

Act No. 125
Public Acts of 2008
Approved by the Governor
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May 9, 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Bieda, Melton, Condino, LeBlanc, Brown, Tobocman, Pastor, Hopgood, Brandenburg, Agema, Sak, Stahl, Sheen, Moolenaar, Espinoza, Leland, Mayes, Polidori, Rocca, Sheltroun, Spade, Meadows, Calley, Constan, Coulouris, Hammel, Hammon, Horn, Johnson, Robert Jones, Valentine, Young and Dean

ENROLLED HOUSE BILL No. 4433

AN ACT to amend 1973 PA 186, entitled "An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards," by amending sections 3, 31, 32, 35a, and 52 (MCL 205.703, 205.731, 205.732, 205.735a, and 205.752), section 3 as amended by 1992 PA 172 and section 35a as added by 2006 PA 174, and by adding section 47.

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) "Agency" means a board, official, or administrative agency empowered to make a decision, finding, ruling, assessment, determination, or order that is subject to review under the jurisdiction of the tribunal or that has collected a tax for which a refund is claimed.

(b) "Chairperson" means the chairperson of the tribunal.

(c) "Mediation" means a voluntary process in which a mediator facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement.

(d) "Mediator" means a neutral third party who is certified by the tribunal under section 47 as a mediator in a proceeding before the tribunal or as a facilitator in the court of claims, and who is agreed to by the parties.

(e) "Proceeding" means an appeal taken under this act.

(f) "Property tax laws" does not include the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(g) "Tribunal" means the tax tribunal created under section 21.

Sec. 31. The tribunal has exclusive and original jurisdiction over all of the following:

(a) A proceeding for direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization, under the property tax laws of this state.

(b) A proceeding for a refund or redetermination of a tax levied under the property tax laws of this state.

- (c) Mediation of a proceeding described in subdivision (a) or (b) before the tribunal.
- (d) Certification of a mediator in a tax dispute described in subdivision (c).
- (e) Any other proceeding provided by law.

Sec. 32. The tribunal's powers include, but are not limited to, all of the following:

- (a) Affirming, reversing, modifying, or remanding a final decision, finding, ruling, determination, or order of an agency.
- (b) Ordering the payment or refund of taxes in a matter over which it may acquire jurisdiction.
- (c) Granting other relief or issuing writs, orders, or directives that it deems necessary or appropriate in the process of disposition of a matter over which it may acquire jurisdiction.
- (d) Promulgating rules for the implementation of this act, including rules for practice and procedure before the tribunal and for mediation as provided in section 47, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (e) Mediating a proceeding before the tribunal.
- (f) Certifying mediators to facilitate claims in the court of claims and in the tribunal.

Sec. 35a. (1) The provisions of this section apply to a proceeding before the tribunal that is commenced after December 31, 2006.

(2) A proceeding before the tribunal is original and independent and is considered de novo.

(3) Except as otherwise provided in this section or by law, for an assessment dispute as to the valuation or exemption of property, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (6).

(4) In the 2007 tax year and each tax year after 2007, all of the following apply:

(a) For an assessment dispute as to the valuation or exemption of property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial real property, industrial real property, or developmental real property, the assessment may be protested before the board of review or appealed directly to the tribunal without protest before the board of review as provided in subsection (6).

(b) For an assessment dispute as to the valuation or exemption of property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial personal property, industrial personal property, or utility personal property, the assessment may be protested before the board of review or appealed directly to the tribunal without protest before the board of review as provided in subsection (6), if a statement of assessable property is filed under section 19 of the general property tax act, 1893 PA 206, MCL 211.19, prior to the commencement of the board of review for the tax year involved.

(c) For an assessment dispute as to the valuation of property that is subject to taxation under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856, or 1953 PA 189, MCL 211.181 to 211.182, the assessment may be protested before the board of review or appealed directly to the tribunal without protest before the board of review as provided in subsection (6). This subdivision does not apply to property that is subject to the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786.

(5) For a dispute regarding a determination of a claim of exemption of a principal residence or qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for a principal residence or qualified agricultural property, the claim of exemption shall be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special assessment dispute, the special assessment shall be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(6) The jurisdiction of the tribunal in an assessment dispute as to property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as commercial real property, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property is invoked by a party in interest, as petitioner, filing a written petition on or before May 31 of the tax year involved. The jurisdiction of the tribunal in an assessment dispute as to property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as agricultural real property, residential real property, timber-cutover real property, or agricultural personal property is invoked by a party in interest, as petitioner, filing a written petition on or before July 31 of the tax year involved. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, or determination. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is

limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that local tax collecting unit if the respondent is the local tax collecting unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

(7) A petition is considered filed on or before the expiration of the time period provided in this section or by law if 1 or more of the following occur:

(a) The petition is postmarked by the United States postal service on or before the expiration of that time period.

(b) The petition is delivered in person on or before the expiration of that time period.

(c) The petition is given to a designated delivery service for delivery on or before the expiration of that time period and the petition is delivered by that designated delivery service or, if the petition is not delivered by that designated delivery service, the petitioner establishes that the petition was given to that designated delivery service for delivery on or before the expiration of that time period.

(8) A petition required to be filed by a day during which the offices of the tribunal are not open for business shall be filed by the next business day.

(9) A petition or answer may be amended at any time by leave of the tribunal and in compliance with its rules. If a tax was paid while the determination of the right to the tax is pending before the tribunal, the taxpayer may amend his or her petition to seek a refund of that tax.

(10) A person or legal entity may appear before the tribunal in his or her own behalf or may be represented by an attorney or by any other person.

(11) As used in this section, "designated delivery service" means a delivery service provided by a trade or business that is designated by the tribunal for purposes of this subsection. The tribunal shall issue a tribunal notice not later than December 31 in each calendar year designating not less than 1 delivery service for the immediately succeeding calendar year. The tribunal may designate a delivery service only if the tribunal determines that the delivery service meets all of the following requirements:

(a) Is available to the general public.

(b) Is at least as timely and reliable on a regular basis as the United States postal service.

(c) Records electronically to a database kept in the regular course of business or marks on the petition the date on which the petition was given to the delivery service for delivery.

(d) Any other requirement the tribunal prescribes.

Sec. 47. (1) A person may apply to the tribunal to be certified as a mediator. Certification is for a period of 1 year. The application shall be in a form prescribed by the tribunal. A tribunal member or hearing officer may not be certified as a mediator.

(2) The tribunal shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that establish requirements for an applicant to be certified as a mediator. Whether an applicant meets the established requirements to be certified as a mediator shall be solely determined by the tribunal. The requirements for certification as a mediator shall include, but are not limited to, 5 years of state and local tax experience that occurred within 7 years immediately preceding submission of the application. If an applicant satisfies the requirements established by the tribunal, the tribunal shall certify that applicant as a mediator. The tribunal may charge each mediator certified by the tribunal an annual certification fee, as determined by the tribunal.

(3) The tribunal shall maintain a list of certified mediators available to conduct a mediation described in section 32. The list shall be published and shall indicate all of the following:

(a) The hourly rate charged by the mediator for his or her mediation services.

(b) The type of tax the mediator is certified to mediate.

(c) A summary of the mediator's experience and training.

(d) The forum in which the mediator is certified to practice.

(4) A mediator shall disclose to all parties any conflict of interest that may exist before agreeing to mediate a dispute.

(5) The tribunal shall mediate a proceeding in which it has exclusive and original jurisdiction under section 31 if all of the following conditions are satisfied:

(a) The parties have filed with the tribunal a stipulation that they agree to participate in mediation.

(b) The parties agree to a mediator.

(c) The tribunal issues an order designating the proceeding for mediation.

(6) The tribunal shall appoint the mediator agreed to by the parties. A mediator has no authoritative decision-making power to resolve a dispute in mediation. The mediator shall report the results of the mediation to the tribunal. If an agreement is reached in a proceeding before the tribunal, the tribunal shall accept the agreement if it meets the tribunal's requirements.

(7) Statements made during a mediation conference, including statements made in written submissions, shall not be used and are not admissible in any other proceedings, including trial. Any statements, written submissions or materials, or communications between the parties or counsel of the parties and the mediator relating to the mediation are confidential and shall not be disclosed without the written consent of all parties and are not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

(a) The report of the mediator. The report shall be in a form prescribed by the tribunal.

(b) Information reasonably required by tribunal personnel to administer and evaluate the mediation program under this section.

(c) Information necessary for the tribunal to resolve disputes regarding the mediator's fee.

(d) Consent judgments.

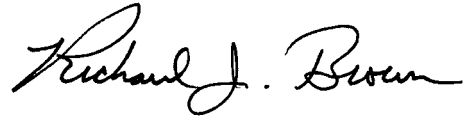
(8) A mediation conference is not a meeting of a public body for purposes of the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) The tribunal may charge a fee for mediation.

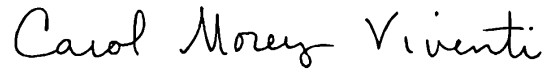
Sec. 52. (1) A decision or order of the tribunal is final and conclusive on all parties, unless reversed, remanded, or modified on appeal. A copy of the decision or order shall be mailed forthwith to each party or his attorney of record. Costs may be awarded in the discretion of the tribunal.

(2) The tribunal may order a rehearing upon written motion made by a party within 21 days after the entry of the decision or order. A decision or order may be amended or vacated after the rehearing.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor