

Act No. 237
Public Acts of 1994
Approved by the Governor
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Freeman Palamara Berman Bankes Leland Anthony and Joe Young Jr
Reps Agee Allen Alley Baade Bandstra Bender Bobier Bodem Brackenridge Bryant Bullard
Byrum Ciaramitaro Crissman Cropsey Curtis DeLange DeMars Dobb Dobronski Dolan
Fitzgerald Gagliardi Gernaat Gilmer Gire Gnodtke Goschka Gubow Hammerstrom Harder
Horton Jamian Jaye Jersevic Johnson Kaza Kilpatrick Kukuk LeTarte Llewellyn London Lowe
Martin Mathieu McBryde McManus McNutt Middaugh Munsell Murphy Nye Olshove Owen
Oxender Pitoniak Porreca Profit Randall Rhead Rivers Rocca Saunders Schroer Scott, Shugars
Sikkema Stallworth Stille Voorhees Vorva Walberg Wallace Weeks Whyman Yokich and Richard
A Young named co sponsors

ENROLLED HOUSE BILL No. 5345

AN ACT to amend sections 24c and 53b of Act No 206 of the Public Acts of 1893 entitled as amended An act to provide for the assessment of rights and interests including leasehold interests in property and the levy and collection of taxes thereon and for the collection of taxes levied making such taxes a lien on the property taxed establishing and continuing the lien providing for the sale 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 therewith 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 certain acts and parts of acts in anywise contravening any of the provisions of this act section 24c as amended by Act No 539 of the Public Acts of 1982 and section 53b as amended by Act No 14 of the Public Acts of 1985 being sections 211 24c and 211 53b of the Michigan Compiled Laws and to add sections 7cc 7dd 7ee and 43c

The People of the State of Michigan enact

Section 1 Sections 24c and 53b of Act No 206 of the Public Acts of 1893 section 24c as amended by Act No 539 of the Public Acts of 1982 and section 53b as amended by Act No 14 of the Public Acts of 1985 being sections 211 24c and 211 53b of the Michigan Compiled Laws are amended and sections 7cc 7dd 7ee and 43c are added to read as follows

Sec 7cc (1) A homestead is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976 Act No 451 of the Public Acts of 1976 being section 380 1211 of the Michigan Compiled Laws if that owner claims an exemption as provided in this subsection Notwithstanding the tax day provided in section 2 the status of property as a homestead shall be determined on the date an affidavit claiming an exemption is filed under subsection (2)

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located The affidavit shall state that the property is owned and

occupied as a homestead by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. Beginning in 1995, 1 copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4). Beginning in 1995, the affidavit shall require the owner claiming the exemption to indicate if that owner has claimed another exemption on property in this state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

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

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

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

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the homestead of the owner claiming the exemption, effective for taxes levied after 1994, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the department of treasury within 35 days after the date of the notice. The denial shall be made on a form prescribed by the department of treasury. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption for taxes levied in 1994, the assessor may send a recommendation for denial for any affidavit that is forwarded to the department of treasury stating the reasons for the recommendation. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption and has not denied the claim for taxes levied after 1994, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(7) The department of treasury shall determine if the property is the homestead of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the homestead of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of Act No. 122 of the Public Acts of 1941, being section 205.21 of the Michigan Compiled Laws. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and either correct the current tax roll to reflect, or place on the next tax roll, previously unpaid taxes with interest and penalties computed based on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption. Interest and penalties shall not be assessed for any period before February 14, 1995. However, if the property has been transferred to a bona fide purchaser, the taxes, interest, and penalties shall not be billed on the next tax statement by the local tax collecting unit to the bona fide purchaser, and the local tax collecting unit shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the homestead property tax exemption for the tax and interest plus penalty, if any, as for unpaid taxes provided under Act No. 122 of the Public Acts of 1941 and shall deposit any tax, interest, or penalty collected into the state school aid fund.

(8) An owner may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An assessor may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision if the assessor denied the exemption under subsection (6) or for taxes levied in 1994 only, the assessor forwarded a

recommendation for denial to the department of treasury under subsection (6) An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal However interest and penalties except as provided in subsection (7) if any shall accrue and be computed based on the interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption

(9) An affidavit filed by an owner for a homestead shall rescind all previous exemptions filed by that owner for any other homestead The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit Upon receipt of notice that an exemption is rescinded the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit or rescission form is filed with the local tax collecting unit

(10) If the homestead is part of a unit in a multiple unit dwelling or a dwelling unit in a multiple purpose structure an owner shall claim an exemption for only that portion of the total state equalized valuation used as the homestead of that owner in a manner prescribed by the department of treasury If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a homestead the owner shall claim an exemption for only that portion of the total state equalized valuation used as the homestead of that owner in a manner prescribed by the department of treasury

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

(12) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption which may be on the same form to all city and township assessors county equalization officers county registers of deeds and closing agents A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and if requested by the buyer or seller after execution by the buyer or seller shall file the forms with the local tax collecting unit in which the property is located

(13) An owner who owned and occupied a homestead on May 1 in any year for which a homestead property tax exemption affidavit was claimed to have been filed and for which the exemption was not on the tax roll may file an appeal with the July board of review or if there is not a summer levy of school operating taxes with the December board of review In 1994 an owner of property that is a homestead on May 1 for which the local tax collecting unit has not received a claim of exemption may claim an exemption for 1994 in person or by mail at the July board of review or the December board of review

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

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

(a) Homestead means that portion of a dwelling or unit in a multiple unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit Homestead 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 as a principal residence by the owner Contiguity is not broken by a road or a right of way Homestead also includes any portion of a principal residence of an owner that is rented or leased to another person as a residence as long as that portion of the principal residence that is rented or leased is less than 50% of the total square footage of living space in that principal residence Homestead also includes a life care facility registered under the living care disclosure act Act No 440 of the Public Acts of 1976 being sections 554 801 to 554 844 of the Michigan Compiled Laws Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders

(b) Owner means a person who is 1 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

(c) 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

(d) Principal residence means the 1 place where a person 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

(e) 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 2 of the farmland and open space preservation act Act No 116 of the Public Acts of 1974 being section 554 702 of the Michigan Compiled Laws Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property 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

Sec 7ee (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976 Act No 451 of the Public Acts of 1976 being section 380 1211 of the Michigan Compiled Laws according to the provisions of this section

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1 However if an affidavit claiming a homestead exemption on qualified agricultural property not classified as agricultural was not filed by May 1 in 1994 the owner shall file an affidavit under this section by June 1 1994

(3) The affidavit shall be on a form prescribed by the department of treasury

(4) For property classified as agricultural and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) through the 1998 tax year or until December 31 of the year in which the owner rescinds the exemption An owner is required to file a new claim for exemption on the same property in 1999 and every 4 years after 1999 for property not classified as agricultural or as requested by the assessor under subsection (2)

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury Beginning October 1 1994 an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5 00 per day for each separate failure beginning after the 90 days have elapsed up to a maximum of \$200 00 This penalty shall be collected under Act No 122 of the Public Acts of 1941 being sections 205 1 to 205 31 of the Michigan Compiled Laws and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963 This penalty may be waived by the department of treasury

(6) An owner of property that is qualified agricultural property on May 1 for which an affidavit under this section was claimed to be filed and the exemption was not on the tax roll or for which an exemption was denied by the assessor in the year the affidavit was filed may file an appeal with the July board of review for summer taxes or if there is not a summer levy of school operating taxes with the December board of review In 1994 an owner of property that is qualified agricultural property on June 1 for which the local tax collecting unit has not received a claim of exemption may claim an exemption for 1994 in person or by mail at the July board of review or the December board of review

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property effective for taxes levied after 1994 the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c A taxpayer may appeal the assessor's determination to the board of review meeting under section 30 A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal

Sec 24c (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first class mail of an increase in the assessment for the year. The notice shall specify each parcel of property, the assessed valuation for the year and the immediately preceding year, and the time and place of the meeting of the board of review. The notice also may specify the net change in assessment.

(2) Except as provided by subsection (4), the notice shall include, in addition to the information required by subsection (1), all of the following:

(a) The state equalized valuation for the immediately preceding year.

(b) The tentative equalized valuation for the year.

(c) The net change between the tentative equalized valuation for the year and the state equalized valuation for the previous year.

(d) The classification of the property as defined by section 34c.

(3) When required by the income tax act of 1967, Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.532 of the Michigan Compiled Laws, the assessment notice shall include or be accompanied by information or forms prescribed by Act No. 281 of the Public Acts of 1967, as amended.

(4) The following apply to all assessment notices:

(a) If the tentative equalization multiplier is 1.0 for all classes of property, the assessment notice may exclude the information required by subsection (2)(b) and (c) and instead specify the assessed valuation for the year as both the assessed valuation and tentative equalized valuation for the year.

(b) If the equalization multiplier for the immediately preceding year was 1.0 for all classes of property, the assessment notice may exclude the information required by subsection (2)(a) and instead specify the assessed valuation for the immediately preceding year as both the assessed valuation and state equalized valuation of the property for the immediately preceding year.

(5) The assessment notice shall be addressed to the owner according to the records of the assessor and mailed not less than 10 days before the meeting of the board of review. The failure to send or receive an assessment notice does not invalidate an assessment roll or an assessment on that property.

(6) The tentative equalized valuation shall be calculated by multiplying the assessment by the tentative equalized valuation multiplier. If the assessor has made assessment adjustments that would have changed the tentative multiplier, the assessor may recalculate the multiplier for use in the notice.

(7) The state tax commission shall prepare a model assessment notice form that shall be made available to local units of government.

(8) Beginning in 1995, the assessment notice under subsection (1) shall include the following statement:

If you purchased your homestead after May 1 last year to claim the homestead exemption, if you have not already done so, you are required to file an affidavit before May 1.

Sec 43c. Notwithstanding section 43, if there is not an agreement for alternative schedules for delivering interest earned, the local tax collecting unit shall retain interest earned on the collections of the state education tax levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, while in the possession of the local tax collecting unit.

Sec 53b (1) If there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, the error or mutual mistake shall be verified by the local assessing officer and approved by the board of review at a meeting held for that purpose on Tuesday following the second Monday in December, and for summer property taxes, on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the errors or mutual mistake with the proper officials who are involved with the assessment figures, rate of taxation, or mathematical computation, and all related official records shall be corrected. If the error or mutual mistake results in an overpayment or underpayment, the rebate shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A correction under this subsection may be made in the year in which the error was made or in the following year only.

(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7cc and 7ee. If an appeal under section 7cc or 7ee results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). A correction under this subsection shall be made only for the year in which the appeal is made. If the board of review grants an exemption or provides a rebate for property as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc or 7ee and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section the provisions of section 7cc(6) through (8) apply If an exemption under section 7cc is not granted by the board of review under this section the owner may appeal that decision to the department of treasury and the appeal shall be conducted as provided in section 7cc(7)

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee to the residential and small claims division of the Michigan tax tribunal An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal However interest and penalties if any shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor