

HOUSE BILL No. 5128

September 6, 2005, Introduced by Reps. Vagnozzi, Kehrl, Gosselin, Zelenko, Sak, Sheltrown, Miller, Gonzales, Donigan, Lemmons, Jr. and Lemmons, III 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, the

1 property's taxable value in the immediately preceding year is the
2 property's state equalized valuation in 1994.

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

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

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

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

1 ownership of property includes, but is not limited to, the
2 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 shall
8 not be subsequently adjusted under subsection (3) when the deed
9 conveying title to the property is recorded in the office of the
10 register of deeds in the county in which the property is located.

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

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

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

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

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

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

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

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

27 (j) A conveyance of an ownership interest in a cooperative

1 housing corporation, except that portion of the property not
2 subject to the ownership interest conveyed.

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

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

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

9 (c) A transfer of that portion of property subject to a life
10 estate or life lease retained by the transferor, until expiration
11 or termination of the life estate or life lease. That portion of
12 property transferred that is not subject to a life lease shall be
13 adjusted under subsection (3).

14 (d) A transfer through foreclosure or forfeiture of a recorded
15 instrument under chapter 31, 32, or 57 of the revised judicature
16 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and MCL 600.5701
17 to ~~600.5785~~ **600.5759**, or through deed or conveyance in lieu of a
18 foreclosure or forfeiture, until the mortgagee or land contract
19 vendor subsequently transfers the property. If a mortgagee does not
20 transfer the property within 1 year of the expiration of any
21 applicable redemption period, the property shall be adjusted under
22 subsection (3).

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

25 (f) A conveyance to a trust if the settlor or the settlor's
26 spouse, or both, conveys the property to the trust and the sole
27 present beneficiary of the trust is the settlor or the settlor's

1 spouse, or both.

2 (g) A transfer pursuant to a judgment or order of a court of
3 record making or ordering a transfer, unless a specific monetary
4 consideration is specified or ordered by the court for the
5 transfer.

6 (h) A transfer creating or terminating a joint tenancy between
7 2 or more persons if at least 1 of the persons was an original
8 owner of the property before the joint tenancy was initially
9 created and, if the property is held as a joint tenancy at the time
10 of conveyance, at least 1 of the persons was a joint tenant when
11 the joint tenancy was initially created and that person has
12 remained a joint tenant since the joint tenancy was initially
13 created. A joint owner at the time of the last transfer of
14 ownership of the property is an original owner of the property. For
15 purposes of this subdivision, a person is an original owner of
16 property owned by that person's spouse.

17 (i) A transfer for security or an assignment or discharge of a
18 security interest.

19 (j) A transfer of real property or other ownership interests
20 among members of an affiliated group. As used in this subsection,
21 "affiliated group" means 1 or more corporations connected by stock
22 ownership to a common parent corporation. Upon request by the state
23 tax commission, a corporation shall furnish proof within 45 days
24 that a transfer meets the requirements of this subdivision. A
25 corporation that fails to comply with a request by the state tax
26 commission under this subdivision is subject to a fine of \$200.00.

27 (k) Normal public trading of shares of stock or other

1 ownership interests that, over any period of time, cumulatively
2 represent more than 50% of the total ownership interest in a
3 corporation or other legal entity and are traded in multiple
4 transactions involving unrelated individuals, institutions, or
5 other legal entities.

6 (l) A transfer of real property or other ownership interests
7 among corporations, partnerships, limited liability companies,
8 limited liability partnerships, or other legal entities if the
9 entities involved are commonly controlled. Upon request by the
10 state tax commission, a corporation, partnership, limited liability
11 company, limited liability partnership, or other legal entity shall
12 furnish proof within 45 days that a transfer meets the requirements
13 of this subdivision. A corporation, partnership, limited liability
14 company, limited liability partnership, or other legal entity that
15 fails to comply with a request by the state tax commission under
16 this subdivision is subject to a fine of \$200.00.

17 (m) A direct or indirect transfer of real property or other
18 ownership interests resulting from a transaction that qualifies as
19 a tax-free reorganization under section 368 of the internal revenue
20 code, ~~of 1986~~ **26 USC 368**. Upon request by the state tax
21 commission, a property owner shall furnish proof within 45 days
22 that a transfer meets the requirements of this subdivision. A
23 property owner who fails to comply with a request by the state tax
24 commission under this subdivision is subject to a fine of \$200.00.

25 (n) A transfer of qualified agricultural property, if the
26 person to whom the qualified agricultural property is transferred
27 files an affidavit with the assessor of the local tax collecting

unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act, if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

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

(O) A TRANSFER OF REAL PROPERTY TO A PERSON WHO IS 60 YEARS OLD OR OLDER FOR WHICH AN EXEMPTION AS A PRINCIPAL RESIDENCE IS CLAIMED UNDER SECTION 7CC IF THE PERSON TO WHOM THE REAL PROPERTY IS TRANSFERRED WAS A RESIDENT OF THE LOCAL TAX COLLECTING UNIT IN WHICH THAT REAL PROPERTY IS LOCATED IMMEDIATELY PRECEDING THE TRANSFER.

(P) A TRANSFER OF REAL PROPERTY FOR WHICH AN EXEMPTION AS A PRINCIPAL RESIDENCE IS CLAIMED UNDER SECTION 7CC IF THE PERSON TO

1 WHOM THE REAL PROPERTY IS TRANSFERRED IS TOTALLY AND PERMANENTLY
2 DISABLED. AS USED IN THIS SUBDIVISION, "TOTALLY AND PERMANENTLY
3 DISABLED" MEANS DISABILITY AS DEFINED IN SECTION 416 OF THE SOCIAL
4 SECURITY ACT, 42 USC 416.

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 after
16 1999.

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

20 (9) If the taxable value of qualified agricultural property is
21 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 (8).

25 (10) The register of deeds of the county where deeds or other
26 title documents are recorded shall notify the assessing officer of
27 the appropriate local taxing unit not less than once each month of

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

18 (11) As used in this section:

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

20 (b) "Beneficial use" means the right to possession, use, and
21 enjoyment of property, limited only by encumbrances, easements, and
22 restrictions of record.

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

25 (d) "Inflation rate" means that term as defined in section
26 34d.

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

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