

HOUSE BILL No. 4682

March 25, 2009, Introduced by Rep. Johnson and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
(MCL 211.1 to 211.155) by adding section 70d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 70D. (1) PROPERTY THAT IS THE PRINCIPAL RESIDENCE OF A
2 QUALIFIED PERSON AND THAT IS OTHERWISE SUBJECT TO FORFEITURE UNDER
3 SECTION 78A SHALL BE EXCLUDED FROM FORFEITURE AS PROVIDED IN THIS
4 SECTION. IF PROPERTY THAT IS THE PRINCIPAL RESIDENCE OF A QUALIFIED
5 PERSON IS SOLD AT THE SALE PROVIDED FOR IN SECTION 78M, IT IS NOT
6 SUBJECT TO SUBSEQUENT PROCEEDINGS EXCEPT AS PROVIDED IN THIS
7 SECTION.

8 (2) AN OWNER MAY APPLY TO THE COUNTY TREASURER TO WITHHOLD THE
9 PROPERTY FROM THE FORFEITURE PROVIDED IN SECTION 78A. THE
10 APPLICATION SHALL BE MADE UPON AN AFFIDAVIT VERIFYING THAT THE
11 APPLICANT IS THE OWNER OF THE PROPERTY PRESCRIBED BY THE DEPARTMENT

1 OF TREASURY AND MADE AVAILABLE TO COUNTY TREASURERS THROUGHOUT THE
2 STATE. THE AFFIDAVIT SHALL REQUIRE THE OWNER TO IDENTIFY ANY
3 MORTGAGEE OF THE PROPERTY. UPON RECEIPT OF AN AFFIDAVIT, THE COUNTY
4 TREASURER SHALL IMMEDIATELY FORWARD THE AFFIDAVIT TO THE STATE
5 TREASURER WHO SHALL EXAMINE IT TO DETERMINE IF THE OWNER MEETS THE
6 REQUIREMENTS OF THIS SECTION AND IS A QUALIFIED PERSON. IF THE
7 STATE TREASURER NOTIFIES THE COUNTY TREASURER NOT LATER THAN THE
8 TUESDAY BEFORE THE FORFEITURE THAT AN OWNER IS A QUALIFIED PERSON
9 AND DELIVERS THE PAYMENT REQUIRED BY SUBSECTION (4) (E), THE COUNTY
10 TREASURER SHALL WITHHOLD THE PROPERTY OF THE QUALIFIED PERSON FROM
11 FORFEITURE. THE STATE TREASURER SHALL NOTIFY ANY MORTGAGEE THAT AN
12 OWNER IS A QUALIFIED PERSON UNDER THIS SECTION.

13 (3) IF PROPERTY HAS BEEN SOLD AS PROVIDED IN SECTION 78M, AN
14 OWNER MAY APPLY TO THE DEPARTMENT OF TREASURY FOR A DETERMINATION
15 THAT THE PROPERTY IS NOT SUBJECT TO SUBSEQUENT PROCEEDINGS, AS
16 PROVIDED IN SUBSECTION (1). THE APPLICATION SHALL BE MADE ON THE
17 AFFIDAVIT PROVIDED FOR IN SUBSECTION (2). UPON A FINDING THAT THE
18 OWNER MEETS THE REQUIREMENTS OF THIS SECTION AND IS A QUALIFIED
19 PERSON AND THAT THE PROPERTY IS NOT SUBJECT TO THE SUBSEQUENT
20 PROCEEDINGS AS PROVIDED IN SUBSECTION (1), THE DEPARTMENT OF
21 TREASURY SHALL NOTIFY THE COUNTY TREASURER OF ITS FINDING.

22 (4) UPON A FINDING THAT THE OWNER MEETS THE REQUIREMENTS OF
23 THIS SECTION, THE DEPARTMENT OF TREASURY SHALL DO THE FOLLOWING:

24 (A) ON AN ANNUAL BASIS, VERIFY THAT THE QUALIFIED PERSON
25 CONTINUES TO RESIDE IN THE PROPERTY AND CONTINUES TO BE A QUALIFIED
26 PERSON.

27 (B) SECURE AN ASSIGNMENT TO THE STATE OF THE NEXT HOMESTEAD

1 PROPERTY TAX CREDIT AND ANY SUBSEQUENT CREDIT PAYABLE DURING THE
2 PERIOD IN WHICH TAXES ARE DEFERRED ON THE PROPERTY AND NECESSARY TO
3 PAY ANY LIEN ON THE PROPERTY UNDER THIS SECTION.

4 (C) SECURE AN ASSIGNMENT TO THIS STATE OF ANY INCOME TAX
5 REFUND PAYABLE TO THE QUALIFIED PERSON UNDER THE INCOME TAX ACT OF
6 1967, 1967 PA 281, MCL 206.1 TO 206.532, DURING THE PERIOD IN WHICH
7 TAXES ARE DEFERRED ON THE PROPERTY AND NECESSARY TO PAY ANY LIEN ON
8 THE PROPERTY UNDER THIS SECTION.

9 (D) SECURE AN ASSIGNMENT TO THIS STATE OF THE PROCEEDS OF THE
10 QUALIFIED PERSON'S INTEREST IN ANY PROPERTY AND CASUALTY INSURANCE
11 ON THE PROPERTY SUFFICIENT TO PAY THE AMOUNT OF THE LIEN ON THE
12 PROPERTY. IF THE QUALIFIED PERSON DOES NOT PAY FOR SUFFICIENT
13 PROPERTY AND CASUALTY INSURANCE, THIS STATE SHALL PAY FOR IT AND
14 ADD THAT AMOUNT TO THE LIEN ON THE PROPERTY.

15 (E) DELIVER TO THE COUNTY TREASURER IN THE COUNTY IN WHICH THE
16 PROPERTY IS LOCATED AN AMOUNT EQUAL TO THE AMOUNT OF TAXES,
17 INTEREST, AND PENALTIES THAT WOULD OTHERWISE BE COLLECTED.

18 (5) IF THE DEPARTMENT OF TREASURY MAKES A DETERMINATION THAT
19 AN OWNER MEETS THE REQUIREMENTS OF THIS SECTION AND THE PROPERTY OF
20 THE OWNER HAS BEEN CONVEYED TO THE FORECLOSING GOVERNMENTAL UNIT OR
21 THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE PROPERTY IS LOCATED BY
22 A DEED ISSUED UNDER SECTION 78M, THE STATE TREASURER SHALL ISSUE A
23 CERTIFICATE CANCELING THE DEED AND RECORD THE CERTIFICATE WITH THE
24 REGISTER OF DEEDS IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
25 TAXES AND SPECIAL ASSESSMENTS THAT OTHERWISE WOULD BE CANCELED
26 UNDER SECTION 78K SHALL NOT BE CANCELED AND THE PROPERTY SHALL NOT
27 BE CANCELED OR OMITTED FROM THE TAX ROLL. HOWEVER, IF THE PROPERTY

1 HAS BEEN REMOVED FROM A PREVIOUS TAX ROLL, IT MAY BE PLACED ON THE
2 ROLL IN THE MANNER PROVIDED IN SECTION 154.

3 (6) TAXES ON PROPERTY THAT HAS BEEN WITHHELD FROM FORFEITURE
4 UNDER SUBSECTION (2), OR TAXES ON PROPERTY FOR WHICH A SALE HAS
5 OCCURRED AND FOR WHICH A DETERMINATION IS MADE THAT THE OWNER IS A
6 QUALIFIED PERSON UNDER SUBSECTION (3) SHALL BE DEFERRED UNTIL THE
7 OWNER IS NO LONGER A QUALIFIED PERSON; UNTIL 1 YEAR AFTER THE
8 OWNER'S DEATH, SUBJECT TO FURTHER ORDER BY THE COURT; OR UNTIL ANY
9 PART OF THE PRINCIPAL RESIDENCE IS CONVEYED OR TRANSFERRED TO
10 ANOTHER PERSON OR THE OWNER ENTERS INTO A CONTRACT TO SELL THE
11 PRINCIPAL RESIDENCE. THE DEATH OF A SPOUSE DOES NOT TERMINATE THE
12 DEFERMENT OF TAXES ON THE PRINCIPAL RESIDENCE OWNED BY THE HUSBAND
13 AND WIFE UNLESS THE SURVIVING SPOUSE REMARRIES. FAILURE TO PROVIDE
14 THE ASSIGNMENT REQUIRED BY SUBSECTION (4) (B) OR (C) TERMINATES THE
15 DEFERMENT. THE DEFERRED TAXES MAY BE PAID IN FULL BEFORE THE
16 TERMINATION OF THE DEFERMENT AT ANY TIME. TAXES ARE DEFERRED UNDER
17 THIS SECTION WITHOUT FURTHER PENALTY AND BEAR INTEREST AT THE RATE
18 OF 3/4 OF 1% PER MONTH OR FRACTION OF A MONTH. THE DEPARTMENT OF
19 TREASURY SHALL NOTIFY EACH OWNER WHOSE TAXES ARE DEFERRED THAT IF
20 LEGAL OR EQUITABLE TITLE TO THE PRINCIPAL RESIDENCE OR ANY PART OF
21 THE PRINCIPAL RESIDENCE IS CONVEYED OR TRANSFERRED, OR IF THE OWNER
22 ENTERS INTO A CONTRACT TO SELL THE PRINCIPAL RESIDENCE, THE
23 DEFERMENT IS TERMINATED AND THE AMOUNT DEFERRED IS IMMEDIATELY DUE
24 AND PAYABLE WITH INTEREST AS PROVIDED IN THIS SECTION, BUT WITHOUT
25 PENALTY.

26 (7) PROPERTY SHALL NOT BE EXCLUDED FROM FORFEITURE UNDER
27 SECTION 78A FOR NONPAYMENT OF TAXES AND A DEFERMENT SHALL NOT BE

1 GRANTED IN A YEAR IN WHICH, WITH THE INCLUSION OF ADDITIONAL
2 DEFERRED TAXES, THE TOTAL AMOUNT OF TAXES DEFERRED EXCEEDS 80% OF
3 THE OWNER'S EQUITY IN THE PROPERTY. IN MAKING THIS DETERMINATION,
4 THE DEPARTMENT OF TREASURY SHALL USE A MARKET VALUE EQUAL TO THE
5 STATE EQUALIZED VALUATION MULTIPLIED BY 2.

6 (8) TAXES DEFERRED IN A COUNTY FOR ANY YEAR SHALL NOT EXCEED
7 2% OF THE REAL PROPERTY TAXES RETURNED AS DELINQUENT FOR THAT YEAR
8 BY ALL TAXING UNITS IN THAT COUNTY.

9 (9) UPON TERMINATION OF THE DEFERMENT OF PROPERTY TAXES UNDER
10 THIS SECTION, THE PROCEDURES OF THIS ACT FOR THE COLLECTION AND
11 ENFORCEMENT OF TAX LIENS SUSPENDED BY THE TERMS OF THIS SECTION
12 AGAIN APPLY TO THE DEFERRED TAXES IN THE SAME MANNER THEY WOULD
13 HAVE APPLIED IF A DEFERMENT HAD NOT BEEN AUTHORIZED AND IF ALL OF
14 THE TAXES HAD BEEN LEVIED IN THE SECOND YEAR PRECEDING THE CALENDAR
15 YEAR IN WHICH THE DEFERMENT WAS TERMINATED. HOWEVER, THE PROVISIONS
16 OF THIS ACT WITH RESPECT TO FEES, INTEREST, AND PENALTIES, EXCEPT
17 AS PROVIDED IN THIS SECTION, DO NOT APPLY TO THE PERIOD DURING
18 WHICH THE TAXES ARE DEFERRED.

19 (10) TAXES DEFERRED UNDER THIS SECTION ARE A LIEN AGAINST THE
20 PROPERTY AND TAKE PRECEDENCE OVER OTHER LIENS AGAINST THE PROPERTY
21 TO THE SAME EXTENT AS IF THE TAXES WERE NOT DEFERRED.

22 (11) A PURCHASE UNDER SECTION 78M IS SUBJECT TO THE PROVISIONS
23 OF THIS SECTION AND THE PURCHASER IS CONCLUSIVELY PRESUMED TO KNOW
24 WITHOUT NOTICE THAT SUCH A PURCHASE IS MADE SUBJECT TO THE
25 PROVISIONS OF THIS SECTION. HOWEVER, IF TAXES ARE DEFERRED UNDER
26 THIS SECTION THE PURCHASER MAY REDEEM THE TAX SALE CERTIFICATE OR
27 TAX DEED FROM THE FORECLOSING GOVERNMENTAL UNIT FOR THE PURCHASE

1 PRICE.

2 (12) AS USED IN THIS SECTION:

3 (A) "HOMESTEAD PROPERTY TAX CREDIT" MEANS THE CREDIT PROVIDED
4 UNDER SECTIONS 520 AND 522 OF THE INCOME TAX ACT OF 1967, 1967 PA
5 281, MCL 206.520 AND 206.522.

6 (B) "HOUSEHOLD INCOME" MEANS THAT TERM AS DEFINED IN SECTION
7 508 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.508.

8 (C) "PRINCIPAL RESIDENCE" MEANS THAT TERM AS DEFINED IN
9 SECTION 7DD.

10 (D) "QUALIFIED PERSON" MEANS A SENIOR CITIZEN WITH A HOUSEHOLD
11 INCOME IN THE IMMEDIATELY PRECEDING CALENDAR YEAR THAT IS LESS THAN
12 187.5% OF THE FEDERAL POVERTY GUIDELINES PUBLISHED ANNUALLY IN THE
13 FEDERAL REGISTER BY THE UNITED STATES DEPARTMENT OF HEALTH AND
14 HUMAN SERVICES, UNDER ITS AUTHORITY TO REVISE THE POVERTY LINE
15 UNDER 42 USC 9902, FOR 2 PERSONS OR THE NUMBER OF PERSONS IN THE
16 HOUSEHOLD, WHICHEVER IS GREATER, OR AN ADULT IN NEED OF PROTECTIVE
17 SERVICES AS THAT TERM IS DEFINED IN SECTION 11 OF THE SOCIAL
18 WELFARE ACT, 1939 PA 280, MCL 400.11, WHO HAS APPLIED FOR AND
19 ASSIGNED ALL HOMESTEAD PROPERTY TAX CREDITS THAT MAY BE CLAIMED
20 DURING THE PERIOD IN WHICH TAXES ARE DEFERRED.

21 (E) "SENIOR CITIZEN" MEANS A PERSON WHO IS 65 YEARS OF AGE OR
22 OLDER AND INCLUDES THE UNREMARIED SURVIVING SPOUSE OF A PERSON WHO
23 WAS 65 YEARS OF AGE OR OLDER AT THE TIME OF DEATH.