

**SENATE BILL NO. 40**

January 26, 1999, Introduced by Senator A. SMITH and referred to the Committee on Finance.

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 ON OR  
4 BEFORE MAY 1 OR, FOR A HOMESTEAD THAT WAS NOT IN EXISTENCE ON THE  
5 IMMEDIATELY PRECEDING TAX DAY, AT ANY TIME DURING THE TAX YEAR.  
6 The affidavit shall state that the property is owned and occupied  
7 as a homestead by that owner of the property on the date that the  
8 affidavit is signed. The affidavit shall be on a form prescribed  
9 by the department of treasury. Beginning in 1995, 1 copy of the  
10 affidavit shall be retained by the owner, 1 copy shall be  
11 retained by the local tax collecting unit until any appeal or  
12 audit period under this act has expired, and 1 copy shall be for-  
13 warded to the department of treasury pursuant to subsection (4),  
14 together with all information submitted under subsection (22) for  
15 a cooperative housing corporation. Beginning in 1995, the affi-  
16 davit shall require the owner claiming the exemption to indicate  
17 if that owner has claimed another exemption on property in this  
18 state that is not rescinded. If the affidavit requires an owner  
19 to include a social security number, that owner's number is  
20 subject to the disclosure restrictions in ~~Act No. 122 of the~~  
21 ~~Public Acts of 1941, being sections 205.1 to 205.31 of the~~  
22 ~~Michigan Compiled Laws~~ 1941 PA 122, MCL 205.1 TO 205.31.

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

26           (4) Upon receipt of an affidavit filed under subsection (2)  
27 and unless the claim is denied under subsection (6), the assessor

1 shall exempt the property from the collection of the tax levied  
2 by a local school district for school operating purposes to the  
3 extent provided under section 1211 of ~~Act No. 451 of the Public~~  
4 ~~Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211,  
5 as provided in subsection (1) until December 31 of the year in  
6 which the property is transferred or is no longer a homestead as  
7 defined in section 7dd. The local tax collecting unit shall for-  
8 ward copies of affidavits to the department of treasury according  
9 to a schedule prescribed by the department of treasury.

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

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

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

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

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

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

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

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

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

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

1 treasurer shall prepare and issue a corrected tax bill for  
2 previously unpaid taxes with interest and penalties computed  
3 based on the interest and penalties that would have accrued from  
4 the date the taxes were originally levied if there had not been  
5 an exemption for that year. If the tax roll is in the county  
6 treasurer's possession, the tax roll shall be amended to reflect  
7 the rescission and the county treasurer shall prepare and submit  
8 a supplemental tax bill for any additional taxes, together with  
9 any interest and penalties. However, if the property has been  
10 transferred to a bona fide purchaser, the taxes, interest, and  
11 penalties shall not be billed to the bona fide purchaser, and the  
12 local tax collecting unit if the local tax collecting unit has  
13 possession of the tax roll or the county treasurer if the county  
14 has possession of the tax roll shall notify the department of  
15 treasury of the amount of tax due and interest through the date  
16 of that notification. The department of treasury shall then  
17 assess the owner who received the homestead property tax exemp-  
18 tion when the property was not a homestead as defined in section  
19 7dd for the tax and interest plus penalty accruing, 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 (10) An owner of property for which a claim of exemption is  
25 rescinded may appeal that rescission with either the July or  
26 December board of review in either the year for which the  
27 exemption is rescinded or in the immediately succeeding year. If

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

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

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

23 (13) The department of treasury shall make available the  
24 affidavit forms and the forms to rescind an exemption, which may  
25 be on the same form, to all city and township assessors, county  
26 equalization officers, county registers of deeds, and closing  
27 agents. A person who prepares a closing statement for the sale

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

23 (14) An owner who owned and occupied a homestead on May 1  
24 OR, FOR A HOMESTEAD THAT WAS NOT IN EXISTENCE ON THE IMMEDIATELY  
25 PRECEDING TAX DAY, AT ANY TIME DURING THE TAX YEAR for which the  
26 exemption was not on the tax roll may file an appeal with the  
27 July board of review in the year for which the exemption was

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

9 (15) In 1994 only, an owner who owns and occupies a home-  
10 stead after May 1 and before October 3 for which an affidavit was  
11 not filed in 1994 may file an affidavit as provided in subsection  
12 (2) not later than October 3, 1994. Upon receipt, the assessor  
13 shall exempt the property from 50% of the number of mills levied  
14 in 1994 under section 1211 of ~~Act No. 451 of the Public Acts of~~  
15 ~~1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, from  
16 which homesteads are exempt, not to exceed 50% of the total  
17 number of mills from which homesteads are exempt in 1994, on the  
18 December tax roll. If there is not a December levy of the tax  
19 under section 1211 of ~~Act No. 451 of the Public Acts of 1976~~  
20 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, the owner may  
21 appear in person or by mail before the December board of review  
22 and obtain a rebate as provided in section 53b of 50% of the  
23 number of mills levied in 1994 under section 1211 of ~~Act No. 451~~  
24 ~~of the Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451,  
25 MCL 380.1211, from which homesteads are exempt, not to exceed 50%  
26 of the total number of mills from which homesteads are exempt in  
27 1994. If an affidavit is not filed as provided in this

1 subsection, the owner may appear in person or by mail before the  
2 July or December board of review in 1994 or the July or December  
3 board of review in 1995 and obtain a rebate of 50% of the number  
4 of mills levied in 1994 under section 1211 of ~~Act No. 451 of the~~  
5 ~~Public Acts of 1976~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL  
6 380.1211, from which homesteads are exempt, not to exceed 50% of  
7 the total number of mills from which homesteads are exempt in  
8 1994. This subsection does not apply unless the 1994 assessment  
9 of the property is based on the valuation of a homestead or a  
10 portion of a structure that has become a homestead. An affidavit  
11 filed under this subsection is subject to all the provisions of  
12 this section.

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

19 (a) The owner owned and occupied that homestead on May 1,  
20 1994, ~~or~~ the owner owned and occupied that homestead after May  
21 1, 1994 but before October 3, 1994, OR THE OWNER OWNED AND OCCU-  
22 PIED THAT HOMESTEAD AT ANY TIME DURING 1994 AND THAT HOMESTEAD  
23 WAS NOT IN EXISTENCE ON DECEMBER 31, 1993.

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

26 (c) The owner has owned and occupied that homestead since  
27 1994.

1 (17) If the department of treasury grants a claim of  
2 exemption for 1994 under subsection (16), the county treasurer  
3 with possession of the tax roll being adjusted shall amend the  
4 1994 tax roll to reflect the exemption and shall issue a cor-  
5 rected tax bill as follows:

6 (a) If the owner owned and occupied that homestead on May 1,  
7 1994 OR IF THE OWNER OWNED AND OCCUPIED THAT HOMESTEAD AT ANY  
8 TIME DURING 1994 AND THAT HOMESTEAD WAS NOT IN EXISTENCE ON  
9 DECEMBER 31, 1993, that homestead is exempt from the tax levied  
10 in 1994 for school operating purposes to the extent provided  
11 under section 1211 of ~~Act No. 451 of the Public Acts of 1976~~  
12 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211, pursuant to  
13 subsection (1).

14 (b) If the owner owned and occupied that homestead after May  
15 1, 1994 but before October 3, 1994, that homestead is exempt from  
16 50% of the number of mills levied in 1994 under section 1211 of  
17 ~~Act No. 451 of the Public Acts of 1976 pursuant to~~  
18 ~~subsection (14)~~ THE REVISED SCHOOL CODE, 1976 PA 451, MCL  
19 380.1211.

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

24 (19) If the assessor or treasurer of the local tax collect-  
25 ing unit believes that the department of treasury erroneously  
26 denied a claim for exemption, the assessor or treasurer may  
27 submit written information supporting the owner's claim for

1 exemption to the department of treasury within 35 days of the  
2 owner's receipt of the notice denying the claim for exemption.  
3 If, after reviewing the information provided, the department of  
4 treasury determines that the claim for exemption was erroneously  
5 denied, the department of treasury shall grant the exemption and  
6 the tax roll shall be amended to reflect the exemption.

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

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

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

14 (22) For tax years beginning on and after January 1, 1994, a  
15 cooperative housing corporation is entitled to a full or partial  
16 exemption under this section for the tax year in which the coop-  
17 erative housing corporation files all of the following with the  
18 local tax collecting unit in which the cooperative housing corpo-  
19 ration is located if filed on or before May 1 of the tax year, or  
20 for the tax year following the year in which all of the following  
21 are filed if filed after May 1 of the tax year:

22 (a) An affidavit form.

23 (b) A statement of the total number of units owned by the  
24 cooperative housing corporation and occupied as the principal  
25 residence of a tenant stockholder as of the date of the filing  
26 under this subsection.

1 (c) A list that includes the name, address, and social  
2 security number of each tenant stockholder of the cooperative  
3 housing corporation occupying a unit in the cooperative housing  
4 corporation as his or her principal residence as of the date of  
5 the filing under this subsection.

6 (d) A statement of the total number of units of the coopera-  
7 tive housing corporation on which an exemption under this section  
8 was claimed and that were transferred in the tax year immediately  
9 preceding the tax year in which the filing under this section was  
10 made.