

Act No. 172
Public Acts of 1992
Approved by the Governor
July 20, 1992
Filed with the Secretary of State
July 21, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Rep. Hickner
Rep. Gnodtke named co-sponsor

ENROLLED HOUSE BILL No. 4739

AN ACT to amend sections 3, 37, 61, and 62 of Act No. 186 of the Public Acts of 1973, entitled "An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards," sections 3 and 62 as amended by Act No. 437 of the Public Acts of 1980 and section 37 as amended by Act No. 23 of the Public Acts of 1987, being sections 205.703, 205.737, 205.761, and 205.762 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3, 37, 61, and 62 of Act No. 186 of the Public Acts of 1973, sections 3 and 62 as amended by Act No. 437 of the Public Acts of 1980 and section 37 as amended by Act No. 23 of the Public Acts of 1987, being sections 205.703, 205.737, 205.761, and 205.762 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. As used in this act:

(a) "Agency" means a board, official, or administrative agency who is empowered to make a decision, finding, ruling, assessment, determination, or order that is subject to review under the jurisdiction of the tribunal or who has collected a tax for which refund is claimed.

(b) "Chairperson" means the chairperson of the tribunal.

(c) "Proceeding" means an appeal.

(d) "Property tax laws" does not include the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

(e) "Tribunal" means the tax tribunal.

Sec. 37. (1) In arriving at its determination of a lawful property assessment, the tribunal shall multiply its finding of true cash value by a percentage equal to the ratio of the average level of assessment in relation to true cash values in the assessment district.

(2) The lawful assessment as determined by the tribunal is subject to equalization and shall be equalized by application of the equalization factor that is uniformly applicable in the assessment district for the year in question, which, after equalization, shall not exceed 50% of the true cash value of the property on the assessment date.

(3) The petitioner has the burden of proof in establishing the true cash value of the property, and the assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.

(4) If subsequent to the filing of the petition the taxpayer paid additional taxes as a result of the unlawful assessments on the same property, or if in subsequent years unlawful assessments were made against the same property, the taxpayer, after protest before the board of review and not later than the filing deadline as prescribed by section 35(2), except as provided by subsections (5) and (7), may amend his or her petition to join all of his or her claims for lawful assessment determination and for refund by reason of payments based on the unlawful assessments. The motion to amend the petition to add a subsequent year shall be accompanied by a motion fee equal to 50% of what the original filing fee would be. A sum determined by the tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to date of its payment. Interest required by this subsection shall accrue for periods before April 1, 1982 at a rate of 6% per year, shall accrue for periods after March 31, 1982 but before April 1, 1985 at a rate of 12% per year, and shall accrue for periods after March 31, 1985 at a rate of 9% per year.

(5) If the residential property and small claims division of the tribunal has jurisdiction over a petition that the taxpayer seeks to amend to include an assessment dispute for 1 or more subsequent years, the following shall apply:

(a) The taxpayer need not have protested those assessments he or she seeks to include before the board of review.

(b) Instead of the deadline provided by subsection (4), the taxpayer may amend his or her petition by a motion filed within 7 days after mailing of the notice of the hearing on the petition being amended, or not later than 20 days before the date set for the hearing on the petition being amended, whichever date is the later.

(6) The notice of the hearing on a petition shall include a statement advising the petitioner of the right to amend his or her petition to include assessment disputes for subsequent years as provided by subsections (4) and (5).

(7) If the final equalization multiplier for the tax year exceeds the tentative multiplier used in preparing the assessment notice and as a result of action of the state board of equalization or county board of commissioners a taxpayer's assessment as equalized is in excess of 50% of true cash value, that person may appeal directly to the tax tribunal without a prior protest before the local board of review. The appeal shall be filed under this subsection on or before the third Monday in August and shall be heard in the same manner as other appeals of the tribunal. A taxpayer making an appeal pursuant to this subsection may amend his or her petition to include subsequent years' assessments based on the alleged unlawful determination in the manner provided by subsection (5)(b). An appeal pursuant to this subsection shall not result in an equalized value less than the assessed value multiplied by the tentative equalization multiplier used in preparing the assessment notice. This subsection does not apply to appeals filed after December 31, 1990.

Sec. 61. (1) A residential property and small claims division of the tribunal is created and consists of 1 or more members of the tribunal appointed and serving pursuant to this act and those hearing officers and referees appointed by the tribunal who shall hear and decide proceedings before this division.

(2) The tribunal may contract with qualified persons other than tribunal employees to act as referees to hear and decide proceedings before the small claims division.

Sec. 62. (1) The division created under section 61 has jurisdiction of a proceeding, otherwise cognizable by the tribunal, in which residential property is exclusively involved. Property other than residential property may be included in a proceeding before this division, if the assessed valuation of the property after applying the state equalization factor, is not increased or decreased by more than \$100,000.00. The division also has jurisdiction of a proceeding involving an appeal of any other tax over which the tribunal has jurisdiction where the amount of the tax in dispute is \$6,000.00 or less.

(2) For purposes of this chapter, "residential property" means a homestead or other residential or agricultural real estate including less than 4 rental units.

(3) A person or legal entity entitled to proceed under section 31, and whose proceeding meets the jurisdictional requirements of subsection (1), may elect to proceed before this division or the tribunal. A formal record need not be taken of the division proceedings. Within 20 days after issuance of an order by a hearing referee, a party may request a rehearing by a tribunal member which hearing shall be de novo.

(4) The residential property tax division shall meet in county seats so that a hearing is held in the county seat in which the property in question is located or in a county contiguous to the county in which the property is located. An appellant shall not be required to travel more than 100 miles from the situs of the property to the hearing site, except that a rehearing by a tribunal member shall be at a site determined by the tribunal.

(5) The tribunal shall make a short form for the simplified filing of residential appeals.

(6) For petitions filed in the small claims division for property other than homestead residential property, if the amount in dispute is greater than \$20,000.00 of state equalized valuation, or in nonproperty matters if the amount is greater than \$1,000.00, the filing fee shall be the amount that would have been paid if the petition were filed with the full tribunal and not in the small claims division.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.