

HOUSE BILL No. 4065

January 27, 2005, Introduced by Rep. Caswell and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 27a (MCL 211.27a), as amended by 2000 PA 260.

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

7 (a) The property's taxable value in the immediately preceding
8 year minus any losses, multiplied by the lesser of 1.05 or the
9 inflation rate, plus all additions. For taxes levied in 1995, the

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

8 (4) If the taxable value of property is adjusted under
9 subsection (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. **IF THE TAXABLE**
12 **VALUE OF PROPERTY IS ADJUSTED UNDER SUBSECTION (3) AND THE ASSESSOR**
13 **DETERMINES THAT THERE HAD NOT BEEN A TRANSFER OF OWNERSHIP, THE**
14 **TAXABLE VALUE OF THE PROPERTY SHALL BE ADJUSTED AT THE JULY OR**
15 **DECEMBER BOARD OF REVIEW. A CORRECTED TAX BILL SHALL BE ISSUED FOR**
16 **THE TAX YEAR FOR WHICH THE TAXABLE VALUE IS ADJUSTED BY THE LOCAL**
17 **TAX COLLECTING UNIT IF THE LOCAL TAX COLLECTING UNIT HAS POSSESSION**
18 **OF THE TAX ROLL OR BY THE COUNTY TREASURER IF THE COUNTY HAS**
19 **POSSESSION OF THE TAX ROLL.**

20 (5) Assessment of property, as required in this section and
21 section 27, is inapplicable to the assessment of property subject
22 to the levy of ad valorem taxes within voted tax limitation
23 increases to pay principal and interest on limited tax bonds issued
24 by any governmental unit, including a county, township, community
25 college district, or school district, before January 1, 1964, if
26 the assessment required to be made under this act would be less
27 than the assessment as state equalized prevailing on the property

1 at the time of the issuance of the bonds. This inapplicability
2 shall continue until levy of taxes to pay principal and interest on
3 the bonds is no longer required. The assessment of property
4 required by this act shall be applicable for all other purposes.

5 (6) As used in this act, "transfer of ownership" means the
6 conveyance of title to or a present interest in property, including
7 the beneficial use of the property, the value of which is
8 substantially equal to the value of the fee interest. Transfer of
9 ownership of property includes, but is not limited to, the
10 following:

11 (a) A conveyance by deed.

12 (b) A conveyance by land contract. The taxable value of
13 property conveyed by a land contract executed after December 31,
14 1994 shall be adjusted under subsection (3) for the calendar year
15 following the year in which the contract is entered into and shall
16 not be subsequently adjusted under subsection (3) when the deed
17 conveying title to the property is recorded in the office of the
18 register of deeds in the county in which the property is located.

19 (c) A conveyance to a trust after December 31, 1994, except if
20 the settlor or the settlor's spouse, or both, conveys the property
21 to the trust and the sole present beneficiary or beneficiaries are
22 the settlor or the settlor's spouse, or both.

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

26 (e) A change in the sole present beneficiary or beneficiaries
27 of a trust, except a change that adds or substitutes the spouse of

1 the sole present beneficiary.

2 (f) A conveyance by distribution under a will or by intestate
3 succession, except if the distributee is the decedent's spouse.

4 (g) A conveyance by lease if the total duration of the lease,
5 including the initial term and all options for renewal, is more
6 than 35 years or the lease grants the lessee a bargain purchase
7 option. As used in this subdivision, "bargain purchase option"
8 means the right to purchase the property at the termination of the
9 lease for not more than 80% of the property's projected true cash
10 value at the termination of the lease. After December 31, 1994, the
11 taxable value of property conveyed by a lease with a total duration
12 of more than 35 years or with a bargain purchase option shall be
13 adjusted under subsection (3) for the calendar year following the
14 year in which the lease is entered into. This subdivision does not
15 apply to personal property except buildings described in section
16 14(6) and personal property described in section 8(h), (i), and
17 (j). This subdivision does not apply to that portion of the
18 property not subject to the leasehold interest conveyed.

19 (h) A conveyance of an ownership interest in a corporation,
20 partnership, sole proprietorship, limited liability company,
21 limited liability partnership, or other legal entity if the
22 ownership interest conveyed is more than 50% of the corporation,
23 partnership, sole proprietorship, limited liability company,
24 limited liability partnership, or other legal entity. Unless
25 notification is provided under subsection (10), the corporation,
26 partnership, sole proprietorship, limited liability company,
27 limited liability partnership, or other legal entity shall notify

1 the assessing officer on a form provided by the state tax
2 commission not more than 45 days after a conveyance of an ownership
3 interest that constitutes a transfer of ownership under this
4 subdivision.

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

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

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

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

14 (b) A transfer from a husband, a wife, or a husband and wife
15 creating or disjoining a tenancy by the entirety in the grantors
16 or the grantor and his or her spouse.

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

22 (d) A transfer through foreclosure or forfeiture of a recorded
23 instrument under chapter 31, 32, or 57 of the revised judicature
24 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and MCL 600.5701
25 to 600.5785, or through deed or conveyance in lieu of a foreclosure
26 or forfeiture, until the mortgagee or land contract vendor
27 subsequently transfers the property. If a mortgagee does not

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

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

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

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

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

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

27 (j) A transfer of real property or other ownership interests

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

8 (k) Normal public trading of shares of stock or other
9 ownership interests that, over any period of time, cumulatively
10 represent more than 50% of the total ownership interest in a
11 corporation or other legal entity and are traded in multiple
12 transactions involving unrelated individuals, institutions, or
13 other 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 liability
19 company, limited liability partnership, or other legal entity shall
20 furnish proof within 45 days that a transfer meets the requirements
21 of this subdivision. A corporation, partnership, limited liability
22 company, limited liability partnership, or other legal entity that
23 fails to comply with a request by the state tax commission under
24 this subdivision is subject to a fine of \$200.00.

25 (m) A direct or indirect transfer of real property or other
26 ownership interests resulting from a transaction that qualifies as
27 a tax-free reorganization under section 368 of the internal revenue

1 code of 1986. Upon request by the state tax commission, a property
2 owner shall furnish proof within 45 days that a transfer meets the
3 requirements of this subdivision. A property owner who fails to
4 comply with a request by the state tax commission under this
5 subdivision is subject to a fine of \$200.00.

6 (n) A transfer of qualified agricultural property, if the
7 person to whom the qualified agricultural property is transferred
8 files an affidavit with the assessor of the local tax collecting
9 unit in which the qualified agricultural property is located and
10 with the register of deeds for the county in which the qualified
11 agricultural property is located attesting that the qualified
12 agricultural property shall remain qualified agricultural property.
13 The affidavit under this subdivision shall be in a form prescribed
14 by the department of treasury. An owner of qualified agricultural
15 property shall inform a prospective buyer of that qualified
16 agricultural property that the qualified agricultural property is
17 subject to the recapture tax provided in the agricultural property
18 recapture act, **2000 PA 261, MCL 211.1001 TO 211.1007**, if the
19 qualified agricultural property is converted by a change in use. If
20 property ceases to be qualified agricultural property at any time
21 after being transferred, all of the following shall occur:

22 (i) The taxable value of that property shall be adjusted under
23 subsection (3) as of the December 31 in the year that the property
24 ceases to be qualified agricultural property.

25 (ii) The property is subject to the recapture tax provided for
26 under the agricultural property recapture act, **2000 PA 261, MCL**
27 **211.1001 TO 211.1007**.

1 (8) If all of the following conditions are satisfied, the
2 local tax collecting unit shall revise the taxable value of
3 qualified agricultural property taxable on the tax roll in the
4 possession of that local tax collecting unit to the taxable value
5 that qualified agricultural property would have had if there had
6 been no transfer of ownership of that qualified agricultural
7 property since December 31, 1999 and there had been no adjustment
8 of that qualified agricultural property's taxable value under
9 subsection (3) since December 31, 1999:

10 (a) The qualified agricultural property was qualified
11 agricultural property for taxes levied in 1999 and each year after
12 1999.

13 (b) The owner of the qualified agricultural property files an
14 affidavit with the assessor of the local tax collecting unit under
15 subsection (7)(n).

16 (9) If the taxable value of qualified agricultural property is
17 adjusted under subsection (8), the owner of that qualified
18 agricultural property shall not be entitled to a refund for any
19 property taxes collected under this act on that qualified
20 agricultural property before the adjustment under subsection (8).

21 (10) The register of deeds of the county where deeds or other
22 title documents are recorded shall notify the assessing officer of
23 the appropriate local taxing unit not less than once each month of
24 any recorded transaction involving the ownership of property and
25 shall make any recorded deeds or other title documents available to
26 that county's tax or equalization department. Unless notification
27 is provided under subsection (6), the buyer, grantee, or other

transferee of the property shall notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the state tax commission that states the parties to the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description. Forms filed in the assessing office of a local unit of government under this subsection shall be made available to the county tax or equalization department for the county in which that local unit of government is located. This subsection does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

(11) As used in this section:

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

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

(c) "Converted by a change in use" means that term as defined in the agricultural property recapture act, **2000 PA 261, MCL 211.1001 TO 211.1007.**

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

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

(f) "Qualified agricultural property" means that term as defined in section 7dd.