

HOUSE BILL No. 4547

March 23, 2005, Introduced by Reps. Lemmons, III, Lemmons, Jr., Garfield, Zelenko, Hopgood, Hunter, Leland, Phillips, Williams, Brown, Cushingberry, Tobocman, Virgil Smith and Cheeks 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 211.157) 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

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

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

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

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

1 PERSON.

2 (B) SECURE AN ASSIGNMENT TO THE STATE OF THE NEXT HOMESTEAD
3 PROPERTY TAX CREDIT AND ANY SUBSEQUENT CREDIT PAYABLE DURING THE
4 PERIOD IN WHICH TAXES ARE DEFERRED ON THE PROPERTY AND NECESSARY TO
5 PAY ANY LIEN ON THE PROPERTY UNDER THIS SECTION.

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

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

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

20 (5) IF THE DEPARTMENT OF TREASURY MAKES A DETERMINATION THAT
21 AN OWNER MEETS THE REQUIREMENTS OF THIS SECTION AND THE PROPERTY OF
22 THE OWNER HAS BEEN CONVEYED TO THE FORECLOSING GOVERNMENTAL UNIT OR
23 THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE PROPERTY IS LOCATED BY
24 A DEED ISSUED UNDER SECTION 78M, THE STATE TREASURER SHALL ISSUE A
25 CERTIFICATE CANCELING THE DEED AND RECORD THE CERTIFICATE WITH THE
26 REGISTER OF DEEDS IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
27 TAXES AND SPECIAL ASSESSMENTS THAT OTHERWISE WOULD BE CANCELED

1 UNDER SECTION 78K SHALL NOT BE CANCELED AND THE PROPERTY SHALL NOT
2 BE CANCELED OR OMITTED FROM THE TAX ROLL. HOWEVER, IF THE PROPERTY
3 HAS BEEN REMOVED FROM A PREVIOUS TAX ROLL, IT MAY BE PLACED ON THE
4 ROLL IN THE MANNER PROVIDED IN SECTION 154.

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

1 (7) PROPERTY SHALL NOT BE EXCLUDED FROM FORFEITURE UNDER
2 SECTION 78A FOR NONPAYMENT OF TAXES AND A DEFERMENT SHALL NOT BE
3 GRANTED IN A YEAR IN WHICH, WITH THE INCLUSION OF ADDITIONAL
4 DEFERRED TAXES, THE TOTAL AMOUNT OF TAXES DEFERRED EXCEEDS 80% OF
5 THE OWNER'S EQUITY IN THE PROPERTY. IN MAKING THIS DETERMINATION,
6 THE DEPARTMENT OF TREASURY SHALL USE A MARKET VALUE EQUAL TO THE
7 STATE EQUALIZED VALUATION MULTIPLIED BY 2.

8 (8) TAXES DEFERRED IN A COUNTY FOR ANY YEAR SHALL NOT EXCEED
9 2% OF THE REAL PROPERTY TAXES RETURNED AS DELINQUENT FOR THAT YEAR
10 BY ALL TAXING UNITS IN THAT COUNTY.

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

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

24 (11) A PURCHASE UNDER SECTION 78M IS SUBJECT TO THE PROVISIONS
25 OF THIS SECTION AND THE PURCHASER IS CONCLUSIVELY PRESUMED TO KNOW
26 WITHOUT NOTICE THAT SUCH A PURCHASE IS MADE SUBJECT TO THE
27 PROVISIONS OF THIS SECTION. HOWEVER, IF TAXES ARE DEFERRED UNDER

1 THIS SECTION THE PURCHASER MAY REDEEM THE TAX SALE CERTIFICATE OR
2 TAX DEED FROM THE FORECLOSING GOVERNMENTAL UNIT FOR THE PURCHASE
3 PRICE.

4 (12) AS USED IN THIS SECTION:

5 (A) "QUALIFIED PERSON" MEANS A SENIOR CITIZEN WITH A HOUSEHOLD
6 INCOME IN THE IMMEDIATELY PRECEDING CALENDAR YEAR THAT IS LESS THAN
7 187.5% OF THE FEDERAL POVERTY LEVEL FOR 2 PERSONS OR THE NUMBER OF
8 PERSONS IN THE HOUSEHOLD, WHICHEVER IS GREATER, OR AN ADULT IN NEED
9 OF PROTECTIVE SERVICES AS THAT TERM IS DEFINED IN SECTION 11 OF THE
10 SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.11, WHO HAS APPLIED FOR
11 AND ASSIGNED ALL HOMESTEAD PROPERTY TAX CREDITS THAT MAY BE CLAIMED
12 DURING THE PERIOD IN WHICH TAXES ARE DEFERRED.

13 (B) "SENIOR CITIZEN" MEANS A PERSON WHO IS 65 YEARS OF AGE OR
14 OLDER AND INCLUDES THE UNREARRIED SURVIVING SPOUSE OF A PERSON WHO
15 WAS 65 YEARS OF AGE OR OLDER AT THE TIME OF DEATH.

16 (C) "HOMESTEAD PROPERTY TAX CREDIT" MEANS THE CREDIT PROVIDED
17 UNDER SECTIONS 520 AND 522 OF THE INCOME TAX ACT OF 1967, 1967 PA
18 281, MCL 206.520 AND 206.522.

19 (D) "HOUSEHOLD INCOME" MEANS THAT TERM AS DEFINED IN SECTION
20 508 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.508.

21 (E) "PRINCIPAL RESIDENCE" MEANS THAT TERM AS DEFINED IN
22 SECTION 7DD.