



HOUSE BILL No. 4290

February 2, 1995, Introduced by Reps. Kukuk, Porreca, Curtis, Hill, Rocca, Weeks, London, Gernaat, Whyman, Horton, McBryde, Profit, Oxender, Green, Lowe, Jaye, LeTarte, Voorhees, Galloway, DeLange and Munsell and referred to the Committee on Tax Policy.

A bill to amend sections 2, 6, 13, and 16 of Act No. 330 of the Public Acts of 1993, entitled "State real estate transfer tax act," section 6 as amended by Act No. 255 of the Public Acts of 1994, being sections 207.522, 207.526, 207.533, and 207.536 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 6, 13, and 16 of Act No. 330 of the
2 Public Acts of 1993, section 6 as amended by Act No. 255 of the
3 Public Acts of 1994, being sections 207.522, 207.526, 207.533,
4 and 207.536 of the Michigan Compiled Laws, are amended to read as
5 follows:

6 Sec. 2. As used in this act:

1 (a) "Person" means an individual, partnership, corporation,
2 limited liability company, association, governmental entity, or
3 other legal entity. If used in a penalty clause, person includes
4 the partners or members of a firm, a partnership, or an associa-
5 tion and the officers of a corporation.

6 (b) "Property" ~~includes land, tenements, real estate, and~~
7 MEANS real property and all rights to and interests in ~~land,~~
8 ~~tenements, real estate, or~~ real property.

9 (C) "REAL PROPERTY" MEANS LANDS WITHIN THIS STATE, INCLUDING
10 ALL BUILDINGS, FIXTURES, AND APPURTENANCES ON THOSE LANDS.

11 (D) ~~(c)~~ "Tax" means the state real estate transfer tax
12 imposed under this act.

13 (E) ~~(d)~~ "Treasurer" means the state treasurer.

14 (F) ~~(e)~~ "Value" means the current or fair market worth in
15 terms of legal monetary exchange at the time of the transfer.

16 Sec. 6. The following written instruments and transfers of
17 property are exempt from the tax imposed by this act:

18 (a) A written instrument in which the value of the consider-
19 ation for the property is less than \$100.00.

20 (b) A written instrument evidencing a contract or transfer
21 that is not to be performed wholly within this state only to the
22 extent the written instrument includes land lying outside of this
23 state.

24 (c) A written instrument that this state is prohibited from
25 taxing under the United States constitution or federal statutes.

26 (d) A written instrument given as security or an assignment
27 or discharge of the security interest.

1 (e) A written instrument evidencing a lease, including an
2 oil and gas lease, or a transfer of a leasehold interest.

3 (f) A written instrument evidencing an interest that is
4 assessable as personal property.

5 (g) A written instrument evidencing the transfer of a right
6 and interest for underground gas storage purposes.

7 (h) Any of the following written instruments:

8 (i) A written instrument in which the grantor is the United
9 States, this state, a political subdivision or municipality of
10 this state, or an officer of the United States or of this state,
11 or OF a political subdivision or municipality of this state,
12 acting in his or her official capacity.

13 (ii) A written instrument given in foreclosure or in lieu of
14 foreclosure of a loan made, guaranteed, or insured by the United
15 States, this state, a political subdivision or municipality of
16 this state, or an officer of the United States or of this state,
17 or OF a political subdivision or municipality of this state,
18 acting in his or her official capacity.

19 (iii) A written instrument given to the United States, this
20 state, or 1 of their officers acting in an official capacity as
21 grantee, pursuant to the terms or guarantee or insurance of a
22 loan guaranteed or insured by the grantee.

23 (i) A conveyance from a husband or wife or husband and wife
24 creating or disjoining a tenancy by the entireties in the grant-
25 ors or the grantor and his or her spouse.

26 (j) A conveyance from ~~a mother or father to a son or~~
27 ~~daughter or stepchild or adopted child~~ AN INDIVIDUAL TO THAT

1 INDIVIDUAL'S PARENT, CHILD, ADOPTIVE PARENT, ADOPTED CHILD,
2 GRANDPARENT, GRANDCHILD, ADOPTIVE GRANDPARENT, ADOPTED GRAND-
3 CHILD, BROTHER, SISTER, LEGAL WARD, OR A LEGALLY APPOINTED
4 GUARDIAN.

5 ~~(K) A conveyance from a grandmother or grandfather to a~~
6 ~~grandchild or step grandchild or adopted grandchild.~~

7 (K) ~~(L)~~ A judgment or order of a court of record making or
8 ordering a transfer, unless a specific monetary consideration is
9 specified or ordered by the court for the transfer.

10 (L) ~~(M)~~ A written instrument used to straighten boundary
11 lines if no monetary consideration is given.

12 (M) ~~(N)~~ A written instrument to confirm title already
13 vested in a grantee, including a quitclaim deed to correct a flaw
14 in title.

15 (N) ~~(O)~~ A land contract in which the legal title does not
16 pass to the grantee until the total consideration specified in
17 the LAND contract has been paid.

18 (O) ~~(P)~~ A written instrument evidencing the transfer of
19 mineral rights and interests.

20 (P) ~~(Q)~~ A written instrument creating a joint tenancy
21 between 2 or more persons if at least 1 of the persons already
22 owns the property.

23 (Q) ~~(R)~~ A transfer made pursuant to a bona fide sales
24 agreement made before the date the tax is imposed under sections
25 3 and 4, if the sales agreement cannot be withdrawn or altered,
26 or contains a fixed price not subject to change or modification.
27 However, a sales agreement for residential construction may be

1 adjusted up to 15% to reflect changes in construction
2 specifications.

3 (R) ~~(s)~~ A written instrument evidencing a contract or
4 transfer of property to a person sufficiently related to the
5 transferor to be considered a single employer with the transferor
6 under section 414(b) or (c) of the internal revenue code of 1986,
7 26 U.S.C. 414, AS THAT SECTION WAS IN EXISTENCE ON APRIL 15,
8 1994.

9 (S) ~~(t)~~ A written instrument conveying an interest in
10 homestead property for which a homestead exemption is claimed
11 under ~~either the school code of 1976, Act No. 451 of the Public~~
12 ~~Acts of 1976, being sections 380.1 to 380.1852 of the Michigan~~
13 ~~Compiled Laws or the state education tax act, Act No. 331 of the~~
14 ~~Public Acts of 1993, being sections 211.901 to 211.906~~ SECTION
15 7CC OF THE GENERAL PROPERTY TAX ACT, ACT NO. 206 OF THE PUBLIC
16 ACTS OF 1893, BEING SECTION 211.7CC of the Michigan Compiled
17 Laws, if the state equalized valuation of that homestead property
18 is equal to or lesser than the state equalized valuation on the
19 date of purchase or on the date of acquisition by the seller or
20 transferor for that same interest in property. If after an
21 exemption is claimed under this subsection, the sale or transfer
22 of homestead property is found by the treasurer to be at a value
23 other than the true cash value, then a penalty equal to 20% of
24 the tax shall be assessed in addition to the tax due under this
25 act to the seller or transferor.

26 (T) ~~(u)~~ A written instrument transferring an interest in
27 property pursuant to a foreclosure of a mortgage including a

1 written instrument given in lieu of foreclosure of a mortgage.
2 This exemption does not apply to a subsequent transfer of the
3 foreclosed property by the entity that foreclosed on the
4 mortgage.

5 (U) A TRANSFER OF OWNERSHIP INTEREST IN A LEGAL ENTITY
6 INCLUDING BUT NOT LIMITED TO CORPORATE STOCK OR PARTNERSHIP
7 INTEREST. A TRANSFER DESCRIBED IN THIS SUBDIVISION IS NOT A
8 TRANSFER OF PROPERTY OF THE LEGAL ENTITY.

9 (V) A TRANSFER OF OWNERSHIP OF 80% OR MORE OF THE GROSS
10 ASSETS OR 90% OR MORE OF THE NET ASSETS OF A BUSINESS REGARDLESS
11 OF THE LEGAL FORM IN WHICH THE BUSINESS IS CONDUCTED WHETHER OR
12 NOT A WRITTEN INSTRUMENT EVIDENCING A TRANSFER OF PROPERTY IS
13 ASSOCIATED WITH THE TRANSACTION.

14 Sec. 13. (1) A written instrument subject to the tax
15 imposed by this act shall not be recorded in the office of the
16 register of deeds of any county of this state unless documentary
17 stamps as required by this act have been purchased at the time of
18 presentation by the party liable for the tax under section 3(2).
19 The stamps shall be affixed to the face of the instrument before
20 recording unless the person specifically requests that the
21 instrument be recorded before the stamps are affixed. If so
22 requested, the stamps may be affixed to the reverse side of the
23 written instrument. However, if it is necessary to record the
24 reverse side of the written instrument, the stamps shall be
25 affixed after recording by the register of deeds. If the written
26 instrument is not subject to the tax, the written instrument
27 shall state on its face the reason for the exemption. A written

1 instrument accepted for recording that does not comply with this
2 act does not affect the validity of the recording as to notice.

3 (2) An affidavit attached to a written instrument under
4 section 5 shall not be recorded and shall be detached from the
5 written instrument before recording. The affidavit shall be used
6 for auditing purposes only and shall not be disclosed to any
7 other person.

8 (3) UPON RECORDING OF A WRITTEN INSTRUMENT SUBJECT TO TAX
9 UNDER THIS ACT, THE REGISTER OF DEEDS SHALL PROVIDE THE ASSESSING
10 OFFICER OF THE ASSESSING UNIT IN WHICH THE PROPERTY IS LOCATED
11 WITH A COPY OF EACH WRITTEN INSTRUMENT SUBJECT TO THE TAX IMPOSED
12 BY THIS ACT. THE COPY OF THE WRITTEN INSTRUMENT SHALL CONTAIN
13 THE IMAGE OF THE STAMPS AFFIXED TO THE FACE OF THE INSTRUMENT.
14 IF THE PERSON SPECIFICALLY REQUESTS THAT THE INSTRUMENT BE
15 RECORDED BEFORE THE STAMPS ARE AFFIXED, THE COPY SHALL NOT
16 INCLUDE THE IMAGE OF THE STAMPS OR AMOUNT OF THE STAMPS ON THE
17 FACE OR REVERSE SIDE OF THE WRITTEN INSTRUMENT.

18 Sec. 16. This act shall be administered by the revenue
19 division of the department of treasury under, AND APPEALS UNDER
20 THIS ACT ARE GOVERNED BY, Act No. 122 of the Public Acts of 1941,
21 being sections 205.1 to 205.31 of the Michigan Compiled Laws.