

HOUSE BILL No. 5076

November 10, 2015, Introduced by Rep. Schor and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 19 and 22 (MCL 211.19 and 211.22), section 19
as amended by 2014 PA 87 and section 22 as amended by 2013 PA 153,
and by adding section 9p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9P. (1) BEGINNING DECEMBER 31, 2015, ELIGIBLE DATA CENTER
2 PROPERTY FOR WHICH AN EXEMPTION HAS BEEN PROPERLY CLAIMED UNDER
3 THIS SECTION IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT.

4 (2) AN OWNER OF ELIGIBLE DATA CENTER PROPERTY SHALL CLAIM THE
5 EXEMPTION UNDER THIS SECTION BY ANNUALLY FILING AN AFFIDAVIT WITH
6 THE LOCAL TAX COLLECTING UNIT IN WHICH THE ELIGIBLE DATA CENTER
7 PROPERTY IS LOCATED NOT LATER THAN DECEMBER 31 IN EACH TAX YEAR.
8 THE AFFIDAVIT SHALL BE IN A FORM PRESCRIBED BY THE STATE TAX
9 COMMISSION AND SHALL INCLUDE ANY ADDRESS WHERE ANY PROPERTY OWNED

1 BY, LEASED TO, OR IN THE POSSESSION OF THAT OWNER AND ANY
2 AFFILIATED COLOCATED BUSINESS IS LOCATED WITHIN THAT LOCAL TAX
3 COLLECTING UNIT.

4 (3) IF AN AFFIDAVIT CLAIMING THE EXEMPTION UNDER THIS SECTION
5 IS FILED AS PROVIDED IN SUBSECTION (2), THE OWNER OF THAT ELIGIBLE
6 DATA CENTER PROPERTY IS NOT REQUIRED TO ALSO FILE A STATEMENT UNDER
7 SECTION 19 IN THAT TAX YEAR.

8 (4) A PERSON WHO CLAIMS AN EXEMPTION FOR ELIGIBLE DATA CENTER
9 PROPERTY UNDER THIS SECTION SHALL MAINTAIN BOOKS AND RECORDS AND
10 SHALL PROVIDE ACCESS TO THOSE BOOKS AND RECORDS AS PROVIDED IN
11 SECTION 22.

12 (5) IF THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT BELIEVES
13 THAT PROPERTY FOR WHICH AN AFFIDAVIT CLAIMING AN EXEMPTION IS FILED
14 UNDER SUBSECTION (2) IS NOT ELIGIBLE DATA CENTER PROPERTY, THE
15 ASSESSOR MAY DENY THAT CLAIM FOR EXEMPTION BY NOTIFYING THE PERSON
16 THAT FILED THE AFFIDAVIT IN WRITING OF THE REASON FOR THE DENIAL
17 AND ADVISING THE PERSON THAT THE DENIAL MAY BE APPEALED TO THE
18 BOARD OF REVIEW UNDER SECTION 30 OR 53B DURING THAT TAX YEAR. THE
19 ASSESSOR MAY DENY A CLAIM FOR EXEMPTION UNDER THIS SUBSECTION FOR
20 THE CURRENT YEAR ONLY. IF THE ASSESSOR DENIES A CLAIM FOR
21 EXEMPTION, THE ASSESSOR SHALL REMOVE THE EXEMPTION OF THAT PROPERTY
22 AND AMEND THE TAX ROLL TO REFLECT THE DENIAL AND THE LOCAL
23 TREASURER SHALL WITHIN 30 DAYS OF THE DATE OF THE DENIAL ISSUE A
24 CORRECTED TAX BILL FOR ANY ADDITIONAL TAXES.

25 (6) IF A PERSON FRAUDULENTLY CLAIMS AN EXEMPTION FOR PROPERTY
26 UNDER THIS SECTION, THAT PERSON IS SUBJECT TO THE PENALTIES
27 PROVIDED FOR IN SECTION 21(2).

(7) AS USED IN THIS SECTION:

(A) "COLOCATED BUSINESS" MEANS A PERSON THAT ENTERS INTO A CONTRACT WITH A DATA CENTER TO USE OR OCCUPY ALL OR PART OF THE DATA CENTER FOR THE PURPOSE DESCRIBED IN SUBDIVISION (C).

(B) "COMMERCIAL PERSONAL PROPERTY" MEANS PERSONAL PROPERTY THAT IS CLASSIFIED AS COMMERCIAL PERSONAL PROPERTY UNDER SECTION 34C OR WOULD BE CLASSIFIED AS COMMERCIAL PERSONAL PROPERTY UNDER SECTION 34C IF NOT EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT UNDER THIS SECTION.

(C) "DATA CENTER" MEANS 1 OR MORE BUILDINGS LOCATED AT 1 OR MORE PHYSICAL LOCATIONS IN THIS STATE THAT ARE OWNED OR OPERATED BY AN ENTITY WHOSE PRIMARY BUSINESS IS OWNING, OPERATING, MANAGING, OR MAINTAINING A GROUP OF NETWORKED COMPUTERS FOR THE PURPOSE OF CENTRALIZING THE STORAGE, MANAGEMENT, AND DISSEMINATION OF DATA OR INFORMATION PERTAINING TO 1 OR MORE BUSINESSES. THE TERM INCLUDES ANY MODULAR OR PREASSEMBLED COMPONENTS, ASSOCIATED TELECOMMUNICATIONS AND STORAGE SYSTEMS, AND, IF THE DATA CENTER INCLUDES MORE THAN 1 BUILDING OR PHYSICAL LOCATION, ANY NETWORK OR CONNECTION BETWEEN THOSE BUILDINGS OR PHYSICAL LOCATIONS.

(D) "ELIGIBLE DATA CENTER PROPERTY" MEANS PROPERTY THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

(i) IS INDUSTRIAL PERSONAL PROPERTY OR COMMERCIAL PERSONAL PROPERTY, OR IS A FIXTURE ON OR APPURTENANCE TO LAND.

(ii) IS DIRECTLY USED TO OPERATE, MAINTAIN, MANAGE, OR SUPPORT THE BUSINESS OF A DATA CENTER OR A COLOCATED BUSINESS.

(E) "FIXTURE ON OR APPURTENANCE TO LAND" MEANS THOSE TERMS AS USED IN SECTION 2.

1 (F) "INDUSTRIAL PERSONAL PROPERTY" MEANS PERSONAL PROPERTY
2 THAT IS CLASSIFIED AS INDUSTRIAL PERSONAL PROPERTY UNDER SECTION
3 34C OR WOULD BE CLASSIFIED AS INDUSTRIAL PERSONAL PROPERTY UNDER
4 SECTION 34C IF NOT EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS
5 ACT UNDER THIS SECTION.

6 Sec. 19. (1) A supervisor or other assessing officer, as soon
7 as possible after entering upon the duties of his or her office or
8 as required under the provisions of any charter that makes special
9 provisions for the assessment of property, shall ascertain the
10 taxable property in his or her assessing district, the person to
11 whom it should be assessed, and that person's residence.

12 (2) Except as otherwise provided in section 9m, 9n, ~~or 9o~~, OR
13 9P, the supervisor or other assessing officer shall require any
14 person whom he or she believes has personal property in their
15 possession to make a statement of all the personal property of that
16 person whether owned by that person or held for the use of another
17 to be completed and delivered to the supervisor or assessor on or
18 before February 20 of each year. A notice the supervisor or other
19 assessing officer provides regarding that statement shall also do
20 all of the following:

21 (a) Notify the person to whom such notice is given of the
22 exemptions available under sections 9m, 9n, and 9o.

23 (b) Explain where information about those exemptions, the
24 forms and requirements for claiming those exemptions, and the forms
25 for the statement otherwise required under this section are
26 available.

27 (c) Be sent or delivered by not later than January 10 of each

1 year.

2 (3) If a supervisor, an assessing officer, a county tax or
3 equalization department provided for in section 34, or the state
4 tax commission considers it necessary to require from any person a
5 statement of real property assessable to that person, it shall
6 notify the person, and that person shall submit the statement.

7 (4) A local tax collecting unit may provide for the electronic
8 filing of the statement required under subsection (2) or (3).

9 (5) A statement under subsection (2) or (3) shall be in a form
10 prescribed by the state tax commission. If a local tax collecting
11 unit has provided for electronic filing of the statement under
12 subsection (4), the filing format shall be prescribed by the state
13 tax commission. The state tax commission shall not prescribe more
14 than 1 format for electronically filing a statement under
15 subsection (2) or more than 1 format for electronically filing a
16 statement under subsection (3).

17 (6) A statement under subsection (2) or (3) shall be signed
18 manually, by facsimile, or electronically. A supervisor or assessor
19 shall not require that a statement required under subsection (2) or
20 (3) be filed before February 20 of each year.

21 (7) A supervisor or assessor shall not accept a statement
22 under subsection (2) or (3) as final or sufficient if that
23 statement is not in the proper form or does not contain a manual,
24 facsimile, or electronic signature. A supervisor or assessor shall
25 preserve a statement that is not in the proper form or is not
26 signed as in other cases, and that statement may be used to make
27 the assessment and as evidence in any proceeding regarding the

1 assessment of the person furnishing that statement.

2 (8) An electronic or facsimile signature shall be accepted by
3 a local tax collecting unit using a procedure prescribed by the
4 state tax commission.

5 (9) A statement under subsection (2) for 2015 shall include a
6 schedule of when any personal property included in the statement
7 will become eligible for exemption under section 9m or 9n. For 2015
8 statements under subsection (2) that identify property eligible for
9 exemption under section 9m or 9n, a supervisor or assessor shall
10 provide to the department of treasury by June 1, 2015 a copy of the
11 statement, or the information on the statement, as prescribed by
12 the department of treasury. The department of treasury's use of a
13 statement, or information on a statement, provided under this
14 subsection is subject to section 28(1)(f) of 1941 PA 122, MCL
15 205.28.

16 Sec. 22. (1) If a supervisor, assessing officer, member of the
17 state tax commission, or director or deputy director of the county
18 tax or equalization department is satisfied that a statement
19 required under section 19 is incorrect, or if a statement required
20 under section 19 cannot be obtained from the person, firm, or
21 corporation whose property is assessed, a supervisor, assessing
22 officer, member of the state tax commission, or director or deputy
23 director of the county tax or equalization department may examine,
24 under oath to be administered by the supervisor, assessing officer,
25 member of the state tax commission, or director or deputy director
26 of the county tax or equalization department, any person he or she
27 believes has knowledge of the amount or value of any property

1 owned, held, or controlled by the person neglecting, refusing, or
2 omitting to be examined or to furnish the statement required under
3 section 19.

4 (2) A person who files an affidavit claiming an exemption for
5 personal property under section 9o shall maintain adequate books
6 and records relating to the description; the date of purchase,
7 lease, or acquisition; and the purchase price, lease amount, or
8 value of all industrial personal property and commercial personal
9 property owned by, leased by, or in the possession of that person
10 or a related entity for 4 years after filing an affidavit claiming
11 the exemption. A person who files an affidavit claiming an
12 exemption for personal property under section 9o shall provide
13 access to the books and records relating to the description; the
14 date of purchase, lease, or acquisition; and the purchase price,
15 lease amount, or value of all industrial personal property and
16 commercial personal property owned by, leased by, or in the
17 possession of that person or a related entity if requested by the
18 assessor of the local tax collecting unit, county equalization
19 department, or department of treasury for 4 years immediately
20 succeeding the year in which that person files an affidavit
21 claiming the exemption.

22 (3) A person who files an affidavit claiming an exemption for
23 personal property under section 9m or 9n shall maintain adequate
24 books and records relating to the description; the date of
25 purchase, lease, or acquisition; and the purchase price, lease
26 amount, or value of that personal property; the customary
27 industrial use for that personal property; and the asset

1 classification grouping of that personal property as applied in
2 mass appraisal techniques for assessing purposes until that
3 personal property is no longer eligible for exemption under section
4 9m or 9n. A person who claims an exemption for personal property
5 under section 9m or 9n shall provide access to the books and
6 records relating to the description; the date of purchase, lease,
7 or acquisition; and the purchase price, lease amount, or value of
8 that personal property; the customary industrial use for that
9 personal property; and the asset classification grouping of that
10 personal property as applied in mass appraisal techniques for
11 assessing purposes if requested by the assessor of the local tax
12 collecting unit, county equalization department, or department of
13 treasury in any year in which that person claims an exemption for
14 that personal property under section 9m or 9n.

15 (4) A PERSON WHO FILES AN AFFIDAVIT CLAIMING AN EXEMPTION FOR
16 PROPERTY UNDER SECTION 9P SHALL MAINTAIN ADEQUATE BOOKS AND RECORDS
17 RELATING TO THE DESCRIPTION; THE DATE OF PURCHASE, LEASE, OR
18 ACQUISITION; AND THE PURCHASE PRICE, LEASE AMOUNT, OR VALUE OF ALL
19 PROPERTY OWNED BY, LEASED BY, OR IN THE POSSESSION OF THAT PERSON
20 FOR 4 YEARS AFTER FILING AN AFFIDAVIT CLAIMING THE EXEMPTION. A
21 PERSON WHO FILES AN AFFIDAVIT CLAIMING AN EXEMPTION FOR PROPERTY
22 UNDER SECTION 9P SHALL PROVIDE ACCESS TO THE BOOKS AND RECORDS
23 RELATING TO THE DESCRIPTION; THE DATE OF PURCHASE, LEASE, OR
24 ACQUISITION; AND THE PURCHASE PRICE, LEASE AMOUNT, OR VALUE OF ALL
25 PROPERTY OWNED BY, LEASED BY, OR IN THE POSSESSION OF THAT PERSON
26 IF REQUESTED BY THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT,
27 COUNTY EQUALIZATION DEPARTMENT, OR DEPARTMENT OF TREASURY FOR 4

1 YEARS IMMEDIATELY SUCCEEDING THE YEAR IN WHICH THAT PERSON FILES AN
2 AFFIDAVIT CLAIMING THE EXEMPTION.

3 (5) ~~(4)~~—The assessor of a local tax collecting unit shall
4 preserve all affidavits claiming an exemption for personal property
5 filed under sections 9m, 9n, ~~and 9o~~, **AND 9P** for not less than 4
6 years after completion of the assessment roll for which the
7 affidavits are filed.

8 (6) ~~(5)~~—A supervisor or assessing officer is authorized to
9 assess to a person, firm, or corporation subject to assessment the
10 amount of real and personal property the supervisor or assessing
11 officer considers reasonable and just.