



SENATE BILL No. 1056

June 4, 1996, Introduced by Senator DE BEAUSSAERT and referred to the Committee on Finance.

A bill to amend sections 7cc and 7dd of Act No. 206 of the Public Acts of 1893, entitled as amended "The general property tax act," section 7cc as amended by Act No. 74 of the Public Acts of 1995 and section 7dd as amended by Act No. 57 of the Public Acts of 1996, being sections 211.7cc and 211.7dd of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7cc and 7dd of Act No. 206 of the
2 Public Acts of 1893, section 7cc as amended by Act No. 74 of the
3 Public Acts of 1995 and section 7dd as amended by Act No. 57 of
4 the Public Acts of 1996, being sections 211.7cc and 211.7dd of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 7cc. (1) A homestead is exempt from the tax levied by
7 a local school district for school operating purposes to the

1 extent provided under section 1211 of the school code of 1976,
2 Act No. 451 of the Public Acts of 1976, being section 380.1211 of
3 the Michigan Compiled Laws, if that owner claims an exemption as
4 provided in this section. Notwithstanding the tax day provided
5 in section 2, the status of property as a homestead shall be
6 determined on the date an affidavit claiming an exemption is
7 filed under subsection (2).

8 (2) An owner of property may claim an exemption under this
9 section by filing an affidavit on or before May 1 with the local
10 tax collecting unit in which the property is located. The affi-
11 davit shall state that the property is owned and occupied as a
12 homestead by that owner of the property on the date that the
13 affidavit is signed. The affidavit shall be on a form prescribed
14 by the department of treasury. Beginning in 1995, 1 copy of the
15 affidavit shall be retained by the owner, 1 copy shall be
16 retained by the local tax collecting unit until any appeal or
17 audit period under this act has expired, and 1 copy shall be for-
18 warded to the department of treasury pursuant to subsection (4).
19 Beginning in 1995, the affidavit shall require the owner claiming
20 the exemption to indicate if that owner has claimed another
21 exemption on property in this state that is not rescinded. If
22 the affidavit requires an owner to include a social security
23 number, that owner's number is subject to the disclosure restric-
24 tions in Act No. 122 of the Public Acts of 1941, being sections
25 205.1 to 205.31 of the Michigan Compiled Laws.

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

4 (4) Upon receipt of an affidavit filed under subsection (2)
5 and unless the claim is denied under subsection (6), the assessor
6 shall exempt the property from the collection of the tax levied
7 by a local school district for school operating purposes to the
8 extent provided under section 1211 of Act No. 451 of the Public
9 Acts of 1976 as provided in subsection (1) through the 1998 tax
10 year or until December 31 of the year in which the property is
11 transferred or is no longer a homestead as defined in section
12 7dd. The local tax collecting unit shall forward copies of affi-
13 davits to the department of treasury according to a schedule pre-
14 scribed by the department of treasury. An owner is required to
15 file a new claim for exemption on the same property in 1999 and
16 every 4 years after 1999.

17 (5) Not more than 90 days after exempted property is no
18 longer used as a homestead by the owner claiming an exemption,
19 that owner shall rescind the claim of exemption by filing with
20 the local tax collecting unit a rescission form prescribed by the
21 department of treasury. Beginning October 1, 1994, an owner who
22 fails to file a rescission as required by this subsection is
23 subject to a penalty of \$5.00 per day for each separate failure
24 beginning after the 90 days have elapsed, up to a maximum of
25 \$200.00. This penalty shall be collected under Act No. 122 of
26 the Public Acts of 1941, and shall be deposited in the state
27 school aid fund established in section 11 of article IX of the

1 state constitution of 1963. This penalty may be waived by the
2 department of treasury.

3 (6) If the assessor of the local tax collecting unit
4 believes that the property for which an exemption is claimed is
5 not the homestead of the owner claiming the exemption, effective
6 for taxes levied after 1994 the assessor may deny a new or exist-
7 ing claim by notifying the owner and the department of treasury
8 in writing of the reason for the denial and advising the owner
9 that the denial may be appealed to the department of treasury
10 within 35 days after the date of the notice. The denial shall be
11 made on a form prescribed by the department of treasury. If the
12 assessor of the local tax collecting unit believes that the prop-
13 erty for which the exemption is claimed is not the homestead of
14 the owner claiming the exemption, for taxes levied in 1994 the
15 assessor may send a recommendation for denial for any affidavit
16 that is forwarded to the department of treasury stating the rea-
17 sons for the recommendation. If the assessor of the local tax
18 collecting unit believes that the property for which the exemp-
19 tion is claimed is not the homestead of the owner claiming the
20 exemption and has not denied the claim, for taxes levied after
21 1994 the assessor shall include a recommendation for denial with
22 any affidavit that is forwarded to the department of treasury or,
23 for an existing claim, shall send a recommendation for denial to
24 the department of treasury, stating the reasons for the
25 recommendation.

26 (7) The department of treasury shall determine if the
27 property is the homestead of the owner claiming the exemption.

1 The department of treasury may review the validity of exemptions
2 for the current calendar year and for the 3 immediately preceding
3 calendar years. If the department of treasury determines that
4 the property is not the homestead of the owner claiming the
5 exemption, the department shall send a notice of that determina-
6 tion to the local tax collecting unit and to the owner of the
7 property claiming the exemption, indicating that the claim for
8 exemption is denied, stating the reason for the denial, and
9 advising the owner claiming the exemption of the right to appeal
10 the determination to the department of treasury and what those
11 rights of appeal are. The department of treasury may issue a
12 notice denying a claim if an owner fails to respond within 30
13 days of receipt of a request for information from that
14 department. An owner may appeal the denial of a claim of exemp-
15 tion to the department of treasury within 35 days of receipt of
16 the notice of denial. An appeal to the department of treasury
17 shall be conducted according to the provisions for an informal
18 conference in section 21 of Act No. 122 of the Public Acts of
19 1941, being section 205.21 of the Michigan Compiled Laws. Upon
20 receipt of a notice that the department of treasury has denied a
21 claim for exemption, the assessor shall remove the exemption of
22 the property and, if the tax roll is in the local tax collecting
23 unit's possession, amend the tax roll to reflect the denial and
24 the local treasurer shall issue a corrected tax bill for previ-
25 ously unpaid taxes with interest and penalties computed based on
26 the interest and penalties that would have accrued from the date
27 the taxes were originally levied if there had not been an

1 exemption. If the tax roll is in the county treasurer's
2 possession, the tax roll shall be amended to reflect the denial
3 and the county treasurer shall prepare and submit a supplemental
4 tax bill for any additional taxes, together with any interest and
5 penalties. For taxes levied in 1994 only, the county treasurer
6 shall waive any interest and penalties due if the owner pays the
7 supplemental tax bill not more than 30 days after the owner
8 receives the supplemental tax bill. Interest and penalties shall
9 not be assessed for any period before February 14, 1995.

10 However, if the property has been transferred to a bona fide pur-
11 chaser before additional taxes were billed to the seller as a
12 result of the denial of a claim for exemption, the taxes, inter-
13 est, and penalties shall not be billed to the bona fide purchas-
14 er, and the local tax collecting unit if the local tax collecting
15 unit has possession of the tax roll or the county treasurer if
16 the county has possession of the tax roll shall notify the
17 department of treasury of the amount of tax due and interest
18 through the date of that notification. The department of trea-
19 sury shall then assess the owner who claimed the homestead prop-
20 erty tax exemption for the tax and interest plus penalty accruing
21 as a result of the denial of the claim for exemption, if any, as
22 for unpaid taxes provided under Act No. 122 of the Public Acts of
23 1941 and shall deposit any tax, interest, or penalty collected
24 into the state school aid fund.

25 (8) An owner may appeal a final decision of the department
26 of treasury to the residential and small claims division of the
27 Michigan tax tribunal within 35 days of that decision. An

1 assessor may appeal a final decision of the department of
2 treasury to the residential and small claims division of the
3 Michigan tax tribunal within 35 days of that decision if the
4 assessor denied the exemption under subsection (6), or, for taxes
5 levied in 1994 only, the assessor forwarded a recommendation for
6 denial to the department of treasury under subsection (6). An
7 owner is not required to pay the amount of tax in dispute in
8 order to appeal a denial of a claim of exemption to the depart-
9 ment of treasury or to receive a final determination of the resi-
10 dential and small claims division of the Michigan tax tribunal.
11 However, interest and penalties except as provided in subsection
12 (7), if any, shall accrue and be computed based on the interest
13 and penalties that would have accrued from the date the taxes
14 were originally levied as if there had not been an exemption.

15 (9) An affidavit filed by an owner for a homestead rescinds
16 all previous exemptions filed by that owner for any other
17 homestead. The department of treasury shall notify the assessor
18 of the local tax collecting unit in which the property for which
19 a previous exemption was claimed is located that the previous
20 exemption is rescinded by the subsequent affidavit. Upon receipt
21 of notice that an exemption is rescinded, the assessor of the
22 local tax collecting unit shall remove the exemption effective
23 December 31 of the year in which the property is transferred or
24 is no longer a homestead as defined in section 7dd.

25 (10) If the homestead is part of a unit in a multiple-unit
26 dwelling or a dwelling unit in a multiple-purpose structure, an
27 owner shall claim an exemption for only that portion of the total

1 taxable value of the property used as the homestead of that owner
2 in a manner prescribed by the department of treasury. If a por-
3 tion of a parcel for which the owner claims an exemption is used
4 for a purpose other than as a homestead, the owner shall claim an
5 exemption for only that portion of the taxable value of the prop-
6 erty used as the homestead of that owner in a manner prescribed
7 by the department of treasury.

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

12 (12) The department of treasury shall make available the
13 affidavit forms and the forms to rescind an exemption, which may
14 be on the same form, to all city and township assessors, county
15 equalization officers, county registers of deeds, and closing
16 agents. A person who prepares a closing statement for the sale
17 of property shall provide affidavit and rescission forms to the
18 buyer and seller at the closing and, if requested by the buyer or
19 seller after execution by the buyer or seller, shall file the
20 forms with the local tax collecting unit in which the property is
21 located. If a closing statement preparer fails to provide home-
22 stead exemption affidavit and rescission forms to the buyer and
23 seller, or fails to file the affidavit and rescission forms with
24 the local tax collecting unit if requested by the buyer or
25 seller, the buyer may appeal to the department of treasury within
26 30 days of notice to the buyer that an exemption was not
27 recorded. If the department of treasury determines that the

1 buyer qualifies for the exemption, the department of treasury
2 shall notify the assessor of the local tax collecting unit that
3 the exemption is granted and the assessor of the local tax col-
4 lecting unit or, if the tax roll is in the possession of the
5 county treasurer, the county treasurer shall correct the tax roll
6 to reflect the exemption. This subsection does not create a
7 cause of action at law or in equity against a closing statement
8 preparer who fails to provide homestead exemption affidavit and
9 rescission forms to a buyer and seller or who fails to file the
10 affidavit and rescission forms with the local tax collecting unit
11 when requested to do so by the buyer or seller.

12 (13) An owner who owned and occupied a homestead on May 1
13 for which the exemption was not on the tax roll may file an
14 appeal with the July board of review in the year for which the
15 exemption was claimed or the immediately succeeding year or with
16 the December board of review in the year for which the exemption
17 was claimed or the immediately succeeding year. If an appeal of
18 a denial of a claim for exemption is received not later than 5
19 days prior to the date of the December board of review, the local
20 tax collecting unit shall convene a December board of review and
21 consider the appeal pursuant to this section and section 53b.

22 (14) In 1994 only, an owner who owns and occupies a home-
23 stead after May 1 and before October 3 for which an affidavit was
24 not filed in 1994 may file an affidavit as provided in subsection
25 (2) not later than October 3, 1994. Upon receipt, the assessor
26 shall exempt the property from 50% of the number of mills levied
27 in 1994 under section 1211 of Act No. 451 of the Public Acts of

1 1976 from which homesteads are exempt, not to exceed 50% of the
2 total number of mills from which homesteads are exempt in 1994,
3 on the December tax roll. If there is not a December levy of the
4 tax under section 1211 of Act No. 451 of the Public Acts of 1976,
5 the owner may appear in person or by mail before the December
6 board of review and obtain a rebate as provided in section 53b of
7 50% of the number of mills levied in 1994 under section 1211 of
8 Act No. 451 of the Public Acts of 1976 from which homesteads are
9 exempt, not to exceed 50% of the total number of mills from which
10 homesteads are exempt in 1994. If an affidavit is not filed as
11 provided in this subsection, the owner may appear in person or by
12 mail before the July or December board of review in 1994 or the
13 July or December board of review in 1995 and obtain a rebate of
14 50% of the number of mills levied in 1994 under section 1211 of
15 Act No. 451 of the Public Acts of 1976 from which homesteads are
16 exempt, not to exceed 50% of the total number of mills from which
17 homesteads are exempt in 1994. This subsection does not apply
18 unless the 1994 assessment of the property is based on the valua-
19 tion of a homestead or a portion of a structure that has become a
20 homestead. An affidavit filed under this subsection is subject
21 to all the provisions of this section.

22 (15) If the assessor or treasurer of the local tax collect-
23 ing unit believes that the department of treasury erroneously
24 denied a claim for exemption, the assessor or treasurer may
25 submit written information supporting the owner's claim for
26 exemption to the department of treasury within 35 days of the
27 owner's receipt of the notice denying the claim for exemption.

1 If, after reviewing the information provided, the department of
2 treasury determines that the claim for exemption was erroneously
3 denied, the department of treasury shall grant the exemption and
4 the tax roll shall be amended to reflect the exemption.

5 (16) If granting the exemption under this section results in
6 an overpayment of the tax, a rebate, including any interest paid,
7 shall be made to the taxpayer by the local tax collecting unit if
8 the local tax collecting unit has possession of the tax roll or
9 by the county treasurer if the county has possession of the tax
10 roll within 30 days of the date the exemption is granted. The
11 rebate shall be without interest.

12 (17) If an exemption under this section is erroneously
13 granted, an owner may request in writing that the department of
14 treasury withdraw the exemption. If an owner requests that an
15 exemption be withdrawn, the department of treasury shall issue an
16 order notifying the local assessor that the exemption issued
17 under this section has been denied based on the owner's request.
18 If an exemption is withdrawn, the property that had been subject
19 to that exemption shall be immediately placed on the tax roll by
20 the local tax collecting unit if the local tax collecting unit
21 has possession of the tax roll or by the county treasurer if the
22 county has possession of the tax roll as though the exemption had
23 not been granted. A corrected tax bill shall be issued for the
24 tax year being adjusted by the local tax collecting unit if the
25 local tax collecting unit has possession of the tax roll or by
26 the county treasurer if the county has possession of the tax
27 roll. If an owner requests that an exemption under this section

1 be withdrawn before that owner is contacted in writing by either
2 the local assessor or the department of treasury regarding that
3 owner's eligibility for the exemption and that owner pays the
4 corrected tax bill issued under this subsection within 30 days
5 after the corrected tax bill is issued, that owner is not liable
6 for any penalty or interest on the additional tax. An owner who
7 pays a corrected tax bill issued under this subsection more than
8 30 days after the corrected tax bill is issued is liable for the
9 penalties and interest that would have accrued if the exemption
10 had not been granted from the date the taxes were originally
11 levied.

12 (18) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 1994, A
13 COOPERATIVE HOUSING CORPORATION IS ENTITLED TO AN EXEMPTION UNDER
14 THIS SECTION FOR THE TAX YEAR IN WHICH THE COOPERATIVE HOUSING
15 CORPORATION FILES ALL OF THE FOLLOWING WITH THE LOCAL TAX COL-
16 LECTING UNIT IN WHICH THE COOPERATIVE HOUSING CORPORATION IS
17 LOCATED IF FILED ON OR BEFORE MAY 1 OF THE TAX YEAR, OR FOR THE
18 TAX YEAR FOLLOWING THE YEAR IN WHICH ALL OF THE FOLLOWING ARE
19 FILED IF FILED AFTER MAY 1 OF THE TAX YEAR:

20 (A) AN AFFIDAVIT FORM.

21 (B) A STATEMENT OF THE TOTAL NUMBER OF UNITS OWNED BY THE
22 COOPERATIVE HOUSING CORPORATION AND OCCUPIED AS THE PRINCIPAL
23 RESIDENCE OF A TENANT STOCKHOLDER AS OF THE DATE OF THE FILING
24 UNDER THIS SUBSECTION.

25 (C) A LIST THAT INCLUDES THE NAME, ADDRESS, AND SOCIAL
26 SECURITY NUMBER OF EACH TENANT STOCKHOLDER OF THE COOPERATIVE

1 HOUSING CORPORATION AS OF THE DATE OF THE FILING UNDER THIS
2 SUBSECTION.

3 (D) A STATEMENT OF THE TOTAL NUMBER OF UNITS OF THE COOPER-
4 TATIVE HOUSING CORPORATION ON WHICH AN EXEMPTION UNDER THIS SEC-
5 TION WAS CLAIMED AND THAT WERE TRANSFERRED IN THE TAX YEAR IMME-
6 DIATELY PRECEDING THE TAX YEAR IN WHICH THE FILING UNDER THIS
7 SECTION WAS MADE.

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

9 (a) "Homestead" means that portion of a dwelling or unit in
10 a multiple-unit dwelling that is subject to ad valorem taxes and
11 is owned and occupied as a principal residence by an owner of the
12 dwelling or unit. Homestead also includes all of an owner's
13 unoccupied property classified as residential that is adjoining
14 or contiguous to the dwelling subject to ad valorem taxes and
15 that is owned and occupied as a principal residence by the
16 owner. Contiguity is not broken by a road or a right-of-way.
17 Homestead also includes any portion of a principal residence of
18 an owner that is rented or leased to another person as a resi-
19 dence as long as that portion of the principal residence that is
20 rented or leased is less than 50% of the total square footage of
21 living space in that principal residence. Homestead also
22 includes a life care facility registered under the living care
23 disclosure act, Act No. 440 of the Public Acts of 1976, being
24 sections 554.801 to 554.844 of the Michigan Compiled Laws.
25 Homestead also includes property owned by a cooperative housing
26 corporation and occupied as a principal residence by tenant
27 stockholders.

1 (b) "Owner" means ~~a person who is~~ ANY of the following:

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

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

5 (iii) A person who owns property as a result of being a ben-
6 eficiary of a will or trust or as a result of intestate
7 succession.

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

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

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

14 (vii) A COOPERATIVE HOUSING CORPORATION.

15 (viii) A FACILITY REGISTERED UNDER THE LIVING CARE DISCLO-
16 SURE ACT, ACT NO. 440 OF THE PUBLIC ACTS OF 1976, BEING
17 SECTIONS 554.801 TO 554.844 OF THE MICHIGAN COMPILED LAWS.

18 (c) "Person", for purposes of defining owner as used in
19 section 7cc, means an individual and for purposes of defining
20 owner as used in section 7ee means an individual, partnership,
21 corporation, limited liability company, association, or other
22 legal entity.

23 (d) "Principal residence" means the 1 place where a person
24 has his or her true, fixed, and permanent home to which, whenever
25 absent, he or she intends to return and that shall continue as a
26 principal residence until another principal residence is
27 established. A UNIT IN A COOPERATIVE HOUSING CORPORATION OWNED

1 BY A TENANT STOCKHOLDER IS PRESUMED TO BE THAT TENANT
2 STOCKHOLDER'S PRINCIPAL RESIDENCE.

3 (e) "Qualified agricultural property" means unoccupied prop-
4 erty and related buildings classified as agricultural, or other
5 unoccupied property and related buildings located on that prop-
6 erty devoted primarily to agricultural use as defined in section
7 36101 of part 361 (farmland and open space preservation) of the
8 natural resources and environmental protection act, Act No. 451
9 of the Public Acts of 1994, being section 324.36101 of the
10 Michigan Compiled Laws. Related buildings include a residence
11 occupied by a person employed in or actively involved in the
12 agricultural use and who has not claimed a homestead exemption on
13 other property. Property used for commercial storage, commercial
14 processing, commercial distribution, commercial marketing, or
15 commercial shipping operations or other commercial or industrial
16 purposes is not qualified agricultural property. A parcel of
17 property is devoted primarily to agricultural use only if more
18 than 50% of the parcel's acreage is devoted to agricultural use.
19 An owner shall not receive an exemption for that portion of the
20 total state equalized valuation of the property that is used for
21 a commercial or industrial purpose or that is a residence that is
22 not a related building.