

Act No. 174  
Public Acts of 2006  
Approved by the Governor  
May 29, 2006  
Filed with the Secretary of State  
May 30, 2006  
EFFECTIVE DATE: May 30, 2006

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 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**

# **ENROLLED HOUSE BILL No. 5854**

AN ACT to amend 1973 PA 186, entitled "An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards," by amending sections 35 and 37 (MCL 205.735 and 205.737), as amended by 2003 PA 131, and by adding section 35a.

*The People of the State of Michigan enact:*

Sec. 35. (1) The provisions of this section apply to a proceeding before the tribunal that is commenced before January 1, 2007.

(2) A proceeding before the tribunal is original and independent and is considered de novo. For an assessment dispute as to the valuation of property or if an exemption is claimed, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (3), except as otherwise provided in this section for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property or for an appeal of a denial of a principal residence exemption by the department of treasury, and in section 37(5) and (7). For a dispute regarding a determination of a claim for exemption of qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property, the claim for exemption must be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special assessment dispute, the special assessment must be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(3) The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved. Except in the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is sent by certified mail on or before June 30 of that tax year. In the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is postmarked by first-class mail or delivered in person on or before June 30 of the tax year involved. All petitions required to be filed or served by a day during which the offices of the tribunal are not open for business shall be filed by the next business day. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, determination, or order that the petitioner seeks to review. Except in the residential property and small claims division, a written petition is considered filed if it is sent by certified mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. In the residential property and small claims division, a written petition is considered filed if it is postmarked by first-class mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. An appeal of a contested tax bill shall be made within

60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that governmental unit if the respondent is the local governmental unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

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

(5) A person or legal entity may appear before the tribunal in his or her own behalf or may be represented by an attorney or by any other person.

Sec. 35a. (1) The provisions of this section apply to a proceeding before the tribunal that is commenced after December 31, 2006.

(2) A proceeding before the tribunal is original and independent and is considered de novo.

(3) Except as otherwise provided in this section or by law, for an assessment dispute as to the valuation or exemption of property, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (6).

(4) In the 2007 tax year and each tax year after 2007, both of the following apply:

(a) For an assessment dispute as to the valuation or exemption of property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial real property, industrial real property, or developmental real property, the assessment may be protested before the board of review or appealed directly to the tribunal without protest before the board of review as provided in subsection (6).

(b) For an assessment dispute as to the valuation or exemption of property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial personal property, industrial personal property, or utility personal property, the assessment may be protested before the board of review or appealed directly to the tribunal without protest before the board of review as provided in subsection (6), if a statement of assessable property is filed under section 19 of the general property tax act, 1893 PA 206, MCL 211.19, prior to the commencement of the board of review for the tax year involved.

(5) For a dispute regarding a determination of a claim of exemption of a principal residence or qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for a principal residence or qualified agricultural property, the claim of exemption shall be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special assessment dispute, the special assessment shall be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(6) The jurisdiction of the tribunal in an assessment dispute as to property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial real property, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property is invoked by a party in interest, as petitioner, filing a written petition on or before May 31 of the tax year involved. The jurisdiction of the tribunal in an assessment dispute as to property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as agricultural real property, residential real property, timber-cutover real property, or agricultural personal property is invoked by a party in interest, as petitioner, filing a written petition on or before July 31 of the tax year involved. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, or determination. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that local tax collecting unit if the respondent is the local tax collecting unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

(7) A petition is considered filed on or before the expiration of the time period provided in this section or by law if 1 or more of the following occur:

(a) The petition is postmarked by the United States postal service on or before the expiration of that time period.

(b) The petition is delivered in person on or before the expiration of that time period.

(c) The petition is given to a designated delivery service for delivery on or before the expiration of that time period and the petition is delivered by that designated delivery service or, if the petition is not delivered by that designated delivery service, the petitioner establishes that the petition was given to that designated delivery service for delivery on or before the expiration of that time period.

(8) A petition required to be filed by a day during which the offices of the tribunal are not open for business shall be filed by the next business day.

(9) A petition or answer may be amended at any time by leave of the tribunal and in compliance with its rules. If a tax was paid while the determination of the right to the tax is pending before the tribunal, the taxpayer may amend his or her petition to seek a refund of that tax.

(10) A person or legal entity may appear before the tribunal in his or her own behalf or may be represented by an attorney or by any other person.

(11) As used in this section, “designated delivery service” means a delivery service provided by a trade or business that is designated by the tribunal for purposes of this subsection. The tribunal shall issue a tribunal notice not later than December 31 in each calendar year designating not less than 1 delivery service for the immediately succeeding calendar year. The tribunal may designate a delivery service only if the tribunal determines that the delivery service meets all of the following requirements:

(a) Is available to the general public.

(b) Is at least as timely and reliable on a regular basis as the United States postal service.

(c) Records electronically to a database kept in the regular course of business or marks on the petition the date on which the petition was given to the delivery service for delivery.

(d) Any other requirement the tribunal prescribes.

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

(2) The tribunal shall determine a property’s state equalized valuation by multiplying its finding of true cash value by a percentage equal to the ratio of the average level of assessment in relation to true cash values in the assessment district, and equalizing that product by application of the equalization factor that is uniformly applicable in the assessment district for the year in question. The property’s state equalized valuation shall not exceed 50% of the true cash value of the property on the assessment date.

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

(4) If the taxpayer paid additional taxes as a result of the unlawful assessments on the same property after filing the petition, or if in subsequent years an unlawful assessment is made against the same property, the taxpayer, not later than the filing deadline prescribed in section 35 for a proceeding before the tribunal that is commenced before January 1, 2007 or section 35a for a proceeding before the tribunal that is commenced after December 31, 2006, except as otherwise provided in subsections (5) and (7), may amend the petition to join all of the claims for a determination of the property’s taxable value, state equalized valuation, or exempt status and for a refund of payments based on the unlawful assessments. The motion to amend the petition to add a subsequent year shall be accompanied by a motion fee equal to 50% of the filing fee to file a petition to commence an appeal for that property in that year. A sum determined by the tribunal to have been unlawfully paid or underpaid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to date of its payment. However, a sum determined by the tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the tribunal’s decision. Interest required by this subsection shall accrue for periods before April 1, 1982 at a rate of 6% per year, shall accrue for periods after March 31, 1982 but before April 1, 1985 at a rate of 12% per year, and shall accrue for periods after March 31, 1985 but before April 1, 1994 at a rate of 9% per year. After March 31, 1994 but before January 1, 1996, interest shall accrue at an interest rate set monthly at a per annum rate based on the auction rate of the 91-day discount treasury bill rate for the first Monday in each month, plus 1%. After December 31, 1995, interest shall accrue at an interest rate set each year based on the average auction rate of 91-day discount treasury bills in the immediately preceding state fiscal year as certified by the department of treasury, plus 1%. The department of treasury shall certify the interest rate within 60 days after the end of the immediately preceding fiscal year. The tribunal shall order the refund of all or part of a property tax administration fee paid in connection with taxes that the tribunal determines were unlawfully paid.

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

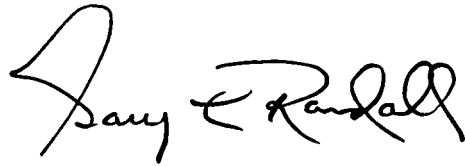
(a) If the tribunal has jurisdiction over a petition alleging that the property is exempt from taxation, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.

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

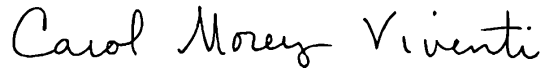
(6) The notice of the hearing on a petition shall include a statement advising the petitioner of the right to amend his or her petition to include or exclude subsequent years as provided by subsections (4) and (5).

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor