

HOUSE BILL No. 4402

March 4, 1997, Introduced by Reps. Gire, Callahan, DeHart, Cherry, Martinez, Kaza, Brewer, Scott, Goschka, Willard, Raczkowski, Bodem, Hale, Lowe, Bogardus, Anthony, Oxender and Brown and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 7cc (MCL 211.7cc), as amended by 1996
PA 476.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7cc. (1) A homestead is exempt from the tax levied by
2 a local school district for school operating purposes to the
3 extent provided under section 1211 of the revised school code,
4 ~~Act No. 451 of the Public Acts of 1976, being section 380.1211~~
5 ~~of the Michigan Compiled Laws~~ 1976 PA 451, MCL 380.1211, if an
6 owner of that homestead claims an exemption as provided in this
7 section. Notwithstanding the tax day provided in section 2, the
8 status of property as a homestead shall be determined on the date
9 an affidavit claiming an exemption is filed under subsection
10 (2).

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16 in this state that is not rescinded.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

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

24 (4) Upon receipt of an affidavit filed under subsection (2)
25 and unless the claim is denied under subsection (6), the assessor
26 shall exempt the property from the collection of the tax levied
27 by a local school district for school operating purposes to the

1 extent provided under section 1211 of ~~Act No. 451 of the Public~~
2 ~~Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211,
3 ON A PRORATED BASIS FOR THE YEAR IN WHICH THE AFFIDAVIT IS FILED
4 BASED ON THE PORTION OF THAT YEAR FROM THE DATE THE AFFIDAVIT IS
5 FILED THROUGH DECEMBER 31 OF THAT YEAR, AND as provided in
6 subsection (1) until December 31 of the year in which the prop-
7 erty is transferred or is no longer a homestead as defined in
8 section 7dd. The local tax collecting unit shall forward copies
9 of affidavits to the department of treasury according to a sched-
10 ule prescribed by the department of treasury.

11 (5) Not more than 90 days after exempted property is no
12 longer used as a homestead by the owner claiming an exemption,
13 that owner shall rescind the claim of exemption by filing with
14 the local tax collecting unit a rescission form prescribed by the
15 department of treasury. Beginning October 1, 1994, an owner who
16 fails to file a rescission as required by this subsection is
17 subject to a penalty of \$5.00 per day for each separate failure
18 beginning after the 90 days have elapsed, up to a maximum of
19 \$200.00. This penalty shall be collected under ~~Act No. 122 of~~
20 ~~the Public Acts of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and
21 shall be deposited in the state school aid fund established in
22 section 11 of article IX of the state constitution of 1963. This
23 penalty may be waived by the department of treasury.

24 (6) If the assessor of the local tax collecting unit
25 believes that the property for which an exemption is claimed is
26 not the homestead of the owner claiming the exemption, effective
27 for taxes levied after 1994 the assessor may deny a new or

1 existing claim by notifying the owner and the department of
2 treasury in writing of the reason for the denial and advising the
3 owner that the denial may be appealed to the department of trea-
4 sury within 35 days after the date of the notice. The denial
5 shall be made on a form prescribed by the department of
6 treasury. If the assessor of the local tax collecting unit
7 believes that the property for which the exemption is claimed is
8 not the homestead of the owner claiming the exemption, for taxes
9 levied in 1994 the assessor may send a recommendation for denial
10 for any affidavit that is forwarded to the department of treasury
11 stating the reasons for the recommendation. If the assessor of
12 the local tax collecting unit believes that the property for
13 which the exemption is claimed is not the homestead of the owner
14 claiming the exemption and has not denied the claim, for taxes
15 levied after 1994 the assessor shall include a recommendation for
16 denial with any affidavit that is forwarded to the department of
17 treasury or, for an existing claim, shall send a recommendation
18 for denial to the department of treasury, stating the reasons for
19 the recommendation.

20 (7) The department of treasury shall determine if the prop-
21 erty is the homestead of the owner claiming the exemption. The
22 department of treasury may review the validity of exemptions for
23 the current calendar year and for the 3 immediately preceding
24 calendar years. If the department of treasury determines that
25 the property is not the homestead of the owner claiming the
26 exemption, the department shall send a notice of that
27 determination to the local tax collecting unit and to the owner

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

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

8 However, if the property has been transferred to a bona fide pur-
9 chaser before additional taxes were billed to the seller as a
10 result of the denial of a claim for exemption, the taxes, inter-
11 est, and penalties shall not be billed to the bona fide purchas-
12 er, and the local tax collecting unit if the local tax collecting
13 unit has possession of the tax roll or the county treasurer if
14 the county has possession of the tax roll shall notify the
15 department of treasury of the amount of tax due and interest
16 through the date of that notification. The department of trea-
17 sury shall then assess the owner who claimed the homestead prop-
18 erty tax exemption for the tax and interest plus penalty accruing
19 as a result of the denial of the claim for exemption, if any, as
20 for unpaid taxes provided under ~~Act No. 122 of the Public Acts~~
21 ~~of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any
22 tax, interest, or penalty collected into the state school aid
23 fund.

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

1 treasury to the residential and small claims division of the
2 Michigan tax tribunal within 35 days of that decision if the
3 assessor denied the exemption under subsection (6), or, for taxes
4 levied in 1994 only, the assessor forwarded a recommendation for
5 denial to the department of treasury under subsection (6). An
6 owner is not required to pay the amount of tax in dispute in
7 order to appeal a denial of a claim of exemption to the depart-
8 ment of treasury or to receive a final determination of the resi-
9 dential and small claims division of the Michigan tax tribunal.
10 However, interest and penalties except as provided in subsection
11 (7), if any, shall accrue and be computed based on the interest
12 and penalties that would have accrued from the date the taxes
13 were originally levied as if there had not been an exemption.
14 (9) An affidavit filed by an owner for a homestead rescinds
15 all previous exemptions filed by that owner for any other
16 homestead. The department of treasury shall notify the assessor
17 of the local tax collecting unit in which the property for which
18 a previous exemption was claimed is located that the previous
19 exemption is rescinded by the subsequent affidavit. Upon receipt
20 of notice that an exemption is rescinded, the assessor of the
21 local tax collecting unit shall remove the exemption effective
22 December 31 of the year in which the property is transferred or
23 is no longer a homestead as defined in section 7dd. The assessor
24 of the local tax collecting unit in which that property is
25 located shall notify the treasurer in possession of the tax roll
26 for a year for which the exemption is rescinded. If the tax roll
27 is in the local tax collecting unit's possession, the tax roll

1 shall be amended to reflect the rescission and the local
2 treasurer shall prepare and issue a corrected tax bill for previ-
3 ously unpaid taxes with interest and penalties computed based on
4 the interest and penalties that would have accrued from the date
5 the taxes were originally levied if there had not been an exemp-
6 tion for that year. If the tax roll is in the county treasurer's
7 possession, the tax roll shall be amended to reflect the rescis-
8 sion and the county treasurer shall prepare and submit a supple-
9 mental tax bill for any additional taxes, together with any
10 interest and penalties. However, if the property has been trans-
11 ferred to a bona fide purchaser, the taxes, interest, and penal-
12 ties shall not be billed to the bona fide purchaser, and the
13 local tax collecting unit if the local tax collecting unit has
14 possession of the tax roll or the county treasurer if the county
15 has possession of the tax roll shall notify the department of
16 treasury of the amount of tax due and interest through the date
17 of that notification. The department of treasury shall then
18 assess the owner who received the homestead property tax exemp-
19 tion when the property was not a homestead as defined in section
20 7dd for the tax and interest plus penalty accruing, if any, as
21 for unpaid taxes provided under ~~Act No. 122 of the Public Acts~~
22 ~~of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any
23 tax, interest, or penalty collected into the state school aid
24 fund.

25 (10) An owner of property for which a claim of exemption is
26 rescinded may appeal that rescission with either the July or
27 December board of review in either the year for which the

1 exemption is rescinded or in the immediately succeeding year. If
2 an appeal of a rescission of a claim for exemption is received
3 not later than 5 days prior to the date of the December board of
4 review, the local tax collecting unit shall convene a December
5 board of review and consider the appeal pursuant to this section
6 and section 53b. An owner of property for which a claim of
7 exemption is rescinded may appeal the decision of the board of
8 review to the residential and small claims division of the
9 Michigan tax tribunal within 35 days of that decision.

10 (11) If the homestead is part of a unit in a multiple-unit
11 dwelling or a dwelling unit in a multiple-purpose structure, an
12 owner shall claim an exemption for only that portion of the total
13 taxable value of the property used as the homestead of that owner
14 in a manner prescribed by the department of treasury. If a por-
15 tion of a parcel for which the owner claims an exemption is used
16 for a purpose other than as a homestead, the owner shall claim an
17 exemption for only that portion of the taxable value of the prop-
18 erty used as the homestead of that owner in a manner prescribed
19 by the department of treasury.

20 (12) When a county register of deeds records a transfer of
21 ownership of a property, he or she shall notify the local tax
22 collecting unit in which the property is located of the
23 transfer.

24 (13) The department of treasury shall make available the
25 affidavit forms and the forms to rescind an exemption, which may
26 be on the same form, to all city and township assessors, county
27 equalization officers, county registers of deeds, and closing

1 agents. A person who prepares a closing statement for the sale
2 of property shall provide affidavit and rescission forms to the
3 buyer and seller at the closing and, if requested by the buyer or
4 seller after execution by the buyer or seller, shall file the
5 forms with the local tax collecting unit in which the property is
6 located. If a closing statement preparer fails to provide home-
7 stead exemption affidavit and rescission forms to the buyer and
8 seller, or fails to file the affidavit and rescission forms with
9 the local tax collecting unit if requested by the buyer or
10 seller, the buyer may appeal to the department of treasury within
11 30 days of notice to the buyer that an exemption was not
12 recorded. If the department of treasury determines that the
13 buyer qualifies for the exemption, the department of treasury
14 shall notify the assessor of the local tax collecting unit that
15 the exemption is granted and the assessor of the local tax col-
16 lecting unit or, if the tax roll is in the possession of the
17 county treasurer, the county treasurer shall correct the tax roll
18 to reflect the exemption. This subsection does not create a
19 cause of action at law or in equity against a closing statement
20 preparer who fails to provide homestead exemption affidavit and
21 rescission forms to a buyer and seller or who fails to file the
22 affidavit and rescission forms with the local tax collecting unit
23 when requested to do so by the buyer or seller.

24 (14) An owner who owned and occupied a homestead ~~on May 1~~
25 IN ANY YEAR for which the exemption was not on the tax roll may
26 file an appeal with the July board of review in the year for
27 which the exemption was claimed or the immediately succeeding

1 year or with the December board of review in the year for which
2 the exemption was claimed or the immediately succeeding year. If
3 an appeal of a claim for exemption that was not on the tax roll
4 is received not later than 5 days prior to the date of the
5 December board of review, the local tax collecting unit shall
6 convene a December board of review and consider the appeal pursu-
7 ant to this section and section 53b.

8 ~~(15) In 1994 only, an owner who owns and occupies a home-~~
9 ~~stead after May 1 and before October 3 for which an affidavit was~~
10 ~~not filed in 1994 may file an affidavit as provided in subsection~~
11 ~~(2) not later than October 3, 1994. Upon receipt, the assessor~~
12 ~~shall exempt the property from 50% of the number of mills levied~~
13 ~~in 1994 under section 1211 of Act No. 451 of the Public Acts of~~
14 ~~1976 from which homesteads are exempt, not to exceed 50% of the~~
15 ~~total number of mills from which homesteads are exempt in 1994,~~
16 ~~on the December tax roll. If there is not a December levy of the~~
17 ~~tax under section 1211 of Act No. 451 of the Public Acts of 1976,~~
18 ~~the owner may appear in person or by mail before the December~~
19 ~~board of review and obtain a rebate as provided in section 53b of~~
20 ~~50% of the number of mills levied in 1994 under section 1211 of~~
21 ~~Act No. 451 of the Public Acts of 1976 from which homesteads are~~
22 ~~exempt, not to exceed 50% of the total number of mills from which~~
23 ~~homesteads are exempt in 1994. If an affidavit is not filed as~~
24 ~~provided in this subsection, the owner may appear in person or by~~
25 ~~mail before the July or December board of review in 1994 or the~~
26 ~~July or December board of review in 1995 and obtain a rebate of~~
27 ~~50% of the number of mills levied in 1994 under section 1211 of~~

1 ~~Act No. 451 of the Public Acts of 1976 from which homesteads are~~
2 ~~exempt, not to exceed 50% of the total number of mills from which~~
3 ~~homesteads are exempt in 1994. This subsection does not apply~~
4 ~~unless the 1994 assessment of the property is based on the valua-~~
5 ~~tion of a homestead or a portion of a structure that has become a~~
6 ~~homestead. An affidavit filed under this subsection is subject~~
7 ~~to all the provisions of this section.~~

8 (15) ~~-(16)-~~ An owner who owns and occupies a homestead for
9 which the exemption was on the tax roll in 1995 and each year
10 after 1995 and for which an exemption was not on the tax roll in
11 1994 may appeal to the department of treasury before December 31,
12 1997 to have an exemption placed on the 1994 tax roll if all of
13 the following conditions are satisfied:

14 (a) The owner owned and occupied that homestead ~~on May 1,~~
15 ~~1994 or the owner owned and occupied that homestead after May 1,~~
16 ~~1994 but before October 3,~~ IN 1994.

17 (b) If a claim of exemption was denied in 1994, the owner
18 did not timely appeal that denial as provided in this section.

19 (c) The owner has owned and occupied that homestead since
20 1994.

21 (16) ~~-(17)-~~ If the department of treasury grants a claim of
22 exemption for 1994 under subsection ~~-(16)-~~ (15), the county trea-
23 surer with possession of the tax roll being adjusted shall amend
24 the 1994 tax roll to reflect the exemption and shall issue a cor-
25 rected tax bill. ~~as follows:-~~

26 ~~-(a)-~~ If the owner owned and occupied that homestead ~~on May~~
27 ~~1,~~ IN 1994, that homestead is exempt from the tax levied in 1994

1 for school operating purposes to the extent provided under
2 section 1211 of ~~Act No. 451 of the Public Acts of 1976~~ THE
3 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, pursuant to
4 subsection (1).

5 ~~(b) If the owner owned and occupied that homestead after~~
6 ~~May 1, 1994 but before October 3, 1994, that homestead is exempt~~
7 ~~from 50% of the number of mills levied in 1994 under section 1211~~
8 ~~of Act No. 451 of the Public Acts of 1976 pursuant to~~
9 ~~subsection (14).~~

10 (17) ~~(18)~~ If the department of treasury denies a claim of
11 exemption for 1994 under subsection ~~(16)~~ (15), an owner may
12 appeal that denial to the residential and small claims division
13 of the Michigan tax tribunal within 35 days of that denial.

14 (18) ~~(19)~~ If the assessor or treasurer of the local tax
15 collecting unit believes that the department of treasury errone-
16 ously denied a claim for exemption, the assessor or treasurer may
17 submit written information supporting the owner's claim for
18 exemption to the department of treasury within 35 days of the
19 owner's receipt of the notice denying the claim for exemption.
20 If, after reviewing the information provided, the department of
21 treasury determines that the claim for exemption was erroneously
22 denied, the department of treasury shall grant the exemption and
23 the tax roll shall be amended to reflect the exemption.

24 (19) ~~(20)~~ If granting the exemption under this section
25 results in an overpayment of the tax, a rebate, including any
26 interest paid, shall be made to the taxpayer by the local tax
27 collecting unit if the local tax collecting unit has possession

1 of the tax roll or by the county treasurer if the county has
2 possession of the tax roll within 30 days of the date the exemp-
3 tion is granted. The rebate shall be without interest.

4 (20) ~~-(21)-~~ If an exemption under this section is errone-
5 ously granted, an owner may request in writing that the depart-
6 ment of treasury withdraw the exemption. If an owner requests
7 that an exemption be withdrawn, the department of treasury shall
8 issue an order notifying the local assessor that the exemption
9 issued under this section has been denied based on the owner's
10 request. If an exemption is withdrawn, the property that had
11 been subject to that exemption shall be immediately placed on the
12 tax roll by the local tax collecting unit if the local tax col-
13 lecting unit has possession of the tax roll or by the county
14 treasurer if the county has possession of the tax roll as though
15 the exemption had not been granted. A corrected tax bill shall
16 be issued for the tax year being adjusted by the local tax col-
17 lecting unit if the local tax collecting unit has possession of
18 the tax roll or by the county treasurer if the county has posses-
19 sion of the tax roll. If an owner requests that an exemption
20 under this section be withdrawn before that owner is contacted in
21 writing by either the local assessor or the department of trea-
22 sury regarding that owner's eligibility for the exemption and
23 that owner pays the corrected tax bill issued under this subsec-
24 tion within 30 days after the corrected tax bill is issued, that
25 owner is not liable for any penalty or interest on the additional
26 tax. An owner who pays a corrected tax bill issued under this
27 subsection more than 30 days after the corrected tax bill is

1 issued is liable for the penalties and interest that would have
2 accrued if the exemption had not been granted from the date the
3 taxes were originally levied.

4 (21) ~~—(22)—~~ For tax years beginning on and after January 1,
5 1994, a cooperative housing corporation is entitled to a full or
6 partial exemption under this section for the tax year in which
7 the cooperative housing corporation files all of the following
8 with the local tax collecting unit in which the cooperative hous-
9 ing corporation is located: ~~if filed on or before May 1 of the~~
10 ~~tax year, or for the tax year following the year in which all of~~
11 ~~the following are filed if filed after May 1 of the tax year:~~

12 (a) An affidavit form.

13 (b) A statement of the total number of units owned by the
14 cooperative housing corporation and occupied as the principal
15 residence of a tenant stockholder as of the date of the filing
16 under this subsection.

17 (c) A list that includes the name, address, and social
18 security number of each tenant stockholder of the cooperative
19 housing corporation occupying a unit in the cooperative housing
20 corporation as his or her principal residence as of the date of
21 the filing under this subsection.

22 (d) A statement of the total number of units of the coopera-
23 tive housing corporation on which an exemption under this section
24 was claimed and that were transferred in the tax year immediately
25 preceding the tax year in which the filing under this section was
26 made.