

HOUSE BILL No. 4123

January 30, 2003, Introduced by Reps. Sak, Spade, Vagnozzi, Gleason, O'Neil and Paletko
and referred to the Committee on Tax Policy.

A bill to amend 1976 PA 225, entitled

"An act to defer the collection of special assessments on homestead properties; to provide for conditions of eligibility for such a deferment; to prescribe the powers and duties of the department of treasury, local assessing officers, and local collecting officers; to provide for the advancement of moneys by the state to indemnify special assessment districts for losses from deferment of collections; to provide for the advancement of money by the state to an owner for the repayment of loans used by the owner to pay special assessments; to provide for the collection of deferred special assessments and interest thereon, and the disposition of these collections; to make an appropriation; and to prescribe penalties,"

by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 8a, 9, and 10 (MCL 211.761, 211.762, 211.763, 211.764, 211.765, 211.766, 211.767, 211.768, 211.768a, 211.769, and 211.770), the title and sections 2, 3, 4, and 10 as amended by 1980 PA 403 and section 8a as amended by 1981 PA 59, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to defer the collection of special assessments **and**

1 **property taxes** on homestead properties; to provide for conditions
 2 of eligibility for such a deferment; to prescribe the powers and
 3 duties of the department of treasury, local assessing officers,
 4 and local collecting officers; to provide for the advancement of
 5 ~~moneys~~ **money** by the state to indemnify special assessment
 6 districts **and local tax collecting units** for losses from
 7 deferment of collections; to provide for the advancement of money
 8 by the state to an owner for the repayment of loans used by the
 9 owner to pay special assessments **and property taxes**; to provide
 10 for the collection of deferred special assessments **and property**
 11 **taxes** and interest thereon, and the disposition of these
 12 collections; to make an appropriation; and to prescribe
 13 penalties.

14 Sec. 1. As used in this act:

15 (a) "Department" means the department of treasury.

16 (b) **"Equity" means the difference between twice the state**
 17 **equalized valuation of a homestead and any outstanding mortgage,**
 18 **land contract, lien, or other encumbrance, including a lien**
 19 **imposed under this act.**

20 (c) ~~—(b)—~~ "Totally and permanently disabled" means a person
 21 ~~—as defined—~~ **described** in ~~—42 U.S.C. section 416—~~ **section 216(i)**
 22 **of title II of the social security act, chapter 531, 49**
 23 **Stat. 620, 42 U.S.C. 416.**

24 (d) ~~—(e)—~~ "Homestead" means a dwelling or a unit in a
 25 multiple-unit dwelling, owned and occupied as a home by ~~the~~ **an**
 26 owner, ~~—thereof,—~~ including all contiguous unoccupied real
 27 property owned by the ~~—person—~~ **owner**. Homestead includes a

1 dwelling and an outbuilding used in connection with a dwelling,
 2 situated on the ~~lands~~ **property** of another.

3 **(e)** ~~—(d)—~~ "Owner" includes a person eligible for the
 4 exemption specified in this act, who is purchasing a homestead
 5 under a mortgage or land contract, ~~—or—~~ who owns a dwelling
 6 situated on the leased lands of another, or **who** is a
 7 tenant-stockholder of a cooperative housing corporation.

8 **(f)** ~~—(e)—~~ "Special assessment" means an assessment against
 9 real property calculated on a benefit or ad valorem basis for
 10 curb and gutter, sidewalk, sewer, water, or street paving; a
 11 drain; a connection fee or similar charge for a sewer or water
 12 system; or the land contract on a parcel of property acquired
 13 under the circumstances set forth in section ~~—3(2)—~~ **3(3)**.

14 Special assessment does not include charges for current service.

15 Sec. 2. (1) The payment of special assessments ~~—assessed~~
 16 **and property taxes levied** and due and payable on a homestead in
 17 any year in which the owner meets all of the terms and conditions
 18 of this act shall be deferred until 1 year after the owner's
 19 death, subject to further order by the probate court or until the
 20 homestead or any part of the homestead is conveyed or transferred
 21 to another or a contract to sell **the homestead** is entered into.
 22 The death of a spouse ~~—shall—~~ **does** not terminate the deferment of
 23 special assessments **or property taxes** for a homestead owned by
 24 husband and wife under tenancy by the entirety as long as the
 25 surviving spouse does not remarry. Special assessments **and**
 26 **property taxes** deferred under this act may be paid in full at any
 27 time.

1 (2) If the collecting officer or the department determines
 2 that legal or equitable title to a homestead or any part of a
 3 homestead for which special assessments **or property taxes** are
 4 deferred under this act is conveyed or transferred or a contract
 5 to sell the homestead or part of a homestead is entered into, and
 6 the deferment is not terminated, the owner or owner's estate
 7 ~~shall be~~ **is** subject to an interest rate of 1% per month or
 8 fraction of a month, on the amount deferred, computed from the
 9 date of conveyance, transfer, or contractual agreement. The
 10 amount of interest shall be payable to the collecting officer and
 11 transmitted by that office pursuant to section 9.

12 (3) The department shall notify each owner whose special
 13 assessments **or property taxes** are authorized to be deferred under
 14 this act that if legal or equitable title to the homestead or any
 15 part of the homestead is conveyed or transferred or a contract to
 16 sell the homestead or part of the homestead is entered into, the
 17 deferment is terminated and the amount deferred is immediately
 18 due and payable, plus interest as provided in subsection (2).

19 Sec. 3. (1) An owner of a homestead who is 65 years of age
 20 or older, ~~or~~ who is totally and permanently disabled, **who**
 21 **claims a dependency exemption under section 30(2) of the income**
 22 **tax act of 1967, 1967 PA 281, MCL 206.30, for a child who is less**
 23 **than 18 years old, or who is an adult in need of protective**
 24 **services as defined in section 11 of the social welfare act, 1939**
 25 **PA 280, MCL 400.11, and who is** a citizen of the United States, a
 26 resident of this state for 5 or more years, and the sole owner of
 27 the homestead for ~~5~~ **3** or more years is eligible for the

1 deferment of special assessments **and property taxes** levied on
 2 that homestead pursuant to this act, **if the equity in that**
 3 **owner's homestead is not less than 25% of twice the state**
 4 **equalized valuation of that homestead.** The owner and the owner's
 5 spouse shall not have received during the last calendar year
 6 household income as defined in section 508 of ~~Act No. 281 of the~~
 7 ~~Public Acts of 1967, as amended, being section 206.508 of the~~
 8 ~~Michigan Compiled Laws,~~ **the income tax act of 1967, 1967 PA 281,**
 9 **MCL 206.508,** in excess of ~~\$8,000.00; this amount shall be~~
 10 ~~increased to \$10,000.00. for the determination of eligibility~~
 11 ~~for a deferment after December 31, 1982.~~ The gross amount of
 12 ~~the~~ **a special assessment deferred under this act,** exclusive of
 13 interest, shall not be less than \$300.00.

14 (2) The maximum dollar amount of household income required by
 15 subsection (1) to be eligible for the deferment of special
 16 assessments **or property taxes** under this act shall be adjusted
 17 each year, beginning on January 1, 1984, pursuant to the annual
 18 average percentage increase or decrease in the Detroit consumer
 19 price index ~~—all items~~ as defined and reported by the United
 20 States department of labor, bureau of labor statistics. ~~The~~
 21 ~~adjustment shall be made by multiplying the annual average~~
 22 ~~percentage increase or decrease in the Detroit consumer price~~
 23 ~~index for the prior calendar year by the current maximum dollar~~
 24 ~~amount of the household income requirement as adjusted by this~~
 25 ~~subsection. The resultant product shall be added to the maximum~~
 26 ~~dollar amount of the household income requirement as adjusted by~~
 27 ~~this subsection and then rounded off to the nearest whole number,~~

1 ~~which shall be the new household income requirement for the~~
 2 ~~current year.~~

3 (3) ~~After January 1, 1975, a~~ **A person 65 years of age or**
 4 ~~older who otherwise~~ qualifies under this section for deferral
 5 of special assessments **or property taxes** who ~~fails~~ **failed** to
 6 pay a prior delinquent special assessment **or property tax**
 7 **assessment** and ~~thereby~~ lost ~~the property~~ **his or her homestead**
 8 to the local unit of government ~~who purchased the property~~
 9 through ~~tax~~ **forfeiture, foreclosure, and** sale may reacquire the
 10 property from the local unit of government through a land
 11 contract. ~~The~~ **A** land contract for a ~~parcel of property~~
 12 **homestead** reacquired under ~~the circumstances set forth in~~ this
 13 subsection shall be treated as a special assessment for purposes
 14 of this act.

15 (4) ~~The owner of a homestead who is 65 years of age or older~~
 16 ~~or is totally and permanently disabled, a citizen of the United~~
 17 ~~States, a resident of this state for 5 or more years, and the~~
 18 ~~sole owner of the homestead for 5 or more years, in the year the~~
 19 ~~special assessment was levied, and~~ **A person who qualifies under**
 20 **this section for deferral of special assessments or property**
 21 **taxes** who has borrowed money from a lending institution to pay a
 22 special assessment **or property taxes** before ~~the effective date~~
 23 ~~of this subsection, shall be~~ **January 8, 1981 is** eligible to
 24 receive money from the special revolving fund created in section
 25 10, to be used ~~for the purpose of repaying~~ **to repay** the lending
 26 institution the principal amount used by the person to pay the
 27 special assessment **or property taxes**. The department shall cause

1 a lien on the homestead in favor of the state to be recorded with
2 the appropriate register of deeds, indicating the amount of the
3 money paid and identifying the homestead. Money paid from the
4 fund under this subsection shall be treated as if the money had
5 been paid as deferred **property taxes or** special assessment.

6 Sec. 4. An owner may apply to the local assessing officer
7 for deferment of the payment of special assessments on the
8 owner's homestead. **An owner may apply to the department for**
9 **deferment of the payment of property taxes levied on the owner's**
10 **homestead.** The application shall be made upon an affidavit form
11 to be furnished and made available by the department at
12 convenient locations throughout the state. The affidavit form
13 shall contain the following statement in 10-point ~~boldface~~
14 **boldfaced** type located immediately above the affiant's
15 signature: "If this deferment is authorized the state will place
16 a lien on your property." **The affidavit shall contain a**
17 **statement that the owner applying for the deferment of special**
18 **assessments or property taxes under this act has received or has**
19 **applied for all credits available to that owner under sections**
20 **520 and 522 of the income tax act of 1967, 1967 PA 281,**
21 **MCL 206.520 and 206.522.** A person making a false affidavit for
22 the purpose of obtaining deferment of special assessments **or**
23 **property taxes** under this act is guilty of perjury. If the
24 homestead is owned jointly by husband and wife, each spouse shall
25 sign and file the affidavit. If the homestead is encumbered by a
26 mortgage or an unpaid balance on a land contract, a deferment of
27 special assessments **or property taxes** shall not be made without

1 the written consent of the mortgagee or the land contract vendor,
2 which shall be filed with the affidavit. The affidavit shall be
3 filed with the local assessing officer **for the deferment of**
4 **special assessments and with the department for the deferment of**
5 **property taxes** at least 30 days ~~after~~ **before** the due date of a
6 special assessment or installment of a special assessment **or**
7 **property tax bill** for which deferment is requested.

8 **Sec. 4a. The application provided for in section 4 shall**
9 **contain both of the following:**

10 (a) A statement that the owner applying for the deferment has
11 property and casualty insurance on that owner's homestead in an
12 amount not less than the amount of all special assessments and
13 property taxes deferred.

14 (b) An assignment to the state of the owner's interest in the
15 property and casualty insurance on that owner's homestead in an
16 amount equal to the total amount of all special assessments and
17 property taxes deferred.

18 **Sec. 5. (1)** Upon receipt of the affidavit, the local
19 assessing officer **for the deferment of a special assessment and**
20 **the department for the deferment of property taxes** shall promptly
21 examine it to determine if the applicant meets the requirements
22 of this act and shall make an inspection of the property and
23 property records and conduct an investigation and survey as ~~it~~
24 ~~deems~~ necessary. An applicant shall not be compelled to supply
25 information not reasonably essential to a proper determination of
26 the eligibility of the owner and the homestead for the relief
27 provided under this act. The local assessing officer **for the**

1 deferment of a special assessment and the department for the
2 deferment of property taxes shall promptly make ~~its~~ a decision
3 with respect to an application under this section and shall
4 notify the applicant of ~~its~~ that decision not later than the
5 due date for a special assessment or for the property taxes
6 involved in the application. A decision of the local assessing
7 officer ~~shall be~~ is final except as otherwise provided
8 ~~pursuant to~~ under the state constitution of 1963.

9 (2) The department shall annually do all of the following for
10 the deferment of property taxes under this act:

11 (a) Determine that the person on whose behalf property taxes
12 are deferred is eligible for the deferral of property taxes under
13 section 3.

14 (b) Secure an assignment to this state of any credit allowed
15 under sections 520 or 522 of the income tax act of 1967, 1967
16 PA 281, MCL 206.520 and 206.522, payable to the person on whose
17 behalf the property taxes are deferred during the period in which
18 property taxes are deferred on that person's homestead, which
19 credit shall be applied to any lien imposed on that homestead
20 under this act.

21 (c) Determine that the person on whose behalf property taxes
22 are deferred has property and casualty insurance on his or her
23 homestead in an amount not less than the amount of all special
24 assessments and property taxes deferred and that the person on
25 whose behalf property taxes are deferred has assigned to the
26 state his or her interest in that property and casualty insurance
27 in an amount equal to the total amount of all special assessments

1 **and property taxes deferred.**

2 Sec. 6. The department shall pay the entire balance owing,
3 including delinquent amounts, of the special assessment **or**
4 **property tax** of an applicant who qualifies under this act. The
5 department shall transmit to the collecting officer the sum of
6 money required to indemnify the local special assessment district
7 **or local tax collecting unit** for a revenue loss resulting from
8 the deferment of the special assessment **or property tax**. At the
9 same time, the department shall ~~cause the recording of~~ **record** a
10 lien in favor of the state with the register of deeds **of the**
11 **county in which the homestead is located** and notify the county
12 treasurer **of the county in which the homestead is located** of the
13 special assessment **or property taxes** deferred, indicating the
14 amount deferred for **property taxes and for** each special
15 assessment and identifying the homestead. ~~The~~ **If payment is**
16 **made as required by this section, the** county treasurer shall keep
17 a record of the notice and shall require that the homestead be
18 included in the subsequent return of delinquent taxes by each
19 collecting officer, that the property is identified on the
20 delinquent roll as provided in this act, and that the amount of
21 special assessment **or property taxes** shown on the roll as due and
22 unpaid are the same as the amount approved by the department for
23 deferment. The sum received by the collecting officer from the
24 department shall be distributed ~~to the several special~~
25 ~~assessment districts in direct proportion to their respective~~
26 ~~shares of the total of special assessments deferred~~ in the same
27 manner that distribution would be made had the same amount been

1 received from the payment of the special assessments **or property**
 2 **taxes.** ~~The~~ **If payment is made as required by this section, the**
 3 collecting officer shall enter on the current tax roll opposite
 4 each homestead for which deferment is allowed a notation that
 5 payment is deferred pursuant to this act.

6 Sec. 7. The treasurer of ~~any~~ **a** city, township, or
 7 village, required by ~~Act No. 206 of the Public Acts of 1893, as~~
 8 ~~amended, being sections 211.1 to 211.157 of the Michigan Compiled~~
 9 ~~Laws~~ **the general property tax act, 1893 PA 206, MCL 211.1 to**
 10 **211.157,** to make a return of delinquent taxes to the county
 11 treasurer, shall include in the delinquent tax roll all
 12 homesteads for which deferment of special assessments ~~are~~ **or**
 13 **property taxes is** approved, and shall enter on the delinquent tax
 14 roll opposite each ~~such item~~ **special assessment or property tax**
 15 **levy** a notation that payment is deferred ~~pursuant to~~ **under** this
 16 act. In a city collecting its own delinquent taxes, the
 17 treasurer ~~similarly~~ shall note on the city tax record of each
 18 ~~such~~ property **for which special assessments or property taxes**
 19 **are deferred** that payment is deferred ~~pursuant to~~ **under** this
 20 act. The collection of special assessments **or property taxes**
 21 deferred ~~for all such homesteads~~ **under this act** shall be made
 22 ~~thereafter only~~ in accordance with this act, any law,
 23 ordinance, or charter to the contrary notwithstanding.

24 Sec. 8. Upon termination of the deferment of special
 25 assessments **or property taxes** under this act, the collection
 26 procedures of ~~Act No. 206 of the Public Acts of 1893, as~~
 27 ~~amended~~ **the general property tax act, 1893 PA 206, MCL 211.1 to**

1 211.157, and any provisions of any law, ordinance, or charter
2 applicable to the collection of delinquent taxes in a city
3 collecting its own delinquent taxes, suspended ~~by the terms of~~
4 **under** this act during the period of deferment, shall again apply
5 to the deferred special assessments ~~the same as they would have~~
6 ~~applied had no~~ **or property taxes as if a** deferment **had not** been
7 authorized and all of the special assessments **or property taxes**
8 had been levied initially in the ~~third~~ year preceding the
9 calendar year in which the deferment was terminated, except that
10 the provisions of those laws, ordinances, and charters with
11 respect to collection fees, interest, penalties, and other
12 charges shall not be applicable to the collection of, or
13 foreclosure of the lien for special assessments **or property taxes**
14 deferred. ~~hereunder.~~ The lien for deferred special assessments
15 **or property taxes** shall be for the amount of the special
16 assessments **or property taxes** only and shall not have any
17 additional fee, penalty, or interest added except as provided in
18 this act.

19 Sec. 8a. (1) Except for an owner or owner's estate
20 qualifying for deferment of special assessments under this act
21 before January 8, 1981, the payment of special assessments **or**
22 **property taxes** deferred under this act made by the owner or
23 owner's estate shall include interest computed for periods after
24 January 8, 1981, at a rate of 1/2 of 1% per month or fraction of
25 a month.

26 (2) The department shall notify each owner whose special
27 assessments **or property taxes** are authorized to be deferred under

1 this act of the interest rate provided in this section.

2 (3) The lien created in section 6 for special assessments **or**
3 **property taxes** deferred under this act shall include ~~an amount~~
4 ~~of~~ interest as provided in this section.

5 (4) The department of treasury shall refund to each owner
6 who, before ~~the effective date of this subsection~~ **January 8,**
7 **1981**, paid their special assessment **or property taxes** and was
8 subject to the interest payment of subsection (1), an amount
9 equal to the difference between the interest paid and the
10 interest ~~which~~ **that** would have been due at a rate of 1/2 of 1%
11 per month or fraction of a month.

12 (5) If a deferment of a special assessment was terminated by
13 an owner solely by payment of the deferred special assessment
14 after January 8, 1981, and before ~~the effective date of this~~
15 ~~subsection~~ **June 4, 1981**, the owner may reapply within 60 days of
16 the effective date of this subsection to the local assessing
17 officer for reinstitution of the previously deferred special
18 assessment and the department of treasury shall refund the amount
19 of the special assessment paid and redeferred to the owner.

20 Sec. 9. Upon receipt of payment of special assessments **or**
21 **property taxes** deferred under this act, the collecting officer
22 shall ~~forthwith~~ transmit the amount received to the department
23 as reimbursement for the sums ~~theretofore~~ advanced ~~—~~ to
24 indemnify the local special assessment districts **or local tax**
25 **collecting unit**.

26 Sec. 10. (1) There is created a special revolving fund
27 within the department to pay special assessments **and property**

1 **taxes** under this act and the sum of \$3,000,000.00 of the
2 principal of the Michigan veterans' trust fund shall be used for
3 this investment purpose.

4 (2) An amount ~~which~~ **that** is paid by the department to a
5 local assessment district **or local tax collecting unit** for a
6 deferred special assessment **or deferred property taxes** shall be
7 paid from the special revolving fund created in subsection (1).

8 (3) From the amounts received by the department as payment
9 for deferred special assessments **or property taxes** under this
10 act, the department shall credit, on a quarterly basis, 1/2 of
11 the total amount received to the special revolving fund created
12 in this section, and shall transmit the remainder of this
13 quarterly payment to the Michigan veterans' trust fund **until the**
14 **initial \$3,000,000.00 set forth in subsection (1) is repaid to**
15 **the Michigan veterans' trust fund.**

16 (4) **After the initial \$3,000,000.00 set forth in**
17 **subsection (1) is repaid to the Michigan veterans' trust fund,**
18 **the department shall credit, on a quarterly basis, the total**
19 **amount received to the special revolving fund created in this**
20 **section.**

21 (5) ~~-(4)-~~ Interest received pursuant to section 8a, and civil
22 penalties received pursuant to section 2, shall be credited in
23 full to the special revolving fund created in this section.

24 (6) ~~-(5)-~~ Amounts required to be transmitted to the Michigan
25 veterans' trust fund under subsection (3) shall be reduced by the
26 amount of principal and earnings ~~which was~~ returned to the
27 Michigan veterans' trust fund before ~~the effective date of this~~

1 ~~subsection~~ January 8, 1981.