

**SUBSTITUTE FOR  
HOUSE BILL NO. 5578**

A bill to amend 1973 PA 186, entitled  
"Tax tribunal act,"  
by amending section 3 (MCL 205.703), as amended by 2008 PA 125, and  
by adding section 38.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3. As used in this act:

2       (a) "Agency" means a board, official, or administrative agency  
3       empowered to make a decision, finding, ruling, assessment,  
4       determination, or order that is subject to review under the  
5       jurisdiction of the tribunal or that has collected a tax for which  
6       a refund is claimed.

7       (b) "Chairperson" means the chairperson of the tribunal.

8       (c) **"ENTIRE TRIBUNAL" MEANS THE HEARING DIVISION OF THE**

1 **TRIBUNAL OTHER THAN THE RESIDENTIAL PROPERTY AND SMALL CLAIMS**  
2 **DIVISION CREATED IN SECTION 61.**

3 (D) ~~(e)~~—"Mediation" means a voluntary process in which a  
4 mediator facilitates communication between parties, assists in  
5 identifying issues, and helps explore solutions to promote a  
6 mutually acceptable settlement.

7 (E) ~~(d)~~—"Mediator" means a neutral third party who is  
8 certified by the tribunal under section 47 as a mediator in a  
9 proceeding before the tribunal or as a facilitator in the court of  
10 claims, and who is agreed to by the parties.

11 (F) ~~(e)~~—"Proceeding" means an appeal taken under this act.

12 (G) ~~(f)~~—"Property tax laws" does not include the drain code of  
13 1956, 1956 PA 40, MCL 280.1 to 280.630.

14 (H) ~~(g)~~—"Tribunal" means the tax tribunal created under  
15 section 21.

16 **SEC. 38. (1) SUBJECT TO SUBSECTION (2), IN AN ASSESSMENT**  
17 **DISPUTE BEFORE THE ENTIRE TRIBUNAL AS TO THE TRUE CASH VALUE OF**  
18 **REAL OR PERSONAL PROPERTY, THE TRIBUNAL SHALL MAKE AN INDEPENDENT**  
19 **DETERMINATION OF AND SEPARATELY STATE ITS FINDINGS OF FACT AND**  
20 **CONCLUSIONS OF LAW AS TO ALL OF THE FOLLOWING, IN THE FOLLOWING**  
21 **ORDER:**

22 (A) **THE MARKET IN WHICH THE PROPERTY SUBJECT TO ASSESSMENT**  
23 **COMPETES, THE SUPPLY AND DEMAND FOR THE PROPERTY, THE DEMAND FOR**  
24 **POTENTIAL USES OF THE PROPERTY, AND THE ECONOMIC VIABILITY OF THE**  
25 **PROPERTY AT THE SPECIFIC LOCATION WITHIN THE MARKET IN WHICH IT**  
26 **COMPETES.**

27 (B) **THE REASONABLY PROBABLE USE TO WHICH THE PROPERTY SUBJECT**

1 TO ASSESSMENT CAN BE PUT IN THE IMMEDIATE FUTURE AND THE PRESENT  
2 USE OF THE PROPERTY THAT RESULTS IN THE HIGHEST AND BEST USE,  
3 SUBJECT TO ALL OF THE FOLLOWING:

4 (i) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS PHYSICALLY  
5 POSSIBLE.

6 (ii) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS LEGALLY  
7 PERMISSIBLE UNDER APPLICABLE LAND USE LEGISLATION, REGULATIONS,  
8 EASEMENTS, ORDINANCES, OR OTHER ENCUMBRANCES EXISTING ON THE TAX  
9 DAY.

10 (iii) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS FINANCIALLY  
11 FEASIBLE. FOR PURPOSES OF THIS SUBPARAGRAPH, A USE IS FINANCIALLY  
12 FEASIBLE IF IT WILL PRODUCE INCOME FROM OR VALUE TO THE PROPERTY  
13 AFTER CONSIDERING ALL RISKS AND COSTS NECESSARY TO CREATE AND  
14 MAINTAIN THE USE. IN DETERMINING FINANCIAL FEASIBILITY, THE  
15 TRIBUNAL SHALL DETERMINE THE VALUE OF THE LAND IN THE MARKET AREA,  
16 THE VALUE OF ALL IMPROVEMENTS TO THE LAND, THE COST TO CONVERT OR  
17 RENOVATE THE LAND, AND EXISTING IMPROVEMENTS TO SUPPORT THE USE.

18 (iv) THE TRIBUNAL SHALL DETERMINE THE MAXIMALLY PRODUCTIVE USE  
19 THAT MEETS THE REQUIREMENTS OF SUBPARAGRAPHS (i) TO (iii) AND  
20 RESULTS IN THE HIGHEST VALUE THAT CAN BE APPROPRIATELY SUPPORTED.

21 (C) THE CALCULATION OF A REPLACEMENT OR REPRODUCTION  
22 CONSTRUCTION COST FOR PROPERTY THAT HAS THE SAME HIGHEST AND BEST  
23 USE AND THE SAME UTILITY, FEATURES, AND AGE AS THE PROPERTY SUBJECT  
24 TO ASSESSMENT.

25 (D) THE COMPARABLE PROPERTIES IN THE MARKET IN WHICH THE  
26 PROPERTY SUBJECT TO ASSESSMENT COMPETES THAT HAVE THE SAME HIGHEST  
27 AND BEST USE AS THE PROPERTY SUBJECT TO ASSESSMENT. IN DETERMINING

1 COMPARABLE PROPERTIES, THE TRIBUNAL SHALL DO ALL OF THE FOLLOWING:

2 (i) DETERMINE THAT THE INFORMATION FOR EACH PROPERTY  
3 CONSIDERED TO BE COMPARABLE HAS BEEN VERIFIED AND ACCURATELY AND  
4 COMPLETELY DISCLOSES ALL PRIVATE RESTRICTIONS AND COVENANTS ON THE  
5 USE OF THE PROPERTY, THE IMPACT OF THOSE PRIVATE RESTRICTIONS AND  
6 COVENANTS, THE TERMS OF THE SALE, THE METHOD OF FINANCING, AND  
7 MARKET INFORMATION.

8 (ii) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE WITH A USE  
9 THAT IS DIFFERENT FROM THE HIGHEST AND BEST USE OF THE PROPERTY  
10 SUBJECT TO ASSESSMENT.

11 (iii) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE IF THE SALE  
12 OR RENTAL OF THE PROPERTY OCCURRED UNDER ECONOMIC CONDITIONS  
13 SUBSTANTIALLY DIFFERENT FROM THE HIGHEST AND BEST USE OF THE  
14 PROPERTY SUBJECT TO ASSESSMENT UNLESS THERE IS SUBSTANTIAL EVIDENCE  
15 THAT THE ECONOMIC CONDITIONS ARE COMMON AT THE LOCATION OF THE  
16 PROPERTY SUBJECT TO ASSESSMENT.

17 (iv) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE THAT WAS  
18 VACANT AT THE TIME OF SALE UNLESS THERE IS SUBSTANTIAL EVIDENCE TO  
19 SUPPORT ALL OF THE FOLLOWING:

20 (A) THE CAUSE OF THE VACANCY IS TYPICAL FOR MARKETING  
21 PROPERTIES OF THE SAME CLASS OR THERE IS SUBSTANTIAL EVIDENCE TO  
22 SUPPORT A METHOD OF ADJUSTING THE VALUE OF THE VACANT COMPARABLE  
23 PROPERTY, TO SUPPORT THE EXTENT OF THE ADJUSTMENT, AND TO SUPPORT A  
24 CONCLUSION THAT THE FINAL ADJUSTED VALUE FOR THE VACANT PROPERTY IS  
25 NOT SPECULATIVE.

26 (B) THE TIME OF THE VACANCY IS WITHIN THE MARKETING EXPOSURE  
27 TIME PERIOD TYPICAL FOR PROPERTIES OF THE SAME CLASS OR THERE IS

1 SUBSTANTIAL EVIDENCE TO SUPPORT A METHOD OF ADJUSTING THE VALUE OF  
2 THE VACANT COMPARABLE PROPERTY, TO SUPPORT THE EXTENT OF THE  
3 ADJUSTMENT, AND TO SUPPORT A CONCLUSION THAT THE FINAL ADJUSTED  
4 VALUE FOR THE VACANT PROPERTY IS NOT SPECULATIVE.

5 (C) THE VACANCY DOES NOT REFLECT A USE DIFFERENT FROM THE  
6 HIGHEST AND BEST USE OF THE PROPERTY SUBJECT TO ASSESSMENT.

7 (D) THE VACANCY IS NOT THE RESULT OF ECONOMIC OR MARKET  
8 CONDITIONS THAT ARE DIFFERENT FROM THE PROPERTY SUBJECT TO  
9 ASSESSMENT OR THERE IS SUBSTANTIAL EVIDENCE TO SUPPORT A METHOD OF  
10 ADJUSTING THE VALUE OF THE VACANT COMPARABLE PROPERTY, TO SUPPORT  
11 THE EXTENT OF THE ADJUSTMENT, AND TO SUPPORT A CONCLUSION THAT THE  
12 FINAL ADJUSTED VALUE FOR THE VACANT PROPERTY IS NOT SPECULATIVE.

13 (V) IF USE OF PROPERTY CONSIDERED TO BE COMPARABLE WAS MADE  
14 SUBJECT TO A PRIVATE RESTRICTION OR COVENANT IN CONNECTION WITH THE  
15 SALE OR RENTAL OF THE PROPERTY THAT CAUSES THE COMPARABLE PROPERTY  
16 TO HAVE A DIFFERENT LEGALLY PERMISSIBLE USE THAN THE PROPERTY  
17 SUBJECT TO ASSESSMENT AND THAT OPERATES TO PROHIBIT OR LIMIT THE  
18 CURRENT AND LAWFUL USE OF IMPROVED PROPERTY BY THE SUBSEQUENT  
19 TRANSFEREE, INCLUDE THE PROPERTY ONLY IF THE PRIVATE RESTRICTION OR  
20 COVENANT ASSISTS IN THE ECONOMIC DEVELOPMENT OF THE PROPERTY,  
21 PROVIDES A CONTINUING BENEFIT TO THE PROPERTY, DOES NOT MATERIALLY  
22 INCREASE THE LIKELIHOOD OF VACANCY OR INACTIVITY ON THE PROPERTY,  
23 AND WAS NOT IMPOSED FOR ANY OF THE FOLLOWING PURPOSES:

24 (A) TO REDUCE THE VALUE OF THE PROPERTY.

25 (B) TO REDUCE TAXES LEVIED ON THE PROPERTY.

26 (C) TO EXCLUDE COMPETITORS OF THE GRANTOR FROM THE MARKET.

27 (E) THE BASIS FOR BOTH OF THE FOLLOWING:

1           (i) SELECTING THE MOST RELEVANT UNITS AND BASIS FOR COMPARISON  
2 CONSISTENT WITH THE TREATMENT IN THE MARKET OF COMPARABLE PROPERTY.

3           (ii) ADJUSTING THE COMPARABLE PROPERTIES FOR DIFFERENCES IN  
4 LOCATION, AGE, SIZE, PHYSICAL CONDITION AND CHARACTERISTICS,  
5 FUNCTION, RENTAL TERMS, FINANCING AND OTHER INCOME USE, ECONOMIC  
6 CHARACTERISTICS, LEGAL CHARACTERISTICS, AND OTHER COMPONENTS THAT  
7 INFLUENCE THE VALUE.

8           (F) THE METHOD OF VALUATION, SUBJECT TO ALL OF THE FOLLOWING:

9           (i) IN DETERMINING THE METHOD OF VALUATION, THE TRIBUNAL SHALL  
10 USE, WEIGH, AND RECONCILE ALL OF THE FOLLOWING:

11           (A) THE METHOD OF VALUATION USED BY THE ASSESSOR.

12           (B) ALL OF THE FOLLOWING METHODS OF VALUATION:

13           (I) COMPARABLE SALES.

14           (II) CAPITALIZATION OF INCOME.

15           (III) COST LESS DEPRECIATION.

16           (ii) IN USING, WEIGHING, AND RECONCILING THE METHODS OF  
17 VALUATION UNDER SUBPARAGRAPH (i), THE TRIBUNAL SHALL STATE WHETHER  
18 THE INFORMATION SUPPORTING EACH METHOD OF VALUATION IS ACCURATE AND  
19 RELIABLE AND SHALL REQUIRE ADDITIONAL INFORMATION NECESSARY TO  
20 DETERMINE A VALUE THAT IS CREDIBLE AND NOT SPECULATIVE.

21           (iii) THE TRIBUNAL SHALL NOT DISREGARD ANY METHOD OF VALUATION  
22 IDENTIFIED IN SUBPARAGRAPH (i) ABSENT A REASONABLE JUSTIFICATION  
23 SUPPORTED BY SUBSTANTIAL EVIDENCE OR A STIPULATION THAT COMPLIES  
24 WITH THE REQUIREMENTS OF SUBSECTION (2) (A).

25           (2) THE TRIBUNAL'S DETERMINATIONS UNDER SUBSECTION (1) ARE  
26 SUBJECT TO ALL OF THE FOLLOWING:

27           (A) THE TRIBUNAL MAY CONSIDER THE PARTIES' STIPULATION TO A

1 DETERMINATION UNDER SUBSECTION (1) ONLY IF THE PARTIES FURTHER  
2 PROVIDE A STIPULATED EXPLANATION OF THE EVIDENTIARY BASIS FOR THAT  
3 DETERMINATION THAT COMPORTS WITH THE EVIDENTIARY BASIS REQUIRED FOR  
4 AN INDEPENDENT TRIBUNAL DETERMINATION UNDER SUBSECTION (1).

5 (B) FOR EACH FINDING OF FACT UNDER SUBSECTION (1), THE  
6 TRIBUNAL SHALL SEPARATELY IDENTIFY SUPPORTING EVIDENCE THAT IS  
7 SUBSTANTIAL AND RELIABLE AND HAS BEEN VERIFIED.

8 (C) IF THE EVIDENCE ON THE RECORD DOES NOT CONSTITUTE  
9 SUBSTANTIAL EVIDENCE, THE TRIBUNAL SHALL REQUIRE ADDITIONAL  
10 EVIDENCE SUFFICIENT TO SUPPORT A CONCLUSION THAT THE TRIBUNAL HAS  
11 REACHED AN INDEPENDENT DETERMINATION.

12 (D) ALL OF THE TRIBUNAL'S DETERMINATIONS UNDER SUBSECTION (1)  
13 SHALL BE MADE IN ACCORDANCE WITH GENERALLY ACCEPTED APPRAISAL  
14 PRINCIPLES, INCLUDING THE "UNIFORM STANDARDS OF PROFESSIONAL  
15 APPRAISAL PRACTICE" PROMULGATED BY THE APPRAISAL FOUNDATION.

16 (3) AS USED IN THIS SECTION:

17 (A) "PRIVATE RESTRICTION OR COVENANT" MEANS A REQUIREMENT,  
18 PROVISION, OR STATEMENT IN A DEED, LEASE, OR CONTRACT THAT  
19 RESTRAINS OR LIMITS THE USE OF THE PROPERTY OR REQUIRES A USE OF  
20 THE PROPERTY.

21 (B) "TAX DAY" MEANS THAT TERM AS PROVIDED IN SECTION 2 OF THE  
22 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.2.

23 (C) "TRUE CASH VALUE" MEANS THAT TERM AS DEFINED IN SECTION 27  
24 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.27.