

# HOUSE BILL No. 5854

March 14, 2006, Introduced by Reps. Sheen, Plakas, Amos, Booher, Jones, Emmons, Gaffney, Gosselin, Taub, Hansen, Stahl, Hoogendyk, Vander Veen, Pastor, Brandenburg, Drolet, Acciavatti, Ball, Casperson, Marleau, Robertson, Pavlov, Moolenaar and Walker and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled  
"Tax tribunal act,"  
by amending sections 35 and 37 (MCL 205.735 and 205.737), as  
amended by 2003 PA 131.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 35. (1) A proceeding before the tribunal is original and  
2 independent and is considered de novo. ~~For~~

3       **(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), FOR** an  
4 assessment dispute as to the valuation of property or if an  
5 exemption is claimed, the assessment must be protested before the  
6 board of review before the tribunal acquires jurisdiction of the  
7 dispute under subsection ~~-(2)-~~ **(5)**, except as otherwise provided in  
8 this section for a year in which the July or December board of  
9 review has authority to determine a claim of exemption for  
10 qualified agricultural property or for an appeal of a denial of a

1 principal residence exemption by the department of treasury, and in  
2 section 37(5) and (7).

3 (3) ALL OF THE FOLLOWING APPLY TO A PROPERTY TAX DISPUTE  
4 INITIATED AFTER DECEMBER 31, 2006 AND BEFORE JANUARY 1, 2010:

5 (A) FOR A PROPERTY TAX DISPUTE AS TO THE ASSESSED VALUE,  
6 TAXABLE VALUE, OR EXEMPT STATUS OF PROPERTY CLASSIFIED AS  
7 RESIDENTIAL REAL PROPERTY, AGRICULTURAL REAL PROPERTY, TIMBER-  
8 CUTOVER REAL PROPERTY, AGRICULTURAL PERSONAL PROPERTY, OR  
9 RESIDENTIAL PERSONAL PROPERTY UNDER SECTION 34C OF THE GENERAL  
10 PROPERTY TAX ACT, 1893 PA 206, MCL 211.34C, A PROTEST SHALL BE  
11 FILED WITH THE BOARD OF REVIEW BEFORE THE TRIBUNAL ACQUIRES  
12 JURISDICTION OF THE DISPUTE UNDER SUBSECTION (5), EXCEPT AS  
13 OTHERWISE PROVIDED IN THIS SECTION FOR A YEAR IN WHICH THE JULY OR  
14 DECEMBER BOARD OF REVIEW HAS AUTHORITY TO DETERMINE A CLAIM OF  
15 EXEMPTION FOR QUALIFIED AGRICULTURAL PROPERTY OR FOR AN APPEAL OF A  
16 DENIAL OF A PRINCIPAL RESIDENCE EXEMPTION BY THE DEPARTMENT OF  
17 TREASURY, AND IN SECTION 37(5) AND (7).

18 (B) FOR PROPERTY CLASSIFIED AS COMMERCIAL REAL PROPERTY,  
19 INDUSTRIAL REAL PROPERTY, DEVELOPMENTAL REAL PROPERTY, COMMERCIAL  
20 PERSONAL PROPERTY, INDUSTRIAL PERSONAL PROPERTY, OR UTILITY  
21 PERSONAL PROPERTY UNDER SECTION 34C OF THE GENERAL PROPERTY TAX  
22 ACT, 1893 PA 206, MCL 211.34C, THE TRIBUNAL SHALL ACQUIRE  
23 JURISDICTION OF A DISPUTE AS TO THE ASSESSED VALUE, TAXABLE VALUE,  
24 OR EXEMPT STATUS OF THE PROPERTY IF THERE IS EITHER A PROTEST FILED  
25 WITH THE BOARD OF REVIEW OR IF, ON OR BEFORE APRIL 1 OF THE TAX  
26 YEAR INVOLVED, A NOTICE OF INTENT TO APPEAL IS EITHER FILED WITH  
27 THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY

1 IS LOCATED OR IS SENT TO THE ASSESSOR OF THE LOCAL TAX COLLECTING  
2 UNIT IN WHICH THE PROPERTY IS LOCATED BY CERTIFIED MAIL, FACSIMILE,  
3 ELECTRONIC MAIL, OR A DELIVERY SERVICE DESIGNATED UNDER SECTION  
4 7502 OF THE INTERNAL REVENUE CODE, 26 USC 7502. IF APRIL 1 IS A DAY  
5 DURING WHICH THE ASSESSOR'S OFFICE IS NOT OPEN FOR BUSINESS, THE  
6 NOTICE OF INTENT TO APPEAL MAY BE FILED OR SENT BY THE NEXT  
7 BUSINESS DAY. A NOTICE OF INTENT TO APPEAL SHALL REASONABLY  
8 IDENTIFY THE REAL OR PERSONAL PROPERTY THAT IS THE SUBJECT OF THE  
9 APPEAL. A NOTICE OF INTENT TO APPEAL THAT HAS 1 OR MORE PROPERTY  
10 ADDRESSES OR PARCEL IDENTIFICATION NUMBERS SHALL BE DEEMED TO HAVE  
11 REASONABLY IDENTIFIED EACH PROPERTY LISTED. THIS SECTION'S FILING  
12 AND SUBSTANTIVE REQUIREMENTS FOR A NOTICE OF INTENT TO APPEAL SHALL  
13 NOT BE CHANGED BY AN ASSESSOR OR BY ANY LOCAL UNIT OF GOVERNMENT.

14 (4) For a dispute regarding a determination of a claim ~~for~~  
15 OF exemption of qualified agricultural property for a year in which  
16 the July or December board of review has authority to determine a  
17 claim of exemption for qualified agricultural property, the claim  
18 ~~for~~ OF exemption ~~must~~ **SHALL** be presented to either the July or  
19 December board of review before the tribunal acquires jurisdiction  
20 of the dispute. For a special assessment dispute, the special  
21 assessment ~~must~~ **SHALL** be protested at the hearing held for the  
22 purpose of confirming the special assessment roll before the  
23 tribunal acquires jurisdiction of the dispute.

24 (5) ~~-(2)-~~ The jurisdiction of the tribunal in an assessment  
25 dispute is invoked by a party in interest, as petitioner, filing a  
26 written petition on or before June 30 of the tax year involved.  
27 Except in the residential property and small claims division, a

1 written petition is considered filed by June 30 of the tax year  
2 involved if it is sent by certified mail on or before June 30 of  
3 that tax year. In the residential property and small claims  
4 division, a written petition is considered filed by June 30 of the  
5 tax year involved if it is postmarked by first-class mail or  
6 delivered in person on or before June 30 of the tax year involved.  
7 All petitions required to be filed or served by a day during which  
8 the offices of the tribunal are not open for business shall be  
9 filed by the next business day. In all other matters, the  
10 jurisdiction of the tribunal is invoked by a party in interest, as  
11 petitioner, filing a written petition within 30 days after the  
12 final decision, ruling, determination, or order that the petitioner  
13 seeks to review, or within 35 days if the appeal is pursuant to  
14 section 22(1) of 1941 PA 122, MCL 205.22. Except in the residential  
15 property and small claims division, a written petition is  
16 considered filed if it is sent by certified mail or delivered in  
17 person on or before expiration of the period in which an appeal may  
18 be made as provided by law. In the residential and small claims  
19 division, a written petition is considered filed if it is  
20 postmarked by first-class mail or delivered in person on or before  
21 expiration of the period in which an appeal may be made as provided  
22 by law. An appeal of a contested tax bill shall be made within 60  
23 days after mailing by the assessment district treasurer and the  
24 appeal is limited solely to correcting arithmetic errors or  
25 mistakes and is not a basis of appeal as to disputes of valuation  
26 of the property, the property's exempt status, or the property's  
27 **STATE** equalized ~~value~~ **VALUATION** resulting from equalization of

1 its assessment by the county board of commissioners or the state  
2 tax commission. Service of the petition on the respondent shall be  
3 by certified mail. For an assessment dispute, service of the  
4 petition shall be mailed to the assessor of that ~~governmental~~  
5 **LOCAL TAX COLLECTING** unit if the respondent is the local  
6 ~~governmental~~ **TAX COLLECTING** unit. Except for petitions filed under  
7 chapter 6, a copy of the petition shall also be sent to the  
8 secretary of the school board in the local school district in which  
9 the property is located and to the clerk of any county that may be  
10 affected.

11 (6) ~~-(3)-~~ The petition or answer may be amended at any time by  
12 leave of the tribunal and in compliance with its rules. If a tax  
13 was paid while the determination of the right to the tax is pending  
14 before the tribunal, the taxpayer may amend his or her petition to  
15 seek a refund of that tax.

16 (7) ~~-(4)-~~ A person or legal entity may appear before the  
17 tribunal in his or her own behalf, or may be represented by an  
18 attorney or by any other person.

19 Sec. 37. (1) The tribunal shall determine a property's taxable  
20 value pursuant to section 27a of the general property tax act, 1893  
21 PA 206, MCL 211.27a.

22 (2) The tribunal shall determine a property's state equalized  
23 valuation by multiplying its finding of true cash value by a  
24 percentage equal to the ratio of the average level of assessment in  
25 relation to true cash values in the assessment district, and  
26 equalizing that product by application of the equalization factor  
27 that is uniformly applicable in the assessment district for the

1 year in question. The property's state equalized valuation shall  
2 not exceed 50% of the true cash value of the property on the  
3 assessment date.

4 (3) The petitioner has the burden of proof in establishing the  
5 true cash value of the property. The assessing agency has the  
6 burden of proof in establishing the ratio of the average level of  
7 assessments in relation to true cash values in the assessment  
8 district and the equalization factor that was uniformly applied in  
9 the assessment district for the year in question.

10 (4) If the taxpayer paid additional taxes as a result of the  
11 unlawful assessments on the same property after filing the  
12 petition, or if in subsequent years an unlawful assessment is made  
13 against the same property, the taxpayer, not later than the filing  
14 deadline prescribed in section ~~35(2)~~ **35(5)**, except as otherwise  
15 provided in subsections (5) and (7), may amend the petition to join  
16 all of the claims for a determination of the property's taxable  
17 value, state equalized valuation, or exempt status and for a refund  
18 of payments based on the unlawful assessments. The motion to amend  
19 the petition to add a subsequent year shall be accompanied by a  
20 motion fee equal to 50% of the filing fee to file a petition to  
21 commence an appeal for that property in that year. A sum determined  
22 by the tribunal to have been unlawfully paid or underpaid shall  
23 bear interest from the date of payment to the date of judgment and  
24 the judgment shall bear interest to date of its payment. However, a  
25 sum determined by the tribunal to have been underpaid shall not  
26 bear interest for any time period prior to 28 days after the  
27 tribunal's decision. Interest required by this subsection shall

1 accrue for periods before April 1, 1982 at a rate of 6% per year,  
2 shall accrue for periods after March 31, 1982 but before April 1,  
3 1985 at a rate of 12% per year, and shall accrue for periods after  
4 March 31, 1985 but before April 1, 1994 at a rate of 9% per year.  
5 After March 31, 1994 but before January 1, 1996, interest shall  
6 accrue at an interest rate set monthly at a per annum rate based on  
7 the auction rate of the 91-day discount treasury bill rate for the  
8 first Monday in each month, plus 1%. After December 31, 1995,  
9 interest shall accrue at an interest rate set each year based on  
10 the average auction rate of 91-day discount treasury bills in the  
11 immediately preceding state fiscal year as certified by the  
12 department of treasury, plus 1%. The department of treasury shall  
13 certify the interest rate within 60 days after the end of the  
14 immediately preceding fiscal year. The tribunal shall order the  
15 refund of all or part of a property tax administration fee paid in  
16 connection with taxes that the tribunal determines were unlawfully  
17 paid.

18 (5) A motion to amend a petition to add subsequent years is  
19 not necessary in the following circumstances:

20 (a) For petitions filed after December 31, 1987, if the  
21 tribunal has jurisdiction over a petition alleging that the  
22 property is exempt from taxation, the appeal for each subsequent  
23 year for which an assessment has been established shall be added  
24 automatically to the petition. However, upon leave of the tribunal,  
25 the petitioner or respondent may request that any subsequent year  
26 be excluded from appeal at the time of the hearing on the petition.

27 (b) If the residential property and small claims division of

1 the tribunal has jurisdiction over a petition, the appeal for each  
2 subsequent year for which an assessment has been established shall  
3 be added automatically to the petition. The residential property  
4 and small claims division shall automatically add to an appeal of a  
5 final determination of a claim for exemption of a principal  
6 residence or of qualified agricultural property each subsequent  
7 year in which a claim for exemption of that principal residence or  
8 that qualified agricultural property is denied. However, upon leave  
9 of the tribunal, the petitioner or respondent may request that any  
10 subsequent year be excluded from appeal at the time of the hearing  
11 on the petition.

12 (6) The notice of the hearing on a petition shall include a  
13 statement advising the petitioner of the right to amend his or her  
14 petition to include or exclude subsequent years as provided by  
15 subsections (4) and (5).

16 (7) If the final equalization multiplier for the tax year is  
17 greater than the tentative multiplier used in preparing the  
18 assessment notice and as a result of action of the state board of  
19 equalization or county board of commissioners a taxpayer's  
20 assessment as equalized is in excess of 50% of true cash value,  
21 that person may appeal directly to the tax tribunal without a prior  
22 protest before the local board of review. The appeal shall be filed  
23 under this subsection on or before the third Monday in August and  
24 shall be heard in the same manner as other appeals of the tribunal.  
25 An appeal pursuant to this subsection shall not result in an  
26 equalized value less than the assessed value multiplied by the  
27 tentative equalization multiplier used in preparing the assessment



1 notice.