

# HOUSE BILL No. 5638

March 10, 1998, Introduced by Reps. Kelly, DeHart, LaForge, Brewer, Scott, Emerson, Hale, Vaughn, Goschka and Schermesser 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 local  
3 tax collecting unit in which the property is located. The affi-  
4 davit shall state that the property is owned and occupied as a  
5 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 (18) 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16 in this state that is not rescinded.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 as provided in subsection (1) until December 31 of the year in  
4 which the property is transferred or is no longer a homestead as  
5 defined in section 7dd. The local tax collecting unit shall for-  
6 ward copies of affidavits to the department of treasury according  
7 to a schedule prescribed by the department of treasury.

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

21 (6) If the assessor of the local tax collecting unit  
22 believes that the property for which an exemption is claimed is  
23 not the homestead of the owner claiming the exemption, effective  
24 for taxes levied after 1994 the assessor may deny a new or exist-  
25 ing claim by notifying the owner and the department of treasury  
26 in writing of the reason for the denial and advising the owner  
27 that the denial may be appealed to the department of treasury

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

17 (7) The department of treasury shall determine if the prop-  
18 erty is the homestead of the owner claiming the exemption. The  
19 department of treasury may review the validity of exemptions for  
20 the current calendar year and for the 3 immediately preceding  
21 calendar years. If the department of treasury determines that  
22 the property is not the homestead of the owner claiming the  
23 exemption, the department shall send a notice of that determina-  
24 tion to the local tax collecting unit and to the owner of the  
25 property claiming the exemption, indicating that the claim for  
26 exemption is denied, stating the reason for the denial, and  
27 advising the owner claiming the exemption of the right to appeal

1 the determination to the department of treasury and what those  
2 rights of appeal are. The department of treasury may issue a  
3 notice denying a claim if an owner fails to respond within 30  
4 days of receipt of a request for information from that  
5 department. An owner may appeal the denial of a claim of exemp-  
6 tion to the department of treasury within 35 days of receipt of  
7 the notice of denial. An appeal to the department of treasury  
8 shall be conducted according to the provisions for an informal  
9 conference in section 21 of ~~Act No. 122 of the Public Acts of~~  
10 ~~1941, being section 205.21 of the Michigan Compiled Laws~~ 1941 PA  
11 122, MCL 205.21. Within 10 days after acknowledging an appeal of  
12 a denial of a claim of exemption, the department of treasury  
13 shall notify the assessor and the treasurer for the county in  
14 which the property is located that an appeal has been filed.  
15 Upon receipt of a notice that the department of treasury has  
16 denied a claim for exemption, the assessor shall remove the  
17 exemption of the property and, if the tax roll is in the local  
18 tax collecting unit's possession, amend the tax roll to reflect  
19 the denial and the local treasurer shall issue a corrected tax  
20 bill for previously unpaid taxes with interest and penalties com-  
21 puted based on the interest and penalties that would have accrued  
22 from the date the taxes were originally levied if there had not  
23 been an exemption. If the tax roll is in the county treasurer's  
24 possession, the tax roll shall be amended to reflect the denial  
25 and the county treasurer shall prepare and submit a supplemental  
26 tax bill for any additional taxes, together with any interest and  
27 penalties. For taxes levied in 1994 only, the county treasurer

1 shall waive any interest and penalties due if the owner pays the  
2 supplemental tax bill not more than 30 days after the owner  
3 receives the supplemental tax bill. Interest and penalties shall  
4 not be assessed for any period before February 14, 1995.  
5 However, if the property has been transferred to a bona fide pur-  
6 chaser before additional taxes were billed to the seller as a  
7 result of the denial of a claim for exemption, the taxes, inter-  
8 est, and penalties shall not be billed to the bona fide purchas-  
9 er, and the local tax collecting unit if the local tax collecting  
10 unit has possession of the tax roll or the county treasurer if  
11 the county has possession of the tax roll shall notify the  
12 department of treasury of the amount of tax due and interest  
13 through the date of that notification. The department of trea-  
14 sury shall then assess the owner who claimed the homestead prop-  
15 erty tax exemption for the tax and interest plus penalty accruing  
16 as a result of the denial of the claim for exemption, if any, as  
17 for unpaid taxes provided under ~~Act No. 122 of the Public Acts~~  
18 ~~of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and shall deposit any  
19 tax, interest, or penalty collected into the state school aid  
20 fund.

21 (8) An owner may appeal a final decision of the department  
22 of treasury to the residential and small claims division of the  
23 Michigan tax tribunal within 35 days of that decision. An asses-  
24 sor may appeal a final decision of the department of treasury to  
25 the residential and small claims division of the Michigan tax  
26 tribunal within 35 days of that decision if the assessor denied  
27 the exemption under subsection (6), or, for taxes levied in 1994

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

11 (9) An affidavit filed by an owner for a homestead rescinds  
12 all previous exemptions filed by that owner for any other  
13 homestead. The department of treasury shall notify the assessor  
14 of the local tax collecting unit in which the property for which  
15 a previous exemption was claimed is located that the previous  
16 exemption is rescinded by the subsequent affidavit. Upon receipt  
17 of notice that an exemption is rescinded, the assessor of the  
18 local tax collecting unit shall remove the exemption effective  
19 December 31 of the year in which the property is transferred or  
20 is no longer a homestead as defined in section 7dd. The assessor  
21 of the local tax collecting unit in which that property is  
22 located shall notify the treasurer in possession of the tax roll  
23 for a year for which the exemption is rescinded. If the tax roll  
24 is in the local tax collecting unit's possession, the tax roll  
25 shall be amended to reflect the rescission and the local trea-  
26 surer shall prepare and issue a corrected tax bill for previously  
27 unpaid taxes with interest and penalties computed based on the

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

21 (10) An owner of property for which a claim of exemption is  
22 rescinded may appeal that rescission with either the July or  
23 December board of review in either the year for which the exemp-  
24 tion is rescinded or in the immediately succeeding year. If an  
25 appeal of a rescission of a claim for exemption is received not  
26 later than 5 days prior to the date of the December board of  
27 review, the local tax collecting unit shall convene a December

1 board of review and consider the appeal pursuant to this section  
2 and section 53b. An owner of property for which a claim of  
3 exemption is rescinded may appeal the decision of the board of  
4 review to the residential and small claims division of the  
5 Michigan tax tribunal within 35 days of that decision.

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

16 (12) When a county register of deeds records a transfer of  
17 ownership of a property, he or she shall notify the local tax  
18 collecting unit in which the property is located of the  
19 transfer.

20 (13) The department of treasury shall make available the  
21 affidavit forms and the forms to rescind an exemption, which may  
22 be on the same form, to all city and township assessors, county  
23 equalization officers, county registers of deeds, and closing  
24 agents. A person who prepares a closing statement for the sale  
25 of property shall provide affidavit and rescission forms to the  
26 buyer and seller at the closing and, if requested by the buyer or  
27 seller after execution by the buyer or seller, shall file the

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

20 (14) ~~An~~ FOR TAXES LEVIED AFTER DECEMBER 31, 1994, AN owner  
21 who owned and occupied a homestead on May 1 IN ANY TAX YEAR for  
22 which the exemption was not on the tax roll may file an appeal  
23 with the July board of review THAT MEETS PURSUANT TO SECTION 53B  
24 in the year for which the exemption was claimed or ~~the~~  
25 ~~immediately~~ ANY succeeding year or with the December board of  
26 review THAT MEETS PURSUANT TO SECTION 53B in the year for which  
27 the exemption was claimed or ~~the immediately~~ ANY succeeding

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

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

1 ~~homesteads are exempt in 1994. This subsection does not apply~~  
2 ~~unless the 1994 assessment of the property is based on the valua-~~  
3 ~~tion of a homestead or a portion of a structure that has become a~~  
4 ~~homestead. An affidavit filed under this subsection is subject~~  
5 ~~to all the provisions of this section.~~

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

12       ~~(a) The owner owned and occupied that homestead on May 1,~~  
13 ~~1994 or the owner owned and occupied that homestead after May 1,~~  
14 ~~1994 but before October 3, 1994.~~

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

17       ~~(c) The owner has owned and occupied that homestead since~~  
18 ~~1994.~~

19       ~~(17) If the department of treasury BOARD OF REVIEW grants~~  
20 ~~a claim of exemption, for 1994 under subsection (16), THE LOCAL~~  
21 ~~TAX COLLECTING UNIT IF THE LOCAL TAX COLLECTING UNIT HAS POSSES-~~  
22 ~~SION OF THE TAX ROLL BEING ADJUSTED OR the county treasurer~~  
23 ~~with IF THE COUNTY TREASURER HAS possession of the tax roll~~  
24 ~~being adjusted shall amend the 1994 APPROPRIATE tax roll to~~  
25 ~~reflect the exemption and shall issue a corrected tax bill, as~~  
26 ~~follows:~~

1       ~~(a) If the owner owned and occupied that homestead on May 1,~~  
2 ~~1994, that homestead is exempt~~ EXEMPTING THAT HOMESTEAD from the  
3 tax levied in ~~1994~~ THE TAX YEAR FOR WHICH THE EXEMPTION IS  
4 CLAIMED for school operating purposes to the extent provided  
5 under section 1211 of ~~Act No. 451 of the Public Acts of 1976~~  
6 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, pursuant to  
7 subsection (1).

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

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

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

1           (16) ~~-(20)-~~ If granting the exemption under this section  
2 results in an overpayment of the tax, a rebate, including any  
3 interest paid, shall be made to the taxpayer by the local tax  
4 collecting unit if the local tax collecting unit has possession  
5 of the tax roll or by the county treasurer if the county has pos-  
6 session of the tax roll within 30 days of the date the exemption  
7 is granted. The rebate shall be without interest.

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

1 subsection within 30 days after the corrected tax bill is issued,  
2 that owner is not liable for any penalty or interest on the addi-  
3 tional tax. An owner who pays a corrected tax bill issued under  
4 this subsection more than 30 days after the corrected tax bill is  
5 issued is liable for the penalties and interest that would have  
6 accrued if the exemption had not been granted from the date the  
7 taxes were originally levied.

8       (18) ~~(22)~~ For tax years beginning on and after January 1,  
9 1994, a cooperative housing corporation is entitled to a full or  
10 partial exemption under this section for the tax year in which  
11 the cooperative housing corporation files all of the following  
12 with the local tax collecting unit in which the cooperative hous-  
13 ing corporation is located if filed on or before May 1 of the tax  
14 year, or for the tax year following the year in which all of the  
15 following are filed if filed after May 1 of the tax year:

16       (a) An affidavit form.

17       (b) A statement of the total number of units owned by the  
18 cooperative housing corporation and occupied as the principal  
19 residence of a tenant stockholder as of the date of the filing  
20 under this subsection.

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

26       (d) A statement of the total number of units of the  
27 cooperative housing corporation on which an exemption under this

1 section was claimed and that were transferred in the tax year  
2 immediately preceding the tax year in which the filing under this  
3 section was made.