

HOUSE BILL No. 4986

June 20, 1991, Introduced by Reps. Brown, Gilmer, Bennett, Scott, Emerson, O'Neill, Jondahl and DeMars and referred to the Committee on Taxation.

A bill to amend sections 44 and 46 of Act No. 186 of the Public Acts of 1973, entitled "Tax tribunal act," being sections 205.744 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 44 and 46 of Act No. 186 of the Public
2 Acts of 1973, being sections 205.744 and 205.746 of the Michigan
3 Compiled Laws, are amended and section 35a is added to read as
4 follows:

5 SEC. 35A. (1) WITHIN 60 DAYS AFTER THE FILING OF A PETITION
6 IN A DISPUTE INVOLVING REAL PROPERTY CLASSIFIED AS INDUSTRIAL
7 UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, ACT NO. 206 OF
8 THE PUBLIC ACTS OF 1893, BEING SECTION 211.34C OF THE MICHIGAN
9 COMPILED LAWS, A TAXPAYER WHO INTENDS TO RELY IN WHOLE OR IN PART

1 UPON A MODEL OR SIMILAR TYPE REPLACEMENT FACILITY FOR CALCULATING
2 FUNCTIONAL OBSOLESCENCE SHALL NOTIFY THE RESPONDENT BY SERVING
3 THE RESPONDENT WITH A WRITTEN NOTICE OF THAT INTENT.

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

14 Sec. 44. (1) Except for petitions filed under chapter 6,
15 INTERVENTION BY A GOVERNMENTAL UNIT RECEIVING TAX FUNDS FROM THE
16 PETITIONER MAKING THE APPEAL SHALL BE AS A MATTER OF RIGHT WITHIN
17 45 DAYS AFTER PROPER SERVICE OF THE PETITION. BEGINNING ON THE
18 FORTY-SIXTH DAY AFTER PROPER SERVICE OF THE PETITION, EXCEPT FOR
19 A PETITION FILED UNDER CHAPTER 6, the tax tribunal may permit the
20 intervention or impleading of ~~any~~ A governmental unit ~~which~~
21 THAT receives tax funds from the petitioner who is making the
22 appeal.

23 (2) If a petition is filed under chapter 6, the tribunal may
24 permit the intervention or impleading of a state or local govern-
25 mental unit or officer ~~thereof~~ OF THAT UNIT or of ~~any~~ A
26 person or other entity upon a showing of a material monetary
27 interest in the decision of the tribunal ~~which~~ THAT is not

1 likely to be adequately presented by the parties to the
2 proceeding.

3 Sec. 46. (1) In a proceeding before the tribunal, all par-
4 ties may submit evidence. The tribunal shall make its decision
5 in writing. The tribunal may admit and give probative effect to
6 evidence of a type commonly relied upon by reasonably prudent
7 ~~men~~ PERSONS in the conduct of their affairs. HOWEVER, THE
8 INTRODUCTION OF EVIDENCE SHALL BE LIMITED BY THE APPLICABLE PRO-
9 VISIONS OF SECTION 30(7) OF THE GENERAL PROPERTY TAX ACT, ACT
10 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.30 OF THE
11 MICHIGAN COMPILED LAWS. Irrelevant, immaterial, or unduly repeti-
12 tious evidence may be excluded. Effect shall be given to the
13 rules of privilege recognized by law. An objection to an offer
14 of evidence may be made.

15 (2) A proceeding before the tribunal shall be officially
16 reported. A writing prepared, owned, used, in the possession of,
17 or retained by the tribunal in the performance of an official
18 function shall be made available to the public in compliance with
19 THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of
20 1976, being sections 15.231 to ~~+5.247~~ 15.246 of the Michigan
21 Compiled Laws. Costs assessed for transcripts shall be collected
22 by the clerk and paid into a revolving fund to be used solely to
23 defray the costs of preparing transcripts.

24 (3) IN A PROCEEDING BEFORE THE TRIBUNAL INVOLVING THE
25 ASSESSED VALUE OF REAL PROPERTY CLASSIFIED AS INDUSTRIAL OR COM-
26 MERCIAL UNDER SECTION 34C OF THE GENERAL PROPERTY TAX ACT, ACT
27 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTION 211.34C OF THE

1 MICHIGAN COMPILED LAWS, ALL PARTIES SHALL PROVIDE THE TRIBUNAL
2 AND THE OTHER PARTIES TO THE PROCEEDING WITH A COPY OF THE
3 APPRAISALS, VALUATION REPORTS, OR OTHER SIMILAR DOCUMENTS TO BE
4 USED AT THE HEARING WITHIN THE TIME ESTABLISHED BY TRIBUNAL RULE
5 OR ORDER. IF THE RESPONDENT IS AN ASSESSING UNIT AND STIPULATES
6 THAT THE TRUE CASH VALUE DOES NOT EXCEED TWICE THE ASSESSED VALUE
7 AS EQUALIZED FOR THE YEAR OR YEARS UNDER APPEAL, AT OR BEFORE THE
8 TIME PRESCRIBED FOR THE EXCHANGE OF THE INFORMATION, THE RESPON-
9 DENT MAY ELECT TO PROVIDE THE APPRAISALS, VALUATION REPORTS, OR
10 OTHER SIMILAR DOCUMENTS, OTHER THAN ASSESSMENT RECORDS, NOT LATER
11 THAN 6 MONTHS AFTER THAT INFORMATION HAS BEEN PROVIDED BY THE
12 TAXPAYER, OR AT A LATER TIME AS ORDERED BY THE TRIBUNAL FOR GOOD
13 CAUSE SHOWN. A STIPULATION AND ELECTION BY THE RESPONDENT UNDER
14 THIS SUBSECTION DOES NOT LIMIT THE EVIDENCE OF TRUE CASH VALUE
15 THAT THE RESPONDENT MAY SUBMIT IN THE PROCEEDING. HOWEVER, IF
16 THE RESPONDENT ELECTS UNDER THIS SUBSECTION TO PROVIDE THE DOCU-
17 MENTS LATER, THE TRIBUNAL MAY NOT DETERMINE A TRUE CASH VALUE
18 GREATER THAN TWICE THE ASSESSED VALUE AS EQUALIZED FOR THE YEAR
19 OR YEARS UNDER APPEAL. THE RESPONDENT MAY STIPULATE TO A PORTION
20 OF THE FACTS OR CONCLUSIONS SET FORTH OR RELIED UPON IN THE DOCU-
21 MENTS PROVIDED BY THE TAXPAYER AND THE STIPULATION SHALL BE BIND-
22 ING ON THE TRIBUNAL. THIS SUBSECTION DOES NOT ABRIDGE OR EXPAND
23 THE POWERS OF THE TRIBUNAL TO ISSUE ORDERS CONCERNING THE
24 EXCHANGE OF APPRAISALS, VALUATION REPORTS, OR OTHER SIMILAR
25 DOCUMENTS.

26 (4) IN ADDITION TO DISCOVERY PERMITTED BY RULE OR ORDER, THE
27 TRIBUNAL SHALL PERMIT DISCOVERY BY ALL PARTIES CONCERNING THE

1 INFORMATION CONTAINED IN THE DOCUMENTS THAT HAVE BEEN EXCHANGED
2 UNDER SUBSECTION (3) TO THE EXTENT REQUIRED TO AVOID UNDUE PREJU-
3 DICE TO A PARTY.

4 (5) IF THE JURISDICTION OF THE TRIBUNAL HAS BEEN INVOKED
5 PURSUANT TO SECTION 35A AND THE TRIBUNAL RELIES IN WHOLE OR IN
6 PART UPON A MODEL OR SIMILAR TYPE REPLACEMENT FACILITY TO DETER-
7 MINE THE TRUE CASH VALUE OF THE REAL PROPERTY SUBJECT TO APPEAL,
8 IN DETERMINING THE TRUE CASH VALUE OF THE PERSONAL PROPERTY
9 LOCATED ON OR USED IN CONJUNCTION WITH THE REAL PROPERTY SUBJECT
10 TO APPEAL, THE TRIBUNAL SHALL GIVE EQUAL CONSIDERATION TO THE
11 COST OF ACQUIRING, INSTALLING, AND MAKING OPERATIVE THE PERSONAL
12 PROPERTY IN THE MODEL FACILITY NECESSARY TO REPLACE THE PERSONAL
13 PROPERTY IN THE SUBJECT FACILITY TO BRING THE MODEL TO ACTUAL
14 OPERATING COMPLETION.

15 Section 2. This amendatory act shall not take effect unless
16 Senate Bill No. ____ or House Bill No. ____ (request no. 01862'91)
17 of the 86th Legislature is enacted into law.