



HOUSE BILL No. 4291

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

A bill to amend sections 1 and 5 of Act No. 134 of the Public Acts of 1966, entitled

"An act to impose a tax upon written instruments which transfer any interest in real property; to provide for the administration of this act; and to provide penalties for violations of this act,"

being sections 207.501 and 207.505 of the Michigan Compiled Laws; and to add section 12a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 5 of Act No. 134 of the Public
2 Acts of 1966, being sections 207.501 and 207.505 of the Michigan
3 Compiled Laws, are amended and section 12a is added to read as
4 follows:

5 Sec. 1. As used in this act:

6 (a) "Treasurer" means the county treasurer.

1 (b) "Person" means ~~every natural person~~ AN INDIVIDUAL,
2 PARTNERSHIP, LIMITED LIABILITY COMPANY, association, ~~or~~
3 corporation, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.
4 ~~Whenever~~ IF used in ~~any~~ A penalty clause, ~~the term "person",~~
5 ~~as applied to associations, means~~ PERSON INCLUDES the partners
6 or members ~~thereof, and as applied to corporations, the officers~~
7 ~~thereof~~ OF A FIRM, A PARTNERSHIP, OR AN ASSOCIATION AND THE
8 OFFICERS OF A CORPORATION.

9 (C) "PROPERTY" MEANS REAL PROPERTY AND ALL RIGHTS TO AND
10 INTERESTS IN REAL PROPERTY.

11 (D) "REAL PROPERTY" OR "REAL ESTATE" MEANS LANDS WITHIN THIS
12 STATE, INCLUDING ALL BUILDINGS, FIXTURES, AND APPURTENANCES ON
13 THOSE LANDS.

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

16 Sec. 5. The following WRITTEN instruments and transfers
17 ~~shall be~~ OF PROPERTY ARE exempt from THE TAX IMPOSED BY this
18 act:

19 (a) ~~Instruments where~~ A WRITTEN INSTRUMENT IN WHICH the
20 value of the consideration FOR THE PROPERTY is less than
21 \$100.00.

22 (b) ~~Instruments~~ A WRITTEN INSTRUMENT evidencing
23 ~~contracts~~ A CONTRACT or ~~transfers which are~~ TRANSFER THAT IS
24 not to be performed wholly within this state, ~~insofar as such~~
25 ~~instruments include~~ ONLY TO THE EXTENT THE WRITTEN INSTRUMENT
26 INCLUDES land lying outside of this state.

1 (c) ~~Written instruments which~~ A WRITTEN INSTRUMENT THAT
2 this state is prohibited from taxing under the UNITED STATES
3 constitution or FEDERAL statutes. ~~of the United States.~~

4 (d) ~~Instruments or writings~~ A WRITTEN INSTRUMENT given as
5 security or ~~any~~ AN assignment or discharge ~~thereof~~ OF THE
6 SECURITY INTEREST.

7 (e) ~~Instruments~~ A WRITTEN INSTRUMENT evidencing ~~leases~~ A
8 LEASE, including AN oil and gas ~~leases~~ LEASE, or ~~transfers~~ A
9 TRANSFER of ~~such~~ A leasehold ~~interests~~ INTEREST.

10 (f) ~~Instruments~~ A WRITTEN INSTRUMENT evidencing ~~any~~
11 ~~interests which are~~ AN INTEREST THAT IS assessable as personal
12 property.

13 (g) ~~Instruments~~ A WRITTEN INSTRUMENT evidencing the trans-
14 fer of ~~rights~~ A RIGHT and ~~interests~~ INTEREST for underground
15 gas storage purposes.

16 (h) ~~Instruments (i)~~ ANY OF THE FOLLOWING WRITTEN
17 INSTRUMENTS:

18 (i) A WRITTEN INSTRUMENT in which the grantor is the United
19 States, ~~the~~ THIS state, ~~any~~ A political subdivision or munic-
20 ipality ~~thereof~~ OF THIS STATE, or AN officer ~~thereof~~ OF THE
21 UNITED STATES OR OF THIS STATE, OR OF A POLITICAL SUBDIVISION OR
22 MUNICIPALITY OF THIS STATE, acting in his OR HER official
23 capacity. ~~;~~ ~~(ii)~~

24 (ii) A WRITTEN INSTRUMENT given in foreclosure or in lieu of
25 foreclosure of a loan made, guaranteed, or insured by the United
26 States, ~~the~~ THIS state, ~~any~~ A political subdivision or
27 municipality ~~thereof~~ OF THIS STATE, or AN officer ~~thereof~~ OF

1 THE UNITED STATES OR OF THIS STATE, OR OF A POLITICAL SUBDIVISION
 2 OR MUNICIPALITY OF THIS STATE, acting in his OR HER official
 3 capacity. ~~-(iii)-~~

4 (iii) A WRITTEN INSTRUMENT given to the United States, ~~the~~
 5 THIS state, or 1 of their officers ACTING IN AN OFFICIAL CAPACITY
 6 as grantee, pursuant to the terms or guarantee or insurance of a
 7 loan guaranteed or insured by the grantee.

8 (i) ~~Conveyances~~ A CONVEYANCE from a husband or wife or
 9 husband and wife creating or disjoining a tenancy by the entire-
 10 ties in the grantors or the grantor and his or her spouse.

11 (J) A CONVEYANCE FROM AN INDIVIDUAL TO THAT INDIVIDUAL'S
 12 PARENT, CHILD, ADOPTIVE PARENT, ADOPTED CHILD, GRANDPARENT,
 13 GRANDCHILD, ADOPTIVE GRANDPARENT, ADOPTED GRANDCHILD, BROTHER,
 14 SISTER, LEGAL WARD, OR A LEGALLY APPOINTED GUARDIAN.

15 (K) ~~(j) Judgments or orders~~ A JUDGMENT OR ORDER of
 16 ~~courts~~ A COURT of record making or ordering ~~transfers~~ A
 17 TRANSFER, ~~except where~~ UNLESS a specific monetary consideration
 18 is specified or ordered by the court ~~therefor~~ FOR THE
 19 TRANSFER.

20 (l) ~~(k) Instruments~~ A WRITTEN INSTRUMENT used to
 21 straighten boundary lines ~~where~~ IF no monetary consideration is
 22 given.

23 (M) ~~(l) Instruments~~ A WRITTEN INSTRUMENT to confirm
 24 ~~titles~~ TITLE already vested in ~~grantees~~ A GRANTEE, ~~such as~~
 25 INCLUDING A quitclaim ~~deeds~~ DEED to correct ~~flaws~~ A FLAW in
 26 ~~titles~~ TITLE.

1 (N) ~~(m) Land contracts whereby~~ A LAND CONTRACT IN WHICH
2 the legal title does not pass to the grantee until the total
3 consideration specified in the LAND contract has been paid.

4 (O) ~~(n) Instruments~~ A WRITTEN INSTRUMENT evidencing the
5 transfer of mineral rights and interests.

6 (P) ~~(o) Instruments~~ A WRITTEN INSTRUMENT creating a joint
7 tenancy between 2 or more persons ~~where~~ IF at least 1 of the
8 persons already ~~owned~~ OWNS the property.

9 (Q) A WRITTEN INSTRUMENT EVIDENCING A CONTRACT OR TRANSFER
10 OF PROPERTY TO A PERSON SUFFICIENTLY RELATED TO THE TRANSFEROR TO
11 BE CONSIDERED A SINGLE EMPLOYER WITH THE TRANSFEROR UNDER SECTION
12 414(b) OR (c) OF THE INTERNAL REVENUE CODE OF 1986, 26
13 U.S.C. 414, AS THAT SECTION WAS IN EXISTENCE ON APRIL 15, 1994.

14 (R) A WRITTEN INSTRUMENT CONVEYING AN INTEREST IN HOMESTEAD
15 PROPERTY FOR WHICH A HOMESTEAD EXEMPTION IS CLAIMED UNDER SECTION
16 7CC OF THE GENERAL PROPERTY TAX ACT, ACT NO. 206 OF THE PUBLIC
17 ACTS OF 1893, BEING SECTION 211.7CC OF THE MICHIGAN COMPILED
18 LAWS, IF THE STATE EQUALIZED VALUATION OF THAT HOMESTEAD PROPERTY
19 IS EQUAL TO OR LESSER THAN THE STATE EQUALIZED VALUATION ON THE
20 DATE OF PURCHASE OR ON THE DATE OF ACQUISITION BY THE SELLER OR
21 TRANSFEROR FOR THAT SAME INTEREST IN PROPERTY. IF AFTER AN
22 EXEMPTION IS CLAIMED UNDER THIS SUBSECTION, THE SALE OR TRANSFER
23 OF HOMESTEAD PROPERTY IS FOUND BY THE TREASURER TO BE AT A VALUE
24 OTHER THAN THE TRUE CASH VALUE, THEN A PENALTY EQUAL TO 20% OF
25 THE TAX SHALL BE ASSESSED IN ADDITION TO THE TAX DUE UNDER THIS
26 ACT TO THE SELLER OR TRANSFEROR.

1 (S) A WRITTEN INSTRUMENT TRANSFERRING AN INTEREST IN
2 PROPERTY PURSUANT TO A FORECLOSURE OF A MORTGAGE INCLUDING A
3 WRITTEN INSTRUMENT GIVEN IN LIEU OF FORECLOSURE OF A MORTGAGE.
4 THIS EXEMPTION DOES NOT APPLY TO A SUBSEQUENT TRANSFER OF THE
5 FORECLOSED PROPERTY BY THE ENTITY THAT FORECLOSED ON THE
6 MORTGAGE.

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

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

16 SEC. 12A. A PERSON AGGRIEVED BY AN ASSESSMENT, DECISION, OR
17 ORDER OF THE TREASURER REGARDING THE TAX IMPOSED UNDER THIS ACT
18 MAY APPEAL TO THE DEPARTMENT OF TREASURY AS PROVIDED IN ACT
19 NO. 122 OF THE PUBLIC ACTS OF 1941, BEING SECTIONS 205.1 TO
20 205.31 OF THE MICHIGAN COMPILED LAWS.