

SENATE BILL NO. 1229

September 15, 1998, Introduced by Senators SHUGARS, ROGERS,
GOUGEON, BENNETT, GAST, HOFFMAN, DUNASKISS, JAYE,
VAN REGENMORTER and NORTH 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 1996 PA 476,
and by adding section 27e.

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
5 taxes levied in 1995 and for each year after 1995, the taxable
6 value of each parcel of property is the lesser of the following:

7 (a) The property's taxable value in the immediately preced-
8 ing year minus any losses, multiplied by the lesser of 1.05 or
9 the inflation rate, plus all additions. For taxes levied in

1 1995, the property's taxable value in the immediately preceding
2 year is the 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
7 the calendar year following the transfer.

8 (4) If the taxable value of property is adjusted under sub-
9 section (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
16 issued by any governmental unit, including a county, township,
17 community college district, or school district, before January 1,
18 1964, if the assessment required to be made under this act would
19 be less than the assessment as state equalized prevailing on the
20 property at the time of the issuance of the bonds. This inappli-
21 cability shall continue until levy of taxes to pay principal and
22 interest on the bonds is no longer required. The assessment of
23 property required by this act shall be applicable for all other
24 purposes.

25 (6) As used in this act, "transfer of ownership" means the
26 conveyance of title to or a present interest in property,
27 including the beneficial use of the property, the value of which

1 is substantially equal to the value of the fee interest.

2 Transfer of ownership of property includes, but is not limited
3 to, the following:

4 (a) A conveyance by deed.

5 (b) A conveyance by land contract. The taxable value of
6 property conveyed by a land contract executed after December 31,
7 1994 shall be adjusted under subsection (3) for the calendar year
8 following the year in which the contract is entered into and
9 shall not be subsequently adjusted under subsection (3) when the
10 deed conveying title to the property is recorded in the office of
11 the register of deeds in the county in which the property is
12 located.

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

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

20 (e) A change in the sole present beneficiary or beneficia-
21 ries of a trust, except a change that adds or substitutes the
22 spouse of the sole present beneficiary.

23 (f) A conveyance by distribution under a will or by intes-
24 tate succession, except if the distributee is the decedent's
25 spouse.

26 (g) A conveyance by lease if the total duration of the
27 lease, including the initial term and all options for renewal, is

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

15 (h) A conveyance of an ownership interest in a corporation,
16 partnership, sole proprietorship, limited liability company,
17 limited liability partnership, or other legal entity if the
18 ownership interest conveyed is more than 50% of the corporation,
19 partnership, sole proprietorship, limited liability company,
20 limited liability partnership, or other legal entity. Unless
21 notification is provided under subsection (8), the corporation,
22 partnership, sole proprietorship, limited liability company,
23 limited liability partnership, or other legal entity shall notify
24 the assessing officer on a form provided by the state tax commis-
25 sion not more than 45 days after a conveyance of an ownership
26 interest that constitutes a transfer of ownership under this
27 subdivision.

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

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

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

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

10 (b) A transfer from a husband, a wife, or a husband and wife
11 creating or disjoining a tenancy by the entirety in the grant-
12 ors or the grantor and his or her spouse.

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

18 (d) A transfer through foreclosure or forfeiture of a
19 recorded instrument under chapter 31, 32, or 57 of the revised
20 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
21 ~~being sections 600.3101 to 600.3280 and 600.5701 to 600.5785 of~~
22 ~~the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.3101 TO 600.3280
23 AND MCL 600.5701 TO 600.5785, or through deed or conveyance in
24 lieu of a foreclosure or forfeiture, until the mortgagee or land
25 contract vendor subsequently transfers the property. If a mort-
26 gagee does not transfer the property within 1 year of the

1 expiration of any applicable redemption period, the property
2 shall be adjusted under subsection (3).

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

5 (f) A conveyance to a trust if the settlor or the settlor's
6 spouse, or both, conveys the property to the trust and the sole
7 present beneficiary of the trust is the settlor or the settlor's
8 spouse, or both.

9 (g) A transfer pursuant to a judgment or order of a court of
10 record making or ordering a transfer, unless a specific monetary
11 consideration is specified or ordered by the court for the
12 transfer.

13 (h) A transfer creating or terminating a joint tenancy
14 between 2 or more persons if at least 1 of the persons was an
15 original owner of the property before the joint tenancy was ini-
16 tially created and, if the property is held as a joint tenancy at
17 the time of conveyance, at least 1 of the persons was a joint
18 tenant when the joint tenancy was initially created and that
19 person has remained a joint tenant since the joint tenancy was
20 initially created. A joint owner at the time of the last trans-
21 fer of ownership of the property is an original owner of the
22 property. For purposes of this subdivision, a person is an orig-
23 inal owner of property owned by that person's spouse.

24 (i) A transfer for security or an assignment or discharge of
25 a security interest.

26 (j) A transfer of real property or other ownership interests
27 among members of an affiliated group. As used in this

1 subsection, "affiliated group" means 1 or more corporations
2 connected by stock ownership to a common parent corporation.
3 Upon request by the state tax commission, a corporation shall
4 furnish proof within 45 days that a transfer meets the require-
5 ments of this subdivision. A corporation that fails to comply
6 with a request by the state tax commission under this subdivision
7 is subject to a fine of \$200.00.

8 (k) Normal public trading of shares of stock or other owner-
9 ship interests that, over any period of time, cumulatively repre-
10 sent more than 50% of the total ownership interest in a corpora-
11 tion or other legal entity and are traded in multiple transac-
12 tions involving unrelated individuals, institutions, or other
13 legal entities.

14 (l) A transfer of real property or other ownership interests
15 among corporations, partnerships, limited liability companies,
16 limited liability partnerships, or other legal entities if the
17 entities involved are commonly controlled. Upon request by the
18 state tax commission, a corporation, partnership, limited liabil-
19 ity company, limited liability partnership, or other legal entity
20 shall furnish proof within 45 days that a transfer meets the
21 requirements of this subdivision. A corporation, partnership,
22 limited liability company, limited liability partnership, or
23 other legal entity that fails to comply with a request by the
24 state tax commission under this subdivision is subject to a fine
25 of \$200.00.

26 (m) A direct or indirect transfer of real property or other
27 ownership interests resulting from a transaction that qualifies

1 as a tax-free reorganization under section 368 of the internal
2 revenue code of 1986, 26 U.S.C. 368. Upon request by the state
3 tax commission, a property owner shall furnish proof within 45
4 days that a transfer meets the requirements of this subdivision.
5 A property owner who fails to comply with a request by the state
6 tax commission under this subdivision is subject to a fine of
7 \$200.00.

8 (N) A TRANSFER OF REAL PROPERTY PURSUANT TO SECTION 27E TO A
9 PERSON WHO IS 55 YEARS OLD OR OLDER.

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

1 subsection does not apply to personal property except buildings
 2 described in section 14(6) and personal property described in
 3 section 8(h), (i), and (j).

4 (9) As used in this section:

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

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

9 (c) "Inflation rate" means that term as defined in section
 10 34d.

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

12 SEC. 27E. (1) A 1-TIME TRANSFER OF REAL PROPERTY TO A
 13 PERSON WHO IS 55 YEARS OLD OR OLDER IS NOT A TRANSFER OF OWNER-
 14 SHIP UNDER SECTION 27A IF THE PERSON CLAIMS THE TRANSFER UNDER
 15 THIS SECTION AND ALL OF THE FOLLOWING REQUIREMENTS ARE
 16 SATISFIED:

17 (A) THE PERSON NOTIFIES THE ASSESSOR OF THE LOCAL TAX COL-
 18 LECTING UNIT AND THE DEPARTMENT OF TREASURY OF THE TRANSFER AND
 19 CLAIMS THE TRANSFER UNDER THIS SECTION ON A FORM PRESCRIBED BY
 20 THE DEPARTMENT OF TREASURY. THE FORM SHALL INCLUDE, BUT IS NOT
 21 LIMITED TO, THE PERSON'S SOCIAL SECURITY NUMBER.

22 (B) THE PERSON HAS NOT PREVIOUSLY CLAIMED A TRANSFER UNDER
 23 THIS SECTION.

24 (C) THE PERSON HAS FILED AN AFFIDAVIT UNDER SECTION 7CC
 25 CLAIMING AN EXEMPTION AS A HOMESTEAD FOR THE PROPERTY TRANSFERRED
 26 TO THAT PERSON FOR WHICH A TRANSFER IS CLAIMED UNDER THIS
 27 SECTION, AND THAT PERSON HAS RESCINDED A CLAIM FOR AN EXEMPTION

1 UNDER SECTION 7CC FOR THAT PERSON'S IMMEDIATELY PRECEDING
2 HOMESTEAD.

3 (D) THE STATE EQUALIZED VALUATION OF THE PERSON'S IMMEDI-
4 ATELY PRECEDING HOMESTEAD WAS GREATER THAN THE STATE EQUALIZED
5 VALUATION OF THE PROPERTY TRANSFERRED TO THAT PERSON FOR WHICH A
6 TRANSFER IS CLAIMED UNDER THIS SECTION.

7 (2) IF THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT
8 BELIEVES THAT THE PROPERTY FOR WHICH A TRANSFER IS CLAIMED PURSU-
9 ANT TO THIS SECTION IS A TRANSFER OF OWNERSHIP UNDER SECTION 27A,
10 THE ASSESSOR MAY ADJUST THE PROPERTY'S TAXABLE VALUE UNDER SEC-
11 TION 27A(3). THE ASSESSOR SHALL NOTIFY THE PERSON CLAIMING THE
12 TRANSFER UNDER THIS SECTION AND THE DEPARTMENT OF TREASURY IN
13 WRITING OF THE REASON FOR THE ADJUSTMENT AND ADVISE THE PERSON
14 CLAIMING THE TRANSFER UNDER THIS SECTION THAT THE ADJUSTMENT MAY
15 BE APPEALED TO THE DEPARTMENT OF TREASURY WITHIN 35 DAYS AFTER
16 THE DATE OF THE NOTICE. THE DENIAL SHALL BE MADE ON A FORM PRE-
17 SCRIBED BY THE DEPARTMENT OF TREASURY. IF THE ASSESSOR OF THE
18 LOCAL TAX COLLECTING UNIT BELIEVES THAT THE PROPERTY FOR WHICH A
19 TRANSFER IS CLAIMED UNDER THIS SECTION IS NOT AN ELIGIBLE TRANS-
20 FER UNDER THIS SECTION, THE ASSESSOR MAY SEND A RECOMMENDATION
21 FOR DENIAL OF THE TRANSFER TO THE DEPARTMENT OF TREASURY STATING
22 THE REASONS FOR THE RECOMMENDATION.

23 (3) THE DEPARTMENT OF TREASURY SHALL DETERMINE IF THE TRANS-
24 FER OF THE REAL PROPERTY IS AN ELIGIBLE TRANSFER UNDER THIS
25 SECTION. THE DEPARTMENT OF TREASURY MAY REVIEW THE VALIDITY OF A
26 TRANSFER UNDER THIS SECTION FOR THE CURRENT CALENDAR YEAR AND FOR
27 THE 3 IMMEDIATELY PRECEDING CALENDAR YEARS. IF THE DEPARTMENT OF

1 TREASURY DETERMINES THAT THE TRANSFER OF REAL PROPERTY IS NOT AN
2 ELIGIBLE TRANSFER UNDER THIS SECTION, THE DEPARTMENT OF TREASURY
3 SHALL SEND A NOTICE OF THAT DETERMINATION TO THE LOCAL TAX COL-
4 LECTING UNIT AND TO THE PERSON CLAIMING THE TRANSFER UNDER THIS
5 SECTION, INDICATING THAT THE CLAIMED TRANSFER IS DENIED, STATING
6 THE REASON FOR THE DENIAL, AND ADVISING THE PERSON CLAIMING THE
7 TRANSFER OF THE RIGHT TO APPEAL THE DETERMINATION TO THE DEPART-
8 MENT OF TREASURY AND WHAT THOSE RIGHTS OF APPEAL ARE. THE
9 DEPARTMENT OF TREASURY MAY ISSUE A NOTICE DENYING A TRANSFER
10 CLAIMED UNDER THIS SECTION IF THE PERSON CLAIMING THE TRANSFER
11 FAILS TO RESPOND WITHIN 30 DAYS OF RECEIPT OF A REQUEST FOR
12 INFORMATION FROM THE DEPARTMENT OF TREASURY. A PERSON CLAIMING A
13 TRANSFER UNDER THIS SECTION MAY APPEAL THE DENIAL OF THAT CLAIM
14 TO THE DEPARTMENT OF TREASURY WITHIN 35 DAYS OF RECEIPT OF THE
15 NOTICE OF DENIAL. AN APPEAL TO THE DEPARTMENT OF TREASURY SHALL
16 BE CONDUCTED ACCORDING TO THE PROVISIONS FOR AN INFORMAL CONFER-
17 ENCE IN SECTION 21 OF 1941 PA 122, MCL 205.21. WITHIN 10 DAYS
18 AFTER ACKNOWLEDGING AN APPEAL OF A DENIAL OF A TRANSFER CLAIMED
19 UNDER THIS SECTION, THE DEPARTMENT OF TREASURY SHALL NOTIFY THE
20 ASSESSOR AND THE TREASURER FOR THE COUNTY IN WHICH THE PROPERTY
21 IS LOCATED THAT AN APPEAL HAS BEEN FILED. UPON RECEIPT OF A
22 NOTICE THAT THE DEPARTMENT OF TREASURY HAS DENIED A TRANSFER
23 CLAIMED UNDER THIS SECTION, THE ASSESSOR SHALL ADJUST THE TAXABLE
24 VALUE OF THAT REAL PROPERTY UNDER SECTION 27A(3) AND, IF THE TAX
25 ROLL IS IN THE LOCAL TAX COLLECTING UNIT'S POSSESSION, AMEND THE
26 TAX ROLL TO REFLECT THE DENIAL AND THE LOCAL TREASURER SHALL
27 ISSUE A CORRECTED TAX BILL FOR PREVIOUSLY UNPAID TAXES WITH

1 INTEREST AND PENALTIES COMPUTED ON THE INTEREST AND PENALTIES
2 THAT WOULD HAVE ACCRUED FROM THE DATE THE TAXES WERE ORIGINALLY
3 LEVIED IF THE TRANSFER HAD NOT BEEN CLAIMED UNDER THIS SECTION.
4 IF THE TAX ROLL IS IN THE COUNTY TREASURER'S POSSESSION, THE TAX
5 ROLL SHALL BE AMENDED TO REFLECT THE DENIAL, AND THE COUNTY TREA-
6 SURER SHALL PREPARE AND SUBMIT A SUPPLEMENTAL TAX BILL FOR ANY
7 ADDITIONAL TAXES, TOGETHER WITH ANY INTEREST AND PENALTIES.
8 HOWEVER, IF THE PROPERTY HAS BEEN TRANSFERRED TO A BONA FIDE PUR-
9 CHASER BEFORE ADDITIONAL TAXES WERE BILLED TO THE SELLER AS A
10 RESULT OF THE DENIAL OF A CLAIM FOR EXEMPTION, THE TAXES, INTER-
11 EST, AND PENALTIES SHALL NOT BE BILLED TO THE BONA FIDE PURCHASER
12 AND THE LOCAL TAX COLLECTING UNIT IF THE LOCAL TAX COLLECTING
13 UNIT HAS POSSESSION OF THE TAX ROLL OR THE COUNTY TREASURER IF
14 THE COUNTY HAS POSSESSION OF THE TAX ROLL SHALL NOTIFY THE
15 DEPARTMENT OF TREASURY OF THE AMOUNT OF TAX DUE AND INTEREST
16 THROUGH THE DATE OF THAT NOTIFICATION. THE DEPARTMENT OF TREA-
17 SURY SHALL THEN ASSESS THE OWNER WHO CLAIMED THE TRANSFER UNDER
18 THIS SECTION FOR THE TAX AND INTEREST PLUS PENALTY ACCRUING AS A
19 RESULT OF THE DENIAL OF THE TRANSFER, IF ANY, AS FOR UNPAID TAXES
20 PROVIDED UNDER 1941 PA 122, MCL 205.1 TO 205.31, AND SHALL
21 DEPOSIT ANY TAX, INTEREST, OR PENALTY COLLECTED INTO THE STATE
22 SCHOOL AID FUND.

23 (4) A PERSON CLAIMING A TRANSFER UNDER THIS SECTION MAY
24 APPEAL A FINAL DECISION OF THE DEPARTMENT OF TREASURY TO THE RES-
25 IDENTIAL AND SMALL CLAIMS DIVISION OF THE MICHIGAN TAX TRIBUNAL
26 WITHIN 35 DAYS OF THAT DECISION. AN ASSESSOR MAY APPEAL A FINAL
27 DECISION OF THE DEPARTMENT OF TREASURY TO THE RESIDENTIAL AND

1 SMALL CLAIMS DIVISION OF THE MICHIGAN TAX TRIBUNAL WITHIN 35 DAYS
2 OF THAT DECISION IF THE ASSESSOR DENIED THE EXEMPTION OR FOR-
3 WARDED A RECOMMENDATION FOR DENIAL TO THE DEPARTMENT OF TREASURY
4 UNDER SUBSECTION (2).