

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

**Introduced by Senators Moolenaar, Proos, Casperson, Nofs, Brandenburg, Hansen, Walker, Marleau,
Emmons, Green, Hune and Schuitmaker**

ENROLLED SENATE BILL No. 725

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 7dd and 34c (MCL 211.7dd and 211.34c), section 7dd as amended by 2010 PA 17 and section 34c as amended by 2006 PA 646.

The People of the State of Michigan enact:

Sec. 7dd. As used in sections 7cc and 7ee:

(a) "Owner" means any of the following:

(i) A person who owns property or who is purchasing property under a land contract.

(ii) A person who is a partial owner of property.

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(iv) A person who owns or is purchasing a dwelling on leased land.

(v) A person holding a life lease in property previously sold or transferred to another.

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust.

(vii) The sole present beneficiary of a trust if the trust purchased or acquired the property as a principal residence for the sole present beneficiary of the trust, and the sole present beneficiary of the trust is totally and permanently disabled. As used in this subparagraph, "totally and permanently disabled" means disability as defined in section 216 of title II of the social security act, 42 USC 416, without regard as to whether the sole present beneficiary of the trust has reached the age of retirement.

(viii) A cooperative housing corporation.

(ix) A facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.

(b) “Person”, for purposes of defining owner as used in section 7cc, means an individual and for purposes of defining owner as used in section 7ee means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(c) “Principal residence” means the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established. Except as otherwise provided in this subdivision, principal residence includes only that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling or unit. Principal residence also includes all of an owner’s unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. Beginning December 31, 2007, principal residence also includes all of an owner’s unoccupied property classified as timber-cutover real property under section 34c that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. Except as otherwise provided in this subdivision, principal residence also includes any portion of a dwelling or unit of an owner that is rented or leased to another person as a residence as long as that portion of the dwelling or unit that is rented or leased is less than 50% of the total square footage of living space in that dwelling or unit. Principal residence also includes a life care facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844. Principal residence also includes property owned by a cooperative housing corporation and occupied by tenant stockholders. Property that qualified as a principal residence shall continue to qualify as a principal residence for 3 years after all or any portion of the dwelling or unit included in or constituting the principal residence is rented or leased to another person as a residence if all of the following conditions are satisfied:

(i) The owner of the dwelling or unit is absent while on active duty in the armed forces of the United States.

(ii) The dwelling or unit would otherwise qualify as the owner’s principal residence.

(iii) Except as otherwise provided in this subparagraph, the owner files an affidavit with the assessor of the local tax collecting unit on or before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the armed forces of the United States. In 2008 only, the owner may file an affidavit under this subparagraph on or before December 31. A copy of an affidavit filed under this subparagraph shall be forwarded to the department of treasury pursuant to a schedule prescribed by the department of treasury.

(d) “Qualified agricultural property” means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. For taxes levied after December 31, 2008, property shall not lose its status as qualified agricultural property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan. Notwithstanding any other provision of this act to the contrary, if after December 31, 2008 the classification of property was changed as a result of the implementation of a wildlife risk mitigation action plan, the owner of that property may appeal that change in classification to the board of review under section 30 in the year in which the amendatory act that added this sentence takes effect or in the 3 immediately succeeding years. Within 30 days of the effective date of the amendatory act that added the immediately preceding sentence, the department of treasury shall update its publication entitled “Qualified Agricultural Property Exemption Guidelines” and shall post that updated publication on the department of treasury website. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel’s acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building. As used in this subdivision:

(i) “Project” means certain risk mitigating measures, which may include, but are not limited to, the following:

(A) Making it difficult for wildlife to access feed by storing livestock feed securely, restricting wildlife access to feeding and watering areas, and deterring or reducing wildlife presence around livestock feed by storing feed in an enclosed barn, wrapping bales or covering stacks with tarps, closing ends of bags, storing grains in animal-proof containers or bins, maintaining fences, practicing small mammal and rodent control, or feeding away from wildlife cover.

(B) Minimizing wildlife access to livestock feed and water by feeding livestock in an enclosed area, feeding in open areas near buildings and human activity, removing extra or waste feed when livestock are moved, using hay feeders to reduce waste, using artificial water systems to help keep livestock from sharing water sources with wildlife, fencing off stagnant ponds, wetlands, or areas of wildlife habitats that pose a disease risk, and keeping mineral feeders near buildings and human activity or using devices that restrict wildlife usage.

(ii) “Wildlife risk mitigation action plan” means a written plan consisting of 1 or more projects to help reduce the risks of a communicable disease spreading between wildlife and livestock that is approved by the department of agriculture under the animal industry act, 1988 PA 466, MCL 287.701 to 287.745.

Sec. 34c. (1) Not later than the first Monday in March in each year, the assessor shall classify every item of assessable property according to the definitions contained in this section. Following the March board of review, the assessor shall tabulate the total number of items and the valuations as approved by the board of review for each classification and for the totals of real and personal property in the local tax collecting unit. The assessor shall transmit to the county equalization department and to the state tax commission the tabulation of assessed valuations and other statistical information the state tax commission considers necessary to meet the requirements of this act and 1911 PA 44, MCL 209.1 to 209.8.

(2) The classifications of assessable real property are described as follows:

(a) Agricultural real property includes parcels used partially or wholly for agricultural operations, with or without buildings. For taxes levied after December 31, 2002, agricultural real property includes buildings on leased land used for agricultural operations. Property shall not lose its classification as agricultural real property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan. As used in this subdivision:

(i) “Agricultural operations” means the following:

(A) Farming in all its branches, including cultivating soil.

(B) Growing and harvesting any agricultural, horticultural, or floricultural commodity.

(C) Dairying.

(D) Raising livestock, bees, fish, fur-bearing animals, or poultry, including operating a game bird hunting preserve licensed under part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712, and also including farming operations that harvest cervidae on site where not less than 60% of the cervidae were born as part of the farming operation. As used in this subparagraph, “livestock” includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

(E) Raising, breeding, training, leasing, or boarding horses.

(F) Turf and tree farming.

(G) Performing any practices on a farm incident to, or in conjunction with, farming operations. A commercial storage, processing, distribution, marketing, or shipping operation is not part of agricultural operations.

(ii) “Project” means certain risk mitigating measures, which may include, but are not limited to, the following:

(A) Making it difficult for wildlife to access feed by storing livestock feed securely, restricting wildlife access to feeding and watering areas, and deterring or reducing wildlife presence around livestock feed by storing feed in an enclosed barn, wrapping bales or covering stacks with tarps, closing ends of bags, storing grains in animal-proof containers or bins, maintaining fences, practicing small mammal and rodent control, or feeding away from wildlife cover.

(B) Minimizing wildlife access to livestock feed and water by feeding livestock in an enclosed area, feeding in open areas near buildings and human activity, removing extra or waste feed when livestock are moved, using hay feeders to reduce waste, using artificial water systems to help keep livestock from sharing water sources with wildlife, fencing off stagnant ponds, wetlands, or areas of wildlife habitats that pose a disease risk, and keeping mineral feeders near buildings and human activity or using devices that restrict wildlife usage.

(iii) “Wildlife risk mitigation action plan” means a written plan consisting of 1 or more projects to help reduce the risks of a communicable disease spreading between wildlife and livestock that is approved by the department of agriculture and rural development under the animal industry act, 1988 PA 466, MCL 287.701 to 287.745.

(b) Commercial real property includes the following:

(i) Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings.

(ii) Parcels used by fraternal societies.

(iii) Parcels used as golf courses, boat clubs, ski areas, or apartment buildings with more than 4 units.

(iv) For taxes levied after December 31, 2002, buildings on leased land used for commercial purposes.

(c) Developmental real property includes parcels containing more than 5 acres without buildings, or more than 15 acres with a market value in excess of its value in use. Developmental real property may include farm land or open space land adjacent to a population center, or farm land subject to several competing valuation influences.

(d) Industrial real property includes the following:

(i) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings.

(ii) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas.

(iii) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.

(iv) For taxes levied after December 31, 2002, buildings on leased land used for industrial purposes.

(v) For taxes levied after December 31, 2002, buildings on leased land for utility purposes.

(e) Residential real property includes the following:

(i) Platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for, or probably will be used for, residential purposes.

(ii) Parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes.

(iii) For taxes levied after December 31, 2002, a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(f) Timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size, cutover forest land with little or no merchantable products, and marsh lands or other barren land. However, when a typical purchase of this type of land is for residential or recreational uses, the classification shall be changed to residential.

(3) The classifications of assessable personal property are described as follows:

(a) Agricultural personal property includes any agricultural equipment and produce not exempt by law.

(b) Commercial personal property includes the following:

(i) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.

(ii) All outdoor advertising signs and billboards.

(iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.

(iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

(c) Industrial personal property includes the following:

(i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.

(ii) Personal property of mining companies valued by the state geologist.

(d) For taxes levied before January 1, 2003, residential personal property includes a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(e) Utility personal property includes the following:

(i) Electric transmission and distribution systems, substation equipment, spare parts, gas distribution systems, and water transmission and distribution systems.

(ii) Oil wells and allied equipment such as tanks, gathering lines, field pump units, and buildings.

(iii) Inventories not exempt by law.

(iv) Gas wells with allied equipment and gathering lines.

(v) Oil or gas field equipment stored in the open or in warehouses such as drilling rigs, motors, pipes, and parts.

(vi) Gas storage equipment.

(vii) Transmission lines of gas or oil transporting companies.

(4) For taxes levied before January 1, 2003, buildings on leased land of any classification are improvements where the owner of the improvement is not the owner of the land or fee, the value of the land is not assessed to the owner of the building, and the improvement has been assessed as personal property pursuant to section 14(6).

(5) If the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel.

(6) An owner of any assessable property who disputes the classification of that parcel shall notify the assessor and may protest the assigned classification to the March board of review. An owner or assessor may appeal the decision of the March board of review by filing a petition with the state tax commission not later than June 30 in that tax year. The state tax commission shall arbitrate the petition based on the written petition and the written recommendations of the assessor and the state tax commission staff. An appeal may not be taken from the decision of the state tax commission regarding classification complaint petitions and the state tax commission's determination is final and binding for the year of the petition.

(7) The department of treasury may appeal the classification of any assessable property to the residential and small claims division of the Michigan tax tribunal not later than December 31 in the tax year for which the classification is appealed.

(8) This section shall not be construed to encourage the assessment of property at other than the uniform percentage of true cash value prescribed by this act.

(9) The assessor of each city or township in which is located property that is subject to payment in lieu of taxes under subpart 14 of part 21 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2152 to 324.2154, shall place that property on an assessment roll that is separate from the assessment roll prepared under section 24. For purposes of calculating the debt limitation imposed by section 11 of article VII of the state constitution of 1963, the separate assessment roll for property that is subject to payment in lieu of taxes under subpart 14 of part 21 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2152 to 324.2154, required by this subsection shall be combined with the assessment roll prepared under section 24.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor