

# HOUSE BILL No. 5581

November 10, 2009, Introduced by Reps. Geiss, Melton, Durhal, Jackson, Miller, Clemente and Bettie Scott 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 2008 PA 506.

## 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

1 inflation rate, plus all additions. For taxes levied in 1995, the  
2 property's taxable value in the immediately preceding year is the  
3 property's state equalized valuation in 1994.

4 (b) The property's current state equalized valuation.

5 (3) Upon a transfer of ownership of property after 1994, the  
6 property's taxable value for the calendar year following the year  
7 of the transfer is the property's state equalized valuation for the  
8 calendar year following the transfer.

9 (4) If the taxable value of property is adjusted under  
10 subsection (3), a subsequent increase in the property's taxable  
11 value is subject to the limitation set forth in subsection (2)  
12 until a subsequent transfer of ownership occurs. If the taxable  
13 value of property is adjusted under subsection (3) and the assessor  
14 determines that there had not been a transfer of ownership, the  
15 taxable value of the property shall be adjusted at the July or  
16 December board of review. Notwithstanding the limitation provided  
17 in section 53b(1) on the number of years for which a correction may  
18 be made, the July or December board of review may adjust the  
19 taxable value of property under this subsection for the current  
20 year and for the 3 immediately preceding calendar years. A  
21 corrected tax bill shall be issued for each tax year for which the  
22 taxable value is adjusted by the local tax collecting unit if the  
23 local tax collecting unit has possession of the tax roll or by the  
24 county treasurer if the county has possession of the tax roll. For  
25 purposes of section 53b, an adjustment under this subsection shall  
26 be considered the correction of a clerical error.

27 (5) Assessment of property, as required in this section and

1 section 27, is inapplicable to the assessment of property subject  
2 to the levy of ad valorem taxes within voted tax limitation  
3 increases to pay principal and interest on limited tax bonds issued  
4 by any governmental unit, including a county, township, community  
5 college district, or school district, before January 1, 1964, if  
6 the assessment required to be made under this act would be less  
7 than the assessment as state equalized prevailing on the property  
8 at the time of the issuance of the bonds. This inapplicability  
9 shall continue until levy of taxes to pay principal and interest on  
10 the bonds is no longer required. The assessment of property  
11 required by this act shall be applicable for all other purposes.

12 (6) As used in this act, "transfer of ownership" means the  
13 conveyance of title to or a present interest in property, including  
14 the beneficial use of the property, the value of which is  
15 substantially equal to the value of the fee interest. Transfer of  
16 ownership of property includes, but is not limited to, the  
17 following:

18 (a) A conveyance by deed.

19 (b) A conveyance by land contract. The taxable value of  
20 property conveyed by a land contract executed after December 31,  
21 1994 shall be adjusted under subsection (3) for the calendar year  
22 following the year in which the contract is entered into and shall  
23 not be subsequently adjusted under subsection (3) when the deed  
24 conveying title to the property is recorded in the office of the  
25 register of deeds in the county in which the property is located.

26 (c) A conveyance to a trust after December 31, 1994, except if  
27 the settlor or the settlor's spouse, or both, conveys the property

1 to the trust and the sole present beneficiary or beneficiaries are  
2 the settlor or the settlor's spouse, or both.

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

6 (e) A change in the sole present beneficiary or beneficiaries  
7 of a trust, except a change that adds or substitutes the spouse of  
8 the sole present beneficiary.

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

11 (g) A conveyance by lease if the total duration of the lease,  
12 including the initial term and all options for renewal, is more  
13 than 35 years or the lease grants the lessee a bargain purchase  
14 option. As used in this subdivision, "bargain purchase option"  
15 means the right to purchase the property at the termination of the  
16 lease for not more than 80% of the property's projected true cash  
17 value at the termination of the lease. After December 31, 1994, the  
18 taxable value of property conveyed by a lease with a total duration  
19 of more than 35 years or with a bargain purchase option shall be  
20 adjusted under subsection (3) for the calendar year following the  
21 year in which the lease is entered into. This subdivision does not  
22 apply to personal property except buildings described in section  
23 14(6) and personal property described in section 8(h), (i), and  
24 (j). This subdivision does not apply to that portion of the  
25 property not subject to the leasehold interest conveyed.

26 (h) A conveyance of an ownership interest in a corporation,  
27 partnership, sole proprietorship, limited liability company,

1 limited liability partnership, or other legal entity if the  
2 ownership interest conveyed is more than 50% of the corporation,  
3 partnership, sole proprietorship, limited liability company,  
4 limited liability partnership, or other legal entity. Unless  
5 notification is provided under subsection (10), the corporation,  
6 partnership, sole proprietorship, limited liability company,  
7 limited liability partnership, or other legal entity shall notify  
8 the assessing officer on a form provided by the state tax  
9 commission not more than 45 days after a conveyance of an ownership  
10 interest that constitutes a transfer of ownership under this  
11 subdivision.

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

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

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

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

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

24 (c) A transfer of that portion of property subject to a life  
25 estate or life lease retained by the transferor, until expiration  
26 or termination of the life estate or life lease. That portion of  
27 property transferred that is not subject to a life lease shall be

1 adjusted under subsection (3).

2 (d) A transfer through foreclosure or forfeiture of a recorded  
3 instrument under chapter 31, 32, or 57 of the revised judicature  
4 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3285 and MCL 600.5701  
5 to 600.5759, or through deed or conveyance in lieu of a foreclosure  
6 or forfeiture, until the mortgagee or land contract vendor  
7 subsequently transfers the property. If a mortgagee does not  
8 transfer the property within 1 year of the expiration of any  
9 applicable redemption period, the property shall be adjusted under  
10 subsection (3).

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

13 (f) A conveyance to a trust if the settlor or the settlor's  
14 spouse, or both, conveys the property to the trust and the sole  
15 present beneficiary of the trust is the settlor or the settlor's  
16 spouse, or both.

17 (g) A transfer pursuant to a judgment or order of a court of  
18 record making or ordering a transfer, unless a specific monetary  
19 consideration is specified or ordered by the court for the  
20 transfer.

21 (h) A transfer creating or terminating a joint tenancy between  
22 2 or more persons if at least 1 of the persons was an original  
23 owner of the property before the joint tenancy was initially  
24 created and, if the property is held as a joint tenancy at the time  
25 of conveyance, at least 1 of the persons was a joint tenant when  
26 the joint tenancy was initially created and that person has  
27 remained a joint tenant since the joint tenancy was initially

1 created. A joint owner at the time of the last transfer of  
2 ownership of the property is an original owner of the property. For  
3 purposes of this subdivision, a person is an original owner of  
4 property owned by that person's spouse.

5 (i) A transfer for security or an assignment or discharge of a  
6 security interest.

7 (j) A transfer of real property or other ownership interests  
8 among members of an affiliated group. As used in this subsection,  
9 "affiliated group" means 1 or more corporations connected by stock  
10 ownership to a common parent corporation. Upon request by the state  
11 tax commission, a corporation shall furnish proof within 45 days  
12 that a transfer meets the requirements of this subdivision. A  
13 corporation that fails to comply with a request by the state tax  
14 commission under this subdivision is subject to a fine of \$200.00.

15 (k) Normal public trading of shares of stock or other  
16 ownership interests that, over any period of time, cumulatively  
17 represent more than 50% of the total ownership interest in a  
18 corporation or other legal entity and are traded in multiple  
19 transactions involving unrelated individuals, institutions, or  
20 other legal entities.

21 (l) A transfer of real property or other ownership interests  
22 among corporations, partnerships, limited liability companies,  
23 limited liability partnerships, or other legal entities if the  
24 entities involved are commonly controlled. Upon request by the  
25 state tax commission, a corporation, partnership, limited liability  
26 company, limited liability partnership, or other legal entity shall  
27 furnish proof within 45 days that a transfer meets the requirements

1 of this subdivision. A corporation, partnership, limited liability  
2 company, limited liability partnership, or other legal entity that  
3 fails to comply with a request by the state tax commission under  
4 this subdivision is subject to a fine of \$200.00.

5 (m) A direct or indirect transfer of real property or other  
6 ownership interests resulting from a transaction that qualifies as  
7 a tax-free reorganization under section 368 of the internal revenue  
8 code, 26 USC 368. Upon request by the state tax commission, a  
9 property owner shall furnish proof within 45 days that a transfer  
10 meets the requirements of this subdivision. A property owner who  
11 fails to comply with a request by the state tax commission under  
12 this subdivision is subject to a fine of \$200.00.

13 (n) A transfer of qualified agricultural property, if the  
14 person to whom the qualified agricultural property is transferred  
15 files an affidavit with the assessor of the local tax collecting  
16 unit in which the qualified agricultural property is located and  
17 with the register of deeds for the county in which the qualified  
18 agricultural property is located attesting that the qualified  
19 agricultural property shall remain qualified agricultural property.  
20 The affidavit under this subdivision shall be in a form prescribed  
21 by the department of treasury. An owner of qualified agricultural  
22 property shall inform a prospective buyer of that qualified  
23 agricultural property that the qualified agricultural property is  
24 subject to the recapture tax provided in the agricultural property  
25 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the  
26 qualified agricultural property is converted by a change in use. If  
27 property ceases to be qualified agricultural property at any time



1 after being transferred, all of the following shall occur:

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

5 (ii) The property is subject to the recapture tax provided for  
6 under the agricultural property recapture act, 2000 PA 261, MCL  
7 211.1001 to 211.1007.

8 (o) A transfer of qualified forest property, if the person to  
9 whom the qualified forest property is transferred files an  
10 affidavit with the assessor of the local tax collecting unit in  
11 which the qualified forest property is located and with the  
12 register of deeds for the county in which the qualified forest  
13 property is located attesting that the qualified forest property  
14 shall remain qualified forest property. The affidavit under this  
15 subdivision shall be in a form prescribed by the department of  
16 treasury. An owner of qualified forest property shall inform a  
17 prospective buyer of that qualified forest property that the  
18 qualified forest property is subject to the recapture tax provided  
19 in the qualified forest property recapture tax act, 2006 PA 379,  
20 MCL 211.1031 to 211.1036, if the qualified forest property is  
21 converted by a change in use. If property ceases to be qualified  
22 forest property at any time after being transferred, all of the  
23 following shall occur:

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

27 (ii) The property is subject to the recapture tax provided for

1 under the qualified forest property recapture tax act, 2006 PA 379,  
2 MCL 211.1031 to 211.1036.

3 (p) Beginning on ~~the effective date of the amendatory act that~~  
4 ~~added this subdivision~~ **DECEMBER 8, 2006**, a transfer of land, but  
5 not buildings or structures located on the land, which meets 1 or  
6 more of the following requirements:

7 (i) The land is subject to a conservation easement under  
8 subpart 11 of part 21 of the natural resources and environmental  
9 protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in  
10 this subparagraph, "conservation easement" means that term as  
11 defined in section 2140 of the natural resources and environmental  
12 protection act, 1994 PA 451, MCL 324.2140.

13 (ii) A transfer of ownership of the land or a transfer of an  
14 interest in the land is eligible for a deduction as a qualified  
15 conservation contribution under section 170(h) of the internal  
16 revenue code, 26 USC 170.

17 (q) A transfer of real property or other ownership interests  
18 resulting from a consolidation or merger of a domestic nonprofit  
19 corporation that is a boy or girl scout or camp fire girls  
20 organization, a 4-H club or foundation, a young men's Christian  
21 association, or a young women's Christian association and at least  
22 50% of the members of that organization or association are  
23 residents of this state.

24 **(R) A TRANSFER OF REAL PROPERTY IF ALL OF THE FOLLOWING**  
25 **REQUIREMENTS ARE SATISFIED:**

26 **(i) PRIOR TO THE TRANSFER, THE TRANSFEREE HAD CLAIMED AN**  
27 **EXEMPTION FOR REAL PROPERTY AS HIS OR HER PRINCIPAL RESIDENCE UNDER**

1 SECTION 7CC.

2 (ii) PRIOR TO THE TRANSFER, THE TRANSFEREE'S PRINCIPAL  
3 RESIDENCE WAS ACQUIRED BY THIS STATE OR A POLITICAL SUBDIVISION OF  
4 THIS STATE UNDER THE POWER OF EMINENT DOMAIN.

5 (iii) THE REAL PROPERTY IS LOCATED IN THE SAME LOCAL TAX  
6 COLLECTING UNIT AS THE PROPERTY TAKEN UNDER THE POWER OF EMINENT  
7 DOMAIN AND WAS TRANSFERRED TO THE TRANSFEREE AND THE TRANSFEREE  
8 CLAIMS AN EXEMPTION FOR THAT REAL PROPERTY UNDER SECTION 7CC AS A  
9 PRINCIPAL RESIDENCE.

10 (8) If all of the following conditions are satisfied, the  
11 local tax collecting unit shall revise the taxable value of  
12 qualified agricultural property taxable on the tax roll in the  
13 possession of that local tax collecting unit to the taxable value  
14 that qualified agricultural property would have had if there had  
15 been no transfer of ownership of that qualified agricultural  
16 property since December 31, 1999 and there had been no adjustment  
17 of that qualified agricultural property's taxable value under  
18 subsection (3) since December 31, 1999:

19 (a) The qualified agricultural property was qualified  
20 agricultural property for taxes levied in 1999 and each year after  
21 1999.

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

25 (9) If the taxable value of qualified agricultural property is  
26 adjusted under subsection (8), the owner of that qualified  
27 agricultural property shall not be entitled to a refund for any

1 property taxes collected under this act on that qualified  
2 agricultural property before the adjustment under subsection (8).

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

23 (11) As used in this section:

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

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

1 (c) "Converted by a change in use" means that term as defined  
2 in the agricultural property recapture act, 2000 PA 261, MCL  
3 211.1001 to 211.1007.

4 (d) "Inflation rate" means that term as defined in section  
5 34d.

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

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

9 (g) "Qualified forest property" means that term as defined in  
10 section 7jj[1].