

HOUSE BILL No. 6158

September 9, 2004, Introduced by Rep. Kolb and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 27a (MCL 211.27a), as amended by 2000 PA
260.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27a. (1) Except as otherwise provided in this section,
2 property shall be assessed at 50% of its true cash value under
3 section 3 of article IX of the state constitution of 1963.

4 (2) Except as otherwise provided in subsection (3), for taxes
5 levied in 1995 and for each year after 1995, the taxable value of
6 each parcel of property is the lesser of the following:

7 (a) The property's taxable value in the immediately preceding
8 year minus any losses, multiplied by the lesser of 1.05 or the
9 inflation rate, plus all additions. For taxes levied in 1995,
10 the property's taxable value in the immediately preceding year is

1 the property's state equalized valuation in 1994.

2 (b) The property's current state equalized valuation.

3 (3) Upon a transfer of ownership of property after 1994, the
4 property's taxable value for the calendar year following the year
5 of the transfer is the property's state equalized valuation for
6 the calendar year following the transfer.

7 (4) If the taxable value of property is adjusted under
8 subsection (3), a subsequent increase in the property's taxable
9 value is subject to the limitation set forth in subsection (2)
10 until a subsequent transfer of ownership occurs.

11 (5) Assessment of property, as required in this section and
12 section 27, is inapplicable to the assessment of property subject
13 to the levy of ad valorem taxes within voted tax limitation
14 increases to pay principal and interest on limited tax bonds
15 issued by any governmental unit, including a county, township,
16 community college district, or school district, before January 1,
17 1964, if the assessment required to be made under this act would
18 be less than the assessment as state equalized prevailing on the
19 property at the time of the issuance of the bonds. This
20 inapplicability shall continue until levy of taxes to pay
21 principal and interest on the bonds is no longer required. The
22 assessment of property required by this act shall be applicable
23 for all other purposes.

24 (6) As used in this act, "transfer of ownership" means the
25 conveyance of title to or a present interest in property,
26 including the beneficial use of the property, the value of which
27 is substantially equal to the value of the fee interest.

1 Transfer of ownership of property includes, but is not limited
2 to, the following:

3 (a) A conveyance by deed.

4 (b) A conveyance by land contract. The taxable value of
5 property conveyed by a land contract executed after December 31,
6 1994 shall be adjusted under subsection (3) for the calendar year
7 following the year in which the contract is entered into and
8 shall not be subsequently adjusted under subsection (3) when the
9 deed conveying title to the property is recorded in the office of
10 the register of deeds in the county in which the property is
11 located.

12 (c) A conveyance to a trust after December 31, 1994, except
13 if the settlor or the settlor's spouse, or both, conveys the
14 property to the trust and the sole present beneficiary or
15 beneficiaries are the settlor or the settlor's spouse, or both.

16 (d) A conveyance by distribution from a trust, except if the
17 distributee is the sole present beneficiary or the spouse of the
18 sole present beneficiary, or both.

19 (e) A change in the sole present beneficiary or beneficiaries
20 of a trust, except a change that adds or substitutes the spouse
21 of the sole present beneficiary.

22 (f) A conveyance by distribution under a will or by intestate
23 succession, except if the distributee is the decedent's spouse.

24 (g) A conveyance by lease if the total duration of the lease,
25 including the initial term and all options for renewal, is more
26 than 35 years or the lease grants the lessee a bargain purchase
27 option. As used in this subdivision, "bargain purchase option"

1 means the right to purchase the property at the termination of
2 the lease for not more than 80% of the property's projected true
3 cash value at the termination of the lease. After December 31,
4 1994, the taxable value of property conveyed by a lease with a
5 total duration of more than 35 years or with a bargain purchase
6 option shall be adjusted under subsection (3) for the calendar
7 year following the year in which the lease is entered into. This
8 subdivision does not apply to personal property except buildings
9 described in section 14(6) and personal property described in
10 section 8(h), (i), and (j). This subdivision does not apply to
11 that portion of the property not subject to the leasehold
12 interest conveyed.

13 (h) A conveyance of an ownership interest in a corporation,
14 partnership, sole proprietorship, limited liability company,
15 limited liability partnership, or other legal entity if the
16 ownership interest conveyed is more than 50% of the corporation,
17 partnership, sole proprietorship, limited liability company,
18 limited liability partnership, or other legal entity. Unless
19 notification is provided under subsection (10), the corporation,
20 partnership, sole proprietorship, limited liability company,
21 limited liability partnership, or other legal entity shall notify
22 the assessing officer on a form provided by the state tax
23 commission not more than 45 days after a conveyance of an
24 ownership interest that constitutes a transfer of ownership under
25 this subdivision. **A corporation, partnership, sole**
26 **proprietorship, limited liability company, limited liability**
27 **partnership, or other legal entity that does not notify the**

1 assessing officer under subsection (10) or this subdivision of a
2 conveyance of an ownership interest that constitutes a transfer
3 of ownership is subject to a penalty of 1/2 of 1% of the state
4 equalized valuation of the real property transferred.

5 (i) A transfer of property held as a tenancy in common,
6 except that portion of the property not subject to the ownership
7 interest conveyed.

8 (j) A conveyance of an ownership interest in a cooperative
9 housing corporation, except that portion of the property not
10 subject to the ownership interest conveyed.

11 (7) Transfer of ownership does not include the following:

12 (a) The transfer of property from 1 spouse to the other
13 spouse or from a decedent to a surviving spouse.

14 (b) A transfer from a husband, a wife, or a husband and wife
15 creating or disjoining a tenancy by the entirety in the
16 grantors or the grantor and his or her spouse.

17 (c) A transfer of that portion of property subject to a life
18 estate or life lease retained by the transferor, until expiration
19 or termination of the life estate or life lease. That portion of
20 property transferred that is not subject to a life lease shall be
21 adjusted under subsection (3).

22 (d) A transfer through foreclosure or forfeiture of a
23 recorded instrument under chapter 31, 32, or 57 of the revised
24 judicature act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and
25 MCL 600.5701 to ~~600.5785~~ **600.5759**, or through deed or
26 conveyance in lieu of a foreclosure or forfeiture, until the
27 mortgagee or land contract vendor subsequently transfers the

1 property. If a mortgagee does not transfer the property within 1
2 year of the expiration of any applicable redemption period, the
3 property shall be adjusted under subsection (3).

4 (e) A transfer by redemption by the person to whom taxes are
5 assessed of property previously sold for delinquent taxes.

6 (f) A conveyance to a trust if the settlor or the settlor's
7 spouse, or both, conveys the property to the trust and the sole
8 present beneficiary of the trust is the settlor or the settlor's
9 spouse, or both.

10 (g) A transfer pursuant to a judgment or order of a court of
11 record making or ordering a transfer, unless a specific monetary
12 consideration is specified or ordered by the court for the
13 transfer.

14 (h) A transfer creating or terminating a joint tenancy
15 between 2 or more persons if at least 1 of the persons was an
16 original owner of the property before the joint tenancy was
17 initially created and, if the property is held as a joint tenancy
18 at the time of conveyance, at least 1 of the persons was a joint
19 tenant when the joint tenancy was initially created and that
20 person has remained a joint tenant since the joint tenancy was
21 initially created. A joint owner at the time of the last
22 transfer of ownership of the property is an original owner of the
23 property. For purposes of this subdivision, a person is an
24 original owner of property owned by that person's spouse.

25 (i) A transfer for security or an assignment or discharge of
26 a security interest.

27 (j) A transfer of real property or other ownership interests

1 among members of an affiliated group. As used in this
2 subsection, "affiliated group" means 1 or more corporations
3 connected by stock ownership to a common parent corporation.
4 Upon request by the state tax commission, a corporation shall
5 furnish proof within 45 days that a transfer meets the
6 requirements of this subdivision. A corporation that fails to
7 comply with a request by the state tax commission under this
8 subdivision is subject to a fine of \$200.00.

9 (k) Normal public trading of shares of stock or other
10 ownership interests that, over any period of time, cumulatively
11 represent more than 50% of the total ownership interest in a
12 corporation or other legal entity and are traded in multiple
13 transactions involving unrelated individuals, institutions, or
14 other legal entities.

15 (l) A transfer of real property or other ownership interests
16 among corporations, partnerships, limited liability companies,
17 limited liability partnerships, or other legal entities if the
18 entities involved are commonly controlled. Upon request by the
19 state tax commission, a corporation, partnership, limited
20 liability company, limited liability partnership, or other legal
21 entity shall furnish proof within 45 days that a transfer meets
22 the requirements of this subdivision. A corporation,
23 partnership, limited liability company, limited liability
24 partnership, or other legal entity that fails to comply with a
25 request by the state tax commission under this subdivision is
26 subject to a fine of \$200.00.

27 (m) A direct or indirect transfer of real property or other

1 ownership interests resulting from a transaction that qualifies
2 as a tax-free reorganization under section 368 of the internal
3 revenue code, ~~of 1986~~ **26 USC 368**. Upon request by the state
4 tax commission, a property owner shall furnish proof within 45
5 days that a transfer meets the requirements of this subdivision.
6 A property owner who fails to comply with a request by the state
7 tax commission under this subdivision is subject to a fine of
8 \$200.00.

9 (n) A transfer of qualified agricultural property, if the
10 person to whom the qualified agricultural property is transferred
11 files an affidavit with the assessor of the local tax collecting
12 unit in which the qualified agricultural property is located and
13 with the register of deeds for the county in which the qualified
14 agricultural property is located attesting that the qualified
15 agricultural property shall remain qualified agricultural
16 property. The affidavit under this subdivision shall be in a
17 form prescribed by the department of treasury. An owner of
18 qualified agricultural property shall inform a prospective buyer
19 of that qualified agricultural property that the qualified
20 agricultural property is subject to the recapture tax provided in
21 the agricultural property recapture act, **2000 PA 261, MCL**
22 **211.1001 to 211.1007**, if the qualified agricultural property is
23 converted by a change in use. If property ceases to be qualified
24 agricultural property at any time after being transferred, all of
25 the following shall occur:

26 (i) The taxable value of that property shall be adjusted
27 under subsection (3) as of the December 31 in the year that the

1 property ceases to be qualified agricultural property.

2 (ii) The property is subject to the recapture tax provided
3 for under the agricultural property recapture act, **2000 PA 261,**
4 **MCL 211.1001 to 211.1007.**

5 (8) If all of the following conditions are satisfied, the
6 local tax collecting unit shall revise the taxable value of
7 qualified agricultural property taxable on the tax roll in the
8 possession of that local tax collecting unit to the taxable value
9 that qualified agricultural property would have had if there had
10 been no transfer of ownership of that qualified agricultural
11 property since December 31, 1999 and there had been no adjustment
12 of that qualified agricultural property's taxable value under
13 subsection (3) since December 31, 1999:

14 (a) The qualified agricultural property was qualified
15 agricultural property for taxes levied in 1999 and each year
16 after 1999.

17 (b) The owner of the qualified agricultural property files an
18 affidavit with the assessor of the local tax collecting unit
19 under subsection (7)(n).

20 (9) If the taxable value of qualified agricultural property
21 is adjusted under subsection (8), the owner of that qualified
22 agricultural property shall not be entitled to a refund for any
23 property taxes collected under this act on that qualified
24 agricultural property before the adjustment under subsection
25 (8).

26 (10) The register of deeds of the county where deeds or other
27 title documents are recorded shall notify the assessing officer

1 of the appropriate local taxing unit not less than once each
2 month of any recorded transaction involving the ownership of
3 property and shall make any recorded deeds or other title
4 documents available to that county's tax or equalization
5 department. Unless notification is provided under subsection
6 (6), the buyer, grantee, or other transferee of the property
7 shall notify the appropriate assessing office in the local unit
8 of government in which the property is located of the transfer of
9 ownership of the property within 45 days of the transfer of
10 ownership, on a form prescribed by the state tax commission that
11 states the parties to the transfer, the date of the transfer, the
12 actual consideration for the transfer, and the property's parcel
13 identification number or legal description. **A buyer, grantee, or
14 other transferee who does not notify the assessing officer under
15 subsection (6) or this subdivision of a transfer of ownership is
16 subject to a penalty of 1/2 of 1% of the state equalized
17 valuation of the real property transferred.** Forms filed in the
18 assessing office of a local unit of government under this
19 subsection shall be made available to the county tax or
20 equalization department for the county in which that local unit
21 of government is located. This subsection does not apply to
22 personal property except buildings described in section 14(6) and
23 personal property described in section 8(h), (i), and (j).

24 (11) As used in this section:

25 (a) "Additions" means that term as defined in section 34d.

26 (b) "Beneficial use" means the right to possession, use, and
27 enjoyment of property, limited only by encumbrances, easements,

1 and restrictions of record.

2 (c) "Converted by a change in use" means that term as defined
3 in the agricultural property recapture act.

4 (d) "Inflation rate" means that term as defined in section
5 34d.

6 (e) "Losses" means that term as defined in section 34d.

7 (f) "Qualified agricultural property" means that term as
8 defined in section 7dd.