

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Proos and Hildenbrand

ENROLLED SENATE BILL No. 323

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 34d, 35, and 37 (MCL 211.34d, 211.35, and 211.37), section 34d as amended by 2007 PA 31, section 35 as amended by 2002 PA 620, and section 37 as amended by 2009 PA 49.

The People of the State of Michigan enact:

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

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

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

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

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

(iii) New construction. As used in this subparagraph, “new construction” means property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of

equipment or furnishings, subject to the provisions set forth in section 27(2)(a) to (o). For purposes of determining the taxable value of property under section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

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

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

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

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

(v) Replacement construction. As used in this subparagraph, “replacement construction” means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the immediately preceding tax day to the extent the construction’s true cash value does not exceed the true cash value of property that was damaged or destroyed by accident or act of God in the immediately preceding 3 years. For purposes of determining the taxable value of property under section 27a, the value of the replacement construction is the true cash value of the replacement construction multiplied by a fraction the numerator of which is the taxable value of the property to which the construction was added in the immediately preceding year and the denominator of which is the true cash value of the property to which the construction was added in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate.

(vi) An increase in taxable value attributable to the complete or partial remediation of environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree of remediation based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The increase in taxable value attributable to the remediation is the increase in true cash value attributable to the remediation multiplied by a fraction the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

(vii) An increase in the value attributable to the property’s occupancy rate if either a loss, as that term is defined in this section, had been previously allowed because of a decrease in the property’s occupancy rate or if the value of new construction was reduced because of a below-market occupancy rate. For purposes of determining the taxable value of property under section 27a, the value of an addition for the increased occupancy rate is the product of the increase in the true cash value of the property attributable to the increased occupancy rate multiplied by a fraction the numerator of which is the taxable value of the property in the immediately preceding year and the denominator of which is the true cash value of the property in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate.

(viii) Public services. As used in this subparagraph, “public services” means water service, sewer service, a primary access road, natural gas service, electrical service, telephone service, sidewalks, or street lighting. For purposes of determining the taxable value of real property under section 27a, the value of public services is the amount of increase in true cash value of the property attributable to the available public services multiplied by 0.50 and shall be added in the calendar year following the calendar year when those public services are initially available.

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

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

(ii) A change in the zoning of property.

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

(d) “Assessed valuation of property as finally equalized” means taxable value under section 27a.

(e) “Financial officer” means the officer responsible for preparing the budget of a unit of local government.

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

(g) For taxes levied before 1995, “losses” means a decrease in value caused by the removal or destruction of real or personal property and the value of property taxed in the immediately preceding year that has been exempted or removed from the assessment unit’s assessment roll.

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

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

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

(iii) An adjustment in value, if any, because of a decrease in the property’s occupancy rate, to the extent provided by law. For purposes of determining the taxable value of real property under section 27a, the value of a loss for a decrease in the property’s occupancy rate is the product of the decrease in the true cash value of the property attributable to the decreased occupancy rate multiplied by a fraction the numerator of which is the taxable value of the property in the immediately preceding year and the denominator of which is the true cash value of the property in the immediately preceding year.

(iv) A decrease in taxable value attributable to environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree to which environmental contamination limits the use of property based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The department of environmental quality’s determination of the degree to which environmental contamination limits the use of property shall be based on the criteria established for the categories set forth in section 20120a(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a. The decrease in taxable value attributable to the contamination is the decrease in true cash value attributable to the contamination multiplied by a fraction the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

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

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

(ii) A change in the zoning of property.

(j) “New construction and improvements” means additions less losses.

(k) “Current year” means the year for which the millage limitation is being calculated.

(l) “Inflation rate” means the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

(2) On or before the first Monday in May of each year, the assessing officer of each township or city shall tabulate the tentative taxable value as approved by the local board of review and as modified by county equalization for each classification of property that is separately equalized for each unit of local government and provide the tabulated tentative taxable values to the county equalization director. The tabulation by the assessing officer shall contain additions and losses for each classification of property that is separately equalized for each unit of local government or part of a unit of local government in the township or city. If as a result of state equalization the taxable value of property changes, the assessing officer of each township or city shall revise the calculations required by this subsection on or before the Friday following the fourth Monday in May. The county equalization director shall compute these amounts and the current and immediately preceding year’s taxable values for each classification of property that is separately equalized for each unit of local government that levies taxes under this act within the boundary of the county. The county equalization director shall cooperate with equalization directors of neighboring counties, as necessary, to make the computation for units of local government located in more than 1 county. The county equalization director shall calculate the millage reduction fraction for each unit of local government in the county for the current year. The financial officer for each taxing jurisdiction shall calculate the compounded millage reduction fractions beginning in 1980 resulting from the multiplication of successive millage reduction fractions and shall recognize a local voter action to increase the compounded millage reduction fraction to a maximum of 1 as a new beginning fraction. Upon request of the superintendent of the intermediate school district, the county equalization director shall transmit the complete computations of the taxable values to the superintendent of the intermediate school district within that county. At the request of the presidents of community colleges, the county equalization director shall transmit the complete computations of the taxable values to the presidents of community colleges within the county.

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

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

(5) The financial officer of each unit of local government shall make the computation of the tax rate using the data certified by the county treasurer and the state tax commission. At the annual session in October, or, for a county or local tax collecting unit that approves under section 44a(2) the accelerated collection in a summer property tax levy of a millage that had been previously billed and collected as in a preceding tax year as part of the winter property tax levy, before a special meeting held before the annual levy on July 1, the county board of commissioners shall not authorize the levy of a tax unless the governing body of the taxing jurisdiction has certified that the requested millage has been reduced, if necessary, in compliance with section 31 of article IX of the state constitution of 1963.

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

(7) A millage reduction fraction shall be determined for each year for each local unit of government. For ad valorem property taxes that became a lien before January 1, 1983, the numerator of the fraction shall be the total state equalized valuation for the immediately preceding year multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus new construction and improvements. For ad valorem property taxes that become a lien after December 31, 1982 and through December 31, 1994, the numerator of the fraction shall be the product of the difference between the total state equalized valuation for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus additions. For ad valorem property taxes that are levied after December 31, 1994, the numerator of the fraction shall be the product of the difference between the total taxable value for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total taxable value for the current year minus additions. For each year after 1993, a millage reduction fraction shall not exceed 1.

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

(9) The millage reduction shall be determined separately for authorized millage approved by the voters. The limitation on millage authorized by the voters on or before April 30 of a year shall be calculated beginning with the millage reduction fraction for that year. Millage authorized by the voters after April 30 shall not be subject to a millage reduction until the year following the voter authorization which shall be calculated beginning with the millage reduction fraction for the year following the authorization. The first millage reduction fraction used in calculating the limitation on millage approved by the voters after January 1, 1979 shall not exceed 1.

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

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

(12) A reduction or limitation under this section shall not be applied to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued that were authorized before December 23, 1978, as provided by section 4 of chapter I of former 1943 PA 202, or to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued that are approved by the voters after December 22, 1978.

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

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

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

(16) Beginning with taxes levied in 1994, the millage reduction required by section 31 of article IX of the state constitution of 1963 shall permanently reduce the maximum rate or rates authorized by law or charter. The reduced maximum authorized rate or rates for 1994 shall equal the product of the maximum rate or rates authorized by law or charter before application of this section multiplied by the compounded millage reduction applicable to that millage in 1994 pursuant to subsections (8) to (12). The reduced maximum authorized rate or rates for 1995 and each year after 1995 shall equal the product of the immediately preceding year's reduced maximum authorized rate or rates multiplied by the current year's millage reduction fraction and shall be adjusted for millage for which authorization has expired and new authorized millage approved by the voters pursuant to subsections (8) to (12).

Sec. 35. The state treasurer shall make and record in his or her office a statement showing the taxes to be raised for state purposes that year, referring to the law on which each tax is based, and the total amount of the taxes. The state tax he or she shall apportion among the several counties in proportion to the valuation of the taxable property in each county as determined by the last preceding state board of equalization. Before the October session of the board of supervisors or, for a county or local tax collecting unit that approves under section 44a(2) the accelerated collection in a summer property tax levy of a millage that had been previously billed and collected as in a preceding tax year as part of the winter property tax levy, before a special meeting held before the annual levy on July 1, the state treasurer shall in each year make out and transmit to the clerk of each county a statement of the amount of the taxes apportioned to that county. The state treasurer shall also, in a separate item of the statement, set forth the amount of indebtedness of the county to the state remaining unpaid at the time the statement is made, as shown by the statement of the account between the county and this state. A county's remaining indebtedness to this state shall be apportioned by the board of supervisors of the proper county at the same time as state taxes contained in the apportionment of the state treasurer, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the indebtedness is paid to the state before October 1, or for a county or local tax collecting unit that approves under section 44a(2) the accelerated collection in a summer property tax levy of a millage that had been previously billed and collected as in a preceding tax year as part of the winter property tax levy, before the annual levy on July 1. The portion of the taxes, if any, that should be assessed to a particular township, shall be apportioned to and assessed upon the township, ward, or city.

Sec. 37. The county board of commissioners, either at a session held not later than October 31 in each year or at a special meeting held for a local tax collecting unit that approves under section 44a(2) the accelerated collection in a summer property tax levy of a millage that had been previously billed and collected as in a preceding tax year as part of the winter property tax levy, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion the amount and also the amount of the state tax and indebtedness of the county to the state among the several townships in the county in proportion to the valuation of the taxable real and personal property as determined by the board, or as determined by the state tax commission upon appeal in the manner provided by law for that year, which determination and apportionment shall be entered at large on county records. The board, at a session held not later than October 31 in each year, shall also examine all certificates, statements, papers, and records submitted to it, showing the money to be raised in the several townships for school, highway, drain, township, and other purposes. It shall hear and consider all objections made to raising that money by any taxpayer affected. If it appears to the board that any certificate, statement, paper, or record is not properly certified or is in any way defective, or that any proceeding to authorize the raising of the money has not been had or is in any way imperfect, the board shall verify the same, and if the certificate, statement, paper, record, or proceeding can then be corrected, supplied, or had, the board shall authorize and require the defects or omissions of proceedings to be corrected, supplied, or had. The board may refer any or all the certificates, statements, papers, records, and proceedings to the prosecuting attorney, who shall investigate and without delay report in writing his or her opinion to the board. The board shall direct that the money proposed to be raised for township, school, highway, drain, and all other purposes authorized by law shall be spread upon the assessment roll of the proper townships, wards, and cities. This action and direction shall be entered in full upon the records of the proceedings of the board and shall be final as to the levy and assessment of all the taxes, except if there is a change made in the equalization of any county by the state tax commission upon appeal in the manner provided by law. The direction for spread of taxes shall be expressed in terms of millages to be spread against the taxable values of properties and shall not direct the raising of any specific amount of money. This section does not apply when section 36(2) applies and shall not prevent the township clerk from providing a certification to the county clerk pursuant to section 36(1). If a certification is provided pursuant to section 36(1), the county board of commissioners shall meet and direct or amend its direction for the spread of millages by local units in the county pursuant to the certification.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 322 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor