



















Except for the one instance described above, involving the Small Business Taxpayer Exemption, the March Board of Review DOES NOT have the authority to make any change to any assessments for any prior year. The March Board also cannot:

1. Make decisions on principal residence exemptions or applications for **new** qualified agricultural exemptions.
2. Review the denial of a Principal Residence Exemption by an auditing county or by the Michigan Department of Treasury.
3. Review the denial of a Qualified Forest Exemption by the Michigan Department of Agriculture and Rural Development.
4. Consider an appeal relating to the Eligible Personal Property Exemption (the Small Business Taxpayer Exemption provided for in MCL 211.9o) or the Eligible Manufacturing Personal Property Exemption (provided for in MCL 211.9m and MCL 211.9n) unless a timely and fully completed form 5076 or form 5278, respectively, was filed.

### **Do the July and December Boards have different authorities than the March Board of Review?**

Yes, the July and December Boards of Review meet to correct qualified errors and to consider appeals related to Principal Residence Exemptions, Qualified Agricultural Exemptions, Taxable Value uncapping, the Qualified Start-up Business Exemption, the Disabled Veteran's Exemption and Poverty Exemptions. A fuller discussion of the July and December Board of Review jurisdiction is set forth in the Appendix.

### **What is a qualified error? (Please see Bulletin 5 of 2017. (Appendix))**

Qualified errors are defined in the act as:

- A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.
- A mutual mistake of fact.
- An adjustment under section 27a(4) – taxable value or an exemption under section 7hh(3)(b)– qualified start-up business exemption.
- An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
- An error of omission or inclusion of a part of the real property being assessed.
- An error regarding the correct taxable status of the real property being assessed.
- An error made by the taxpayer in preparing the statement of assessable personal property under section 19.
- An error made in the denial of a claim of exemption for personal property under section 9o.

### **What is the definition of a clerical error?**

Clerical Error was defined by the Court of Appeals in *International Place Apartments v Ypsilanti Township* 216 Mich App 104; 548 NW2d 668 (1996), as “an error of a transpositional, typographical, or mathematical nature.” July and December Boards of

Review are NOT allowed to revalue or reappraise property when the reason for the action is that the assessor did not originally consider all relevant information. The July and December Boards of Review are NOT allowed to revalue or reappraise property when the reason for the action is that the assessor did not originally consider all relevant information.

### **What is the definition of a mutual mistake of fact?**

Mutual Mistake of Fact was defined by the Court of Appeals in *Ford Motor Co v City of Woodhaven*, 475 Mich 425; 716 NW2d 247 (2006) as “an erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction.” This definition was clarified by the Michigan Supreme Court in *Briggs Tax Service, LLC v Detroit Public Schools*, 485 Mich 69; 780 NW2d 753 (2010). The Michigan Supreme Court indicated that to qualify, the “mutual mistake of fact” must be one that occurs only between the assessor and the taxpayer.

### **Do the July and December Boards of Review have any authority to grant an Eligible Manufacturing Personal Property (EMPP) Exemption?**

No, failure to properly claim the EMPP exemption pursuant to the statutory requirements is not a qualified error under MCL 211.53b. A taxpayer who filed a personal property tax statement, Form 632, cannot appeal to the July or December Boards of Review.

### **Do the July and December Boards of Review has the authority to grant an EMPP Exemption for assessor that misplaced or failed to process a timely filed Form 5278?**

No, the July and December Boards of Review have no authority over EMPP exemptions in MCL 211.9m or MCL 211.9n. If an assessor misplaces or missed a timely filed Form 5278, that **is not** considered a clerical error or a mutual mistake and cannot be considered by the July or December Boards of Review.

### **What are the Board of Review members’ responsibilities once they finish their work?**

After the March Board of Review completes its review of the assessment roll, a majority of the entire board membership must endorse a statement that the roll is the assessment roll of the Township for the year in which it was prepared and approved by the Board of Review MCL 211.30(5). (Appendix)

### **What are the authorities of the Board related to property classification?**

A person or entity may petition the **March** Board of Review regarding the classification of property. July or December Boards cannot change classification.

When considering the petition, it is necessary to remember that the zoning of a particular property does not dictate the classification of a property for assessment purposes. It may, however, be an influencing factor. A Question and Answer document that explains property classification is available on the State Tax Commission website

at: [www.michigan.gov/statetaxcommission](http://www.michigan.gov/statetaxcommission).

Boards of Review must, with their notice of denial of a classification appeal, provide STC Form 2167 to the petitioner. Form 2167 is the form used to appeal a classification decision by the Board of Review to the State Tax Commission.

### **What are the Board of Review's Authorities related to Assessed Values?**

Property must be assessed at 50% of True Cash Value and the Assessed Value must be uniform with the assessments of other similar properties.

According to the Michigan Supreme Court, a Board of Review may NOT make wholesale or across the board adjustments to assessments. A Board of Review must consider each parcel and act upon it individually. A Board of Review DOES NOT have the authority to make changes to alter, evade or defeat an equalization factor assigned by the county or the state.

If the Board of Review changes an Assessed Value, it must also consider whether this change has caused the Tentative Taxable Value to change. This could happen because Tentative Taxable Value is the lower of the Assessed Value and the Capped Value. Also, changing the assessed value of items added to or removed from the property will likely cause a change in Taxable Value.

### **Does the Board have any authority over Taxable Value?**

The law requires that the assessment roll must show the Tentative Taxable Value for each parcel of property. Once the Capped Value and the Assessed Value are properly calculated, the Tentative Taxable Value is the lower of the two (assuming there has not been a "transfer of ownership" on the property).

A Board of Review cannot raise or lower the Tentative Taxable Value, unless they also raise or lower the Assessed Value and/or the Capped Value. An exception could occur if there was a "transfer of ownership" on a property in the prior year and the assessor had not uncapped the Taxable Value, if the opposite occurred, or if the taxable value was not calculated in the manner required by the General Property Tax Act in a previous year.

### **Can the Board of Review reject outright the roll prepared by the Assessor and prepare our own roll?**

The Board of Review may not reject or prepare an assessment roll but must consider only the assessment roll prepared by the assessor. If a Board of Review believes there are significant problems with the roll presented by the assessor they should contact the State Tax Commission.

### **What is the Board of Review's authority over Property Tax Exemptions?**

Property tax exemptions are to be granted only according to authorizing provisions of

the law. Generally, it holds true that the Courts require a NARROW interpretation of exemptions. In order to qualify for an exemption, a property must have the qualifications required by the specific authorizing statute.

### **What is a Principal Residence Exemption?**

Properties qualified as a homeowners principal residence, are exempt from some school operating taxes (usually 18 mills). This exemption does not apply to Taxable Value but applies to millages only.

### **Does the Board have any authority over Principal Residence Exemptions?**

The **March** Board of Review has no authority to consider or act upon protests or appeals of Homeowner's Principal Residence Exemptions. If the assessor denies a homeowner's principal residence exemption, the owner may appeal to the Michigan Tax Tribunal within 35 days after the notice of denial, NOT to the March Board of Review.

The July and December Boards of Review do have authority to grant a principal residence exemption for the current year and up to three prior years. Appeals from these decisions are also made within 35 days to the Michigan Tax Tribunal.

### **What are the Board's authorities over Poverty Exemptions?**

Poverty exemptions may be heard at either the March, July or December Boards of Review. However, once a poverty exemption is considered by a Board of Review, it may not be reconsidered by a later BOR in the same year. For instance, if a poverty exemption is denied at the July Board of Review, it may not be reconsidered at the December Board of Review, even if new information is presented. MCL 211.7u (5) states:

*(5) The Board of Review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the Board of Review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.*

Please see Bulletin 6 of 2017 (Appendix) for detailed poverty guidelines and the State Tax Commission annual Bulletin, which details changes for the next assessment year and provides federal guidelines on poverty levels.

**Note:** PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test. An asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes. The asset test should calculate a maximum amount permitted and all other assets (excluding the value of the principal residence) above that amount should be considered as available.

## **Does the Board have any authority related to Qualified Agricultural Property Exemptions?**

The **March** Board of Review has authority only to consider and act on protests for the current year regarding the assessor's discontinuance of the immediately preceding year's Qualified Agricultural Exemption.

If an assessor believes that a property for which a qualified agricultural property exemption has been granted in the prior year will not be qualified agricultural property in the current tax year, the assessor may deny or modify the exemption. The assessor must notify the owner in writing and mail the notice to the owner not less than fourteen (14) days before the second meeting of the March Board of Review. A taxpayer may then appeal the assessor's determination to the March Board of Review.

Properties that meet the requirements of the qualified agricultural property exemption as of May 1 of the current tax year shall be exempted by the assessor from the 18 mills starting with the current year tax bills. If the assessor denies a current year exemption because the property does not qualify as of May 1, the owner may appeal that denial to the July or December Board of Review.

A question and answer document that explains the Qualified Agriculture Program is available at: [www.michigan.gov/statetaxcommission](http://www.michigan.gov/statetaxcommission) under publications.

## **What are the authorities of the Board related to Industrial Facilities Tax Roll (IFT) Certificates?**

In this document we will only briefly touch on the subject of IFT's.

The **March** Board of Review may adjust the property's land assessment on the ad valorem roll; land is not exempted by an IFT. The March Board of Review may adjust the IFT Roll assessment of a "New" Industrial Facilities Tax Certificate.

The IFT Roll assessment of a property with a "Rehabilitation" certificate or "Replacement" certificate CANNOT have its assessment altered by a March Board of Review during the life of the certificate.

Additional information regarding IFT exemptions is available at: [www.michigan.gov/propertytaxexemptions](http://www.michigan.gov/propertytaxexemptions).

## **What about other issues like Downtown Development Authorities, Tax Increment Finance Authorities, and Local Development Finance Authorities?**

There are no separate assessment rolls for these authorities. The March Board of Review does have the authority to consider and/or alter the Assessed and Taxable Values for the CURRENT year only for properties within these districts.

## **How should the Board of Review note changes in the Assessment Roll?**

State Tax Commission Bulletin 14 of 1994 states that the assessment roll shall have a Board of Review column large enough to accommodate changes to the Assessed Value, the Capped Value, and the Tentative Taxable Value. The changes to each of these must be recorded separately on the roll and must be made in ink. This may be accomplished by placing an "A" behind a revised Assessed Value, a "C" behind a revised Capped Value, and a "T" behind a revised Tentative Taxable Value.

## **Do we need to keep documentation of why we made changes to the roll?**

The State Tax Commission requires that all Boards of Review maintain appropriate documentation of their decisions including: minutes, a copy of the form 4035 and a copy of the form 4035a whenever the Board of Review makes a change that causes the Taxable Value to change. The 4035 must include a detailed reason why the Board made their determination.

The following are changes, which could cause Taxable Value to change and therefore require a 4035a:

- 1) A change in the amount of a LOSS (used in the Capped Value formula).
- 2) A change in the amount of an ADDITION (used in the Capped Value formula).
- 3) A change in the amount of the current year Assessed Value.
- 4) The correction of a Taxable Value where the previous year's taxable value failed to comply with the requirements of the General Property Tax Act, arising from the failure uncap a Taxable Value or to recognized a capped value ADDITION or a capped value LOSS in a prior assessment year.

Minutes must include:

- a) Date, time and place of meetings.
- b) Members present and members absent and notation of any correspondence received.
- c) A log should be kept that identifies the hearing date, the petition number, the petitioner's name, the parcel number, type of appearance, type of appeal and action of the board of review.
- d) Actual hours in session should be recorded daily, and time of daily adjournments recorded. Date and time of closing of the final March session should be recorded.

## **Who keeps the minutes and documentation?**

Minutes and documentation should be filed with the Clerk of the local unit of government.

## **When a Board of Review makes a change to value is that change permanent?**

MCL 211.30c requires that when the March Board of Review or the Michigan Tax Tribunal REDUCES the Assessed Value or Taxable Value of a property that the reduced amount must be used as the BASIS for calculating the assessment in the immediately succeeding year.

**IMPORTANT NOTE:** This only applies to CHANGES when the MTT hearing is held in the same calendar year as the year of the assessment being appealed. Therefore, if the MTT hearing for a 2015 assessment appeal isn't held until 2016, the resulting assessment does not have to be used as the basis for the 2016 assessment. It does, however, become the basis for assessment in 2017.

Boards of Review are cautioned that the "BASIS" for an assessment does not necessarily become the assessment. The dictionary defines basis as the base, foundation, or chief supporting factor of anything. Assessments have to be at 50% of True Cash Value and uniform. Also, the fact that an assessment reduced by a Board of Review may become the "basis" of the next year's assessment is not, in and of itself, a legitimate reason for a Board of Review to reduce an assessment.

## **Introduction to Assessing**

It is the responsibility of the assessor to assess property in accordance with the law and accepted practices. A Board of Review is not the assessor. The Board of Review is, in fact, embodied to hear petitions that challenge a decision of the assessor and it is the Board of Reviews responsibility to make an independent judgment based on the facts and on law.

This section is intended to provide only an introduction to assessing, answering very basic questions a member of a Board of Review might encounter. The assessor will be able to provide examples and offer greater detail than is provided here and should be consulted if the Board has questions regarding their authorities, statute or questions regarding a specific property.

### **What is Assessed Value?**

Michigan law requires that all property be uniformly assessed at 50% of the usual selling price, or the True Cash Value. Each year, assessors must prepare an assessment roll that contains Assessed Valuations at 50% of True Cash Value.

### **What is Taxable Value?**

Except when there is a transfer of ownership in the prior year, Taxable Value for a

parcel of property is the LOWER of the *State Equalized Value* for the parcel or the *Capped Value* for the parcel.

### **What is State Equalized Value?**

State Equalized Value or SEV is the Assessed Value, as adjusted by State and County Equalization multipliers. Usually equalization multipliers are 1.0000 and when they are, Assessed Value and SEV are equal.

### **What is Capped Value?**

Capped Value is calculated by adjusting the prior year value of the property by any additions or losses and multiplying by the inflation rate multiplier (IRM). The IRM is calculated based on statute and cannot be greater than 1.05 (1 + 5%).

The Capped Value formula is: (Prior Year Taxable Value – Losses) X (IRM) + Additions.

### **What is the Inflation Rate Multiplier and how is it calculated?**

**Inflation Rate** is defined in the Statute as the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

The Statute also defines **General Price** as the annual average of the 12 monthly values for the United States consumer price index for all urban consumers as defined and officially reported by the United States Department of Labor, Bureau of Labor Statistics.

Based on this statutory requirement, a sample calculation for 2016 is as follows:

- A. The 12 monthly values for October 2013 through September 2014 are averaged.
- B. The 12 monthly values for October 2014 through September 2015 are averaged.

The ratio of B divided by A is calculated and this becomes the IRM.

### **Does the Board have any authority over Capped Values?**

If correct figures have been used in the Capped Value formula for the prior year Taxable Value and for the current Inflation Rate Multiplier, the Board of Review cannot make a change that results in a different Capped Value of the property.

The Board of Review may change the amount of the Losses and Additions used in the Capped Value formula, if they determine they are improper. Only factual information should be used to amend the Losses or Additions in the Capped Value formula.

**NOTE:** The Michigan Supreme Court ruled in *WPW Acquisition Company v City of Troy* (No. 118750) that an increase in value attributable to an increase in a property's occupancy rate is NOT a legal addition in the Capped Value formula.



## **What is Uncapping?**

When a property transfers ownership as defined by law, the property's Taxable Value uncaps the following year. A property on which a "Transfer of Ownership" occurred shall have its Taxable Value uncapped the following year. For example, a property that transferred in 2012 will have the 2013 Taxable Value "uncapped" to equal its 2013 SEV.

A Question and Answer document regarding many common Transfer of Ownership questions is available at [www.michigan.gov/statetaxcommission](http://www.michigan.gov/statetaxcommission) under Publications.

## **Does the Property then "recap"?**

The growth of Taxable Value for transferred properties will then be capped again in the second year following the "Transfer of Ownership".

## **What are the authorities of the Board over Transfers of Ownership and Uncapping?**

The assessor of each Township and City is required by law to review all of the transfers and conveyances that occurred in the prior year and determine which of these transfers and conveyances are "Transfers of Ownership".

The determination by the assessor that a particular transfer or conveyance is a "Transfer of Ownership" and that the property's Taxable Value should be uncapped is subject to review by the March Board of Review either on the Board's own initiative or at the request of a property owner.

Public Act (PA) 23 of 2005 granted the July or December Board of Review the authority to correct the Taxable Value of property which was previously uncapped if the assessor later determines there had NOT been a Transfer of Ownership of that property. This authority applies to the current year and the 3 immediately preceding years. Bulletin 9 of 2005 provides more detailed information.

## **Can a Board of Review set the SEV or Assessed Value at the sales price of the property?**

No, this practice is illegal in Michigan. An individual sale price IS NOT the same as True Cash Value (similar to market value) of the property due to a variety of reasons, such as; an uninformed buyer, an uninformed seller, insufficient marketing time, buyer and seller are relatives, and other reasons. Actual price is seldom equal to value.

Section 27(5) of the General Property Tax Act states the following: "Beginning December 31, 1994, the purchase price paid in a transfer of property is not the presumptive True Cash Value of the property transferred. In determining the True Cash Value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of the same classification in the assessing jurisdiction."

Therefore, a Board of Review does NOT have the authority to change an assessment solely on the sales price.

**Is this what the State Tax Commission means when it says a Board of Review or Assessor cannot “follow sales”?**

Yes. “Following sales” is defined in the State Tax Commission’s Assessor’s Manual as the practice of ignoring the assessment of properties, which have not recently been sold while making significant changes to the assessments of properties, which have been sold. The practice of “following sales” is a serious violation of the law. The practice of following sales results in assessments that are not uniform.

**We get a lot of complaints that taxes are going up when markets are going down and/or people can’t sell their homes for the value on the assessment roll. How should we address these issues?**

County Equalization Studies are prepared by Equalization Departments and submitted annually by the Equalization Department to the State Tax Commission on or before December 31. These studies help adjust the level of Assessed Values for changes in local markets. One year or 12-month studies may be used where there is evidence of a declining real estate market. The simple fact that a person cannot sell their home for the value on the roll does not make the value on the roll incorrect.

Because of the Taxable Value cap, there may be a gap between Assessed Value and Taxable Value. Therefore, the Assessed Value of a home may decrease while Taxable Value and the taxes increase.

**Example:**

Last year a home had a True Cash Value of \$200,000, SEV of \$100,000 and a Taxable Value of \$80,000. The sales study shows the True Cash Value of the property has decreased to \$180,000. The Inflation Rate Multiplier is 1.024.

Current Assessed Value is:	\$100,000
Current SEV is:	\$100,000
Capped Value (\$80,000 x 1.024)	\$ 81,920
Taxable Value =	\$81,920 (lesser of \$100,000 SEV or \$81,920 Capped Value)



## **JURISDICTION OF THE JULY AND DECEMBER BOARDS OF REVIEW**

(Notice that the July/December Boards of Review may, or may not, have jurisdiction over a given assessment issue, or may have jurisdiction over different assessment years, depending on whether the Assessor has already denied the requested action and/or recommends or refuses to recommend the action. When analyzing the July/December Board's jurisdiction relating to an issue, it is necessary for the reader to examine all of the sections set forth below before reaching a conclusion.)

### **NO JURISDICTION**

- A denial by the March Board of Review of a Poverty Exemption under MCL 211.7u cannot be reconsidered by the July or December Board of Review. (The Taxpayer must appeal to the Michigan Tax Tribunal by the applicable appeal deadline.)
- A denial by the Assessor or by an auditing county of a Principal Residence Exemption (PRE) under MCL 211.7cc cannot be reviewed by the March, July or December Board of Review. (The Taxpayer must appeal the denial to the Michigan Tax Tribunal within 35 after the date of notice of the denial.)
- A denial by the Michigan Department of Treasury of a PRE under MCL 211.7cc cannot be reviewed by the March, July or December Board of Review. (The Taxpayer must appeal the denial to the Department of Treasury within 35 days after the date of notice of the denial.)
- A denial by the Assessor of the continuation for the current year of a Qualified Agricultural Property Exemption under MCL 211.7ee, where the exemption was in existence for the previous year (denial of the continuation of a previously existing Qualified Agricultural Property Exemption) cannot be reviewed by the July or December Board of Review. (This denial must be protested to the March Board and appealed to the Michigan Tax Tribunal.)
- The July and December Boards of Review cannot review the classification determinations made by the Assessor and/or by the March Board of Review. (Classification must be protested to the March Board and appealed to the State Tax Commission by June 30.)
- The July and December Boards of Review cannot consider changes in valuation (true cash value) which are not caused by the correction of a "qualified error," as defined in subsection 10 of MCL 211.53b (see the items listed under the heading "JURISDICTION OVER THE CURRENT YEAR PLUS THE IMMEDIATELY PRECEDING YEAR" below). The July and December Boards of Review do not have jurisdiction to revisit the Assessor's determinations which were made through the exercise of professional judgment, such as Quality Class (D, CD, C, BC, B or A for residential construction, depreciation and land value determinations, Economic Condition Factors, etc.), even if the Assessor or a Successor Assessor later believes that the original determination was mistaken. (Valuation appeals must be protested to the March Board and/or appealed to the MTT.)

- The July and December Boards of Review cannot recap a Taxable Value pursuant to PA 260 of 2000 where a purchaser of Qualified Agricultural Property files a late Affidavit (after the close of the March Board in the year of the transfer). Although the Taxable Value can be recapped pursuant to MCL 211.27a(8), the recapping has no retroactive effect and only applies to future tax payments. Pursuant to MCL 211.27a(9), no refund of taxes is permitted.
- The July and December Boards of Review cannot approve an exemption, or reverse an Assessor's denial of an exemption, for Eligible Manufacturing Personal Property that is Eligible New and/or Eligible Previously Existing Personal Property as described in MCL 211.9m and MCL 211.9n.
- The July and December Boards of Review cannot grant an Eligible Personal Property Exemption (a Small Business Taxpayer Exemption under MCL 211.9o) if Form 5076 is not filed by the due date for the form. A refusal of the Assessor to grant the eligible personal property exemption due to untimely filing is not a denial but, rather, is a failure to qualify for the exemption.
- The July and December Boards of Review have no authority over Eligible Manufacturing Personal Property Exemption (for Eligible New or for Eligible Previously Existing Personal Property under MCL 211.9n and MCL 211.9n). If an assessor misplaces or failed to properly act on a timely filed Form 5278, that is not considered a clerical error or mutual mistake and the July and December Boards of Review have no jurisdiction over these matters. Further, if a taxpayer that failed to properly claim the exemption is not a qualified error and cannot appeal to the July or December Boards of Review.
- The March, July and December Boards of Review may not consider any aspect of a delayed uncapping of Taxable Value pursuant to MCL 211.27b. A delayed uncapping is required when the Taxpayer fails to file a timely Transfer of Ownership Affidavit, form L-4260 (2766), after a Transfer of Ownership has occurred. After the close of the March Board of Review in the year that the uncapping should have occurred, the assessor is solely responsible for entering the delayed uncapping of Taxable Value, using form L-4054 (3214). After such a delayed uncapping has occurred, the Taxpayer must appeal to the Tax Tribunal if the Taxpayer disagrees with the uncapping.
- The July and December Boards of Review cannot approve an Eligible Development Property or Development Property exemption pursuant to MCL 211.7ss for any tax billing date prior to the date of the filing of Form 5033. It should be noted that, as of December 31, 2015, the Development Property exemption is no longer authorized (leaving only the Eligible Development Property exemption available) and that form 5033 must be filed by the preceding June 1<sup>st</sup> to exempt the summer billing and must be filed by the preceding November 1<sup>st</sup> to exempt the winter billing.
- The July and December Boards of Review cannot approve a Poverty Exemption pursuant to MCL 211.7u or a Disable Veteran's exemption pursuant to MCL 211.7b for any year prior to the current year.

- The July and December Boards of Review cannot reconsider any matter which was previously decided by a Board of Review. Instead, the Taxpayer was required to appeal the previous Board's determination to the Michigan Tax Tribunal.
- The July and December Boards of Review cannot review a denial by the Department of Agriculture and Rural Development of a Qualified Forest Exemption. Note that if the property has received the exemption (if the exemption has been granted) but the exemption is omitted from the roll, the July and December Boards of Review have jurisdiction to correct the roll for the current year and the immediately preceding year as detailed in the Section "JURISDICTION OVER THE CURRENT YEAR, PLUS THE IMMEDIATELY PRECEDING YEAR," set forth below.

### **JURISDICTION OVER THE CURRENT YEAR ONLY**

- The July and December Boards of Review may grant a Poverty Exemption, pursuant to MLC 211.7u, which was not denied by the March Board of Review or, in the case of the December Board of Review which was not denied by either the March or July Board of Review.
- The July and December Boards of Review may review a denial by the Assessor of a Qualified Agricultural Property Exemption, pursuant to MCL 211.7ee(6), for the current year if the exemption was not in existence for the previous year (the Boards may review the denial of a new application for property which is claimed to qualify by May 1 of the current year). The appeal must be filed at the July meeting unless the school does not make a summer levy or the Board does not meet in July. Notice that this authority only applies to new exemptions and if the Assessor denies the continuation of a previously existing exemption, the July and/or December Board does not have jurisdiction.
- The July and December Boards of Review may grant a Disabled Veteran's Exemption pursuant to MCL 211.7b for the current year only, unless a previous session of the Board that year issued a denial. A denial must be appealed to the Michigan Tax Tribunal and cannot be reconsidered at a subsequent meeting.

### **JURISDICTION OVER THE CURRENT YEAR, PLUS THE IMMEDIATELY PRECEDING YEAR**

- The July and December Boards of Review may grant of an exemption, at the election of the Taxpayer, for a Qualified Start-Up Business as provided in MCL 211.7hh.
- The July and December Boards of Review may correct the omission of a Qualified Forest Exemption that was approved by the Department of Agriculture and Rural Development but was mistakenly omitted from the roll, for the current year and the immediately preceding year, as provided in MCL 211.7jj[1](11).
- Pursuant to MCL 211.7ee(6), if property met the requirements to be Qualified Agricultural Property on or before May 1 of the year or years for which the exemption is claimed, and there has not been a previous denial of the exemption for that immediately

preceding year, the owner may file an appeal to the July or December Board of Review of the current year requesting that the Qualified Agricultural Exemption be granted for the immediately preceding year and/or for the current year.

- The July and December Boards of Review may correct “Qualified Errors,” *that have been previously verified by the Assessor*. “Qualified Errors” are defined to include the following:
  1. Correction of a Clerical Error. (The error must be an error made by the Assessor relating to the correct assessment figures, the rate of taxation or the mathematical computation of the tax or must be an error in the rate of taxation which was applied. The court decisions indicate that to be clerical error (other than the application of an incorrect rate of taxation), the Assessor must have made an error which is computational, transpositional or computational.)
  2. A Mutual Mistake of Fact, where the mistaken belief of fact was shared by the Assessor and the Taxpayer at the time the assessment was made.
  3. *For Real Property only*, an error as to the correct Taxable Status (exempt status) of the property
  4. *For Real Property only*, an error of Omission or Inclusion of part of the property.
  5. *For Real Property only*, an error of measurement or calculation of physical dimensions or components.
  6. *For Personal Property only*, an error by the Taxpayer in the preparation of a Personal Property Statement. The Taxpayer must have filed a Personal Property Statement on which the existing assessment was based. This is the only change permitted for personal property, unless there was an Assessor’s clerical error or a mutual mistake of fact.
  7. An error made in the denial of a claim of exemption of assessable personal property under MCL 211.9o. (Notice that an appeal by the Taxpayer of a denial rendered by the Assessor for a prior year cannot be considered by the July or December Board of Review, but that a qualified error can be considered for both the current year and the immediately preceding year. The distinction is that a qualified error is an error that the Assessor has verified, while an appeal of a denial made by the Assessor indicates disagreement between the Taxpayer and the Assessor relating to the correctness of the denial.)

**JURISDICTION OVER THE CURRENT YEAR, PLUS THE THREE IMMEDIATELY PRECEDING YEARS**

- The July and December Boards of Review may grant a PRE which was not previously denied for the year in question, pursuant to MCL 211.7cc(19).
- The July and December Boards of Review may re-cap a Taxable Value which was previously uncapped, when the Assessor determines that the previous un-capping was mistaken, pursuant to MCL 211.27a(4).



**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.28 Board of review for township or city; appointment, qualifications, and terms of members; vacancy; eligibility; quorum; adjournment; deciding questions; board of review committees; meetings; size, composition, and manner of appointment of board of review; alternate members; indorsement of assessment roll; duties and responsibilities contained in MCL 211.29.**

Sec. 28. (1) Those electors of the township appointed by the township board shall constitute a board of review for the township. At least 2/3 of the members shall be property taxpayers of the township. Members appointed to the board of review shall serve for terms of 2 years beginning at noon on January 1 of each odd-numbered year. Each member of the board of review shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy that occurs in the membership of the board of review. A member of the township board is not eligible to serve on the board or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child, of the assessor is not eligible to serve on the board or to fill any vacancy. A majority of the board of review constitutes a quorum for the transaction of business, but a lesser number may adjourn and a majority vote of those present shall decide all questions. At least 2 members of a 3-member board of review shall be present to conduct any business or hearings of the board of review.

(2) The township board may appoint 3, 6, or 9 electors of the township, who shall constitute a board of review for the township. If 6 or 9 members are appointed as provided in this subsection, the membership of the board of review shall be divided into board of review committees consisting of 3 members each for the purpose of hearing and deciding issues protested pursuant to section 30. Two of the 3 members of a board of review committee constitute a quorum for the transaction of the business of the committee. All meetings of the members of the board of review and committees shall be held during the same hours of the same day and at the same location.

(3) A township board may appoint not more than 2 alternate members for the same term as regular members of the board of review. Each alternate member shall be a property taxpayer of the township. Alternate members shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy that occurs in the alternate membership of the board of review. A member of the township board is not eligible to serve as an alternate member or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child, of the assessor is not eligible to serve as an alternate member or to fill any vacancy. An alternate member may be called to perform the duties of a regular member of the board of review in the absence of a regular member. An alternate member may also be called to perform the duties of a regular member of the board of review for the purpose of reaching a decision in issues protested in which a regular member has abstained for reasons of conflict of interest.

(4) The size, composition, and manner of appointment of the board of review of a city may be prescribed by the charter of a city. In the absence of or in place of a charter provision, the governing body of the city, by ordinance, may establish the city board of review in the same manner and for the same purposes as provided by this section for townships.

(5) A majority of the entire board of review membership shall indorse the assessment roll as provided in section 30. The duties and responsibilities of the board contained in section 29 shall be carried out by the entire membership of the board of review and a majority of the membership constitutes a quorum for those purposes.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3851;—Am. 1901, Act 129, Eff. Sept. 5, 1901;—CL 1915, 4022;—CL 1929, 3416;—Am. 1944, 1st Ex. Sess., Act 18, Imd. Eff. Feb. 19, 1944;—CL 1948, 211.28;—Am. 1964, Act 275, Eff. Aug. 28, 1964;—Am. 1968, Act 84, Imd. Eff. June 4, 1968;—Am. 1982, Act 539, Eff. Mar. 30, 1983;—Am. 1984, Act 149, Imd. Eff. June 25, 1984;—Am. 1993, Act 292, Imd. Eff. Dec. 28, 1993;—Am. 2006, Act 143, Imd. Eff. May 22, 2006.

**Popular name:** Act 206

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.29 Board of review of township; meeting; submission, examination, and review of assessment roll; additions to roll; correction of errors; compliance with act; review of roll on tax day; prohibitions; entering valuations in separate columns; approval and adoption of roll; conducting business at public meeting; notice of meeting; notice of change in roll.**

Sec. 29. (1) On the Tuesday immediately following the first Monday in March, the board of review of each township shall meet at the office of the supervisor, at which time the supervisor shall submit to the board the assessment roll for the current year, as prepared by the supervisor, and the board shall proceed to examine and review the assessment roll.

(2) During that day, and the day following, if necessary, the board, of its own motion, or on sufficient cause being shown by a person, shall add to the roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in the township, omitted from the assessment roll. The board shall correct errors in the names of persons, in the descriptions of property upon the roll, and in the assessment and valuation of property. The board shall do whatever else is necessary to make the roll comply with this act.

(3) The roll shall be reviewed according to the facts existing on the tax day. The board shall not add to the roll property not subject to taxation on the tax day, and the board shall not remove from the roll property subject to taxation on that day regardless of a change in the taxable status of the property since that day.

(4) The board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by the board, in a separate column.

(5) The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote of the board. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.

(6) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. Notice of the date, time, and place of the meeting of the board of review shall be given at least 1 week before the meeting by publication in a generally circulated newspaper serving the area. The notice shall appear in 3 successive issues of the newspaper where available; otherwise, by the posting of the notice in 5 conspicuous places in the township.

(7) When the board of review makes a change in the assessment of property or adds property to the assessment roll, the person chargeable with the assessment shall be promptly notified in such a manner as will assure the person opportunity to attend the second meeting of the board of review provided in section 30.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3852;—Am. 1907, Act 326, Eff. Sept. 28, 1907;—CL 1915, 4023;—CL 1929, 3417;—Am. 1941, Act 234, Imd. Eff. June 16, 1941;—CL 1948, 211.29;—Am. 1949, Act 285, Eff. Sept. 23, 1949;—Am. 1964, Act 275, Eff. Aug. 28, 1964;—Am. 1978, Act 124, Imd. Eff. Apr. 25, 1978.

**Popular name:** Act 206

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.30 Board of review; meetings; alternative dates; sessions; request, protest, or application for correction of assessment; hearing; examination of persons under oath; filing by nonresident taxpayer; notice; filing, hearing, and determination of objection; right of appeal; approval or disapproval of personal property exemption; indorsement and signed statement; delivery of assessment roll; ordinance or resolution authorizing filing of protest by letter; notice of option.**

Sec. 30. (1) Except as otherwise provided in subsection (2), the board of review shall meet on the second Monday in March.

(2) The governing body of the city or township may authorize, by adoption of an ordinance or resolution, alternative starting dates in March when the board of review shall initially meet, which alternative starting dates shall be the Tuesday or Wednesday following the second Monday of March.

(3) The first meeting of the board of review shall start not earlier than 9 a.m. and not later than 3 p.m. and last for not less than 6 hours. The board of review shall also meet for not less than 6 hours during the remainder of that week. Persons or their agents who have appeared to file a protest before the board of review at a scheduled meeting or at a scheduled appointment shall be afforded an opportunity to be heard by the board of review. The board of review shall schedule a final meeting after the board of review makes a change in the assessed value or tentative taxable value of property, adds property to the assessment roll, or exempts personal property under section 9m, 9n, or 9o and removes it from the assessment roll. The board of review shall hold at least 3 hours of its required sessions for review of assessment rolls during the week of the second Monday in March after 6 p.m.

(4) A board of review shall meet a total of at least 12 hours during the week beginning the second Monday in March to hear protests. At the request of a person whose property is assessed on the assessment roll or of his or her agent, and if sufficient cause is shown, the board of review shall correct the assessed value or tentative taxable value of the property in a manner that will make the valuation of the property relatively just and proper under this act. For the appeal of a denial of a claim of exemption for personal property under section 9m, 9n, or 9o, or for an appeal under section 9o(7), if an exemption is approved, the board of review shall remove the personal property from the assessment roll. The board of review may examine under oath the person making the application, or any other person concerning the matter. A member of the board of review may administer the oath. A nonresident taxpayer may file his or her appearance, protest, and papers in support of the protest by letter, and his or her personal appearance is not required. The board of review, on its own motion, may change assessed values or tentative taxable values or add to the roll property omitted from the roll that is liable to assessment if the person who is assessed for the altered valuation or for the omitted property is promptly notified and granted an opportunity to file objections to the change at the meeting or at a subsequent meeting. An objection to a change in assessed value or tentative taxable value or to the addition of property to the tax roll shall be promptly heard and determined. Each person who makes a request, protest, or application to the board of review for the correction of the assessed value or tentative taxable value of the person's property or for the exemption of that person's personal property under section 9m, 9n, or 9o shall be notified in writing, not later than the first Monday in June, of the board of review's action on the request, protest, or application, of the state equalized valuation or tentative taxable value of the property, and of information regarding the right of further appeal to the tax tribunal. Information regarding the right of further appeal to the tax tribunal shall include, but is not limited to, a statement of the right to appeal to the tax tribunal, the address of the tax tribunal, and the final date for filing an appeal with the tax tribunal.

(5) If an exemption for personal property under section 9m, 9n, or 9o is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If the board of review does not approve an exemption under section 9m, 9n, or 9o, the person claiming the exemption for that personal property may appeal that decision in writing to the Michigan tax tribunal. A correction under this subsection that approves an exemption under section 9o may be made for the year in which the appeal was filed and the immediately preceding 3 tax years. A correction under this subsection that approves an exemption under section 9m or 9n may be made only for the year in which the appeal was filed.

(6) After the board of review completes the review of the assessment roll, a majority of the board of review shall indorse the roll and sign a statement to the effect that the roll is the assessment roll for the year in which it has been prepared and approved by the board of review.

(7) The completed assessment roll shall be delivered by the appropriate assessing officer to the county

equalization director not later than the tenth day after the adjournment of the board of review, or the Wednesday following the first Monday in April, whichever date occurs first.

(8) The governing body of the township or city may authorize, by adoption of an ordinance or resolution, a resident taxpayer to file his or her protest before the board of review by letter without a personal appearance by the taxpayer or his or her agent. If that ordinance or resolution is adopted, the township or city shall include a statement notifying taxpayers of this option in each assessment notice under section 24c and on each notice or publication of the meeting of the board of review.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3853;—Am. 1907, Act 326, Eff. Sept. 28, 1907;—CL 1915, 4024;—CL 1929, 3418;—CL 1948, 211.30;—Am. 1949, Act 285, Eff. Sept. 23, 1949;—Am. 1951, Act 48, Eff. Sept. 28, 1951;—Am. 1964, Act 275, Eff. Aug. 28, 1964;—Am. 1982, Act 539, Eff. Mar. 30, 1983;—Am. 1994, Act 9, Imd. Eff. Feb. 24, 1994;—Am. 1994, Act 415, Imd. Eff. Dec. 29, 1994;—Am. 2000, Act 210, Imd. Eff. June 27, 2000;—Am. 2003, Act 194, Imd. Eff. Nov. 10, 2003;—Am. 2013, Act 153, Imd. Eff. Nov. 5, 2013.

**Popular name:** Act 206

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.30a Township board of review; completion of review, date.**

Sec. 30a. In the year 1950 and thereafter the review of assessments by boards of review in all cities and townships shall be completed on or before the first Monday in April, any provisions of the charter of any city or township to the contrary notwithstanding: Provided, That the legislative body of any city or township, in order to comply with the provisions hereof, may, by ordinance, fix the period or periods for preparing the budget and for making, completing and reviewing the assessment roll, any provisions of the charter of such city or township or any law to the contrary notwithstanding.

**History:** Add. 1949, Act 285, Eff. Sept. 23, 1949.

**Popular name:** Act 206

**211.30b Revision of personal property assessments in 1965.**

Sec. 30b. In 1965 only, regardless of the provisions of section 30a, personal property assessments in any city, township or village shall be subject to revision, upon authorization of the state tax commission, after the final meeting of the board of review and, where any assessment is so revised, the board of review shall reconvene and, after written notice to each affected taxpayer of said meeting and of the proposed change in his assessments, review the personal property assessment roll on or before April 15, 1965, and thereafter such roll shall be treated as though the review thereof had been completed at the usual time.

**History:** Add. 1965, Act 20, Imd. Eff. Apr. 22, 1965.

**Popular name:** Act 206

**211.30c Reduced amount as basis for calculating assessed value or taxable value in succeeding year; applicability of section.**

Sec. 30c. (1) If a taxpayer has the assessed value or taxable value reduced on his or her property as a result of a protest to the board of review under section 30, the assessor shall use that reduced amount as the basis for calculating the assessment in the immediately succeeding year. However, the taxable value of that property in a tax year immediately succeeding a transfer of ownership of that property is that property's state equalized valuation in the year following the transfer as calculated under this section.

(2) If a taxpayer appears before the tax tribunal during the same tax year for which the state equalized valuation, assessed value, or taxable value is appealed and has the state equalized valuation, assessed value, or taxable value of his or her property reduced pursuant to a final order of the tax tribunal, the assessor shall use the reduced state equalized valuation, assessed value, or taxable value as the basis for calculating the assessment in the immediately succeeding year. However, the taxable value of that property in a tax year immediately succeeding a transfer of ownership of that property is that property's state equalized valuation in the year following the transfer as calculated under this section.

(3) This section applies to an assessment established for taxes levied after January 1, 1994. This section does not apply to a change in assessment due to a protest regarding a claim of exemption.

**History:** Add. 1994, Act 297, Imd. Eff. July 14, 1994; -Am. 1994, Act 415, Imd. Eff. Dec. 29, 1994; -Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996.

**Popular name:** Act 206

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.31 Township board of review; completed roll valid; conclusive presumption.**

Sec. 31. Upon the completion of said roll and its endorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such indorsement shall not affect the validity of such roll.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3854;—CL 1915, 4025;—CL 1929, 3419;—CL 1948, 211.31.

**Popular name:** Act 206

**211.32 Township board of review; quorum; conscription of absent members; second meeting alternative.**

Sec. 32. If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

**History:** 1893, Act 206, Eff. June 12, 1893; - CL 1897, 3855; - CL 1915, 4026; - CL 1929, 3420; - CL 1948, 211.32.

**Popular name:** Act 206

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.33 Secretary of board of review; record; filing; form.**

Sec. 33. The supervisor shall be the secretary of said board of review and shall keep a record of the proceedings of the board and of all the changes made in such assessment roll, and shall file the same with the township or city clerk with the statements made by persons assessed. In the absence of the supervisor, the board shall appoint 1 of its members to serve as secretary. The state tax commission may prescribe the form of the record whenever deemed necessary.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3856;—CL 1915, 4027;—CL 1929, 3421;—CL 1948, 211.33;—Am. 1964, Act 275, Eff. Aug. 28, 1964.

**Popular name:** Act 206



**OPEN MEETINGS ACT**  
**Act 267 of 1976**

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

*The People of the State of Michigan enact:*

**15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.**

Sec. 1. (1) This act shall be known and may be cited as the “Open meetings act”.

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.262 Definitions.**

Sec. 2. As used in this act:

(a) “Public body” means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(b) “Meeting” means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(c) “Closed session” means a meeting or part of a meeting of a public body that is closed to the public.

(d) “Decision” means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 2001, Act 38, Imd. Eff. July 11, 2001.

**15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.**

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies only when deliberating the merits of a case:



(a) The worker's compensation appeal board created under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(b) The employment security board of review created under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws.

(c) The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, when acting as a board of review from the decision of a controlling board.

(d) An arbitrator or arbitration panel appointed by the employment relations commission under the authority given the commission by Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Michigan Compiled Laws.

(e) An arbitration panel selected under chapter 50A of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.5040 to 600.5065 of the Michigan Compiled Laws.

(f) The Michigan public service commission created under Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body which adopts a nonpolicymaking resolution of tribute or memorial which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act.

(11) This act shall not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under Act No. 9 of the Public Acts of the first extra session of 1946, being sections 35.601 to 35.610 of the Michigan Compiled Laws, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation which the board of trustees, by rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, determines requires immediate action.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988.

**Administrative rules:** R 35.621 of the Michigan Administrative Code.

#### **15.264 Public notice of meetings generally; contents; places of posting.**

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

#### **15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; posting; statement of date, time, and place; website; recess or adjournment; emergency sessions; emergency public meeting; meeting in residential dwelling; limitation; notice; duration requirement.**

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those nonregularly scheduled public meetings. The requirement of 18-hour notice does not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting.

(5) A meeting of a public body that is recessed for more than 36 hours shall be reconvened only after public notice that is equivalent to that required under subsection (4) has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section bars a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat. However, if a public body holds an emergency public meeting that does not comply with the 18-hour posted notice requirement, it shall make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice shall include an explanation of the reasons that the public body cannot comply with the 18-hour posted notice requirement. The explanation shall be specific to the circumstances that necessitated the emergency public meeting, and the use of generalized explanations such as "an imminent threat to the health of the public" or "a danger to public welfare and safety" does not meet the explanation requirements of this subsection. If the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting in subsection (4). Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has taken place. The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the United States postal service or electronic mail. Compliance with the notice requirements for emergency meetings in this subsection does not create, and shall not be construed to create, a legal basis or defense for failure to comply with other provisions of this act and does not relieve the public body from the duty to comply with any provision of this act.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body that is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice shall be at the bottom of the display advertisement, set off in a conspicuous manner, and include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

(7) A durational requirement for posting a public notice of a meeting under this act is the time that the notice is required to be accessible to the public.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984;—Am. 2012, Act 528, Imd. Eff. Dec. 28, 2012.

### **15.266 Providing copies of public notice on written request; fee.**

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

### **15.267 Closed sessions; roll call vote; separate set of minutes.**

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

### **15.268 Closed sessions; permissible purposes.**

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more

members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

### **15.269 Minutes.**

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.

(3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.

(4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

**History:** 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 305, Imd. Eff. Aug. 11, 2004.

### **15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.**

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.



**15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.**

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.272 Violation as misdemeanor; penalty.**

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.273 Violation; liability.**

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.273a Selection of president by governing board of higher education institution; violation; civil fine.**

Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than \$500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

**History:** Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

**15.274 Repeal of MCL 15.251 to 15.253.**

Sec. 14. Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.

**15.275 Effective date.**

Sec. 15. This act shall take effect January 1, 1977.

**History:** 1976, Act 267, Eff. Mar. 31, 1977.



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

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STATE TREASURER

**Bulletin 5 of 2017**

**June 6, 2017**

**Qualified Errors**

*Revised February 13, 2018*

*as the result of Public Acts 261-264 of 2017*

**TO:** Assessors, Equalization Directors and Interested Parties

**FROM:** State Tax Commission

**SUBJECT:** Qualified Errors under MCL 211.53b

**Bulletin 16 of 2013 is rescinded.**

This Bulletin addresses changes to MCL 211.53b which was amended by Public Act 108 of 2016, eliminating the authority of a July or December Board of Review over the personal property exemptions contained in MCL 211.9m and 9n.

MCL 211.53b grants the July or December Board of Review the authority to correct a **qualified error**. MCL 211.53b(1) states: Except as otherwise provided in subsections (6) and (8) and section 27a(4), a correction under this subsection may be made for the current year and the immediately preceding year only.

A correction under subsection (6) regarding principal residence exemptions may be made for the year in which the appeal was filed and the three immediately preceding years.

Regarding MCL 211.27a(4), if the taxable value of property is adjusted and the assessor determines that there had not been a transfer of ownership, the taxable value of the property shall be adjusted for the current year and for the three immediately preceding calendar years. An adjustment under this subsection shall be considered the correction of a clerical error.

Qualified errors are defined in subsection (10) as:

- A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.
- A mutual mistake of fact.
- An adjustment under section 27a(4) or an exemption under section 7hh(3)(b).
- An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
- An error of omission or inclusion of a part of the real property being assessed.
- An error regarding the correct taxable status of the real property being assessed.

- An error made by the taxpayer in preparing the statement of assessable personal property under section 19.
- An error made in the denial of a claim of exemption for personal property under section 9o.

Note: PA Public Act 108 of 2016, eliminated the authority of a July or December Board of Review over the personal property exemptions contained in MCL 211.9m and 9n.

**Clerical Error** was defined by the Court of Appeals in *International Place Apartments v Ypsilanti Township* 216 Mich App 104; 548 NW2d 668 (1996), as “an error of a transpositional, typographical, or mathematical nature.” July and December Boards of Review are NOT allowed to revalue or reappraise property when the reason for the action is that the assessor did not originally consider all relevant information.

**Mutual Mistake of Fact** was defined by the Court of Appeals in *Ford Motor Co v City of Woodhaven*, 475 Mich 425; 716 NW2d 247 (2006) as “an erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction.” This definition was clarified by the Michigan Supreme Court in *Briggs Tax Service, LLC v Detroit Public Schools*, 485 Mich 69; 780 NW2d 753 (2010). The Michigan Supreme Court indicated that to qualify, the “mutual mistake of fact” must be one that occurs only between the assessor and the taxpayer.

### **Examples of Qualified Errors:**

- **An error of measurement or calculation of the physical dimensions or components of the real property being assessed:**
  1. A building is listed on the record card sketch as 60’ x 100’, priced as 6,000 square feet, and valued accordingly on the roll. A field inspection reveals that the building dimensions are actually 60’ x 90’, and that 5,400 should have been priced.
  2. A building is properly listed on the record card sketch as 60’ x 100’, erroneously priced as 5,600 square feet, and valued accordingly on the roll. A desk review reveals the error.

Note: ‘Errors of measurement or calculation’ may include ‘building height’ errors or ‘floor area perimeter multiplier’ errors.

- **An error of omission or inclusion of a part of the real property being assessed:**

1. ‘Error of omission’ – A 1200 square foot house had a 500 square foot addition. The addition was taken as assessed/equalization new, but was not taken as a capped value addition, and so, was not included in the taxable value.
2. ‘Error of inclusion’ – A pole barn was erected on parcel ‘A’, but is erroneously assessed to parcel ‘B’. The ‘error of inclusion’ pertains to parcel ‘B’. An ‘error of omission’ pertains to parcel ‘A’.

**Note:** This change in jurisdiction is limited to situations where ‘**part**’ of the ‘**real property**’ is at issue. Issues involving the ‘**entire real parcel**’ or involving ‘**personal property**’ are not included under this subsection.

**Note:** Omitted property may be added under this section for the current year and the immediately preceding year only may still be added under MCL 211.154 for the current year and two prior.

• **An error regarding the correct taxable status of the real property being assessed.**

1. A charitable non-profit corporation that qualified for exemption under MCL 211.7o sent a letter with proper documentation to the assessor and requested exemption. The assessor failed to grant the exemption.
2. A church purchased the house next door in November (deed delivered), and was immediately used as a parsonage. The parcel qualified for exemption under MCL 211.7s. The deed was recorded in January, but the copy of the deed failed to reach the local assessor. The parcel had an assessed and taxable value as the close of the March Board of Review.

• **An error made by the taxpayer in preparing the statement of assessable personal property under section 19.**

1. A taxpayer reported newly acquired office furniture in Section B, ‘Machinery and Equipment’ of the personal property statement. It should have been reported in Section A, ‘Furniture and Fixtures’.
2. A taxpayer reported newly acquired office furniture in Section A, ‘Furniture and Fixtures’, on the top line and entered the amount paid for the items in the purchase of the total property. It was discovered by the assessor after the close of the March Board of Review that the previous owner had reported a different acquisition cost new for the office furniture five years earlier.

**Note:** In the case where a personal property statement was not filed in a timely fashion, the act does not permit the assessor to change an estimated assessment made in the absence of a filed statement.

• **An error made in the denial of a claim of exemption for personal property under section 9o.**

1. A taxpayer filed the affidavit to claim the exemption for personal property with under \$80,000 true cash value. The assessor failed to grant the exemption even though the taxpayer met all the qualifications.





STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

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**Bulletin 6 of 2017**  
**June 6, 2017**  
**Poverty Exemption**

**TO:** Assessors and Equalization Directors  
**FROM:** State Tax Commission  
**SUBJECT:** Exemption of Principal Residence by Reason of Poverty

**Bulletin 5 of 1995, Bulletin 7 of 2010 and Bulletin 5 of 2012 are rescinded.**

MCL 211.7u provides for a property tax exemption, in whole or part, for the principal residence of persons who, by reason of poverty, are unable to contribute to the public charges. Principal residence is defined in MCL 211.7dd as a principal residence or qualified agricultural property. MCL 211.7u(1) states that this section does not apply to property of a corporation. Even if a corporation or a limited liability company meets the definition of a principal residence or a qualified agricultural property, it is not be eligible to receive a poverty exemption.

**Local Unit Responsibilities:**

MCL 211.7u requires local units to annually adopt a policy, including an asset test, used to approve or deny poverty exemptions.

**First**, local units must annually adopt guidelines which specify the total household income which will be used to approve or deny poverty exemptions. Statute requires that the income levels shall not be set lower than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services and published by the State Tax Commission in their annual Procedural Changes Bulletin.

According to the U.S Census Bureau, “income” includes, but is not limited to:

- Money, wages, salaries before deductions, regular contributions from persons not living in the residence
- Net receipts from non-farm or farm self-employment (receipts from a person’s own business, professional enterprise, or partnership, after business expense deductions)
- Regular payments from social security, railroad retirement, unemployment, worker’s compensation, veteran’s payments, public assistance, supplemental security income (SSI)
- Alimony, child support, military family allotments
- Private and governmental retirement and disability pensions, regular insurance, annuity payments

- College or university scholarships, grants, fellowships, assistantships
- Dividends, interest, and net income from rentals, royalties, estates, trusts, gambling or lottery winnings

**Second**, the local unit policy must include an asset test. The purpose of an asset test is to determine the resources available: cash, fixed assets or other property that could be converted to cash and used to pay property taxes in the year the poverty exemption is filed. The local unit should require that claimants provide a list of all assets when applying for a poverty exemption. Following is a list of assets that may be included in the annual guidelines.

- A second home, land, vehicles
- Recreational vehicles such as campers, motor-homes, boats and ATV's
- Buildings other than the residence
- Jewelry, antiques, artworks
- Equipment, other personal property of value
- Bank accounts (over a specified amount), stocks
- Money received from the sale of property, such as, stocks, bonds, a house or car (unless a person is in the specific business of selling such property)
- Withdrawals of bank deposits and borrowed money
- Gifts, loans, lump-sum inheritances and one-time insurance payments
- Food or housing received in lieu of wages and the value of food and fuel produced and consumed on farms
- Federal non-cash benefits programs such as Medicare, Medicaid, food stamps and school lunches

The Michigan Tax Tribunal in *Robert Taylor v Sherman Twp.*, Docket No. 236230 ruled that the asset test does not include the value of the principal residence. Additionally, the Michigan Court of Appeals in *Ferrero v Township of Walton*, No. 302221, ruled that the homestead property tax credit is not to be considered income for poverty exemption purposes.

The local unit policy may provide for an applicant to own possessions in addition to the principal residence and still receive a poverty exemption. Examples may include, but are not limited to:

- Additional vehicles
- More land than a minimum "footprint" for the home
- Equipment or other personal property of value, including recreational vehicles (campers, motor homes, boats, ATV's etc.)
- Bank account(s) (a maximum amount should be specified)

**Third**, MCL 211.7u(1) allows for partial poverty exemptions to be granted. A partial poverty exemption is an exemption of a percentage of the taxable value of the principal residence rather than the entire taxable value. The local unit can limit poverty exemptions to partial exemptions or to minimum or maximum exemption of their choosing. The State Tax Commission recommends that local governing bodies include within their annual guidelines, language and criteria for granting partial exemptions and/or minimum or maximum exemptions.

**Finally**, the State Tax Commission recommends that local units develop an application to be used by claimants and a written policy that details the process. To assist local governing bodies, the State Tax Commission has developed a sample application and resolution. See attached.

### **Taxpayer Filing Requirements:**

In order to receive a poverty exemption, a taxpayer must annually file a completed application form and all required additional documentation, with the supervisor, assessor, or the Board of Review where the property is located. The application form may be obtained from the local unit where the property is located and may be submitted on or after January 1 but before the day prior to the last day of the December Board of Review during the year in which the exemption is requested.

To ensure an application is received in time to be heard by a Board of Review, the State Tax Commission recommends the claimant contact the local governing unit directly to verify deadline dates for submission of an application.

In addition to annually filing the application, in order to be eligible for the poverty exemption, a taxpayer must do all of the following:

1. Own and occupy the principal residence.
2. Provide federal and state income tax returns for the current or immediately preceding year, including any property tax credits, for all persons **residing in the principal residence** (disclosure of the income of an owner who is not residing in the principal residence is not required). An alternative affidavit may be filed for all persons residing in the residence who were not required to file federal or state income tax returns in the current or immediately preceding year. (See Form 4988, *Poverty Exemption Affidavit*)
3. Produce a valid driver's license, or other form of identification, if requested by the supervisor, assessor or Board of Review.
4. Produce a deed, land contract, or other evidence of ownership of the property, if requested by the supervisor, assessor or Board of Review.
5. Meet the federal poverty income guidelines determined annually by the U.S. Department of Health and Human Services OR meet allowable alternative income guidelines adopted by the local governing body.
6. Meet the asset level test adopted by the local governing body.
7. Meet additional tests reasonably adopted by the local governing body.

## **Board of Review Responsibilities:**

MCL 211.7u(1) indicates: The principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute to the public charges is eligible for exemption in whole or part from taxation under this act.

The State Tax Commission has determined that the supervisor shall make a recommendation regarding the claimant's petition and the Board of Review shall consider, review and then approve or deny the exemption request.

Additionally, MCL 211.7u(5) states, in part: The Board of Review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section.

When reviewing an application, the Board of Review should consider all information available to them at that time. They should consider all documentation originally submitted by the taxpayer and any additional relevant information that is available to the Board of Review.

The Board of Review can deviate from the adopted policy and guidelines of the local unit only when there are "substantial and compelling reasons why there should be a deviation from the policy and guidelines." If the Board of Review deviates from the adopted policy and guidelines, they are required by statute to communicate the substantial and compelling reasons for the deviation from the guidelines in writing to the taxpayer.

## **Appeal Rights:**

A property owner or assessor may appeal a decision of the March Board of Review by completing and submitting a petition to the Michigan Tax Tribunal no later than July 31 of the same year. A property owner or assessor may appeal a decision of the July or December Board of Review by completing and submitting a petition to the Michigan Tax Tribunal within 35 days of the July or December Board of Review's denial of the poverty exemption.

An application for poverty exemption, for a specific principal residence, may only be acted upon by the Board of Review once a year. If an application is denied at the March Board of Review, it may not be reheard by the July or December Board of Review during the same calendar year. The taxpayer must file an appeal of the March Board of Review determination to the Michigan Tax Tribunal. Similarly, if an application is denied at the July Board of Review, the December Board cannot rehear that application, the taxpayer must file an appeal to the Michigan Tax Tribunal.

A person who files a claim for poverty exemption is not prohibited from also appealing the assessment on the same property in the same year.

**SAMPLE GUIDELINE RESOLUTION FOR POVERTY EXEMPTION**

**WHEREAS**, the adoption of guidelines for poverty exemptions is required of the City Council (Township Board); and

**WHEREAS**, the principal residence of persons, who the Supervisor/Assessor and Board of Review determines by reason of poverty to be unable to contribute to the public charge, is eligible for exemption in whole or in part from taxation under Public Act 390 of 1994 (MCL 211.7u); and

**WHEREAS**, pursuant to PA 390 of 1994, the City/Township of \_\_\_\_\_, \_\_\_\_\_ County adopts the following guidelines for the Board of Review to implement. The guidelines shall include but not be limited to the specific income and asset levels of the claimant and all persons residing in the household, including any property tax credit returns, filed in the current or immediately preceding year;

To be eligible, a person shall do all the following on an annual basis:

- 1) Be an owner of and occupy as a principal residence the property for which an exemption is requested.
- 2) File a claim with the supervisor/assessor or Board of Review, accompanied by federal and state income tax returns for all persons residing in the principal residence, including any property tax credit returns filed in the immediately preceding year or in the current year or a signed State Tax Commission Form 4988, *Poverty Exemption Affidavit*.
- 3) File a claim reporting that the combined assets of all persons do not exceed the current guidelines. Assets include but are not limited to, real estate other than the principal residence, personal property, motor vehicles, recreational vehicles and equipment, certificates of deposit, savings accounts, checking accounts, stocks, bonds, life insurance, retirement funds, etc.
- 4) Produce a valid driver's license or other form of identification if requested.
- 5) Produce, if requested, a deed, land contract, or other evidence of ownership of the property for which an exemption is requested.
- 6) Meet the federal poverty income guidelines as defined and determined annually by the United States Department of Health and Human Services or alternative guidelines adopted by the governing body providing the alternative guidelines do not provide eligibility requirements less than the federal guidelines.
- 7) The application for an exemption shall be filed after January 1, but one day prior to the last day of the December Board of Review. The filing of this claim constitutes an appearance before the Board of Review for the purpose of preserving the right of appeal to the Michigan Tax Tribunal.

The following are the (insert year) federal poverty income guidelines which are updated annually by the United States Department of Health and Human Services. The annual allowable income includes income for all persons residing in the principal residence.











