

# HOUSE BILL No. 5097

August 17, 2005, Introduced by Rep. Sheen and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending section 34d (MCL 211.34d), as amended by 2005 PA 12,  
and by adding section 7jj.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 7JJ. BEGINNING DECEMBER 31, 2005, COMMERCIAL RENTAL  
2        PROPERTY IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT. AS  
3        USED IN THIS SECTION, "COMMERCIAL RENTAL PROPERTY" MEANS REAL  
4        PROPERTY THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

5        (A) IS CLASSIFIED AS COMMERCIAL REAL PROPERTY UNDER SECTION  
6        34C.

7        (B) ALL OR A PORTION IS SUBJECT TO A LEASE OR IS OFFERED FOR  
8        LEASE.

9        Sec. 34d. (1) As used in this section or section 27a, or

1 section 3 or 31 of article IX of the state constitution of 1963:

2 (a) For taxes levied before 1995, "additions" means all  
3 increases in value caused by new construction or a physical  
4 addition of equipment or furnishings, and the value of property  
5 that was exempt from taxes or not included on the assessment unit's  
6 immediately preceding year's assessment roll.

7 (b) For taxes levied after 1994, "additions" means, except as  
8 provided in subdivision (c), all of the following:

9 (i) Omitted real property. As used in this subparagraph,  
10 "omitted real property" means previously existing tangible real  
11 property not included in the assessment. Omitted real property  
12 shall not increase taxable value as an addition unless the  
13 assessing jurisdiction has a property record card or other  
14 documentation showing that the omitted real property was not  
15 previously included in the assessment. The assessing jurisdiction  
16 has the burden of proof in establishing whether the omitted real  
17 property is included in the assessment. Omitted real property for  
18 the current and the 2 immediately preceding years, discovered after  
19 the assessment roll has been completed, shall be added to the tax  
20 roll pursuant to the procedures established in section 154. For  
21 purposes of determining the taxable value of real property under  
22 section 27a, the value of omitted real property is based on the  
23 value and the ratio of taxable value to true cash value the omitted  
24 real property would have had if the property had not been omitted.

25 (ii) Omitted personal property. As used in this subparagraph,  
26 "omitted personal property" means previously existing tangible  
27 personal property not included in the assessment. Omitted personal

1 property shall be added to the tax roll pursuant to section 154.

2 (iii) New construction. As used in this subparagraph, "new  
3 construction" means property not in existence on the immediately  
4 preceding tax day and not replacement construction. New  
5 construction includes the physical addition of equipment or  
6 furnishings, subject to the provisions set forth in section  
7 27(2)(a) to (o). For purposes of determining the taxable value of  
8 property under section 27a, the value of new construction is the  
9 true cash value of the new construction multiplied by 0.50.

10 (iv) Previously exempt property. As used in this subparagraph,  
11 "previously exempt property" means property that was exempt from ad  
12 valorem taxation under this act on the immediately preceding tax  
13 day but is subject to ad valorem taxation on the current tax day  
14 under this act. For purposes of determining the taxable value of  
15 real property under section 27a:

16 (A) The value of property previously exempt under section 7u  
17 is the taxable value the entire parcel of property would have had  
18 if that property had not been exempt, minus the product of the  
19 entire parcel's taxable value in the immediately preceding year and  
20 the lesser of 1.05 or the inflation rate.

21 (B) The taxable value of property that is a facility as that  
22 term is defined in section 2 of 1974 PA 198, MCL 207.552, that was  
23 previously exempt under section 7k is the taxable value that  
24 property would have had under this act if it had not been exempt.

25 (C) The value of property previously exempt under any other  
26 section of law is the true cash value of the previously exempt  
27 property multiplied by 0.50.

(v) Replacement construction. As used in this subparagraph, "replacement construction" means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the immediately preceding tax day to the extent the construction's true cash value does not exceed the true cash value of property that was damaged or destroyed by accident or act of God in the immediately preceding 3 years. For purposes of determining the taxable value of property under section 27a, the value of the replacement construction is the true cash value of the replacement construction multiplied by a fraction the numerator of which is the taxable value of the property to which the construction was added in the immediately preceding year and the denominator of which is the true cash value of the property to which the construction was added in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate.

(vi) An increase in taxable value attributable to the complete or partial remediation of environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree of remediation based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The increase in taxable value attributable to the remediation is the increase in true cash value attributable to the remediation multiplied by a fraction the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which

1 is the true cash value of the property had it not been  
2 contaminated.

3 (vii) ~~An~~ **PRIOR TO DECEMBER 31, 2005, AN** increase in the value  
4 attributable to the property's occupancy rate if either a loss, as  
5 that term is defined in this section, had been previously allowed  
6 because of a decrease in the property's occupancy rate or if the  
7 value of new construction was reduced because of a below-market  
8 occupancy rate. For purposes of determining the taxable value of  
9 property under section 27a, the value of an addition for the  
10 increased occupancy rate is the product of the increase in the true  
11 cash value of the property attributable to the increased occupancy  
12 rate multiplied by a fraction the numerator of which is the taxable  
13 value of the property in the immediately preceding year and the  
14 denominator of which is the true cash value of the property in the  
15 immediately preceding year, and then multiplied by the lesser of  
16 1.05 or the inflation rate.

17 (viii) Public services. As used in this subparagraph, "public  
18 services" means water service, sewer service, a primary access  
19 road, natural gas service, electrical service, telephone service,  
20 sidewalks, or street lighting. For purposes of determining the  
21 taxable value of real property under section 27a, the value of  
22 public services is the amount of increase in true cash value of the  
23 property attributable to the available public services multiplied  
24 by 0.50 and shall be added in the calendar year following the  
25 calendar year when those public services are initially available.

26 (c) For taxes levied after 1994, additions do not include  
27 increased value attributable to any of the following:

(i) Platting, splits, or combinations of property.

(ii) A change in the zoning of property.

(iii) For the purposes of the calculation of the millage reduction fraction under subsection (7) only, ~~increased~~ **BOTH OF THE FOLLOWING:**

**(A) INCREASED** taxable value under section 27a(3) after a transfer of ownership of property.

**(B) INCREASED ADJUSTABLE TAXABLE VALUE UNDER THE COMMERCIAL RENTAL PROPERTY SPECIFIC TAX ACT AFTER A TRANSFER OF OWNERSHIP OF COMMERCIAL RENTAL PROPERTY.**

(d) "Assessed valuation of property as finally equalized" means taxable value under section 27a.

(e) "Financial officer" means the officer responsible for preparing the budget of a unit of local government.

(f) "General price level" means the annual average of the 12 monthly values for the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

(g) For taxes levied before 1995, "losses" means a decrease in value caused by the removal or destruction of real or personal property and the value of property taxed in the immediately preceding year that has been exempted or removed from the assessment unit's assessment roll.

(h) For taxes levied after 1994, "losses" means, except as provided in subdivision (i), all of the following:

(i) Property that has been destroyed or removed. For purposes of determining the taxable value of property under section 27a, the

1 value of property destroyed or removed is the product of the true  
2 cash value of that property multiplied by a fraction the numerator  
3 of which is the taxable value of that property in the immediately  
4 preceding year and the denominator of which is the true cash value  
5 of that property in the immediately preceding year.

6 (ii) Property that was subject to ad valorem taxation under  
7 this act in the immediately preceding year that is now exempt from  
8 ad valorem taxation under this act. For purposes of determining the  
9 taxable value of property under section 27a, the value of property  
10 exempted from ad valorem taxation under this act is the amount  
11 exempted.

12 (iii) ~~AN~~ **PRIOR TO DECEMBER 31, 2005, AN** adjustment in value,  
13 if any, because of a decrease in the property's occupancy rate, to  
14 the extent provided by law. For purposes of determining the taxable  
15 value of real property under section 27a, the value of a loss for a  
16 decrease in the property's occupancy rate is the product of the  
17 decrease in the true cash value of the property attributable to the  
18 decreased occupancy rate multiplied by a fraction the numerator of  
19 which is the taxable value of the property in the immediately  
20 preceding year and the denominator of which is the true cash value  
21 of the property in the immediately preceding year.

22 (iv) A decrease in taxable value attributable to environmental  
23 contamination existing on the immediately preceding tax day. The  
24 department of environmental quality shall determine the degree to  
25 which environmental contamination limits the use of property based  
26 on information available in existing department of environmental  
27 quality records or information made available to the department of

1 environmental quality if the appropriate assessing officer for a  
2 local tax collecting unit requests that determination. The  
3 department of environmental quality's determination of the degree  
4 to which environmental contamination limits the use of property  
5 shall be based on the criteria established for the categories set  
6 forth in section 20120a(1) of the natural resources and  
7 environmental protection act, 1994 PA 451, MCL 324.20120a. The  
8 decrease in taxable value attributable to the contamination is the  
9 decrease in true cash value attributable to the contamination  
10 multiplied by a fraction the numerator of which is the taxable  
11 value of the property had it not been contaminated and the  
12 denominator of which is the true cash value of the property had it  
13 not been contaminated.

14 (i) For taxes levied after 1994, losses do not include  
15 decreased value attributable to either of the following:

16 (i) Platting, splits, or combinations of property.

17 (ii) A change in the zoning of property.

18 (j) "New construction and improvements" means additions less  
19 losses.

20 (k) "Current year" means the year for which the millage  
21 limitation is being calculated.

22 (l) "Inflation rate" means the ratio of the general price level  
23 for the state fiscal year ending in the calendar year immediately  
24 preceding the current year divided by the general price level for  
25 the state fiscal year ending in the calendar year before the year  
26 immediately preceding the current year.

27 (2) On or before the first Monday in May of each year, the



1 assessing officer of each township or city shall tabulate the  
2 tentative taxable value as approved by the local board of review  
3 and as modified by county equalization for each classification of  
4 property that is separately equalized for each unit of local  
5 government and provide the tabulated tentative taxable values to  
6 the county equalization director. The tabulation by the assessing  
7 officer shall contain additions and losses for each classification  
8 of property that is separately equalized for each unit of local  
9 government or part of a unit of local government in the township or  
10 city. If as a result of state equalization the taxable value of  
11 property changes, the assessing officer of each township or city  
12 shall revise the calculations required by this subsection on or  
13 before the Friday following the fourth Monday in May. The county  
14 equalization director shall compute these amounts and the current  
15 and immediately preceding year's taxable values for each  
16 classification of property that is separately equalized for each  
17 unit of local government that levies taxes under this act within  
18 the boundary of the county. The county equalization director shall  
19 cooperate with equalization directors of neighboring counties, as  
20 necessary, to make the computation for units of local government  
21 located in more than 1 county. The county equalization director  
22 shall calculate the millage reduction fraction for each unit of  
23 local government in the county for the current year. The financial  
24 officer for each taxing jurisdiction shall calculate the compounded  
25 millage reduction fractions beginning in 1980 resulting from the  
26 multiplication of successive millage reduction fractions and shall  
27 recognize a local voter action to increase the compounded millage

1 reduction fraction to a maximum of 1 as a new beginning fraction.  
2 Upon request of the superintendent of the intermediate school  
3 district, the county equalization director shall transmit the  
4 complete computations of the taxable values to the superintendent  
5 of the intermediate school district within that county. At the  
6 request of the presidents of community colleges, the county  
7 equalization director shall transmit the complete computations of  
8 the taxable values to the presidents of community colleges within  
9 the county.

10 (3) On or before the first Monday in June of each year, the  
11 county equalization director shall deliver the statement of the  
12 computations signed by the county equalization director to the  
13 county treasurer.

14 (4) On or before the second Monday in June of each year, the  
15 treasurer of each county shall certify the immediately preceding  
16 year's taxable values, the current year's taxable values, the  
17 amount of additions and losses for the current year, and the  
18 current year's millage reduction fraction for each unit of local  
19 government that levies a property tax in the county.

20 (5) The financial officer of each unit of local government  
21 shall make the computation of the tax rate using the data certified  
22 by the county treasurer and the state tax commission. At the annual  
23 session in October, the county board of commissioners shall not  
24 authorize the levy of a tax unless the governing body of the taxing  
25 jurisdiction has certified that the requested millage has been  
26 reduced, if necessary, in compliance with section 31 of article IX  
27 of the state constitution of 1963.

1           (6) The number of mills permitted to be levied in a tax year  
2 is limited as provided in this section pursuant to section 31 of  
3 article IX of the state constitution of 1963. A unit of local  
4 government shall not levy a tax rate greater than the rate  
5 determined by reducing its maximum rate or rates authorized by law  
6 or charter by a millage reduction fraction as provided in this  
7 section without voter approval.

8           (7) A millage reduction fraction shall be determined for each  
9 year for each local unit of government. For ad valorem property  
10 taxes that became a lien before January 1, 1983, the numerator of  
11 the fraction shall be the total state equalized valuation for the  
12 immediately preceding year multiplied by the inflation rate and the  
13 denominator of the fraction shall be the total state equalized  
14 valuation for the current year minus new construction and  
15 improvements. For ad valorem property taxes that become a lien  
16 after December 31, 1982 and through December 31, 1994, the  
17 numerator of the fraction shall be the product of the difference  
18 between the total state equalized valuation for the immediately  
19 preceding year minus losses multiplied by the inflation rate and  
20 the denominator of the fraction shall be the total state equalized  
21 valuation for the current year minus additions. For ad valorem  
22 property taxes that are levied after December 31, 1994, the  
23 numerator of the fraction shall be the product of the difference  
24 between the total taxable value for the immediately preceding year  
25 minus losses multiplied by the inflation rate and the denominator  
26 of the fraction shall be the total taxable value for the current  
27 year minus additions. For each year after 1993, a millage reduction

1 fraction shall not exceed 1.

2 (8) The compounded millage reduction fraction for each year  
3 after 1980 shall be calculated by multiplying the local unit's  
4 previous year's compounded millage reduction fraction by the  
5 current year's millage reduction fraction. Beginning with 1980 tax  
6 levies, the compounded millage reduction fraction for the year  
7 shall be multiplied by the maximum millage rate authorized by law  
8 or charter for the unit of local government for the year, except as  
9 provided by subsection (9). A compounded millage reduction fraction  
10 shall not exceed 1.

11 (9) The millage reduction shall be determined separately for  
12 authorized millage approved by the voters. The limitation on  
13 millage authorized by the voters on or before April 30 of a year  
14 shall be calculated beginning with the millage reduction fraction  
15 for that year. Millage authorized by the voters after April 30  
16 shall not be subject to a millage reduction until the year  
17 following the voter authorization which shall be calculated  
18 beginning with the millage reduction fraction for the year  
19 following the authorization. The first millage reduction fraction  
20 used in calculating the limitation on millage approved by the  
21 voters after January 1, 1979 shall not exceed 1.

22 (10) A millage reduction fraction shall be applied separately  
23 to the aggregate maximum millage rate authorized by a charter and  
24 to each maximum millage rate authorized by state law for a specific  
25 purpose.

26 (11) A unit of local government may submit to the voters for  
27 their approval the levy in that year of a tax rate in excess of the

1 limit set by this section. The ballot question shall ask the voters  
2 to approve the levy of a specific number of mills in excess of the  
3 limit. The provisions of this section do not allow the levy of a  
4 millage rate in excess of the maximum rate authorized by law or  
5 charter. If the authorization to levy millage expires after 1993  
6 and a local governmental unit is asking voters to renew the  
7 authorization to levy the millage, the ballot question shall ask  
8 for renewed authorization for the number of expiring mills as  
9 reduced by the millage reduction required by this section. If the  
10 election occurs before June 1 of a year, the millage reduction is  
11 based on the immediately preceding year's millage reduction  
12 applicable to that millage. If the election occurs after May 31 of  
13 a year, the millage reduction shall be based on that year's millage  
14 reduction applicable to that millage had it not expired.

15 (12) A reduction or limitation under this section shall not be  
16 applied to taxes imposed for the payment of principal and interest  
17 on bonds or other evidence of indebtedness or for the payment of  
18 assessments or contract obligations in anticipation of which bonds  
19 are issued that were authorized before December 23, 1978, as  
20 provided by section 4 of chapter I of former 1943 PA 202, or to  
21 taxes imposed for the payment of principal and interest on bonds or  
22 other evidence of indebtedness or for the payment of assessments or  
23 contract obligations in anticipation of which bonds are issued that  
24 are approved by the voters after December 22, 1978.

25 (13) If it is determined subsequent to the levy of a tax that  
26 an incorrect millage reduction fraction has been applied, the  
27 amount of additional tax revenue or the shortage of tax revenue

1 shall be deducted from or added to the next regular tax levy for  
2 that unit of local government after the determination of the  
3 authorized rate pursuant to this section.

4 (14) If as a result of an appeal of county equalization or  
5 state equalization the taxable value of a unit of local government  
6 changes, the millage reduction fraction for the year shall be  
7 recalculated. The financial officer shall effectuate an addition or  
8 reduction of tax revenue in the same manner as prescribed in  
9 subsection (13).

10 (15) The fractions calculated pursuant to this section shall  
11 be rounded to 4 decimal places, except that the inflation rate  
12 shall be computed by the state tax commission and shall be rounded  
13 to 3 decimal places. The state tax commission shall publish the  
14 inflation rate before March 1 of each year.

15 (16) Beginning with taxes levied in 1994, the millage  
16 reduction required by section 31 of article IX of the state  
17 constitution of 1963 shall permanently reduce the maximum rate or  
18 rates authorized by law or charter. The reduced maximum authorized  
19 rate or rates for 1994 shall equal the product of the maximum rate  
20 or rates authorized by law or charter before application of this  
21 section multiplied by the compounded millage reduction applicable  
22 to that millage in 1994 pursuant to subsections (8) to (12). The  
23 reduced maximum authorized rate or rates for 1995 and each year  
24 after 1995 shall equal the product of the immediately preceding  
25 year's reduced maximum authorized rate or rates multiplied by the  
26 current year's millage reduction fraction and shall be adjusted for  
27 millage for which authorization has expired and new authorized

1 millage approved by the voters pursuant to subsections (8) to (12).  
2 Enacting section 1. This amendatory act does not take effect  
3 unless Senate Bill No.\_\_\_\_ or House Bill No. 5096(request no.  
4 04125'05) of the 93rd Legislature is enacted into law.