



HOUSE BILL No. 4759

April 27, 1995, Introduced by Reps. Anthony, Middaugh, Gnodtke, Pitoniak, Hanley, Llewellyn, Yokich, DeMars and Willard and referred to the Committee on Tax Policy.

A bill to amend section 7cc of Act No. 206 of the Public Acts of 1893, entitled as amended
"The general property tax act,"
as amended by Act No. 415 of the Public Acts of 1994, being section 211.7cc of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7cc of Act No. 206 of the Public Acts of
2 1893, as amended by Act No. 415 of the Public Acts of 1994, being
3 section 211.7cc of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 7cc. (1) A homestead is exempt from the tax levied by
6 a local school district for school operating purposes to the
7 extent provided under section 1211 of the school code of 1976,
8 Act No. 451 of the Public Acts of 1976, being section 380.1211 of
9 the Michigan Compiled Laws, if that owner claims an exemption as

1 provided in this section. Notwithstanding the tax day provided
2 in section 2, the status of property as a homestead shall be
3 determined on the date an affidavit claiming an exemption is
4 filed under subsection (2).

5 (2) An owner of property may claim an exemption under this
6 section by filing an affidavit on or before May 1 with the local
7 tax collecting unit in which the property is located. The affi-
8 davit shall state that the property is owned and occupied as a
9 homestead by that owner of the property on the date that the
10 affidavit is signed. The affidavit shall be on a form prescribed
11 by the department of treasury. Beginning in 1995, 1 copy of the
12 affidavit shall be retained by the owner, 1 copy shall be
13 retained by the local tax collecting unit until any appeal or
14 audit period under this act has expired, and 1 copy shall be for-
15 warded to the department of treasury pursuant to subsection (4).
16 Beginning in 1995, the affidavit shall require the owner claiming
17 the exemption to indicate if that owner has claimed another
18 exemption on property in this state that is not rescinded. If
19 the affidavit requires an owner to include a social security
20 number, that owner's SOCIAL SECURITY number is subject to the
21 disclosure restrictions in Act No. 122 of the Public Acts of
22 1941, being sections 205.1 to 205.31 of the Michigan Compiled
23 Laws.

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

1 (4) Upon receipt of an affidavit filed under subsection (2)
2 and unless the claim is denied under subsection (6), the assessor
3 shall exempt the property from the collection of the tax levied
4 by a local school district for school operating purposes to the
5 extent provided under section 1211 of Act No. 451 of the Public
6 Acts of 1976 as provided in subsection (1) through the 1998 tax
7 year or until December 31 of the year in which the property is
8 transferred or the owner rescinds the claim for exemption. The
9 local tax collecting unit shall forward copies of affidavits to
10 the department of treasury according to a schedule prescribed by
11 the department of treasury. An owner is required to file a new
12 claim for exemption on the same property in 1999 and every 4
13 years after 1999.

14 (5) Not more than 90 days after exempted property is no
15 longer used as a homestead by the owner claiming an exemption,
16 that owner shall rescind the claim of exemption by filing with
17 the local tax collecting unit a rescission form prescribed by the
18 department of treasury. Beginning October 1, 1994, an owner who
19 fails to file a rescission as required by this subsection is
20 subject to a penalty of \$5.00 per day for each separate failure
21 beginning after the 90 days have elapsed, up to a maximum of
22 \$200.00. This penalty shall be collected under Act No. 122 of
23 the Public Acts of 1941, and shall be deposited in the state
24 school aid fund established in section 11 of article IX of the
25 state constitution of 1963. This penalty may be waived by the
26 department of treasury.

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

24 (7) The department of treasury shall determine if the prop-
25 erty is the homestead of the owner claiming the exemption. The
26 department of treasury may review the validity of exemptions for
27 the current calendar year and for the 3 immediately preceding

1 calendar years. If the department of treasury determines that
2 the property is not the homestead of the owner claiming the
3 exemption, the department shall send a notice of that determina-
4 tion to the local tax collecting unit and to the owner of the
5 property claiming the exemption, indicating that the claim for
6 exemption is denied, stating the reason for the denial, and
7 advising the owner claiming the exemption of the right to appeal
8 the determination to the department of treasury and what those
9 rights of appeal are. The department of treasury may issue a
10 notice denying a claim if an owner fails to respond within 30
11 days of receipt of a request for information from that
12 department. An appeal to the department of treasury shall be
13 conducted according to the provisions for an informal conference
14 in section 21 of Act No. 122 of the Public Acts of 1941, being
15 section 205.21 of the Michigan Compiled Laws. Upon receipt of a
16 notice that the department of treasury has denied a claim for
17 exemption, the assessor shall remove the exemption of the prop-
18 erty and either correct the current tax roll to reflect, or place
19 on the next tax roll, previously unpaid taxes with interest and
20 penalties computed based on the interest and penalties that would
21 have accrued from the date the taxes were originally levied if
22 there had not been an exemption. Interest and penalties shall
23 not be assessed for any period before February 14, 1995.
24 However, if the property has been transferred to a bona fide pur-
25 chaser, the taxes, interest, and penalties shall not be billed on
26 the next tax statement by the local tax collecting unit to the
27 bona fide purchaser, and the local tax collecting unit shall

1 notify the department of treasury of the amount of tax due and
2 interest through the date of that notification. The department
3 of treasury shall then assess the owner who claimed the homestead
4 property tax exemption for the tax and interest plus penalty, if
5 any, as for unpaid taxes provided under Act No. 122 of the Public
6 Acts of 1941 and shall deposit any tax, interest, or penalty col-
7 lected into the state school aid fund.

8 (8) An owner may appeal a final decision of the department
9 of treasury to the residential and small claims division of the
10 Michigan tax tribunal within 35 days of that decision. An asses-
11 sor may appeal a final decision of the department of treasury to
12 the residential and small claims division of the Michigan tax
13 tribunal within 35 days of that decision if the assessor denied
14 the exemption under subsection (6), or, for taxes levied in 1994
15 only, the assessor forwarded a recommendation for denial to the
16 department of treasury under subsection (6). An owner is not
17 required to pay the amount of tax in dispute in order to appeal a
18 denial of a claim of exemption to the department of treasury or
19 to receive a final determination of the residential and small
20 claims division of the Michigan tax tribunal. However, interest
21 and penalties except as provided in subsection (7), if any, shall
22 accrue and be computed based on the interest and penalties that
23 would have accrued from the date the taxes were originally levied
24 as if there had not been an exemption.

25 (9) An affidavit filed by an owner for a homestead ~~shall~~
26 ~~rescind~~ RESCINDS all previous exemptions filed by that owner for
27 any other homestead. The department of treasury shall notify the

1 assessor of the local tax collecting unit in which the property
2 for which a previous exemption was claimed is located that the
3 previous exemption is rescinded by the subsequent affidavit.
4 Upon receipt of notice that an exemption is rescinded, the asses-
5 sor of the local tax collecting unit shall remove the exemption
6 effective December 31 of the year in which the affidavit or
7 rescission form is filed with the local tax collecting unit.

8 (10) If the homestead is part of a unit in a multiple-unit
9 dwelling or a dwelling unit in a multiple-purpose structure, an
10 owner shall claim an exemption for only that portion of the total
11 taxable value of the property used as the homestead of that owner
12 in a manner prescribed by the department of treasury. If a por-
13 tion of a parcel for which the owner claims an exemption is used
14 for a purpose other than as a homestead, the owner shall claim an
15 exemption for only that portion of the taxable value of the prop-
16 erty used as the homestead of that owner in a manner prescribed
17 by the department of treasury.

18 (11) When a county register of deeds records a transfer of
19 ownership of a property, he or she shall notify the local tax
20 collecting unit in which the property is located of the
21 transfer.

22 (12) The department of treasury shall make available the
23 affidavit forms and the forms to rescind an exemption, which may
24 be on the same form, to all city and township assessors, county
25 equalization officers, county registers of deeds, and closing
26 agents. A person who prepares a closing statement for the sale
27 of property shall provide affidavit and rescission forms to the

1 buyer and seller at the closing and, if requested by the buyer or
2 seller after execution by the buyer or seller, shall file the
3 forms with the local tax collecting unit in which the property is
4 located. If a closing statement preparer fails to provide home-
5 stead exemption affidavit and recission forms to the buyer and
6 seller, or fails to file the affidavit and recission forms with
7 the local tax collecting unit if requested by the buyer or
8 seller, the buyer may appeal to the department of treasury within
9 30 days of notice to the buyer that an exemption was not
10 recorded. If the department of treasury determines that the
11 buyer qualifies for the exemption, the department of treasury
12 shall notify the assessor of the local tax collecting unit that
13 the exemption is granted and the assessor of the local tax col-
14 lecting unit or, if the tax roll is in the possession of the
15 county treasurer, the county treasurer shall correct the tax roll
16 to reflect the exemption. This subsection does not create a
17 cause of action at law or in equity against a closing statement
18 preparer who fails to provide homestead exemption affidavit and
19 recission forms to a buyer and seller or who fails to file the
20 affidavit and recission forms with the local tax collecting unit
21 when requested to do so by the buyer or seller.

22 (13) An owner who owned and occupied a homestead on May 1 in
23 any year for which a homestead property tax exemption affidavit
24 was claimed to have been filed and for which the exemption was
25 not on the tax roll may file an appeal with the July board of
26 review or, if there is not a summer levy of school operating
27 taxes, with the December board of review. In ~~1994~~ 1995 ONLY,

1 an owner of property that ~~is~~ WAS a homestead on May 1, 1994 for
2 which A HOMESTEAD PROPERTY TAX EXEMPTION AFFIDAVIT WAS NOT FILED
3 OR, IF FILED, the ~~local tax collecting unit has not received a~~
4 ~~claim of~~ exemption WAS NOT ON THE TAX ROLL may claim an exemp-
5 tion for THE 1994 TAX YEAR in person or by mail at the July 1995
6 board of review or the December 1995 board of review IF THAT
7 OWNER HAS SUBMITTED A HOMESTEAD PROPERTY TAX EXEMPTION AFFIDAVIT
8 FOR THAT PROPERTY FOR THE 1995 TAX YEAR.

9 (14) In 1994 only, an owner who acquires a homestead after
10 April 30 for which an affidavit was not filed in 1994, may file
11 an affidavit as provided in subsection (2) not later than October
12 1, 1994. Upon receipt, the assessor shall exempt the property
13 from 50% of the number of mills levied in 1994 under section 1211
14 of Act No. 451 of the Public Acts of 1976 from which homesteads
15 are exempt, not to exceed 50% of the total number of mills from
16 which homesteads are exempt in 1994, on the December tax roll.
17 If there is not a December levy of the tax under section 1211 of
18 Act No. 451 of the Public Acts of 1976, the owner may appear in
19 person or by mail before the December board of review and obtain
20 a rebate as provided in section 53b of 50% of the number of mills
21 levied in 1994 under section 1211 of Act No. 451 of the Public
22 Acts of 1976 from which homesteads are exempt, not to exceed 50%
23 of the total number of mills from which homesteads are exempt in
24 1994. This subsection does not apply unless the 1994 assessment
25 of the property is based on the valuation of a homestead or a
26 portion of a structure that has become a homestead. An affidavit

1 filed under this subsection is subject to all the provisions of
2 this section.