



# HOUSE BILL No. 4337

February 7, 1995, Introduced by Reps. Gire, Brewer, Leland, Cherry, Baird, Yokich, DeMars, Martinez, DeHart, Hanley, Oxender, Anthony, Pitoniak, McBryde, London, Goschka, Stallworth, Willard, Parks, Dobb and McNutt and referred to the Committee on Tax Policy.

A bill to amend section 7cc of Act No. 206 of the Public Acts of 1893, entitled as amended "The general property tax act," as added by Act No. 415 of the Public Acts of 1994, being section 211.7cc of the Michigan Compiled Laws.

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

1 Section 1. Section 7cc of Act No. 206 of the Public Acts of  
2 1893, as added by Act No. 415 of the Public Acts of 1994, being  
3 section 211.7cc of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 7cc. (i) A homestead is exempt from the tax levied by  
6 a local school district for school operating purposes to the  
7 extent provided under section 1211 of the school code of 1976,  
8 Act No. 451 of the Public Acts of 1976, being section 380.1211 of  
9 the Michigan Compiled Laws, if that owner claims an exemption as

1 provided in this section. Notwithstanding the tax day provided  
2 in section 2, the status of property as a homestead shall be  
3 determined on the date an affidavit claiming an exemption is  
4 filed under subsection (2).

5 (2) An owner of property may claim an exemption under this  
6 section by filing an affidavit ~~on or before May 1~~ with the  
7 local tax collecting unit in which the property is located. The  
8 affidavit shall state that the property is owned and occupied as  
9 a homestead by that owner of the property on the date that the  
10 affidavit is signed. The affidavit shall be on a form prescribed  
11 by the department of treasury. Beginning in 1995, 1 copy of the  
12 affidavit shall be retained by the owner, 1 copy shall be  
13 retained by the local tax collecting unit until any appeal or  
14 audit period under this act has expired, and 1 copy shall be for-  
15 warded to the department of treasury pursuant to subsection (4).  
16 Beginning in 1995, the affidavit shall require the owner claiming  
17 the exemption to indicate if that owner has claimed another  
18 exemption on property in this state that is not rescinded. If  
19 the affidavit requires an owner to include a social security  
20 number, that owner's number is subject to the disclosure restric-  
21 tions in Act No. 122 of the Public Acts of 1941, being sections  
22 205.1 to 205.31 of the Michigan Compiled Laws.

23 (3) A husband and wife who are required to file or who do  
24 file a joint Michigan income tax return are entitled to not more  
25 than 1 homestead exemption.

26 (4) Upon receipt of an affidavit filed under subsection (2)  
27 and unless the claim is denied under subsection (6), the assessor

1 shall exempt the property from the collection of the tax levied  
2 by a local school district for school operating purposes to the  
3 extent provided under section 1211 of Act No. 451 of the Public  
4 Acts of 1976 ON A PRORATED BASIS FOR THE YEAR IN WHICH THE AFFI-  
5 DAVIT IS FILED BASED ON THE PORTION OF THAT YEAR FROM THE DATE  
6 THE AFFIDAVIT IS FILED THROUGH DECEMBER 31 OF THAT YEAR, AND as  
7 provided in subsection (1) through the 1998 tax year or until  
8 December 31 of the year in which the property is transferred or  
9 the owner rescinds the claim for exemption. The local tax col-  
10 lecting unit shall forward copies of affidavits to the department  
11 of treasury according to a schedule prescribed by the department  
12 of treasury. An owner is required to file a new claim for exemp-  
13 tion on the same property in 1999 and every 4 years after 1999.

14 (5) Not more than 90 days after exempted property is no  
15 longer used as a homestead by the owner claiming an exemption,  
16 that owner shall rescind the claim of exemption by filing with  
17 the local tax collecting unit a rescission form prescribed by the  
18 department of treasury. Beginning October 1, 1994, an owner who  
19 fails to file a rescission as required by this subsection is  
20 subject to a penalty of \$5.00 per day for each separate failure  
21 beginning after the 90 days have elapsed, up to a maximum of  
22 \$200.00. This penalty shall be collected under Act No. 122 of  
23 the Public Acts of 1941, and shall be deposited in the state  
24 school aid fund established in section 11 of article IX of the  
25 state constitution of 1963. This penalty may be waived by the  
26 department of treasury.

1           (6) If the assessor of the local tax collecting unit  
2 believes that the property for which an exemption is claimed is  
3 not the homestead of the owner claiming the exemption, effective  
4 for taxes levied after 1994 the assessor may deny a new or exist-  
5 ing claim by notifying the owner and the department of treasury  
6 in writing of the reason for the denial and advising the owner  
7 that the denial may be appealed to the department of treasury  
8 within 35 days after the date of the notice. The denial shall be  
9 made on a form prescribed by the department of treasury. If the  
10 assessor of the local tax collecting unit believes that the prop-  
11 erty for which the exemption is claimed is not the homestead of  
12 the owner claiming the exemption, for taxes levied in 1994 the  
13 assessor may send a recommendation for denial for any affidavit  
14 that is forwarded to the department of treasury stating the rea-  
15 sons for the recommendation. If the assessor of the local tax  
16 collecting unit believes that the property for which the exemp-  
17 tion is claimed is not the homestead of the owner claiming the  
18 exemption and has not denied the claim, for taxes levied after  
19 1994 the assessor shall include a recommendation for denial with  
20 any affidavit that is forwarded to the department of treasury or,  
21 for an existing claim, shall send a recommendation for denial to  
22 the department of treasury, stating the reasons for the  
23 recommendation.

24           (7) The department of treasury shall determine if the prop-  
25 erty is the homestead of the owner claiming the exemption. The  
26 department of treasury may review the validity of exemptions for  
27 the current calendar year and for the 3 immediately preceding

1 calendar years. If the department of treasury determines that  
2 the property is not the homestead of the owner claiming the  
3 exemption, the department shall send a notice of that determina-  
4 tion to the local tax collecting unit and to the owner of the  
5 property claiming the exemption, indicating that the claim for  
6 exemption is denied, stating the reason for the denial, and  
7 advising the owner claiming the exemption of the right to appeal  
8 the determination to the department of treasury and what those  
9 rights of appeal are. The department of treasury may issue a  
10 notice denying a claim if an owner fails to respond within 30  
11 days of receipt of a request for information from that  
12 department. An appeal to the department of treasury shall be  
13 conducted according to the provisions for an informal conference  
14 in section 21 of Act No. 122 of the Public Acts of 1941, being  
15 section 205.21 of the Michigan Compiled Laws. Upon receipt of a  
16 notice that the department of treasury has denied a claim for  
17 exemption, the assessor shall remove the exemption of the prop-  
18 erty and either correct the current tax roll to reflect, or place  
19 on the next tax roll, previously unpaid taxes with interest and  
20 penalties computed based on the interest and penalties that would  
21 have accrued from the date the taxes were originally levied if  
22 there had not been an exemption. Interest and penalties shall  
23 not be assessed for any period before February 14, 1995.  
24 However, if the property has been transferred to a bona fide pur-  
25 chaser, the taxes, interest, and penalties shall not be billed on  
26 the next tax statement by the local tax collecting unit to the  
27 bona fide purchaser, and the local tax collecting unit shall

1 notify the department of treasury of the amount of tax due and  
2 interest through the date of that notification. The department  
3 of treasury shall then assess the owner who claimed the homestead  
4 property tax exemption for the tax and interest plus penalty, if  
5 any, as for unpaid taxes provided under Act No. 122 of the Public  
6 Acts of 1941 and shall deposit any tax, interest, or penalty col-  
7 lected into the state school aid fund.

8 (8) An owner may appeal a final decision of the department  
9 of treasury to the residential and small claims division of the  
10 Michigan tax tribunal within 35 days of that decision. An asses-  
11 sor may appeal a final decision of the department of treasury to  
12 the residential and small claims division of the Michigan tax  
13 tribunal within 35 days of that decision if the assessor denied  
14 the exemption under subsection (6), or, for taxes levied in 1994  
15 only, the assessor forwarded a recommendation for denial to the  
16 department of treasury under subsection (6). An owner is not  
17 required to pay the amount of tax in dispute in order to appeal a  
18 denial of a claim of exemption to the department of treasury or  
19 to receive a final determination of the residential and small  
20 claims division of the Michigan tax tribunal. However, interest  
21 and penalties except as provided in subsection (7), if any, shall  
22 accrue and be computed based on the interest and penalties that  
23 would have accrued from the date the taxes were originally levied  
24 as if there had not been an exemption.

25 (9) An affidavit filed by an owner for a homestead ~~shall~~  
26 ~~rescind~~ RESCINDS all previous exemptions filed by that owner for  
27 any other homestead. The department of treasury shall notify the

1 assessor of the local tax collecting unit in which the property  
2 for which a previous exemption was claimed is located that the  
3 previous exemption is rescinded by the subsequent affidavit.  
4 Upon receipt of notice that an exemption is rescinded, the asses-  
5 sor of the local tax collecting unit shall remove the exemption  
6 effective December 31 of the year in which the affidavit or  
7 rescission form is filed with the local tax collecting unit.

8 (10) If the homestead is part of a unit in a multiple-unit  
9 dwelling or a dwelling unit in a multiple-purpose structure, an  
10 owner shall claim an exemption for only that portion of the total  
11 taxable value of the property used as the homestead of that owner  
12 in a manner prescribed by the department of treasury. If a por-  
13 tion of a parcel for which the owner claims an exemption is used  
14 for a purpose other than as a homestead, the owner shall claim an  
15 exemption for only that portion of the taxable value of the prop-  
16 erty used as the homestead of that owner in a manner prescribed  
17 by the department of treasury.

18 (11) When a county register of deeds records a transfer of  
19 ownership of a property, he or she shall notify the local tax  
20 collecting unit in which the property is located of the  
21 transfer.

22 (12) The department of treasury shall make available the  
23 affidavit forms and the forms to rescind an exemption, which may  
24 be on the same form, to all city and township assessors, county  
25 equalization officers, county registers of deeds, and closing  
26 agents. A person who prepares a closing statement for the sale  
27 of property shall provide affidavit and rescission forms to the

1 buyer and seller at the closing and, if requested by the buyer or  
2 seller after execution by the buyer or seller, shall file the  
3 forms with the local tax collecting unit in which the property is  
4 located. If a closing statement preparer fails to provide home-  
5 stead exemption affidavit and recission forms to the buyer and  
6 seller, or fails to file the affidavit and recission forms with  
7 the local tax collecting unit if requested by the buyer or  
8 seller, the buyer may appeal to the department of treasury within  
9 30 days of notice to the buyer that an exemption was not  
10 recorded. If the department of treasury determines that the  
11 buyer qualifies for the exemption, the department of treasury  
12 shall notify the assessor of the local tax collecting unit that  
13 the exemption is granted and the assessor of the local tax col-  
14 lecting unit or, if the tax roll is in the possession of the  
15 county treasurer, the county treasurer shall correct the tax roll  
16 to reflect the exemption. This subsection does not create a  
17 cause of action at law or in equity against a closing statement  
18 preparer who fails to provide homestead exemption affidavit and  
19 recission forms to a buyer and seller or who fails to file the  
20 affidavit and recission forms with the local tax collecting unit  
21 when requested to do so by the buyer or seller.

22 (13) An owner who owned and occupied a homestead ~~on May 1~~  
23 in any year for which a homestead property tax exemption affida-  
24 vit was claimed to have been filed and for which the exemption  
25 was not on the tax roll may file an appeal with the July board of  
26 review or, if there is not a summer levy of school operating  
27 taxes, with the December board of review. In 1994 an owner of

1 property that is a homestead ~~on May 1~~ for which the local tax  
2 collecting unit has not received a claim of exemption may claim  
3 an exemption for 1994 in person or by mail at the July board of  
4 review or the December board of review.

5 ~~(14) In 1994 only, an owner who acquires a homestead after~~  
6 ~~April 30 for which an affidavit was not filed in 1994, may file~~  
7 ~~an affidavit as provided in subsection (2) not later than October~~  
8 ~~1, 1994. Upon receipt, the assessor shall exempt the property~~  
9 ~~from 50% of the number of mills levied in 1994 under section 1211~~  
10 ~~of Act No. 451 of the Public Acts of 1976 from which homesteads~~  
11 ~~are exempt, not to exceed 50% of the total number of mills from~~  
12 ~~which homesteads are exempt in 1994, on the December tax roll.~~  
13 ~~If there is not a December levy of the tax under section 1211 of~~  
14 ~~Act No. 451 of the Public Acts of 1976, the owner may appear in~~  
15 ~~person or by mail before the December board of review and obtain~~  
16 ~~a rebate as provided in section 53b of 50% of the number of mills~~  
17 ~~levied in 1994 under section 1211 of Act No. 451 of the Public~~  
18 ~~Acts of 1976 from which homesteads are exempt, not to exceed 50%~~  
19 ~~of the total number of mills from which homesteads are exempt in~~  
20 ~~1994. This subsection does not apply unless the 1994 assessment~~  
21 ~~of the property is based on the valuation of a homestead or a~~  
22 ~~portion of a structure that has become a homestead. An affidavit~~  
23 ~~filed under this subsection is subject to all the provisions of~~  
24 ~~this section.~~