

HOUSE BILL No. 4003

January 27, 2005, Introduced by Rep. Caswell and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 8 and 27 (MCL 211.8 and 211.27), section 8 as
amended by 2002 PA 620 and section 27 as amended by 2003 PA 274.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. For the purposes of taxation, personal property
2 includes all of the following:

3 (a) All goods, chattels, and effects within this state.

4 (b) All goods, chattels, and effects belonging to inhabitants
5 of this state, located ~~without~~ **OUTSIDE OF** this state, except that
6 property actually and permanently invested in business in another
7 state shall not be included.

8 (c) All interests owned by individuals in real property, the

1 fee title to which is in this state or the United States, except as
2 otherwise provided in this act.

3 (d) For taxes levied before January 1, 2003, buildings and
4 improvements located upon leased real property, except if the value
5 of the real property is also assessed to the lessee or owner of
6 those buildings and improvements. For taxes levied after December
7 31, 2002, buildings and improvements located upon leased real
8 property, except buildings and improvements exempt under section 9f
9 or improvements assessable under section 8(h), shall be assessed as
10 real property under section 2 to the owner of the buildings or
11 improvements in the local tax collecting unit in which the
12 buildings or improvements are located if the value of the buildings
13 or improvements is not otherwise included in the assessment of the
14 real property. For taxes levied after December 31, 2001, buildings
15 and improvements exempt under section 9f or improvements assessable
16 under section 8(h) and located on leased real property shall be
17 assessed as personal property.

18 (e) Tombs or vaults built within any burial grounds and kept
19 for hire or rent, in whole or in part, and the stock of a
20 corporation or association owning the tombs, vaults, or burial
21 grounds.

22 (f) All other personal property not enumerated in this section
23 and not especially exempted by law.

24 (g) The personal property of gas and coke companies, natural
25 gas companies, electric light companies, waterworks companies,
26 hydraulic companies, and pipe line companies transporting oil or
27 gas as public or common carriers, to be assessed in the local tax

1 collecting unit in which the personal property is located. The
2 mains, pipes, supports, and wires of these companies, including the
3 supports and wire or other line used for communication purposes in
4 the operation of those facilities, and the rights of way and the
5 easements or other interests in real property by virtue of which
6 the mains, pipes, supports, and wires are erected and maintained,
7 shall be assessed as personal property in the local tax collecting
8 unit where laid, placed, or located. Interests in underground rock
9 strata used for gas storage purposes, whether by lease or ownership
10 separate from the surface of real property, shall be separately
11 valued and assessed as personal property in the local tax
12 collecting unit in which it is located to the person who holds the
13 interest. Interests in underground rock strata shall be reported as
14 personal property to the appropriate assessing officer for all
15 property descriptions included in the storage field in the local
16 tax collecting unit and a separate valuation shall be assessed for
17 each school district. The personal property of street railroad,
18 plank road, cable or electric railroad or transportation companies,
19 bridge companies, and all other companies not required to pay a
20 specific tax to this state in lieu of all other taxes, shall,
21 except as otherwise provided in this section, be assessed in the
22 local tax collecting unit in which the property is located, used,
23 or laid, and the track, road, or bridge of a company is considered
24 personal property. None of the property assessable as personal
25 property under this subdivision shall be affected by any assessment
26 or tax levied on the real property through or over which the
27 personal property is laid, placed, or located, nor shall any right

1 of way, easement, or other interest in real property, assessable as
2 personal property under this subdivision, be extinguished or
3 otherwise affected in case the real property subject to assessment
4 is sold in the exercise of the taxing power.

5 (h) During the tenancy of a lessee, leasehold improvements and
6 structures installed and constructed on real property by the
7 lessee, provided and to the extent the improvements or structures
8 add to the true cash taxable value of the real property
9 notwithstanding that the real property is encumbered by a lease
10 agreement, and the value added by the improvements or structures is
11 not otherwise included in the assessment of the real property or
12 not otherwise assessable under subdivision (j). The cost of
13 leasehold improvements and structures on real property shall not be
14 the sole indicator of value. Leasehold improvements and structures
15 assessed under this subdivision shall be assessed to the lessee.

16 (i) A leasehold estate received by a sublessor from which the
17 sublessor receives net rentals in excess of net rentals required to
18 be paid by the sublessor except to the extent that the excess
19 rentals are attributable to the installation and construction of
20 improvements and structures assessed under subdivision (h) or (j)
21 or included in the assessment of the real property. For purposes of
22 this act, a leasehold estate is considered to be owned by the
23 lessee receiving additional net rentals. A lessee in possession is
24 required to provide the assessor with the name and address of its
25 lessor. Taxes collected under this act on leasehold estates shall
26 become a lien against the rentals paid by the sublessee to the
27 sublessor.

(j) To the extent not assessed as real property, a leasehold estate of a lessee created by the difference between the income that would be received by the lessor from the lessee on the basis of the present economic income of the property as defined and allowed by section ~~27(4)~~ **27(5)**, minus the actual value to the lessor under the lease. This subdivision does not apply to property if subject to a lease entered into before January 1, 1984 for which the terms of the lease governing the rental rate or the tax liability have not been renegotiated after December 31, 1983. This subdivision does not apply to a nonprofit housing cooperative. As used in this subdivision, "nonprofit cooperative housing corporation" means a nonprofit cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest upon stock or membership investment but that does distribute all earnings to its stockholders or members.

(k) For taxes levied after December 31, 2002, a trade fixture.

Sec. 27. (1) As used in this act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. The usual selling price may include sales at public auction held by a nongovernmental agency or person if those sales have become a common method of acquisition in the jurisdiction for the class of property being valued. The usual selling price does not include sales at public auction if the sale is part of a

1 liquidation of the seller's assets in a bankruptcy proceeding or if
2 the seller is unable to use common marketing techniques to obtain
3 the usual selling price for the property. A sale or other
4 disposition by this state or an agency or political subdivision of
5 this state of land acquired for delinquent taxes or an appraisal
6 made in connection with the sale or other disposition or the value
7 attributed to the property of regulated public utilities by a
8 governmental regulatory agency for rate-making purposes is not
9 controlling evidence of true cash value for assessment purposes. In
10 determining the true cash value, the assessor shall also consider
11 the advantages and disadvantages of location; quality of soil;
12 zoning; existing use; present economic income of structures,
13 including farm structures; present economic income of land if the
14 land is being farmed or otherwise put to income producing use;
15 quantity and value of standing timber; water power and privileges;
16 and mines, minerals, quarries, or other valuable deposits known to
17 be available in the land and their value. In determining the true
18 cash value of personal property owned by an electric utility
19 cooperative, the assessor shall consider the number of kilowatt
20 hours of electricity sold per mile of distribution line compared to
21 the average number of kilowatt hours of electricity sold per mile
22 of distribution line for all electric utilities.

23 (2) The assessor shall not consider the increase in true cash
24 value that is a result of expenditures for normal repairs,
25 replacement, and maintenance in determining the true cash value of
26 property for assessment purposes until the property is sold. For
27 the purpose of implementing this subsection, the assessor shall not

1 increase the construction quality classification or reduce the
2 effective age for depreciation purposes, except if the appraisal of
3 the property was erroneous before nonconsideration of the normal
4 repair, replacement, or maintenance, and shall not assign an
5 economic condition factor to the property that differs from the
6 economic condition factor assigned to similar properties as defined
7 by appraisal procedures applied in the jurisdiction. The increase
8 in value attributable to the items included in subdivisions (a) to
9 (o) that is known to the assessor and excluded from true cash value
10 shall be indicated on the assessment roll. This subsection applies
11 only to residential property. The following repairs are considered
12 normal maintenance if they are not part of a structural addition or
13 completion:

- 14 (a) Outside painting.
- 15 (b) Repairing or replacing siding, roof, porches, steps,
16 sidewalks, or drives.
- 17 (c) Repainting, repairing, or replacing existing masonry.
- 18 (d) Replacing awnings.
- 19 (e) Adding or replacing gutters and downspouts.
- 20 (f) Replacing storm windows or doors.
- 21 (g) Insulating or weatherstripping.
- 22 (h) Complete rewiring.
- 23 (i) Replacing plumbing and light fixtures.
- 24 (j) Replacing a furnace with a new furnace of the same type or
25 replacing an oil or gas burner.
- 26 (k) Repairing plaster, inside painting, or other redecorating.
- 27 (l) New ceiling, wall, or floor surfacing.

1 (m) Removing partitions to enlarge rooms.

2 (n) Replacing an automatic hot water heater.

3 (o) Replacing dated interior woodwork.

4 (3) A city or township assessor, a county equalization
5 department, or the state tax commission before utilizing real
6 estate sales data on real property purchases, including purchases
7 by land contract, to determine assessments or in making sales ratio
8 studies to assess property or equalize assessments shall exclude
9 from the sales data the following amounts allowed by subdivisions
10 (a), (b), and (c) to the extent that the amounts are included in
11 the real property purchase price and are so identified in the real
12 estate sales data or certified to the assessor as provided in
13 subdivision (d):

14 (a) Amounts paid for obtaining financing of the purchase price
15 of the property or the last conveyance of the property.

16 (b) Amounts attributable to personal property that were
17 included in the purchase price of the property in the last
18 conveyance of the property.

19 (c) Amounts paid for surveying the property pursuant to the
20 last conveyance of the property. The legislature may require local
21 units of government, including school districts, to submit reports
22 of revenue lost under subdivisions (a) and (b) and this subdivision
23 so that the state may reimburse those units for that lost revenue.

24 (d) The purchaser of real property, including a purchaser by
25 land contract, may file with the assessor of the city or township
26 in which the property is located 2 copies of the purchase agreement
27 or of an affidavit that identifies the amount, if any, for each

1 item listed in subdivisions (a) to (c). One copy shall be forwarded
2 by the assessor to the county equalization department. The
3 affidavit shall be prescribed by the state tax commission.

4 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, PRIOR TO
5 UTILIZING SALES DATA ON REAL PROPERTY PURCHASES, INCLUDING
6 PURCHASES BY LAND CONTRACT, IN MAKING SALES RATIO STUDIES AND
7 APPRAISALS TO ASSESS REAL PROPERTY CLASSIFIED AS AGRICULTURAL REAL
8 PROPERTY UNDER SECTION 34C, A CITY OR TOWNSHIP ASSESSOR, A COUNTY
9 EQUALIZATION DEPARTMENT, AND THE STATE TAX COMMISSION SHALL EXCLUDE
10 FROM THE SALES DATA ALL SALES OF REAL PROPERTY CLASSIFIED AS
11 AGRICULTURAL REAL PROPERTY UNDER SECTION 34C FOR WHICH AN AFFIDAVIT
12 HAS NOT BEEN FILED UNDER SECTION 27A(7)(N) AND THE SALE IS NOT
13 REPRESENTATIVE OF THE CLASS.

14 (5) ~~-(4)-~~ As used in subsection (1), "present economic
15 income" means for leased or rented property the ordinary, general,
16 and usual economic return realized from the lease or rental of
17 property negotiated under current, contemporary conditions between
18 parties equally knowledgeable and familiar with real estate values.
19 The actual income generated by the lease or rental of property is
20 not the controlling indicator of its true cash value in all cases.
21 This subsection does not apply to property subject to a lease
22 entered into before January 1, 1984 for which the terms of the
23 lease governing the rental rate or tax liability have not been
24 renegotiated after December 31, 1983. This subsection does not
25 apply to a nonprofit housing cooperative subject to regulatory
26 agreements between the state or federal government entered into
27 before January 1, 1984. As used in this subsection, "nonprofit

1 cooperative housing corporation" means a nonprofit cooperative
2 housing corporation that is engaged in providing housing services
3 to its stockholders and members and that does not pay dividends or
4 interest upon stock or membership investment but that does
5 distribute all earnings to its stockholders or members.

6 (6) ~~—(5)—~~ Beginning December 31, 1994, the purchase price
7 paid in a transfer of property is not the presumptive true cash
8 value of the property transferred. In determining the true cash
9 value of transferred property, an assessing officer shall assess
10 that property using the same valuation method used to value all
11 other property of that same classification in the assessing
12 jurisdiction. As used in this subsection, "purchase price" means
13 the total consideration agreed to in an arms-length transaction and
14 not at a forced sale paid by the purchaser of the property, stated
15 in dollars, whether or not paid in dollars.

16 (7) ~~—(6)—~~ For purposes of a statement submitted under section
17 19, the true cash value of a standard tool is the net book value of
18 that standard tool as of December 31 in each tax year as determined
19 using generally accepted accounting principles in a manner
20 consistent with the established depreciation method used by the
21 person submitting that statement. The net book value of a standard
22 tool for federal income tax purposes is not the presumptive true
23 cash value of that standard tool. As used in this subsection,
24 "standard tool" means that term as defined in section 9b.