

SENATE BILL No. 406

March 25, 2009, Introduced by Senator McMANUS 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 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
9 inflation rate, plus all additions. **HOWEVER, FOR TAXES LEVIED IN**
10 **2010 AND EACH YEAR AFTER 2010, IF A FRACTION THE NUMERATOR OF WHICH**
11 **IS THE STATE EQUALIZED VALUE FOR THE CURRENT YEAR MINUS ADDITIONS**

1 AND THE DENOMINATOR OF WHICH IS THE STATE EQUALIZED VALUE FOR THE
2 IMMEDIATELY PRECEDING YEAR MINUS LOSSES IS LESS THAN BOTH 1.05 AND
3 THE INFLATION RATE, FOR PURPOSES OF THIS SUBDIVISION THE TAXABLE
4 VALUE IS THE PRODUCT OF THE PROPERTY'S TAXABLE VALUE IN THE
5 IMMEDIATELY PRECEDING YEAR MINUS LOSSES, MULTIPLIED BY THAT
6 FRACTION, PLUS ADDITIONS. For taxes levied in 1995, the property's
7 taxable value in the immediately preceding year is the property's
8 state equalized valuation in 1994.

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

10 (3) Upon a transfer of ownership of property after 1994, the
11 property's taxable value for the calendar year following the year
12 of the transfer is the property's state equalized valuation for the
13 calendar year following the transfer.

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

1 local tax collecting unit has possession of the tax roll or by the
2 county treasurer if the county has possession of the tax roll. For
3 purposes of section 53b, an adjustment under this subsection shall
4 be considered the correction of a clerical error.

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

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

23 (a) A conveyance by deed.

24 (b) A conveyance by land contract. The taxable value of
25 property conveyed by a land contract executed after December 31,
26 1994 shall be adjusted under subsection (3) for the calendar year
27 following the year in which the contract is entered into and shall

1 not be subsequently adjusted under subsection (3) when the deed
2 conveying title to the property is recorded in the office of the
3 register of deeds in the county in which the property is located.

4 (c) A conveyance to a trust after December 31, 1994, except if
5 the settlor or the settlor's spouse, or both, conveys the property
6 to the trust and the sole present beneficiary or beneficiaries are
7 the settlor or the settlor's spouse, or both.

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

11 (e) A change in the sole present beneficiary or beneficiaries
12 of a trust, except a change that adds or substitutes the spouse of
13 the sole present beneficiary.

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

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

1 14(6) and personal property described in section 8(h), (i), and
2 (j). This subdivision does not apply to that portion of the
3 property not subject to the leasehold interest conveyed.

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

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

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

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

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

26 (b) A transfer from a husband, a wife, or a husband and wife
27 creating or disjoining a tenancy by the entirety in the grantors

1 or the grantor and his or her spouse.

2 (c) A transfer of that portion of property subject to a life
3 estate or life lease retained by the transferor, until expiration
4 or termination of the life estate or life lease. That portion of
5 property transferred that is not subject to a life lease shall be
6 adjusted under subsection (3).

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

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

18 (f) A conveyance to a trust if the settlor or the settlor's
19 spouse, or both, conveys the property to the trust and the sole
20 present beneficiary of the trust is the settlor or the settlor's
21 spouse, or both.

22 (g) A transfer pursuant to a judgment or order of a court of
23 record making or ordering a transfer, unless a specific monetary
24 consideration is specified or ordered by the court for the
25 transfer.

26 (h) A transfer creating or terminating a joint tenancy between
27 2 or more persons if at least 1 of the persons was an original

owner of the property before the joint tenancy was initially created and, if the property is held as a joint tenancy at the time of conveyance, at least 1 of the persons was a joint tenant when the joint tenancy was initially created and that person has remained a joint tenant since the joint tenancy was initially created. A joint owner at the time of the last transfer of ownership of the property is an original owner of the property. For purposes of this subdivision, a person is an original owner of property owned by that person's spouse.

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

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

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

(l) A transfer of real property or other ownership interests among corporations, partnerships, limited liability companies,

1 limited liability partnerships, or other legal entities if the
2 entities involved are commonly controlled. Upon request by the
3 state tax commission, a corporation, partnership, limited liability
4 company, limited liability partnership, or other legal entity shall
5 furnish proof within 45 days that a transfer meets the requirements
6 of this subdivision. A corporation, partnership, limited liability
7 company, limited liability partnership, or other legal entity that
8 fails to comply with a request by the state tax commission under
9 this subdivision is subject to a fine of \$200.00.

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

18 (n) A transfer of qualified agricultural property, if the
19 person to whom the qualified agricultural property is transferred
20 files an affidavit with the assessor of the local tax collecting
21 unit in which the qualified agricultural property is located and
22 with the register of deeds for the county in which the qualified
23 agricultural property is located attesting that the qualified
24 agricultural property shall remain qualified agricultural property.
25 The affidavit under this subdivision shall be in a form prescribed
26 by the department of treasury. An owner of qualified agricultural
27 property shall inform a prospective buyer of that qualified

1 agricultural property that the qualified agricultural property is
2 subject to the recapture tax provided in the agricultural property
3 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the
4 qualified agricultural property is converted by a change in use. If
5 property ceases to be qualified agricultural property at any time
6 after being transferred, all of the following shall occur:

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

10 (ii) The property is subject to the recapture tax provided for
11 under the agricultural property recapture act, 2000 PA 261, MCL
12 211.1001 to 211.1007.

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

1 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 forest property.

5 (ii) The property is subject to the recapture tax provided for
6 under the qualified forest property recapture tax act, 2006 PA 379,
7 MCL 211.1031 to 211.1036.

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

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

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

22 (q) A transfer of real property or other ownership interests
23 resulting from a consolidation or merger of a domestic nonprofit
24 corporation that is a boy or girl scout or camp fire girls
25 organization, a 4-H club or foundation, a young men's Christian
26 association, or a young women's Christian association and at least
27 50% of the members of that organization or association are

1 residents of this state.

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

11 (a) The qualified agricultural property was qualified
12 agricultural property for taxes levied in 1999 and each year after
13 1999.

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

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

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

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

15 (11) As used in this section:

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

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

20 (c) "Converted by a change in use" means that term as defined
21 in the agricultural property recapture act, 2000 PA 261, MCL
22 211.1001 to 211.1007.

23 (d) "Inflation rate" means that term as defined in section
24 34d.

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

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

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

3 Enacting section 1. This amendatory act does not take effect
4 unless Senate Joint Resolution I

5 of the 95th Legislature becomes a part of
6 the state constitution of 1963 as provided in section 1 of article
7 XII of the state constitution of 1963.