



# HOUSE BILL No. 5724

September 13 1994, Introduced by Rep Kukuk and referred to the Committee on  
Taxation

A bill to amend sections 2 6, 13 and 16 of Act No 330 of  
the Public Acts of 1993, entitled  
State real estate transfer tax act  
section 6 as amended by Act No 255 of the Public Acts of 1994  
being sections 207 522 207 526 207 533 and 207 536 of the  
Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2 6 13, and 16 of Act No 330 of the  
2 Public Acts of 1993 section 6 as amended by Act No 255 of the  
3 Public Acts of 1994 being sections 207 522 207 526, 207 533  
4 and 207 536 of the Michigan Compiled Laws, are amended to read as  
5 follows

6 Sec 2 As used in this act

7 (a) Person means an individual partnership, corporation  
8 limited liability company association governmental entity or

1 other legal entity If used in a penalty clause person includes  
 2 the partners or members of a firm a partnership or an associa-  
 3 tion and the officers of a corporation

4 (b) Property ~~includes land, tenements, real estate, and~~  
 5 MEANS real property and all rights to and interests in ~~land,~~  
 6 ~~tenements, real estate or~~ real property

7 (C) REAL PROPERTY MEANS LANDS WITHIN THIS STATE INCLUDING  
 8 ALL BUILDINGS FIXTURES AND APPURTENANCES ON THOSE LANDS

9 (D) ~~(e)~~ Tax means the state real estate transfer tax  
 10 imposed under this act

11 (E) ~~(d)~~ Treasurer means the state treasurer

12 (F) ~~(e)~~ Value means the current or fair market worth in  
 13 terms of legal monetary exchange at the time of the transfer

14 Sec 6 The following written instruments and transfers of  
 15 property are exempt from the tax imposed by this act

16 (a) A written instrument in which the value of the consider-  
 17 ation for the property is less than \$100 00

18 (b) A written instrument evidencing a contract or transfer  
 19 that is not to be performed wholly within this state only to the  
 20 extent the written instrument includes land lying outside of this  
 21 state

22 (c) A written instrument that this state is prohibited from  
 23 taxing under the United States constitution or federal statutes

24 (d) A written instrument given as security or an assignment  
 25 or discharge of the security interest

26 (e) A written instrument evidencing a lease, including an  
 27 oil and gas lease or a transfer of a leasehold interest

1 (f) A written instrument evidencing an interest that is  
2 assessable as personal property

3 (g) A written instrument evidencing the transfer of a right  
4 and interest for underground gas storage purposes

5 (h) Any of the following written instruments

6 (i) A written instrument in which the grantor is the United  
7 States this state a political subdivision or municipality of  
8 this state, or an officer of the United States or of this state  
9 or OF a political subdivision or municipality of this state  
10 acting in his or her official capacity

11 (ii) A written instrument given in foreclosure or in lieu of  
12 foreclosure of a loan made, guaranteed or insured by the United  
13 States, this state, a political subdivision or municipality of  
14 this state, or an officer of the United States or of this state  
15 or OF a political subdivision or municipality of this state  
16 acting in his or her official capacity

17 (iii) A written instrument given to the United States this  
18 state or of their officers acting in an official capacity as  
19 grantee pursuant to the terms or guarantee or insurance of a  
20 loan guaranteed or insured by the grantee

21 (1) A conveyance from a husband or wife or husband and wife  
22 creating or disjoining a tenancy by the entireties in the grant-  
23 ors or the grantor and his or her spouse

24 (j) A conveyance from ~~a mother or father to a son or daugh-~~  
25 ~~ter or stepchild or adopted child~~ AN INDIVIDUAL TO THAT  
26 INDIVIDUAL S PARENT CHILD ADOPTIVE PARENT ADOPTED CHILD  
27 GRANDPARENT GRANDCHILD ADOPTIVE GRANDPARENT ADOPTED

1 GRANDCHILD BROTHER SISTER LEGAL WARD OR A LEGALLY APPOINTED  
2 GUARDIAN

3 ~~(K) A conveyance from a grandmother or grandfather to a~~  
4 ~~grandchild or step grandchild or adopted grandchild~~

5 (K) ~~(L)~~ A judgment or order of a court of record making or  
6 ordering a transfer, unless a specific monetary consideration is  
7 specified or ordered by the court for the transfer

8 (L) ~~(M)~~ A written instrument used to straighten boundary  
9 lines if no monetary consideration is given

10 (M) ~~(N)~~ A written instrument to confirm title already  
11 vested in a grantee including a quitclaim deed to correct a flaw  
12 in title

13 (N) ~~(O)~~ A land contract in which the legal title does not  
14 pass to the grantee until the total consideration specified in  
15 the LAND contract has been paid

16 (O) ~~(P)~~ A written instrument evidencing the transfer of  
17 mineral rights and interests

18 (P) ~~(Q)~~ A written instrument creating a joint tenancy  
19 between 2 or more persons if at least 1 of the persons already  
20 owns the property

21 (Q) ~~(R)~~ A transfer made pursuant to a bona fide sales  
22 agreement made before the date the tax is imposed under sections  
23 3 and 4 if the sales agreement cannot be withdrawn or altered  
24 or contains a fixed price not subject to change or modification  
25 However a sales agreement for residential construction may be  
26 adjusted up to 15 to reflect changes in construction  
27 specifications

1 (R) ~~(s)~~ A written instrument evidencing a contract or  
 2 transfer of property to a person sufficiently related to the  
 3 transferor to be considered a single employer with the transferor  
 4 under section 414(b) or (c) of the internal revenue code of 1986  
 5 26 U S C 414 AS THAT SECTION WAS IN EXISTENCE ON APRIL 15  
 6 1994

7 (S) ~~(t)~~ A written instrument conveying an interest in  
 8 homestead property for which a homestead exemption is claimed  
 9 under ~~either the school code of 1976, Act No 451 or the Public~~  
 10 ~~Acts of 1976, being sections 380 1 to 380 1852 of the Michigan~~  
 11 ~~compiled laws or the state education tax act, Act No 331 of the~~  
 12 ~~Public Acts of 1993, being sections 211 901 to 211 906~~ SECTION  
 13 7CC OF THE GENERAL PROPERTY TAX ACT ACT NO 206 OF THE PUBLIC  
 14 ACTS OF 1893 BEING SECTION 211 7CC of the Michigan Compiled  
 15 laws if the state equalized valuation of that homestead property  
 16 is equal to or lesser than the state equalized valuation on the  
 17 date of purchase or on the date of acquisition by the seller or  
 18 transferor for that same interest in property If after an  
 19 exemption is claimed under this subsection the sale or transfer  
 20 of homestead property is found by the treasurer to be at a value  
 21 other than the true cash value then a penalty equal to 20 of  
 22 the tax shall be assessed in addition to the tax due under this  
 23 act to the seller or transferor

24 (T) ~~(u)~~ A written instrument transferring an interest in  
 25 property pursuant to a foreclosure of a mortgage including a  
 26 written instrument given in lieu of foreclosure or a mortgage  
 27 this exemption does not apply to a subsequent transfer of the

1 foreclosed property by the entity that foreclosed on the  
2 mortgage

3 (U) A TRANSFER OF OWNERSHIP INTEREST IN A LEGAL ENTITY  
4 INCLUDING BUT NOT LIMITED TO CORPORATE STOCK OR PARTNERSHIP  
5 INTEREST A TRANSFER DESCRIBED IN THIS SUBDIVISION IS NOT A  
6 TRANSFER OF PROPERTY OF THE LEGAL ENTITY

7 (V) A TRANSFER OF OWNERSHIP OF 80% OR MORE OF THE GROSS  
8 ASSETS OR 90 OR MORE OF THE NET ASSETS OF A BUSINESS REGARDLESS  
9 OF THE LEGAL FORM IN WHICH THE BUSINESS IS CONDUCTED WHETHER OR  
10 NOT A WRITTEN INSTRUMENT EVIDENCING A TRANSFER OF PROPERTY IS  
11 ASSOCIATED WITH THE TRANSACTION

12 Sec 13 (1) A written instrument subject to the tax  
13 imposed by this act shall not be recorded in the office of the  
14 register of deeds of any county of this state unless documentary  
15 stamps as required by this act have been purchased at the time of  
16 presentation by the party liable for the tax under section 3(2)  
17 The stamps shall be affixed to the face of the instrument before  
18 recording unless the person specifically requests that the  
19 instrument be recorded before the stamps are affixed If so  
20 requested the stamps may be affixed to the reverse side of the  
21 written instrument However if it is necessary to record the  
22 reverse side of the written instrument the stamps shall be  
23 affixed after recording by the register of deeds If the written  
24 instrument is not subject to the tax the written instrument  
25 shall state on its face the reason for the exemption A written  
26 instrument accepted for recording that does not comply with this  
27 act does not affect the validity of the recording as to notice

1 (2) An affidavit attached to a written instrument under  
2 section 5 shall not be recorded and shall be detached from the  
3 written instrument before recording The affidavit shall be used  
4 for auditing purposes only and shall not be disclosed to any  
5 other person

6 (3) UPON RECORDING OF A WRITTEN INSTRUMENT SUBJECT TO TAX  
7 UNDER THIS ACT THE REGISTER OF DEEDS SHALL PROVIDE THE ASSESSING  
8 OFFICER OF THE ASSESSING UNIT IN WHICH THE PROPERTY IS LOCATED  
9 WITH A COPY OF EACH WRITTEN INSTRUMENT SUBJECT TO THE TAX IMPOSED  
10 BY THIS ACT THE COPY OF THE WRITTEN INSTRUMENT SHALL CONTAIN  
11 THE IMAGE OF THE STAMPS AFFIXED TO THE FACE OF THE INSTRUMENT  
12 IF THE PERSON SPECIFICALLY REQUESTS THAT THE INSTRUMENT BE  
13 RECORDED BEFORE THE STAMPS ARE AFFIXED THE COPY SHALL NOT  
14 INCLUDE THE IMAGE OF THE STAMPS OR AMOUNT OF THE STAMPS ON THE  
15 FACE OR REVERSE SIDE OF THE WRITTEN INSTRUMENT

16 Sec 16 This act shall be administered by the revenue  
17 division of the department of treasury under AND APPEALS UNDER  
18 THIS ACT ARE GOVERNED BY Act No 122 of the Public Acts of 1941  
19 being sections 205 1 to 205 31 of the Michigan Compiled Laws