

HOUSE BILL No. 4380

March 24, 1987, Introduced by Reps. Berman, Jondahl, Brown, Webb, Hart, Joe Young, Sr., Scott, Emerson, Docherty, Stabenow, Perry Bullard, Smith, Leland, Clack, Weeks, Hertel, Gubow, DeMars and Saunders and referred to the Committee on Taxation.

A bill to amend sections 35 and 46 of Act No. 186 of the Public Acts of 1973, entitled "Tax tribunal act," section 35 as amended by Act No. 95 of the Public Acts of 1985, being sections 205.735 and 205.746 of the Michigan Compiled Laws; and to add section 35a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 35 and 46 of Act No. 186 of the Public
2 Acts of 1973, section 35 as amended by Act No. 95 of the Public
3 Acts of 1985, being sections 205.735 and 205.746 of the Michigan
4 Compiled Laws, are amended and section 35a is added to read as
5 follows:

6 Sec. 35. (1) A proceeding before the tribunal shall be
7 original and independent and shall be considered de novo. In the
8 case of an assessment dispute as to the valuation of the property

1 or ~~where~~ IF an exemption is claimed, the assessment ~~must~~
2 SHALL be protested before the board of review before the tribunal
3 may acquire jurisdiction of the dispute under subsection (2),
4 except as provided by subsection (3) and section 37(5) AND (7).

5 (2) The jurisdiction of the tribunal in an assessment dis-
6 pute shall be invoked by the filing of a written petition by a
7 party in interest, as petitioner, not later than June 30 of the
8 tax year involved. Except in the residential property and small
9 claims division, a written petition shall be considered filed by
10 June 30 of the tax year involved if it has been sent by certified
11 mail on or before June 30 of that tax year. In the residential
12 property and small claims division, a written petition shall be
13 considered filed by June 30 of the tax year involved if it has
14 been postmarked by first class mail or delivered in person on or
15 before June 30 of the tax year involved. All petitions required
16 to be filed or served by a day during which the offices of the
17 tribunal are not open for business shall be filed by the next
18 business day thereafter. In all other matters the jurisdiction
19 of the tribunal shall be invoked by the filing of a written peti-
20 tion by a party in interest, as petitioner, within 30 days after
21 the final decision, ruling, determination, or order which the
22 petitioner seeks to review. An appeal of a contested tax bill
23 shall be made within 60 days after mailing by the assessment dis-
24 trict treasurer and the appeal shall be limited solely to cor-
25 recting arithmetic errors or mistakes and shall not be a basis of
26 appeal as to disputes of valuation of the property, its exempt
27 status, or the equalized value resulting from equalization of its

1 assessment by the county board of commissioners or the state tax
2 commission. Service of the petition on the respondent shall be
3 by certified mail. In the case of an assessment dispute, this
4 service shall be mailed to the assessor of that governmental unit
5 if the respondent is the local governmental unit. Except for
6 petitions filed under chapter 6, a copy of the petition shall
7 also be sent to the secretary of the school board in the local
8 school district in which the property is located and any county
9 ~~which~~ THAT may be affected.

10 (3) If a proceeding over which the residential property and
11 small claims division of the tribunal had jurisdiction was held
12 on or after the last day of the meetings of board of review in
13 1983 and July 24, 1983, and the petitioner did not amend his or
14 her petition to include an assessment dispute with respect to
15 assessments upon which taxes that become a lien in 1983 are
16 levied, the jurisdiction of the tribunal in an assessment dispute
17 concerning assessments upon which taxes that become a lien in
18 1983 are levied shall be invoked by filing of a written petition
19 by a party in interest before August 24, 1983.

20 (4) The petition or answer may be amended at any time by
21 leave of the tribunal and in compliance with its rules. If a tax
22 was paid while the determination of the right thereto is pending
23 before the tribunal, the taxpayer may amend his or her petition
24 to seek refund of the tax.

25 (5) A person or legal entity may appear before the tribunal
26 in his or her own behalf, or may be represented by an attorney or
27 by ~~any other~~ ANOTHER person ~~as~~ the appellant may choose.

1 SEC. 35A. (1) WITHIN 60 DAYS AFTER THE FILING OF A PETITION
2 IN A DISPUTE INVOLVING REAL PROPERTY CLASSIFIED AS INDUSTRIAL
3 UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, ACT NO. 206 OF
4 THE PUBLIC ACTS OF 1893, BEING SECTION 211.34C OF THE MICHIGAN
5 COMPILED LAWS, A TAXPAYER WHO INTENDS TO RELY IN WHOLE OR IN PART
6 UPON A MODEL OR SIMILAR TYPE REPLACEMENT FACILITY FOR CALCULATING
7 FUNCTIONAL OBSOLESCENCE SHALL NOTIFY THE RESPONDENT BY SERVING
8 THE RESPONDENT WITH A WRITTEN NOTICE OF THAT INTENT.

9 (2) WITHIN 45 DAYS AFTER SERVICE OF THE NOTICE IN
10 SUBSECTION (1), A RESPONDENT, BY AMENDED ANSWER OR BY OTHER
11 PLEADINGS THE TRIBUNAL MAY REQUIRE, MAY INVOKE THE JURISDICTION
12 OF THE TRIBUNAL TO DETERMINE THE TRUE CASH VALUE OF PERSONAL
13 PROPERTY LOCATED ON OR USED IN CONJUNCTION WITH THE REAL PROPERTY
14 SUBJECT TO APPEAL. THE JURISDICTION OF THE TRIBUNAL SHALL
15 INCLUDE PERSONAL PROPERTY DETERMINED TO BE ERRONEOUSLY INCLUDED
16 AS REAL PROPERTY OR OTHERWISE OMITTED FROM THE PERSONAL PROPERTY
17 ASSESSED TO THE PETITIONER IN CONJUNCTION WITH THE REAL PROPERTY
18 SUBJECT TO APPEAL.

19 Sec. 46. (1) In a proceeding before the tribunal, all par-
20 ties may submit evidence. The tribunal shall make its decision
21 in writing. The tribunal may admit and give probative effect to
22 evidence of a type commonly relied upon by reasonably prudent
23 ~~men~~ PERSONS in the conduct of their affairs. HOWEVER, THE
24 INTRODUCTION OF EVIDENCE SHALL BE LIMITED BY THE APPLICABLE PRO-
25 VISIONS OF SECTION 30(7) OF THE GENERAL PROPERTY TAX ACT, ACT
26 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.30 OF THE
27 MICHIGAN COMPILED LAWS. Irrelevant, immaterial, or unduly

1 repetitious evidence may be excluded. Effect shall be given to
2 the rules of privilege recognized by law. An objection to an
3 offer of evidence may be made.

4 (2) A proceeding before the tribunal shall be officially
5 reported. A writing prepared, owned, used, in the possession of,
6 or retained by the tribunal in the performance of an official
7 function shall be made available to the public in compliance with
8 THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of
9 1976, being sections 15.231 to ~~15.247~~ 15.246 of the Michigan
10 Compiled Laws. Costs assessed for transcripts shall be collected
11 by the clerk and paid into a revolving fund to be used solely to
12 defray the costs of preparing transcripts.

13 (3) IN A PROCEEDING BEFORE THE TRIBUNAL INVOLVING THE
14 ASSESSED VALUE OF REAL PROPERTY CLASSIFIED AS INDUSTRIAL OR COM-
15 MERCIAL UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, ACT
16 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.34C OF THE
17 MICHIGAN COMPILED LAWS, ALL PARTIES SHALL PROVIDE THE TRIBUNAL
18 AND THE OTHER PARTIES TO THE PROCEEDING WITH A COPY OF THE
19 APPRAISALS, VALUATION REPORTS, OR OTHER SIMILAR DOCUMENTS TO BE
20 USED AT THE HEARING WITHIN THE TIME ESTABLISHED BY TRIBUNAL RULE
21 OR ORDER. IF THE RESPONDENT IS AN ASSESSING UNIT AND STIPULATES
22 THAT THE TRUE CASH VALUE DOES NOT EXCEED TWICE THE ASSESSED VALUE
23 AS EQUALIZED FOR THE YEAR OR YEARS UNDER APPEAL, AT OR BEFORE THE
24 TIME PRESCRIBED FOR THE EXCHANGE OF THE INFORMATION, THE RESPON-
25 DENT MAY ELECT TO PROVIDE THE APPRAISALS, VALUATION REPORTS, OR
26 OTHER SIMILAR DOCUMENTS, OTHER THAN ASSESSMENT RECORDS, NOT LATER
27 THAN 6 MONTHS AFTER THAT INFORMATION HAS BEEN PROVIDED BY THE

1 TAXPAYER, OR AT A LATER TIME AS ORDERED BY THE TRIBUNAL FOR GOOD
2 CAUSE SHOWN. A STIPULATION AND ELECTION BY THE RESPONDENT UNDER
3 THIS SUBSECTION DOES NOT LIMIT THE EVIDENCE OF TRUE CASH VALUE
4 THAT THE RESPONDENT MAY SUBMIT IN THE PROCEEDING. HOWEVER, IF
5 THE RESPONDENT ELECTS UNDER THIS SUBSECTION TO PROVIDE THE DOCU-
6 MENTS LATER, THE TRIBUNAL MAY NOT DETERMINE A TRUE CASH VALUE
7 GREATER THAN TWICE THE ASSESSED VALUE AS EQUALIZED FOR THE YEAR
8 OR YEARS UNDER APPEAL. THE RESPONDENT MAY STIPULATE TO A PORTION
9 OF THE FACTS OR CONCLUSIONS SET FORTH OR RELIED UPON IN THE DOCU-
10 MENTS PROVIDED BY THE TAXPAYER AND THE STIPULATION SHALL BE BIND-
11 ING ON THE TRIBUNAL. THIS SUBSECTION DOES NOT ABRIDGE OR EXPAND
12 THE POWERS OF THE TRIBUNAL TO ISSUE ORDERS CONCERNING THE
13 EXCHANGE OF APPRAISALS, VALUATION REPORTS, OR OTHER SIMILAR
14 DOCUMENTS.

15 (4) IN ADDITION TO DISCOVERY PERMITTED BY RULE OR ORDER, THE
16 TRIBUNAL SHALL PERMIT DISCOVERY BY ALL PARTIES CONCERNING THE
17 INFORMATION CONTAINED IN THE DOCUMENTS THAT HAVE BEEN EXCHANGED
18 UNDER SUBSECTION (3) TO THE EXTENT REQUIRED TO AVOID UNDUE PREJU-
19 DICE TO A PARTY.

20 (5) IF THE JURISDICTION OF THE TRIBUNAL HAS BEEN INVOKED
21 PURSUANT TO SECTION 35A AND THE TRIBUNAL RELIES IN WHOLE OR IN
22 PART UPON A MODEL OR SIMILAR TYPE REPLACEMENT FACILITY TO DETER-
23 MINE THE TRUE CASH VALUE OF THE REAL PROPERTY SUBJECT TO APPEAL,
24 IN DETERMINING THE TRUE CASH VALUE OF THE PERSONAL PROPERTY
25 LOCATED ON OR USED IN CONJUNCTION WITH THE REAL PROPERTY SUBJECT
26 TO APPEAL, THE TRIBUNAL SHALL GIVE EQUAL CONSIDERATION TO THE
27 COST OF ACQUIRING, INSTALLING, AND MAKING OPERATIVE THE PERSONAL

1 PROPERTY IN THE MODEL FACILITY NECESSARY TO REPLACE THE PERSONAL
2 PROPERTY IN THE SUBJECT FACILITY TO BRING THE MODEL TO ACTUAL
3 OPERATING COMPLETION.