

SENATE BILL No. 391

May 24, 2011, Introduced by Senators GREEN, KAHN, CASPERSON and MARLEAU and referred to the Committee on Energy and Technology.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 2 and 8 (MCL 211.2 and 211.8), section 2 as
amended by 2002 PA 620 and section 8 as amended by 2006 PA 633.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) For the purpose of taxation, real property
2 includes all of the following:

3 (a) All land within this state, all buildings and fixtures on
4 the land, and all appurtenances to the land, except as expressly
5 exempted by law.

6 (b) All real property owned by this state or purchased or
7 condemned for public highway purposes by any board, officer,
8 commission, or department of this state and sold on land contract,
9 notwithstanding the fact that the deed has not been executed
10 transferring title.

1 (c) For taxes levied after December 31, 2002, buildings and
2 improvements located upon leased real property, except buildings
3 and improvements exempt under section 9f or improvements assessable
4 under section 8(h), if the value of the buildings or improvements
5 is not otherwise included in the assessment of the real property.
6 However, buildings and improvements located on leased real property
7 shall not be treated as real property unless they would be treated
8 as real property if they were located on real property owned by the
9 taxpayer.

10 (D) FOR TAXES LEVIED AFTER DECEMBER 31, 2012, A WIND ENERGY
11 SYSTEM. AS USED IN THIS SUBDIVISION, "WIND ENERGY SYSTEM" MEANS AN
12 INTEGRATED UNIT CONSISTING OF A WIND TURBINE COMPOSED OF A ROTOR,
13 AN ELECTRICAL GENERATOR, A CONTROL SYSTEM, AN INVERTER OR OTHER
14 POWER CONDITIONING UNIT, AND A TOWER, WHICH USES MOVING AIR TO
15 PRODUCE POWER.

16 (2) The taxable status of persons and real and personal
17 property for a tax year shall be determined as of each December 31
18 of the immediately preceding year, which is considered the tax day,
19 any provisions in the charter of any city or village to the
20 contrary notwithstanding. An assessing officer is not restricted to
21 any particular period in the preparation of the assessment roll but
22 may survey, examine, or review property at any time before or after
23 the tax day.

24 (3) Notwithstanding a provision to the contrary in any law, if
25 real property is acquired for public purposes by purchase or
26 condemnation, all general property taxes, but not penalties, levied
27 during the 12 months immediately preceding, but not including, the

1 day title passes to the public agency shall be prorated in
2 accordance with this subsection. The seller or condemnee is
3 responsible for the portion of taxes from the levy date or dates
4 to, but not including, the day title passes and the public agency
5 is responsible for the remainder of the taxes. If the date that
6 title will pass cannot be ascertained definitely and an agreement
7 in advance to prorate taxes is desirable, an estimated date for the
8 passage of title may be agreed to. In the absence of an agreement,
9 the public agency shall compute the proration of taxes as of the
10 date title passes. The question of proration of taxes shall not be
11 considered in any condemnation proceeding. As used in this
12 subsection, "levy date" means the day on which general property
13 taxes become due and payable. In addition to the portion of taxes
14 for which the public agency is responsible under the provisions of
15 this subsection, the public agency is also responsible for all
16 general property taxes levied on or after the date title passes and
17 before the property is removed from the tax rolls.

18 (4) In a real estate transaction between private parties in
19 the absence of an agreement to the contrary, the seller is
20 responsible for that portion of the annual taxes levied during the
21 12 months immediately preceding, but not including, the day title
22 passes, from the levy date or dates to, but not including, the day
23 title passes and the buyer is responsible for the remainder of the
24 annual taxes. As used in this subsection, "levy date" means the day
25 on which a general property tax becomes due and payable.

26 Sec. 8. For the purposes of taxation, personal property
27 includes all of the following:

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

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

6 (c) All interests owned by individuals in real property, the
7 fee title to which is in this state or the United States, except as
8 otherwise provided in this act.

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

24 (e) Tombs or vaults built within any burial grounds and kept
25 for hire or rent, in whole or in part, and the stock of a
26 corporation or association owning the tombs, vaults, or burial
27 grounds.

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

3 (g) The personal property of gas and coke companies, natural
4 gas companies, electric light companies, waterworks companies,
5 hydraulic companies, and pipe line companies transporting oil or
6 gas as public or common carriers, to be assessed in the local tax
7 collecting unit in which the personal property is located. The
8 mains, pipes, supports, and wires of these companies, including the
9 supports and wire or other line used for communication purposes in
10 the operation of those facilities, and the rights of way and the
11 easements or other interests in real property by virtue of which
12 the mains, pipes, supports, and wires are erected and maintained,
13 shall be assessed as personal property in the local tax collecting
14 unit where laid, placed, or located. Interests in underground rock
15 strata used for gas storage purposes, whether by lease or ownership
16 separate from the surface of real property, shall be separately
17 valued and assessed as personal property in the local tax
18 collecting unit in which it is located to the person who holds the
19 interest. Interests in underground rock strata shall be reported as
20 personal property to the appropriate assessing officer for all
21 property descriptions included in the storage field in the local
22 tax collecting unit and a separate valuation shall be assessed for
23 each school district. The personal property of street railroad,
24 plank road, cable or electric railroad or transportation companies,
25 bridge companies, and all other companies not required to pay a
26 specific tax to this state in lieu of all other taxes, shall,
27 except as otherwise provided in this section, be assessed in the

1 local tax collecting unit in which the property is located, used,
2 or laid, and the track, road, or bridge of a company is considered
3 personal property. None of the property assessable as personal
4 property under this subdivision shall be affected by any assessment
5 or tax levied on the real property through or over which the
6 personal property is laid, placed, or located, nor shall any right
7 of way, easement, or other interest in real property, assessable as
8 personal property under this subdivision, be extinguished or
9 otherwise affected in case the real property subject to assessment
10 is sold in the exercise of the taxing power.

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

22 (i) A leasehold estate received by a sublessor from which the
23 sublessor receives net rentals in excess of net rentals required to
24 be paid by the sublessor except to the extent that the excess
25 rentals are attributable to the installation and construction of
26 improvements and structures assessed under subdivision (h) or (j)
27 or included in the assessment of the real property. For purposes of

1 this act, a leasehold estate is considered to be owned by the
2 lessee receiving additional net rentals. A lessee in possession is
3 required to provide the assessor with the name and address of its
4 lessor. Taxes collected under this act on leasehold estates shall
5 become a lien against the rentals paid by the sublessee to the
6 sublessor.

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

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

24 (l) For taxes levied after December 31, 2005 **AND BEFORE JANUARY**
25 **1, 2013**, a wind energy system. As used in this subdivision, "wind
26 energy system" means an integrated unit consisting of a wind
27 turbine composed of a rotor, an electrical generator, a control

- 1 system, an inverter or other power conditioning unit, and a tower,
- 2 which uses moving air to produce power.