

**Public Policy Position
HB 4905**

The Probate & Estate Planning Section is a voluntary membership section of the State Bar of Michigan, comprised of 3,443 members. The Probate & Estate Planning Section is not the State Bar of Michigan and the position expressed herein is that of the Probate & Estate Planning Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Probate & Estate Planning Section has a public policy decision-making body with 23 members. On February 17, 2018, the Section adopted its position after discussion and vote at a scheduled meeting. 17 members voted in favor of the Section's position on HB 4905, 0 members voted against this position, 0 members abstained, 6 members did not vote.

The Probate & Estate Planning Section supports HB 4905 Substitute with Recommended Amendments.**Explanation:**

The Probate and Estate Planning Section supports the Substitute for House Bill No. 4905, with the deletion of the phrase "is not leased and" from section 7cc(5)(d) of such proposed legislation.

The Substitute for House Bill No. 4905 which the Section considered is attached.

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HB-4905, As Passed House, December 6, 2017

**SUBSTITUTE FOR
HOUSE BILL NO. 4905**

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 7cc (MCL 211.7cc), as amended by 2017 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7cc. (1) A principal residence is exempt from the tax
2 levied by a local school district for school operating purposes to
3 the extent provided under section 1211 of the revised school code,
4 1976 PA 451, MCL 380.1211, if an owner of that principal residence
5 claims an exemption as provided in this section. Notwithstanding
6 the tax day provided in section 2, the status of property as a
7 principal residence shall be determined on the date an affidavit
8 claiming an exemption is filed under subsection (2).

9 (2) Except as otherwise provided in subsection (5), an owner

1 school aid fund established in section 11 of article IX of the
2 state constitution of 1963. If a land contract vendor, bank, credit
3 union, or other lending institution transfers ownership of property
4 for which an exemption is retained under this subsection, that land
5 contract vendor, bank, credit union, or other lending institution
6 shall rescind the exemption as provided in this section and shall
7 notify the treasurer of the local tax collecting unit of that
8 transfer of ownership. If a land contract vendor, bank, credit
9 union, or other lending institution fails to make the payment
10 required under this subsection for any property within the period
11 for which property taxes are due and payable without penalty, the
12 local tax collecting unit shall deny that conditional rescission
13 and that denial is retroactive and is effective on December 31 of
14 the immediately preceding year. If the local tax collecting unit
15 denies a conditional rescission, the local tax collecting unit
16 shall remove the exemption of the property and the amount due from
17 the land contract vendor, bank, credit union, or other lending
18 institution shall be a tax so that the additional taxes, penalties,
19 and interest shall be collected as provided for in this section. If
20 payment of the tax under this subsection is not made by the March 1
21 following the levy of the tax, the tax shall be turned over to the
22 county treasurer and collected in the same manner as delinquent
23 taxes under this act. An owner of property who previously occupied
24 that property as his or her principal residence but now resides in
25 a nursing home, ~~or~~ assisted living facility, **OR, IF RESIDING THERE**
26 **SOLELY FOR PURPOSES OF CONVALESCENCE, ANY OTHER LOCATION** may retain
27 an exemption on that property if the owner manifests an intent to

1 return to that property by satisfying all of the following
2 conditions:

3 (a) The owner continues to own that property while residing in
4 the nursing home, ~~or~~ assisted living facility, **OR OTHER LOCATION.**

5 (b) The owner has not established a new principal residence.

6 (c) The owner maintains or provides for the maintenance of
7 that property while residing in the nursing home, ~~or~~ assisted
8 living facility, **OR OTHER LOCATION.**

9 (d) That property ~~is not occupied,~~ is not leased, ~~and~~ and is not
10 used for any business or commercial purpose.

11 (6) Except as otherwise provided in subsections (5) and (32),
12 if the assessor of the local tax collecting unit believes that the
13 property for which an exemption is claimed is not the principal
14 residence of the owner claiming the exemption, the assessor may
15 deny a new or existing claim by notifying the owner and the
16 department of treasury in writing of the reason for the denial and
17 advising the owner that the denial may be appealed to the
18 residential and small claims division of the Michigan tax tribunal
19 within 35 days after the date of the notice. The assessor may deny
20 a claim for exemption for the current year and for the 3
21 immediately preceding calendar years. If the assessor denies an
22 existing claim for exemption, the assessor shall remove the
23 exemption of the property and, if the tax roll is in the local tax
24 collecting unit's possession, amend the tax roll to reflect the
25 denial and the local treasurer shall within 30 days of the date of
26 the denial issue a corrected tax bill for any additional taxes with
27 interest at the rate of 1.25% per month or fraction of a month and

1 and rescission forms to the buyer and seller, or fails to file the
2 affidavit and rescission forms with the local tax collecting unit
3 if requested by the buyer or seller, the buyer may appeal to the
4 department of treasury within 30 days of notice to the buyer that
5 an exemption was not recorded. If the department of treasury
6 determines that the buyer qualifies for the exemption, the
7 department of treasury shall notify the assessor of the local tax
8 collecting unit that the exemption is granted and the assessor of
9 the local tax collecting unit or, if the tax roll is in the
10 possession of the county treasurer, the county treasurer shall
11 correct the tax roll to reflect the exemption. This subsection does
12 not create a cause of action at law or in equity against a closing
13 statement preparer who fails to provide exemption affidavit and
14 rescission forms to a buyer and seller or who fails to file the
15 affidavit and rescission forms with the local tax collecting unit
16 when requested to do so by the buyer or seller.

17 (19) An owner who owned and occupied a principal residence on
18 May 1 for taxes levied before January 1, 2012 for which the
19 exemption was not on the tax roll may file an appeal with the July
20 board of review or December board of review in the year for which
21 the exemption was claimed or the immediately succeeding 3 years.
22 For taxes levied after December 31, 2011, an owner who owned and
23 occupied a principal residence on June 1 or November 1 for which
24 the exemption was not on the tax roll, or an owner of property who
25 previously occupied that property as his or her principal residence
26 but did not occupy that property on June 1 or November 1 while
27 residing in a nursing home, ~~or~~ assisted living facility, **OR OTHER**

1 **LOCATION** under the circumstances described in subsection (5) (a) to
2 (d) or while absent on active duty as a member of any branch of the
3 Armed Forces of the United States, including the Coast Guard, a
4 reserve component of any branch of the Armed Forces of the United
5 States, or the National Guard, under the circumstances described in
6 subsection (32) (a) to (d), for which the exemption was not on the
7 tax roll, may file an appeal with the July board of review or
8 December board of review in the year for which the exemption was
9 claimed or the immediately succeeding 3 years. If an appeal of a
10 claim for exemption that was not on the tax roll is received not
11 later than 5 days before the date of the December board of review,
12 the local tax collecting unit shall convene a December board of
13 review and consider the appeal pursuant to this section and section
14 53b.

15 (20) An owner who owned and occupied a principal residence
16 within the time period prescribed in subsection (2) in any year
17 before the 3 immediately preceding tax years for which the
18 exemption was not on the tax roll as a result of a qualified error
19 on the part of the local tax collecting unit may file a request for
20 the exemption for those tax years with the department of treasury.
21 The request for the exemption shall be in a form prescribed by the
22 department of treasury and shall include all documentation the
23 department of treasury considers necessary to consider the request
24 and to correct any affected official records if a qualified error
25 on the part of the local tax collecting unit is recognized and an
26 exemption is granted. If the department of treasury denies a
27 request for the exemption under this subsection, the owner is