduced, if necessary, in compliance with section 31 of article IX
10 of the state constitution of 1963.

11 (6) The number of mills permitted to be levied in a tax year
12 is limited as provided in this section pursuant to section 31 of
13 article IX of the state constitution of 1963. A unit of local
14 government shall not levy a tax rate greater than the rate
15 determined by reducing its maximum rate or rates authorized by law
16 or charter by a millage reduction fraction as provided in this
17 section without voter approval.

18 (7) A millage reduction fraction shall be determined for each
19 year for each local unit of government. For ad valorem property
20 taxes that became a lien before January 1, 1983, the numerator of
21 the fraction shall be the total state equalized valuation for the
22 immediately preceding year multiplied by the inflation rate and the
23 denominator of the fraction shall be the total state equalized
24 valuation for the current year minus new construction and
25 improvements. For ad valorem property taxes that become a lien
26 after December 31, 1982 and through December 31, 1994, the
27 numerator of the fraction shall be the product of the difference

1 between the total state equalized valuation for the immediately
2 preceding year minus losses multiplied by the inflation rate and
3 the denominator of the fraction shall be the total state equalized
4 valuation for the current year minus additions. For ad valorem
5 property taxes that are levied after December 31, 1994, the
6 numerator of the fraction shall be the product of the difference
7 between the total taxable value for the immediately preceding year
8 minus losses multiplied by the inflation rate and the denominator
9 of the fraction shall be the total taxable value for the current
10 year minus additions. For each year after 1993, a millage reduction
11 fraction shall not exceed 1.

12 (8) The compounded millage reduction fraction shall be
13 calculated by multiplying the local unit's previous year's
14 compounded millage reduction fraction by the current year's millage
15 reduction fraction. The compounded millage reduction fraction for
16 the year shall be multiplied by the maximum millage rate authorized
17 by law or charter for the unit of local government for the year,
18 except as provided by subsection (9). A compounded millage
19 reduction fraction shall not exceed 1.

20 (9) The millage reduction shall be determined separately for
21 authorized millage approved by the voters. The limitation on
22 millage authorized by the voters on or before April 30 of a year
23 shall be calculated beginning with the millage reduction fraction
24 for that year. Millage authorized by the voters after April 30
25 shall not be subject to a millage reduction until the year
26 following the voter authorization which shall be calculated
27 beginning with the millage reduction fraction for the year

1 following the authorization. The first millage reduction fraction
2 used in calculating the limitation on millage approved by the
3 voters after January 1, 1979 shall not exceed 1.

4 (10) A millage reduction fraction shall be applied separately
5 to the aggregate maximum millage rate authorized by a charter and
6 to each maximum millage rate authorized by state law for a specific
7 purpose.

8 (11) A unit of local government may submit to the voters for
9 their approval the levy in that year of a tax rate in excess of the
10 limit set by this section. The ballot question shall ask the voters
11 to approve the levy of a specific number of mills in excess of the
12 limit. The provisions of this section do not allow the levy of a
13 millage rate in excess of the maximum rate authorized by law or
14 charter. If the authorization to levy millage expires after 1993
15 and a local governmental unit is asking voters to renew the
16 authorization to levy the millage, the ballot question shall ask
17 for renewed authorization for the number of expiring mills as
18 reduced by the millage reduction required by this section. If the
19 election occurs before June 1 of a year, the millage reduction is
20 based on the immediately preceding year's millage reduction
21 applicable to that millage. If the election occurs after May 31 of
22 a year, the millage reduction shall be based on that year's millage
23 reduction applicable to that millage had it not expired.

24 (12) A reduction or limitation under this section shall not be
25 applied to taxes imposed for the payment of principal and interest
26 on bonds or other evidence of indebtedness or for the payment of
27 assessments or contract obligations in anticipation of which bonds

1 are issued that were authorized before December 23, 1978, as
2 provided by section 4 of chapter I of former 1943 PA 202, or to
3 taxes imposed for the payment of principal and interest on bonds or
4 other evidence of indebtedness or for the payment of assessments or
5 contract obligations in anticipation of which bonds are issued that
6 are approved by the voters after December 22, 1978.

7 (13) If it is determined subsequent to the levy of a tax that
8 an incorrect millage reduction fraction has been applied, the
9 amount of additional tax revenue or the shortage of tax revenue
10 shall be deducted from or added to the next regular tax levy for
11 that unit of local government after the determination of the
12 authorized rate pursuant to this section.

13 (14) If as a result of an appeal of county equalization or
14 state equalization the taxable value of a unit of local government
15 changes, the millage reduction fraction for the year shall be
16 recalculated. The financial officer shall effectuate an addition or
17 reduction of tax revenue in the same manner as prescribed in
18 subsection (13).

19 (15) The fractions calculated pursuant to this section shall
20 be rounded to 4 decimal places, except that the inflation rate
21 shall be computed by the state tax commission and shall be rounded
22 to 3 decimal places. The state tax commission shall publish the
23 inflation rate before March 1 of each year.

24 (16) Beginning with taxes levied in 1994, the millage
25 reduction required by section 31 of article IX of the state
26 constitution of 1963 shall permanently reduce the maximum rate or
27 rates authorized by law or charter. The reduced maximum authorized

1 rate or rates for 1994 shall equal the product of the maximum rate
2 or rates authorized by law or charter before application of this
3 section multiplied by the compounded millage reduction applicable
4 to that millage in 1994 pursuant to subsections (8) to (12). The
5 reduced maximum authorized rate or rates for 1995 and each year
6 after 1995 shall equal the product of the immediately preceding
7 year's reduced maximum authorized rate or rates multiplied by the
8 current year's millage reduction fraction and shall be adjusted for
9 millage for which authorization has expired and new authorized
10 millage approved by the voters pursuant to subsections (8) to (12).

11 Enacting section 1. This amendatory act, which removes an
12 increase in value attributable to an increase in a parcel of
13 property's occupancy rate from the definition of "additions" by
14 striking section 34d(1)(b)(vii) of the general property tax act, 1893
15 PA 206, MCL 211.34d, reflects the decision of the Michigan supreme
16 court in WPW Acquisition Company v City of Troy, 466 Mich 117
17 (2002) (Docket No. 118750).