

# SENATE BILL No. 930

January 28, 2004, Introduced by Senator HAMMERSTROM and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1899 PA 188, entitled  
"Michigan estate tax act,"  
by amending section 3 (MCL 205.203), as amended by 1993 PA 54.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. (1) The tax and the interest on the tax provided  
2 for in this act shall become a lien upon the property transferred  
3 until paid, unless payment of the tax has been deferred as  
4 permitted by this section or section 2d. If a deferral of  
5 payment is granted under this section or section 2d, the lien  
6 provided by this section shall attach at the end of the deferral  
7 period granted by this section or section 2d.

8       (2) The person to whom the property is transferred and the  
9 administrator, executor, and trustee of every estate transferred,  
10 shall be personally liable for the tax until its payments; except  
11 that the executor or administrator shall not be personally liable

1 for the tax upon a reversion or remainder consisting of real  
2 estate where the election provided for in section 7 or the  
3 deferral in this section or section 2d is made. The tax shall be  
4 paid to the state. ~~of Michigan.~~

5       (3) When the inheritance tax, administration fee, and  
6 penalty and interest, if applicable, for the estate are paid, the  
7 revenue commissioner shall provide notice, on a form prescribed  
8 by the department, to the judge of probate who shall file and  
9 preserve it in that office. It shall be a voucher in settlement  
10 of the accounts of the executor, administrator, or trustee of the  
11 estate upon which the tax is paid. The preparation and mailing  
12 of the receipts shall not prejudice the right of the state to a  
13 review of the determination fixing the tax. The receipts issued  
14 under this section shall show whether the amount paid is a  
15 payment of the tax upon any beneficial interest or upon the  
16 entire transfer. ~~But an~~ **An** executor, administrator, or trustee  
17 of an estate, in settlement of which a tax is due under this act,  
18 shall not be discharged and the estate or trust closed by a  
19 decree of the court, unless there is produced a receipt signed by  
20 the revenue commissioner.

21       (4) All taxes imposed by this act shall accrue and be due  
22 and payable at the time of transfer, which is the date of death,  
23 except that taxes upon the transfer of any estate, property, or  
24 interest limited, conditioned, dependent, or determinable upon  
25 the happening of a contingency or future event, by reason of  
26 which the clear market value cannot be ascertained at the time of  
27 the transfer, shall accrue and become due and payable when the

1 persons or corporations beneficially entitled shall come into  
2 actual possession or enjoyment.

3       (5) ~~—(2)—~~ The tax and the interest on the tax provided for  
4 in this act may be deferred for reasonable cause shown by the  
5 executor, administrator, or trustee of the estate of a decedent  
6 who was a professional artist at the date of his or her death for  
7 not more than 10 years without penalty or interest. The  
8 executor, administrator, or trustee of the estate may make the  
9 deferral provided by this subsection by filing an affidavit with  
10 the judge of probate, which shall be made in the time and manner  
11 and with the content prescribed by the judge of probate. The  
12 judge of probate shall determine whether there is reasonable  
13 cause shown to grant a deferral, the length of time for the  
14 deferral, and the manner of payment of the tax.

15       (6) ~~—(3)—~~ A proceeding to enforce a lien against any  
16 property under this act shall be instituted by information, in  
17 the name of the people of this state, addressed to the circuit  
18 court for the county in which the property is situated. It shall  
19 be signed by the attorney general and need not be otherwise  
20 verified. A person owning the property or an interest in the  
21 property as shown by the record in the office of the register of  
22 deeds, or by the records of the probate court, at the time of the  
23 commencement of the proceedings, shall be made a party to the  
24 action, and all other persons having a right or interest in the  
25 property, may make themselves parties to the proceeding, on  
26 motion to the court, and notice to complainant, and may file  
27 their intervening or cross-claims, or answers claiming the

1 benefit of cross-claims, and notices of lis pendens therein.

2 Intervening or cross-claims shall be made on oath.

3       (7) ~~—(4)—~~ The information shall show the name of the  
4 deceased, the date of death, the place of residence at the time  
5 of death, the county in which the estate was probated, the  
6 description of the property transferred, whether by will or under  
7 the intestate laws, and against which the lien exists, the name  
8 of the person or persons to whom it was transferred, the amount  
9 of taxes determined by the probate court upon the transfer, the  
10 date of the determination and whether the property is owned by  
11 the person or persons to whom it was transferred by will or under  
12 the intestate laws or by a subsequent purchaser, naming that  
13 purchaser. The information shall also show that the taxes  
14 determined upon the transfer of the property have not been paid  
15 and the amount of interest due upon the date of the filing of the  
16 information. In those cases in which the property upon which the  
17 lien exists is owned by the person or persons to whom it was  
18 transferred by will or under the intestate laws, the petition for  
19 relief shall be that the court determine the amount due; that the  
20 defendant pay to the county treasurer of the county, in which the  
21 estate was probated, for and in behalf of this state, whatever  
22 sum shall appear to be due, together with the costs of the  
23 proceeding, and that in default of that payment the property upon  
24 which the lien exists, may be sold in the manner provided in this  
25 act, to satisfy the taxes, interest, and cost.

26       (8) In those cases in which the property upon which the lien  
27 exists is owned by a subsequent purchaser, the petition for

1 relief shall be that the court determine the amount due and that  
2 the property upon which the lien exists may be sold in the manner  
3 provided in this act to satisfy the taxes, interest, and costs of  
4 the proceeding.

5 (9) The information may contain other and further  
6 allegations and petitions considered material and permitted by  
7 the rules and practice of the court.

8 (10) ~~—(5)—~~ A certified copy of the order of determination of  
9 the inheritance tax, for which the lien exists, certified by  
10 either the judge or register of probate of the court that  
11 determined the tax or by the revenue commissioner, may be  
12 attached to the information. When attached, the copy shall be  
13 considered a part of the information and shall be prima facie  
14 evidence of the determination of the inheritance tax and the  
15 accruing of the lien against the property. A certificate of the  
16 revenue commissioner stating that the inheritance tax, or any  
17 part of the tax determined upon the transfer of the property upon  
18 which the lien exists, has not been paid, may be attached to the  
19 information. When attached, the certificate shall be considered  
20 a part of the information and shall be prima facie evidence of  
21 the nonpayment of the amount of the tax and interest shown to be  
22 unpaid by the certificate.

23 (11) ~~—(6)—~~ If an infant, insane, or otherwise mentally  
24 incompetent person has an interest in the property upon which the  
25 lien exists, service of process shall be made upon that person in  
26 the same manner and with the same effect as upon persons not  
27 under a disability, whether the infant, insane, or otherwise

1 mentally incompetent person is within or without the  
2 jurisdiction.

3       (12) ~~—(7)—~~ After the issuing and service of process against  
4 the infant, insane, or otherwise incompetent person, a guardian  
5 ad litem may be appointed for the infant, insane, or otherwise  
6 incompetent person by the court upon motion of the attorney  
7 general, or the guardian ad litem may be appointed by the court  
8 upon the request of the infant, and in the case of an insane or  
9 otherwise incompetent person, at the request of the person's  
10 general guardian.

11       (13) ~~—(8)—~~ If upon the hearing of the cause it appears that  
12 the inheritance taxes or interest, or both, upon the transfer of  
13 the property upon which the lien exists have not been paid, the  
14 court shall decree the amount of taxes and interest on the taxes  
15 found to be due, together with costs to be determined by the  
16 court, to be paid by the person or persons owning the property,  
17 or any interest in the property, within 3 months after the entry  
18 of the decree and that in default of payment that the property  
19 upon which the lien exists, be sold to satisfy the taxes,  
20 interest, and costs. If it appears that the person or persons to  
21 whom was transferred the property by will or under the intestate  
22 laws have parted with their interest before the institution of  
23 the proceedings provided for in this section, and that the  
24 property is owned by a subsequent purchaser, the court shall  
25 decree that the property be sold to satisfy the taxes, interest,  
26 and costs, unless the owner satisfies the taxes, interest, and  
27 costs within 3 months after the entry of the decree. ~~—However,~~

1 ~~in those~~

2       **(14)** In cases in which it appears that 2 or more pieces or  
 3 parcels of land were transferred by will or under the intestate  
 4 laws to 1 person, and that that person, before the institution of  
 5 the proceedings provided for in this section, has parted with any  
 6 or all of the pieces or parcels of land, and that the court can  
 7 ascertain from the order of determination the amount of  
 8 inheritance tax determined upon the transfer of each piece or  
 9 parcel, and that the lien against all of the pieces or parcels is  
 10 being foreclosed in 1 proceeding, the court may decree the sale  
 11 of that piece or parcel to satisfy the amount of tax determined  
 12 upon the transfer of that piece or parcel, together with the  
 13 interest thereon and pro rata costs of the proceeding. A piece  
 14 or parcel of property shall not be sold to satisfy taxes,  
 15 interest, and costs within 3 months after the entry of the  
 16 decree.

17       **(15)** If the person or persons owning the property or an  
 18 interest in the property, or the person's heirs, executors,  
 19 administrators, or a person lawfully claiming ~~from or~~ under  
 20 ~~him or them~~ **that person**, within 6 months after the ~~time~~ **date**  
 21 of the sale redeems the entire premises sold, by paying to ~~the~~  
 22 ~~register of deeds in whose office the deed is deposited, as~~  
 23 ~~provided by subsection (12), for the benefit of~~ the purchaser,  
 24 or the purchaser's executors, administrators, or assigns the sum  
 25 which was bid ~~at the time~~ **on the date** of sale, with interest,  
 26 at the rate of 6% ~~, together with the sum of \$1.00 as a fee for~~  
 27 ~~the care and custody of the redemption money,~~ and the fee paid

1 by the purchaser for recording his or her deed, then the deed  
 2 ~~shall be~~ **is** void. ~~and of no effect, but if~~ **If** a distinct lot  
 3 or parcel separately sold is redeemed leaving a portion of the  
 4 premises unredeemed, then the deed shall be ~~inoperative merely~~  
 5 **void only** to the parcel or parcels redeemed. ~~and to those~~  
 6 ~~portions not redeemed shall remain valid and of full effect.~~

7       **(16)** ~~—(9)—~~ If it appears to the court after the expiration  
 8 of 3 months from the date of entry of the decree from a  
 9 certificate of the state of Michigan to whom the taxes, interest,  
 10 penalties, and costs were to be paid, attached to a petition of  
 11 the attorney general for an order of sale of the property, that  
 12 the same have not been paid, the court shall enter an order  
 13 directing the circuit court commissioner, or some other person  
 14 duly authorized by the order of the court, to sell the property.  
 15 The sale shall be at public vendue between the hours of 9  
 16 a.m. and 6 p.m. at the courthouse or at another place as the  
 17 court directs, within 60 days after the date of the order and on  
 18 the date specified on the order. The court may, if necessary, by  
 19 further order adjourn the sale from time to time. The circuit  
 20 court commissioner, or other person authorized to make the sale,  
 21 may, if bids are not received equal to the amount of taxes,  
 22 interest, and costs, adjourn the sale from time to time, but the  
 23 sale shall not be adjourned for more than 60 days at any 1 time.

24       **(17)** ~~—(10)—~~ Upon receipt of a certified copy of the order of  
 25 sale the circuit court commissioner, or other person duly  
 26 authorized by the order of the court to conduct the sale, shall  
 27 publish the sale in some newspaper printed in the county or



1 another paper as the court may direct, once in each week, for 3  
2 weeks in succession. If the sale is adjourned by order of the  
3 court, or by the circuit court commissioner, or other person duly  
4 authorized by the order of the court, to conduct the sale the  
5 same publication shall be had of the order or notice adjourning  
6 the sale as is provided in this section for publishing the order  
7 of sale. Proof of publication shall be filed with the court  
8 before the sale.

9       (18) ~~—(11)—~~ The circuit court commissioner, or other person  
10 authorized to make the sale shall make and file a report of the  
11 sale. The report shall be entitled in the court and cause, and  
12 shall be certified and filed with the court.

13       (19) ~~—(12)—~~ Deeds shall thereupon be executed by the circuit  
14 court commissioner or other person making the sale, specifying  
15 the names of the parties in the action, the date of the  
16 determination of the inheritance tax, the name of the deceased,  
17 the county in which the estate was probated, with a description  
18 of the premises and the amount for which each parcel of land  
19 described was sold. The commissioner, or other person making the  
20 sale, shall indorse upon each deed when the deed shall become  
21 operative, if the premises are not redeemed according to law.  
22 The deed or deeds, as soon as practicable and within 20 days  
23 after the sale, shall be deposited with the register of deeds of  
24 the county in which the land described is situated, and the  
25 register shall indorse on the deed the time the deed was  
26 received, shall record the deed at length in a book to be  
27 provided for in his or her office for that purpose, and shall

1 index the deed in the regular index of deeds. The fees for  
2 recording the deed shall be paid by the purchaser and be included  
3 among the other costs and expenses. If the premises or a parcel  
4 of the premises shall be redeemed, the register of deeds shall  
5 write on the face of the record the word "Redeemed", stating at  
6 what date the entry is made and signing the entry with his or her  
7 official signature. Unless the premises described in the deed,  
8 or a parcel of the premises, is redeemed within the time limited  
9 for redemption, as provided in this section, the deed shall  
10 thereupon as to all parcels not redeemed, become operative and  
11 shall vest in the grantee named in the deed, the grantee's heirs  
12 or assigns all the right, title, and interest therein which the  
13 person or persons received either from the deceased by reason of  
14 the transfer to them by will or under the intestate laws, or as  
15 subsequent purchasers.

16 (20) ~~—(13)—~~ The proceeds of each sale provided for in this  
17 section shall be paid to the treasurer of the county where the  
18 estate was probated, to be applied to the discharge of the tax,  
19 interest, penalty, and costs, and if there is any surplus, it  
20 shall be brought into court for the use of the defendant, or the  
21 person entitled ~~thereto~~ **to the money**, subject to the order of  
22 the court. ~~The redemption money paid to the register of deeds~~  
23 ~~shall be paid to the persons entitled to the money as soon as~~  
24 ~~practical, and in those cases in which the state was the~~  
25 ~~purchaser, the money shall be paid to the state of Michigan, and~~  
26 ~~if there be any surplus after the tax, interest, penalty, and~~  
27 ~~costs are satisfied, that surplus shall be brought into court for~~

1 ~~the use of the defendant or the person entitled to the surplus,~~  
2 ~~subject to the order of the court.~~

3       (21) ~~—(14)—~~ Upon the filing of the information, a fee of  
4 \$2.00 shall be paid to the court, which shall be in full of all  
5 register fees and charges in the proceedings. The circuit court  
6 commissioner, or other person authorized by the court to make the  
7 sale, shall be entitled to the following fees and no others: For  
8 attending and adjourning a sale, \$1.00; for attending and making  
9 a sale, \$1.50; mileage, 1 way, 10 cents per mile; executing deed  
10 or deeds on real estate sales, 25 cents for each deed necessarily  
11 executed; making and filing a report of sale, \$1.00. The cost of  
12 publishing any legal notices required to be published shall be at  
13 the rate of 70 cents per folio for the first insertion, and 35  
14 cents per folio for each subsequent insertion. The fees which  
15 are provided for in this act shall be added by the circuit court  
16 commissioner, or other person duly authorized to make the sale,  
17 to the tax, interest, penalties, and costs awarded by the court  
18 as charges against the land.