

# HOUSE BILL No. 5364

October 25, 2005, Introduced by Reps. Green, Wenke, Jones, Huizenga, Pastor, Palmer, Vander Veen, Meyer, Hummel, Amos, Kahn, Baxter and Robertson and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending sections 53a and 53b (MCL 211.53a and 211.53b), section 53b as amended by 2003 PA 105, and by adding section 27e.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 27E. IF THE ASSESSOR AND THE OWNER OF PROPERTY LIABLE TO  
2        TAXATION, INCLUDING PROPERTY SUBJECT TO TAXATION UNDER 1974 PA 198,  
3        MCL 207.551 TO 207.572, 1905 PA 282, MCL 207.1 TO 207.21, 1953 PA  
4        189, MCL 211.181 TO 211.182, AND THE COMMERCIAL REDEVELOPMENT ACT,  
5        1978 PA 255, MCL 207.651 TO 207.668, AGREE THAT THE PROPERTY HAS  
6        BEEN INCORRECTLY ASSESSED FOR THE CURRENT ASSESSMENT YEAR AND 1  
7        YEAR IMMEDIATELY PRECEDING THE DATE OF DISCOVERY AND DISCLOSURE TO  
8        THE ASSESSOR OF THE INCORRECT ASSESSMENT, THE ASSESSOR SHALL  
9        PREPARE AND EXECUTE AN AFFIDAVIT, WHICH SHALL ALSO BE SIGNED BY THE

1 OWNER OF THE PROPERTY, VERIFYING THE MUTUAL MISTAKE OF FACT TO THE  
2 JULY OR DECEMBER BOARD OF REVIEW.

3 Sec. 53a. Any taxpayer who is assessed and pays taxes in  
4 excess of the correct and lawful amount due because of a clerical  
5 error, ~~or~~ mutual mistake of fact made by the assessing officer  
6 and the taxpayer, OR A CLERICAL ERROR OR MISTAKE OF FACT MADE BY  
7 THE TAXPAYER IN PREPARING THE STATEMENT OF ASSESSABLE PERSONAL  
8 PROPERTY UNDER SECTION 19 may recover the excess ~~so~~ paid, without  
9 interest, if suit is commenced within 3 years from the date of  
10 payment, notwithstanding that the payment was not made under  
11 protest.

12 Sec. 53b. (1) If there has been a clerical error or a mutual  
13 mistake of fact relative to the correct assessment figures, the  
14 rate of taxation, or the mathematical computation relating to the  
15 assessing of taxes, the clerical error or mutual mistake of fact  
16 shall be verified by the local assessing officer and approved by  
17 the board of review at a meeting held for the purposes of this  
18 section on Tuesday following the second Monday in December and, for  
19 summer property taxes, on Tuesday following the third Monday in  
20 July. If there is not a levy of summer property taxes, the board of  
21 review may meet for the purposes of this section on Tuesday  
22 following the third Monday in July. If approved, the board of  
23 review shall file an affidavit within 30 days relative to the  
24 clerical error or mutual mistake of fact with the proper officials  
25 who are involved with the assessment figures, rate of taxation, or  
26 mathematical computation and all affected official records shall be  
27 corrected. IF AN AFFIDAVIT IS SUBMITTED TO THE BOARD OF REVIEW

1 **UNDER SECTION 27E, THE BOARD OF REVIEW SHALL APPROVE THE MUTUAL**

2 **MISTAKE OF FACT.** If the clerical error or mutual mistake of fact

3 results in an overpayment or underpayment, the rebate, including

4 any interest paid, shall be made to the taxpayer or the taxpayer

5 shall be notified and payment made within 30 days of the notice. A

6 rebate shall be without interest. The county treasurer may deduct

7 the rebate from the appropriate tax collecting unit's subsequent

8 distribution of taxes. The county treasurer shall bill to the

9 appropriate tax collecting unit the tax collecting unit's share of

10 taxes rebated. Except as otherwise provided in subsection (6), a

11 correction under this subsection may be made in the year in which

12 the error was made or in the following year only.

13 (2) Action pursuant to this section may be initiated by the

14 taxpayer or the assessing officer.

15 (3) The board of review meeting in July and December shall

16 meet only for the purpose described in subsection (1) and to hear

17 appeals provided for in sections 7u, 7cc, and 7ee. If an exemption

18 under section 7u is approved, the board of review shall file an

19 affidavit with the proper officials involved in the assessment and

20 collection of taxes and all affected official records shall be

21 corrected. If an appeal under section 7cc or 7ee results in a

22 determination that an overpayment has been made, the board of

23 review shall file an affidavit and a rebate shall be made at the

24 times and in the manner provided in subsection (1). Except as

25 otherwise provided in sections 7cc and 7ee, a correction under this

26 subsection shall be made for the year in which the appeal is made

27 only. If the board of review grants an exemption or provides a

1 rebate for property under section 7cc or 7ee as provided in this  
2 subsection, the board of review shall require the owner to execute  
3 the affidavit provided for in section 7cc or 7ee and shall forward  
4 a copy of any section 7cc affidavits to the department of treasury.

5 (4) If an exemption under section 7cc is granted by the board  
6 of review under this section, the provisions of section 7cc(6)  
7 through (11) apply. If an exemption under section 7cc is not  
8 granted by the board of review under this section, the owner may  
9 appeal that decision in writing to the department of treasury  
10 within 35 days of the board of review's denial and the appeal shall  
11 be conducted as provided in section ~~7ee(7)~~ **7CC(8)**.

12 (5) An owner or assessor may appeal a decision of the board of  
13 review under this section regarding an exemption under section 7ee  
14 to the residential and small claims division of the Michigan tax  
15 tribunal. An owner is not required to pay the amount of tax in  
16 dispute in order to receive a final determination of the  
17 residential and small claims division of the Michigan tax tribunal.  
18 However, interest and penalties, if any, shall accrue and be  
19 computed based on interest and penalties that would have accrued  
20 from the date the taxes were originally levied as if there had not  
21 been an exemption.

22 (6) A correction under this section that grants a homestead  
23 exemption pursuant to section 7cc(21) may be made for the year in  
24 which the appeal was filed and the 3 immediately preceding tax  
25 years.