

SENATE BILL No. 372

May 21, 2013, Introduced by Senators CASWELL, NOFS, EMMONS, PAPPAGEORGE and BOOHER and referred to the Committee on Finance.

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 2006 PA 633 and section 27 as amended by 2012 PA 409.

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 this state, except that property
6 actually and permanently invested in business in another state
7 shall not be included.

8 (c) All interests owned by individuals in real property, the
9 fee title to which is in this state or the United States, except as

1 otherwise provided in this act.

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

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

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

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

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

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

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

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

27 (j) To the extent not assessed as real property, a leasehold

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

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

17 (l) For taxes levied after December 31, 2005, a wind energy
18 system. As used in this subdivision, "wind energy system" means an
19 integrated unit consisting of a wind turbine composed of a rotor,
20 an electrical generator, a control system, an inverter or other
21 power conditioning unit, and a tower, which uses moving air to
22 produce power.

23 Sec. 27. (1) As used in this act, "true cash value" means the
24 usual selling price at the place where the property to which the
25 term is applied is at the time of assessment, being the price that
26 could be obtained for the property at private sale, and not at
27 auction sale except as otherwise provided in this section, or at

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

1 utilities.

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

20 (a) Outside painting.

21 (b) Repairing or replacing siding, roof, porches, steps,
22 sidewalks, or drives.

23 (c) Repainting, repairing, or replacing existing masonry.

24 (d) Replacing awnings.

25 (e) Adding or replacing gutters and downspouts.

26 (f) Replacing storm windows or doors.

27 (g) Insulating or weatherstripping.

1 (h) Complete rewiring.

2 (i) Replacing plumbing and light fixtures.

3 (j) Replacing a furnace with a new furnace of the same type or
4 replacing an oil or gas burner.

5 (k) Repairing plaster, inside painting, or other redecorating.

6 (l) New ceiling, wall, or floor surfacing.

7 (m) Removing partitions to enlarge rooms.

8 (n) Replacing an automatic hot water heater.

9 (o) Replacing dated interior woodwork.

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

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

22 (b) Amounts attributable to personal property that were
23 included in the purchase price of the property in the last
24 conveyance of the property.

25 (c) Amounts paid for surveying the property pursuant to the
26 last conveyance of the property. The legislature may require local
27 units of government, including school districts, to submit reports

1 of revenue lost under subdivisions (a) and (b) and this subdivision
2 so that the state may reimburse those units for that lost revenue.

3 (d) The purchaser of real property, including a purchaser by
4 land contract, may file with the assessor of the city or township
5 in which the property is located 2 copies of the purchase agreement
6 or of an affidavit that identifies the amount, if any, for each
7 item listed in subdivisions (a) to (c). One copy shall be forwarded
8 by the assessor to the county equalization department. The
9 affidavit shall be prescribed by the state tax commission.

10 (4) IN FINALIZING SALES STUDIES FOR PROPERTY CLASSIFIED AS
11 AGRICULTURAL REAL PROPERTY UNDER SECTION 34C, AN ASSESSOR AND
12 EQUALIZATION DIRECTOR SHALL DETERMINE IF AN AFFIDAVIT FOR THE
13 PROPERTY HAS BEEN FILED UNDER SECTION 27A(7)(N). IF AN AFFIDAVIT
14 HAS NOT BEEN FILED, THE PROPERTY SHALL BE REVIEWED TO DETERMINE IF
15 CLASSIFICATION AS AGRICULTURAL REAL PROPERTY UNDER SECTION 34C IS
16 CORRECT OR SHOULD BE CHANGED. THE ASSESSOR FOR THE LOCAL TAX
17 COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED SHALL CONTACT THE
18 PROPERTY OWNER TO DETERMINE WHY THE PROPERTY OWNER DID NOT FILE AN
19 AFFIDAVIT UNDER SECTION 27A(7)(N). UNLESS THERE ARE CONVINCING
20 FACTS TO THE CONTRARY, THE SALE OF PROPERTY CLASSIFIED AS
21 AGRICULTURAL REAL PROPERTY UNDER SECTION 34C FOR WHICH AN AFFIDAVIT
22 UNDER SECTION 27A(7)(N) HAS NOT BEEN FILED SHALL NOT BE INCLUDED IN
23 A SALES STUDY.

24 (5) ~~(4)~~—As used in subsection (1), "present economic income"
25 means for leased or rented property the ordinary, general, and
26 usual economic return realized from the lease or rental of property
27 negotiated under current, contemporary conditions between parties

1 equally knowledgeable and familiar with real estate values. The
2 actual income generated by the lease or rental of property is not
3 the controlling indicator of its true cash value in all cases. This
4 subsection does not apply to property subject to a lease entered
5 into before January 1, 1984 for which the terms of the lease
6 governing the rental rate or tax liability have not been
7 renegotiated after December 31, 1983. This subsection does not
8 apply to a nonprofit housing cooperative subject to regulatory
9 agreements between the state or federal government entered into
10 before January 1, 1984. As used in this subsection, "nonprofit
11 cooperative housing corporation" means a nonprofit cooperative
12 housing corporation that is engaged in providing housing services
13 to its stockholders and members and that does not pay dividends or
14 interest upon stock or membership investment but that does
15 distribute all earnings to its stockholders or members.

16 (6) ~~(5)~~—Except as otherwise provided in subsection ~~(6)~~, ~~(7)~~,
17 the purchase price paid in a transfer of property is not the
18 presumptive true cash value of the property transferred. In
19 determining the true cash value of transferred property, an
20 assessing officer shall assess that property using the same
21 valuation method used to value all other property of that same
22 classification in the assessing jurisdiction. As used in this
23 subsection and subsection ~~(6)~~, ~~(7)~~, "purchase price" means the
24 total consideration agreed to in an arms-length transaction and not
25 at a forced sale paid by the purchaser of the property, stated in
26 dollars, whether or not paid in dollars.

27 (7) ~~(6)~~—The purchase price paid in a transfer of eligible

1 nonprofit housing property from a charitable nonprofit housing
2 organization to a low-income person that occurs after December 31,
3 2010 is the presumptive true cash value of the eligible nonprofit
4 housing property transferred. In the year immediately succeeding
5 the year in which the transfer of eligible nonprofit housing
6 property occurs and each year thereafter, the taxable value of the
7 eligible nonprofit housing property shall be adjusted as provided
8 under section 27a. As used in this subsection:

9 (a) "Charitable nonprofit housing organization" means a
10 charitable nonprofit organization the primary purpose of which is
11 the construction or renovation of residential housing for
12 conveyance to a low-income person.

13 (b) "Eligible nonprofit housing property" means property owned
14 by a charitable nonprofit housing organization, the ownership of
15 which the charitable nonprofit housing organization intends to
16 transfer to a low-income person after construction or renovation of
17 the property is completed.

18 (c) "Family income" and "statewide median gross income" mean
19 those terms as defined in section 11 of the state housing
20 development authority act of 1966, 1966 PA 346, MCL 125.1411.

21 (d) "Low-income person" means a person with a family income of
22 not more than 60% of the statewide median gross income who is
23 eligible to participate in the charitable nonprofit housing
24 organization's program based on criteria established by the
25 charitable nonprofit housing organization.

26 (8) ~~(7)~~—For purposes of a statement submitted under section
27 19, the true cash value of a standard tool is the net book value of

1 that standard tool as of December 31 in each tax year as determined
2 using generally accepted accounting principles in a manner
3 consistent with the established depreciation method used by the
4 person submitting that statement. The net book value of a standard
5 tool for federal income tax purposes is not the presumptive true
6 cash value of that standard tool. As used in this subsection,
7 "standard tool" means that term as defined in section 9b.