SENATE BILL No. 598

June 20, 2007, Introduced by Senators CASSIS and PAPPAGEORGE and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled

"The general property tax act,"

by amending section 7cc (MCL 211.7cc), as amended by 2006 PA 664.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

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(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed **AND THAT IF THE AFFIDAVIT IS FILED AFTER MAY 1 THE PROPERTY IS NOT ELIGIBLE FOR THE EXEMPTION UNDER THIS SECTION UNTIL THE IMMEDIATELY SUCCEEDING YEAR**. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(*i*) That person has claimed an exemption under this section for any other property for that tax year.

(*ii*) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be

waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the

corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days

of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization

director or his or her designee believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal

within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) An affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For

any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.

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

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. **THE AFFIDAVIT FORM SHALL STATE THAT IF THE AFFIDAVIT IS FILED AFTER MAY 1 THE PROPERTY IS NOT ELIGIBLE FOR THE EXEMPTION UNDER THIS SECTION UNTIL THE IMMEDIATELY SUCCEEDING YEAR.** A person who prepares a closing statement for the sale of property shall

provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the

date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this

section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 70%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 70%.

(*iii*) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

(*i*) The square footage of the property used exclusively as that owner's principal residence.

(*ii*) 50% of the square footage of the property's common area.

(*iii*) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(*i*) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(*ii*) Serves meals at no extra cost to its transient tenants.

(*iii*) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) "Common area" includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.