

SENATE BILL No. 805

November 9, 2011, Introduced by Senators GREEN, MARLEAU, NOFS, WALKER and BOOHER and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 27a (MCL 211.27a), as amended by 2008 PA 506.

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

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

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

6 (4) If the taxable value of property is adjusted under
7 subsection (3), a subsequent increase in the property's taxable
8 value is subject to the limitation set forth in subsection (2)
9 until a subsequent transfer of ownership occurs. If the taxable
10 value of property is adjusted under subsection (3) and the assessor
11 determines that there had not been a transfer of ownership, the
12 taxable value of the property shall be adjusted at the July or
13 December board of review. Notwithstanding the limitation provided
14 in section 53b(1) on the number of years for which a correction may
15 be made, the July or December board of review may adjust the
16 taxable value of property under this subsection for the current
17 year and for the 3 immediately preceding calendar years. A
18 corrected tax bill shall be issued for each tax year for which the
19 taxable value is adjusted by the local tax collecting unit if the
20 local tax collecting unit has possession of the tax roll or by the
21 county treasurer if the county has possession of the tax roll. For
22 purposes of section 53b, an adjustment under this subsection shall
23 be considered the correction of a clerical error.

24 (5) Assessment of property, as required in this section and
25 section 27, is inapplicable to the assessment of property subject
26 to the levy of ad valorem taxes within voted tax limitation
27 increases to pay principal and interest on limited tax bonds issued

1 by any governmental unit, including a county, township, community
2 college district, or school district, before January 1, 1964, if
3 the assessment required to be made under this act would be less
4 than the assessment as state equalized prevailing on the property
5 at the time of the issuance of the bonds. This inapplicability
6 shall continue until levy of taxes to pay principal and interest on
7 the bonds is no longer required. The assessment of property
8 required by this act shall be applicable for all other purposes.

9 (6) As used in this act, "transfer of ownership" means the
10 conveyance of title to or a present interest in property, including
11 the beneficial use of the property, the value of which is
12 substantially equal to the value of the fee interest. Transfer of
13 ownership of property includes, but is not limited to, the
14 following:

15 (a) A conveyance by deed.

16 (b) A conveyance by land contract. The taxable value of
17 property conveyed by a land contract executed after December 31,
18 1994 shall be adjusted under subsection (3) for the calendar year
19 following the year in which the contract is entered into and shall
20 not be subsequently adjusted under subsection (3) when the deed
21 conveying title to the property is recorded in the office of the
22 register of deeds in the county in which the property is located.

23 (c) A conveyance to a trust after December 31, 1994, except if
24 the settlor or the settlor's spouse, or both, conveys the property
25 to the trust and the sole present beneficiary or beneficiaries are
26 the settlor or the settlor's spouse, or both.

27 (d) A conveyance by distribution from a trust, except if the

1 distributee is the sole present beneficiary or the spouse of the
2 sole present beneficiary, or both.

3 (e) A change in the sole present beneficiary or beneficiaries
4 of a trust, except a change that adds or substitutes the spouse of
5 the sole present beneficiary.

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

8 (g) A conveyance by lease if the total duration of the lease,
9 including the initial term and all options for renewal, is more
10 than 35 years or the lease grants the lessee a bargain purchase
11 option. As used in this subdivision, "bargain purchase option"
12 means the right to purchase the property at the termination of the
13 lease for not more than 80% of the property's projected true cash
14 value at the termination of the lease. After December 31, 1994, the
15 taxable value of property conveyed by a lease with a total duration
16 of more than 35 years or with a bargain purchase option shall be
17 adjusted under subsection (3) for the calendar year following the
18 year in which the lease is entered into. This subdivision does not
19 apply to personal property except buildings described in section
20 14(6) and personal property described in section 8(h), (i), and
21 (j). This subdivision does not apply to that portion of the
22 property not subject to the leasehold interest conveyed.

23 (h) A conveyance of an ownership interest in a corporation,
24 partnership, sole proprietorship, limited liability company,
25 limited liability partnership, or other legal entity if the
26 ownership interest conveyed is more than 50% of the corporation,
27 partnership, sole proprietorship, limited liability company,

1 limited liability partnership, or other legal entity. Unless
2 notification is provided under subsection (10), the corporation,
3 partnership, sole proprietorship, limited liability company,
4 limited liability partnership, or other legal entity shall notify
5 the assessing officer on a form provided by the state tax
6 commission not more than 45 days after a conveyance of an ownership
7 interest that constitutes a transfer of ownership under this
8 subdivision.

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

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

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

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

18 (b) A transfer from a husband, a wife, or a husband and wife
19 creating or disjoining a tenancy by the entireties in the grantors
20 or the grantor and his or her spouse.

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

26 (d) A transfer through foreclosure or forfeiture of a recorded
27 instrument under chapter 31, 32, or 57 of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3285 and MCL 600.5701
2 to 600.5759, or through deed or conveyance in lieu of a foreclosure
3 or forfeiture, until the mortgagee or land contract vendor
4 subsequently transfers the property. If a mortgagee does not
5 transfer the property within 1 year of the expiration of any
6 applicable redemption period, the property shall be adjusted under
7 subsection (3).

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

10 (f) A conveyance to a trust if the settlor or the settlor's
11 spouse, or both, conveys the property to the trust and the sole
12 present beneficiary of the trust is the settlor or the settlor's
13 spouse, or both.

14 (g) A transfer pursuant to a judgment or order of a court of
15 record making or ordering a transfer, unless a specific monetary
16 consideration is specified or ordered by the court for the
17 transfer.

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

1 property owned by that person's spouse.

2 (i) A transfer for security or an assignment or discharge of a
3 security interest.

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

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

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

1 this subdivision is subject to a fine of \$200.00.

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

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

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

1 ceases to be qualified agricultural property.

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

5 (o) A transfer of qualified forest property, if the person to
6 whom the qualified forest property is transferred files an
7 affidavit with the assessor of the local tax collecting unit in
8 which the qualified forest property is located and with the
9 register of deeds for the county in which the qualified forest
10 property is located attesting that the qualified forest property
11 shall remain qualified forest property. The affidavit under this
12 subdivision shall be in a form prescribed by the department of
13 treasury. An owner of qualified forest property shall inform a
14 prospective buyer of that qualified forest property that the
15 qualified forest property is subject to the recapture tax provided
16 in the qualified forest property recapture tax act, 2006 PA 379,
17 MCL 211.1031 to 211.1036, if the qualified forest property is
18 converted by a change in use. If property ceases to be qualified
19 forest property at any time after being transferred, all of the
20 following shall occur:

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

24 (ii) The property is subject to the recapture tax provided for
25 under the qualified forest property recapture tax act, 2006 PA 379,
26 MCL 211.1031 to 211.1036.

27 (p) Beginning ~~on the effective date of the amendatory act that~~

1 ~~added this subdivision~~ **DECEMBER 8, 2006**, a transfer of land, but
2 not buildings or structures located on the land, which meets 1 or
3 more of the following requirements:

4 (i) The land is subject to a conservation easement under
5 subpart 11 of part 21 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in
7 this subparagraph, "conservation easement" means that term as
8 defined in section 2140 of the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.2140.

10 (ii) A transfer of ownership of the land or a transfer of an
11 interest in the land is eligible for a deduction as a qualified
12 conservation contribution under section 170(h) of the internal
13 revenue code, 26 USC 170.

14 (q) A transfer of real property or other ownership interests
15 resulting from a consolidation or merger of a domestic nonprofit
16 corporation that is a boy or girl scout or camp fire girls
17 organization, a 4-H club or foundation, a young men's Christian
18 association, or a young women's Christian association and at least
19 50% of the members of that organization or association are
20 residents of this state.

21 **(R) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
22 **ADDED THIS SUBDIVISION, A CONVEYANCE OF LAND BY DISTRIBUTION UNDER**
23 **A WILL, BUT NOT BUILDINGS OR STRUCTURES LOCATED ON THE LAND, WHICH**
24 **MEETS 1 OR MORE OF THE FOLLOWING REQUIREMENTS:**

25 **(i) AS A RESULT OF THE CONVEYANCE BY DISTRIBUTION UNDER A WILL,**
26 **THE LAND IS MADE SUBJECT TO A CONSERVATION EASEMENT UNDER SUBPART**
27 **11 OF PART 21 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**

1 ACT, 1994 PA 451, MCL 324.2140 TO 324.2144. AS USED IN THIS
2 SUBPARAGRAPH, "CONSERVATION EASEMENT" MEANS THAT TERM AS DEFINED IN
3 SECTION 2140 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
4 ACT, 1994 PA 451, MCL 324.2140.

5 (ii) AS A RESULT OF THE CONVEYANCE BY DISTRIBUTION UNDER A
6 WILL, THE LAND OR AN INTEREST IN THE LAND IS MADE ELIGIBLE FOR A
7 DEDUCTION AS A QUALIFIED CONSERVATION CONTRIBUTION UNDER SECTION
8 170(H) OF THE INTERNAL REVENUE CODE, 26 USC 170.

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

18 (a) The qualified agricultural property was qualified
19 agricultural property for taxes levied in 1999 and each year after
20 1999.

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

24 (9) If the taxable value of qualified agricultural property is
25 adjusted under subsection (8), the owner of that qualified
26 agricultural property shall not be entitled to a refund for any
27 property taxes collected under this act on that qualified

1 agricultural property before the adjustment under subsection (8).

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

22 (11) As used in this section:

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

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

27 (c) "Converted by a change in use" means that term as defined

1 in the agricultural property recapture act, 2000 PA 261, MCL
2 211.1001 to 211.1007.

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

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

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

8 (g) "Qualified forest property" means that term as defined in
9 section 7jj[1].