

HOUSE BILL No. 4945

May 14, 2009, Introduced by Reps. Wayne Schmidt and Horn and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 53b (MCL 211.53b), as amended by 2008 PA 122,
and by adding section 7qq.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 7QQ. (1) EXCEPT AS OTHERWISE LIMITED IN THIS SUBSECTION,
2 QUALIFIED FRATERNAL PROPERTY IS EXEMPT FROM THE TAX LEVIED BY A
3 LOCAL SCHOOL DISTRICT FOR SCHOOL OPERATING PURPOSES TO THE EXTENT
4 PROVIDED UNDER SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA
5 451, MCL 380.1211, ACCORDING TO THE PROVISIONS OF THIS SECTION.

6 (2) TO CLAIM AN EXEMPTION UNDER SUBSECTION (1), THE OWNER OF
7 QUALIFIED FRATERNAL PROPERTY SHALL FILE AN AFFIDAVIT CLAIMING THE
8 EXEMPTION WITH THE LOCAL TAX COLLECTING UNIT BY DECEMBER 31.

9 (3) THE AFFIDAVIT SHALL BE ON A FORM PRESCRIBED BY THE

1 DEPARTMENT OF TREASURY AND SHALL REQUIRE THE PERSON SUBMITTING THE
2 AFFIDAVIT TO ATTEST THAT THE PROPERTY FOR WHICH THE EXEMPTION IS
3 CLAIMED IS QUALIFIED FRATERNAL PROPERTY.

4 (4) THE ASSESSOR SHALL DETERMINE IF THE PROPERTY IS QUALIFIED
5 FRATERNAL PROPERTY AND IF SO SHALL EXEMPT THE PROPERTY FROM THE
6 COLLECTION OF THE TAX AS PROVIDED IN SUBSECTION (1) UNTIL DECEMBER
7 31 OF THE YEAR IN WHICH THE PROPERTY IS NO LONGER QUALIFIED
8 FRATERNAL PROPERTY OR 3 YEARS AFTER THE PROPERTY IS FIRST EXEMPT
9 UNDER THIS SECTION, WHICHEVER OCCURS FIRST.

10 (5) NOT MORE THAN 90 DAYS AFTER ALL OR A PORTION OF THE
11 EXEMPTED PROPERTY IS NO LONGER QUALIFIED FRATERNAL PROPERTY, THE
12 OWNER SHALL RESCIND THE EXEMPTION FOR THE APPLICABLE PORTION OF THE
13 PROPERTY BY FILING WITH THE LOCAL TAX COLLECTING UNIT A RESCISSION
14 FORM PRESCRIBED BY THE DEPARTMENT OF TREASURY. AN OWNER WHO FAILS
15 TO FILE A RESCISSION AS REQUIRED BY THIS SUBSECTION IS SUBJECT TO A
16 PENALTY OF \$5.00 PER DAY FOR EACH SEPARATE FAILURE BEGINNING AFTER
17 THE 90 DAYS HAVE ELAPSED, UP TO A MAXIMUM OF \$1,000.00. THIS
18 PENALTY SHALL BE COLLECTED UNDER 1941 PA 122, MCL 205.1 TO 205.31,
19 AND SHALL BE DEPOSITED IN THE GENERAL FUND OF THIS STATE.

20 (6) AN OWNER OF PROPERTY THAT IS QUALIFIED FRATERNAL PROPERTY
21 ON DECEMBER 31 FOR WHICH AN EXEMPTION WAS NOT ON THE TAX ROLL MAY
22 FILE AN APPEAL WITH THE JULY OR DECEMBER BOARD OF REVIEW UNDER
23 SECTION 53B IN THE YEAR THE EXEMPTION WAS CLAIMED OR THE
24 IMMEDIATELY SUCCEEDING YEAR. AN OWNER OF PROPERTY THAT IS QUALIFIED
25 FRATERNAL PROPERTY ON MAY 1 FOR WHICH AN EXEMPTION WAS DENIED BY
26 THE ASSESSOR IN THE YEAR THE AFFIDAVIT WAS FILED MAY FILE AN APPEAL
27 WITH THE JULY BOARD OF REVIEW FOR SUMMER TAXES OR, IF THERE IS NOT

1 A SUMMER LEVY OF SCHOOL OPERATING TAXES, WITH THE DECEMBER BOARD OF
2 REVIEW UNDER SECTION 53B.

3 (7) IF THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT BELIEVES
4 THAT THE PROPERTY FOR WHICH AN EXEMPTION HAS BEEN GRANTED IS NOT
5 QUALIFIED FRATERNAL PROPERTY, THE ASSESSOR MAY DENY OR MODIFY AN
6 EXISTING EXEMPTION BY NOTIFYING THE OWNER IN WRITING AT THE TIME
7 REQUIRED FOR PROVIDING A NOTICE UNDER SECTION 24C. A TAXPAYER MAY
8 APPEAL THE ASSESSOR'S DETERMINATION TO THE BOARD OF REVIEW MEETING
9 UNDER SECTION 30. A DECISION OF THE BOARD OF REVIEW MAY BE APPEALED
10 TO THE RESIDENTIAL AND SMALL CLAIMS DIVISION OF THE MICHIGAN TAX
11 TRIBUNAL.

12 (8) IF PROPERTY FOR WHICH AN EXEMPTION HAS BEEN GRANTED UNDER
13 THIS SECTION IS NOT QUALIFIED FRATERNAL PROPERTY, THE PROPERTY THAT
14 HAD BEEN SUBJECT TO THAT EXEMPTION SHALL BE IMMEDIATELY PLACED ON
15 THE TAX ROLL BY THE LOCAL TAX COLLECTING UNIT IF THE LOCAL TAX
16 COLLECTING UNIT HAS POSSESSION OF THE TAX ROLL OR BY THE COUNTY
17 TREASURER IF THE COUNTY HAS POSSESSION OF THE TAX ROLL AS THOUGH
18 THE EXEMPTION HAD NOT BEEN GRANTED. A CORRECTED TAX BILL SHALL BE
19 ISSUED FOR EACH TAX YEAR BEING ADJUSTED BY THE LOCAL TAX COLLECTING
20 UNIT IF THE LOCAL TAX COLLECTING UNIT HAS POSSESSION OF THE TAX
21 ROLL OR BY THE COUNTY TREASURER IF THE COUNTY HAS POSSESSION OF THE
22 TAX ROLL.

23 (9) AS USED IN THIS SECTION:

24 (A) "FRATERNAL ORGANIZATION" MEANS AN ORGANIZATION WITHIN THIS
25 STATE, EXCEPT A COLLEGE FRATERNITY OR SORORITY, THAT MEETS ALL OF
26 THE FOLLOWING REQUIREMENTS:

27 (i) IS NOT ORGANIZED FOR PECUNIARY PROFIT.

1 (ii) IS A BRANCH, LODGE, OR CHAPTER OF A NATIONAL OR STATE
2 FRATERNAL ORGANIZATION.

3 (iii) EXISTS FOR THE COMMON PURPOSE, BROTHERHOOD, OR OTHER
4 INTERESTS OF ITS MEMBERS.

5 (B) "QUALIFIED FRATERNAL PROPERTY" MEANS REAL PROPERTY THAT IS
6 THE PRIMARY MEETING PLACE FOR A FRATERNAL ORGANIZATION THAT IS
7 OWNED AND OCCUPIED BY THAT FRATERNAL ORGANIZATION SOLELY FOR THE
8 PURPOSES FOR WHICH THAT FRATERNAL ORGANIZATION WAS ESTABLISHED.

9 Sec. 53b. (1) If there has been a qualified error, the
10 qualified error shall be verified by the local assessing officer
11 and approved by the board of review. Except as otherwise provided
12 in subsection (7), the board of review shall meet for the purposes
13 of this section on Tuesday following the second Monday in December
14 and, for summer property taxes, on Tuesday following the third
15 Monday in July. Except as otherwise provided in subsection (7), if
16 there is not a levy of summer property taxes, the board of review
17 may meet for the purposes of this section on Tuesday following the
18 third Monday in July. If approved, the board of review shall file
19 an affidavit within 30 days relative to the qualified error with
20 the proper officials and all affected official records shall be
21 corrected. If the qualified error results in an overpayment or
22 underpayment, the rebate, including any interest paid, shall be
23 made to the taxpayer or the taxpayer shall be notified and payment
24 made within 30 days of the notice. A rebate shall be without
25 interest. The treasurer in possession of the appropriate tax roll
26 may deduct the rebate from the appropriate tax collecting unit's
27 subsequent distribution of taxes. The treasurer in possession of

1 the appropriate tax roll shall bill to the appropriate tax
2 collecting unit the tax collecting unit's share of taxes rebated.
3 Except as otherwise provided in subsection (6) and section 27a(4),
4 a correction under this subsection may be made in the year in which
5 the qualified error was made or in the following year only.

6 (2) Action pursuant to this section may be initiated by the
7 taxpayer or the assessing officer.

8 (3) The board of review meeting in July and December shall
9 meet only for the purpose described in subsection (1) and to hear
10 appeals provided for in sections 7u, 7cc, 7ee, ~~and 7jj~~, **AND 7QQ**. If
11 an exemption under section 7u is approved, the board of review
12 shall file an affidavit with the proper officials involved in the
13 assessment and collection of taxes and all affected official
14 records shall be corrected. If an appeal under section 7cc, 7ee, ~~or~~
15 7jj, **OR 7QQ** results in a determination that an overpayment has been
16 made, the board of review shall file an affidavit and a rebate
17 shall be made at the times and in the manner provided in subsection
18 (1). Except as otherwise provided in sections 7cc, 7ee, ~~and 7jj~~,
19 **AND 7QQ**, a correction under this subsection shall be made for the
20 year in which the appeal is made only. If the board of review
21 grants an exemption or provides a rebate for property under section
22 7cc, 7ee, ~~or 7jj~~, **OR 7QQ** as provided in this subsection, the board
23 of review shall require the owner to execute the affidavit provided
24 for in section 7cc, 7ee, ~~or 7jj~~, **OR 7QQ** and shall forward a copy of
25 any section 7cc affidavits to the department of treasury.

26 (4) If an exemption under section 7cc is granted by the board
27 of review under this section, the provisions of section 7cc apply.

1 If an exemption under section 7cc is not granted by the board of
2 review under this section, the owner may appeal that decision in
3 writing to the department of treasury within 35 days of the board
4 of review's denial and the appeal shall be conducted as provided in
5 section 7cc(8).

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

16 (6) A correction under this section that grants a principal
17 residence exemption pursuant to section 7cc may be made for the
18 year in which the appeal was filed and the 3 immediately preceding
19 tax years.

20 (7) The governing body of the city or township may authorize,
21 by adoption of an ordinance or resolution, 1 or more of the
22 following alternative meeting dates for the purposes of this
23 section:

24 (a) An alternative meeting date during the week of the second
25 Monday in December.

26 (b) An alternative meeting date during the week of the third
27 Monday in July.

1 (8) As used in this section, "qualified error" means 1 or more
2 of the following:

3 (a) A clerical error relative to the correct assessment
4 figures, the rate of taxation, or the mathematical computation
5 relating to the assessing of taxes.

6 (b) A mutual mistake of fact.

7 (c) An adjustment under section 27a(4) or an exemption under
8 section 7hh(3)(b).

9 (d) For board of review determinations in 2006 through 2009, 1
10 or more of the following:

11 (i) An error of measurement or calculation of the physical
12 dimensions or components of the real property being assessed.

13 (ii) An error of omission or inclusion of a part of the real
14 property being assessed.

15 (iii) An error regarding the correct taxable status of the real
16 property being assessed.

17 (iv) An error made by the taxpayer in preparing the statement
18 of assessable personal property under section 19.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No.____ or House Bill No. 4946(request no.
21 00960'09 a) of the 95th Legislature is enacted into law.