

SENATE BILL No. 993

December 1, 2009, Introduced by Senator BROWN and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1899 PA 188, entitled
"Michigan estate tax act,"
by amending section 3 (MCL 205.203), as amended by 2004 PA 539.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The tax and the interest on the tax provided for
2 in this act ~~shall become~~ **ARE** 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 payment
5 is granted under this section or section 2d, the lien provided by
6 this section ~~shall attach~~ **ATTACHES** 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

1 ~~administrator, executor, and~~ **PERSONAL REPRESENTATIVE OR** trustee of
 2 every estate transferred, ~~shall be~~ **IS** personally liable for the
 3 tax until ~~its payments,~~ **IT IS PAID**, except that the executor or
 4 administrator ~~shall~~ **IS** not be personally liable for the tax upon a
 5 reversion or remainder consisting of real estate ~~where~~ **IF** the
 6 election provided for in section 7 or the deferral in this section
 7 or section 2d is made. The tax shall be paid to ~~the~~ **THIS** state.

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

25 (4) All taxes imposed by this act ~~shall accrue and be~~ **ARE** due
 26 and payable at the time of transfer, which is the date of death,
 27 except that taxes upon the transfer of any estate, property, or

1 interest limited, conditioned, dependent, or determinable upon the
 2 happening of a contingency or future event, by reason of which the
 3 clear market value cannot be ascertained at the time of the
 4 transfer, ~~shall accrue and become~~ **ARE** due and payable when the
 5 persons or corporations beneficially entitled ~~shall~~ come into
 6 actual possession or enjoyment.

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

19 (6) ~~A proceeding~~ **AN ACTION** to enforce a lien against any
 20 property under this act shall be instituted by ~~information,~~ **A**
 21 **COMPLAINT** in the name of the people of this state, ~~addressed to~~
 22 **FILED WITH** the circuit court for the county in which the property
 23 is situated. ~~It~~ **THE COMPLAINT** shall be signed by the attorney
 24 general and need not be otherwise verified. A person owning the
 25 property or an interest in the property as shown by the record in
 26 the office of the register of deeds, or by the records of the
 27 probate court, at the time ~~of the commencement of the proceedings,~~

1 **THE ACTION IS COMMENCED** shall be made a party to the action, and
 2 ~~all-ANY~~ other ~~persons having~~ **PERSON WHO HAS** a right or interest in
 3 the property ~~, may make themselves parties to~~ **INTERVENE IN** the
 4 ~~proceeding~~ **ACTION**, on motion to the court ~~, and notice to~~
 5 ~~complainant~~ **THE ATTORNEY GENERAL**, and may file ~~their~~ **AN** intervening
 6 or ~~cross-claims,~~ **CROSS-COMPLAINT** or ~~answers claiming the benefit of~~
 7 ~~cross-claims,~~ **AN ANSWER WITH A CROSS-CLAIM** and ~~notices of~~ **A NOTICE**
 8 ~~lis pendens therein~~ **IN THE ACTION**. ~~Intervening or cross-claims~~ **AN**
 9 **INTERVENING OR CROSS-CLAIM** shall be made on oath.

10 (7) ~~The information~~ **A COMPLAINT FILED UNDER SUBSECTION (6)**
 11 shall ~~show~~ **STATE** the name of the deceased, the date of death, the
 12 place of residence at the time of death, the county in which the
 13 estate was probated, the description of the property transferred,
 14 whether by will or under the intestate laws, and against which the
 15 lien exists, the name of the person or persons to whom it was
 16 transferred, the amount of taxes determined by the probate court
 17 upon the transfer, the date of the determination, ~~and whether the~~
 18 property is owned by the person or persons to whom it was
 19 transferred by will or under the intestate laws or by a subsequent
 20 purchaser, ~~naming that~~ **AND THE NAME OF ANY SUBSEQUENT** purchaser.
 21 ~~The information~~ **COMPLAINT** shall also ~~show~~ **STATE** that the taxes
 22 determined upon the transfer of the property have not been paid and
 23 the amount of interest due upon the date ~~of the filing of the~~
 24 information **IS FILED**. ~~In those cases in which~~ **IF** the property upon
 25 which the lien exists is owned by the person or persons to whom it
 26 was transferred by will or under the intestate laws, the ~~petition~~
 27 ~~for relief~~ **COMPLAINT** shall be **REQUEST** that the court determine the

1 amount due, ~~that~~ the defendant pay to the county treasurer of the
 2 county ~~in~~ which the estate was probated, for and in behalf of
 3 this state, ~~whatever sum shall appear to be~~ **THE AMOUNT** due ~~,~~
 4 ~~together with~~ **AND** the costs of the proceeding, and that in default
 5 of that payment the property upon which the lien exists ~~, may be~~
 6 sold in the manner provided in this act ~~, to~~ satisfy the taxes,
 7 interest, and ~~cost~~ **COSTS**.

8 (8) ~~In those cases in which~~ **IF** the property upon which the
 9 lien exists is owned by a subsequent purchaser, the ~~petition for~~
 10 ~~relief~~ **COMPLAINT FILED UNDER SUBSECTION (6)** shall ~~be~~ **REQUEST** that
 11 the court determine the amount due and that the property upon which
 12 the lien exists ~~may be~~ sold in the manner provided in this act to
 13 satisfy the taxes, interest, and costs of the ~~proceeding~~ **ACTION**.

14 (9) ~~The information~~ **A COMPLAINT FILED UNDER SUBSECTION (6)** may
 15 contain other ~~and further~~ allegations and ~~petitions considered~~
 16 **REQUESTS THAT ARE** material and permitted by the rules and practice
 17 of the court.

18 (10) A certified copy of the order of determination of the
 19 inheritance tax ~~, for~~ which the lien exists, certified by either
 20 the judge or register of probate of the court that determined the
 21 tax or by the ~~revenue commissioner~~ **STATE TREASURER**, may be attached
 22 to ~~the information~~ **A COMPLAINT FILED UNDER SUBSECTION (6)**. ~~When~~ **IF**
 23 attached, the copy ~~shall be considered~~ **IS** a part of the ~~information~~
 24 **COMPLAINT** and ~~shall be~~ **IS** prima facie evidence of the determination
 25 of the inheritance tax and the accruing of the lien against the
 26 property. A certificate of the ~~revenue commissioner~~ **STATE TREASURER**
 27 stating that the inheritance tax, or any part of the tax determined

1 upon the transfer of the property upon which the lien exists, has
 2 not been paid, may be attached to the ~~information~~ **COMPLAINT**. ~~When~~
 3 ~~IF~~ attached, the certificate ~~shall be considered~~ **IS** a part of the
 4 ~~information~~ **COMPLAINT** and ~~shall be~~ **IS** prima facie evidence of the
 5 nonpayment of the amount of the tax and interest shown to be unpaid
 6 by the certificate.

7 (11) If ~~an infant, insane, or otherwise mentally incompetent~~
 8 ~~person~~ **A MINOR OR A LEGALLY INCAPACITATED INDIVIDUAL** has an
 9 interest in the property upon which the lien exists, service of
 10 process shall be made upon that person in the same manner and with
 11 the same effect as upon ~~persons~~ **A PERSON WHO IS** not under a
 12 disability, whether the ~~infant, insane, or otherwise mentally~~
 13 ~~incompetent person~~ **MINOR OR LEGALLY INCAPACITATED INDIVIDUAL** is
 14 within or without the jurisdiction.

15 (12) After the issuing and service of process against ~~the~~
 16 ~~infant, insane, or otherwise incompetent person,~~ **A MINOR OR LEGALLY**
 17 **INCAPACITATED INDIVIDUAL**, a guardian ad litem may be appointed for
 18 the ~~infant, insane, or otherwise incompetent person~~ **MINOR OR**
 19 **LEGALLY INCAPACITATED INDIVIDUAL** by the court upon motion of the
 20 attorney general, or the guardian ad litem may be appointed by the
 21 court upon the request of the ~~infant, and in the case of an insane~~
 22 ~~or otherwise incompetent person, at the request of the person's~~
 23 ~~general guardian~~ **MINOR OR A GUARDIAN OF THE LEGALLY INCAPACITATED**
 24 **INDIVIDUAL**.

25 (13) If upon the hearing of ~~the cause~~ **AN ACTION FILED UNDER**
 26 **SUBSECTION (6)** it appears that the inheritance taxes or interest,
 27 or both, upon the transfer of the property upon which the lien

1 exists have not been paid, the court shall ~~decree~~**ORDER** the amount
 2 of taxes and interest on the taxes ~~found~~**DETERMINED** to be due,
 3 together with costs to be determined by the court, to be paid by
 4 the person or persons owning the property, or any interest in the
 5 property, within 3 months after the entry of the ~~decree~~**ORDER** and
 6 that in default of payment ~~that~~ the property upon which the lien
 7 exists ~~—~~be sold to satisfy the taxes, interest, and costs. If it
 8 appears that the person or persons to whom **THE PROPERTY** was
 9 transferred ~~the property~~ by will or under the intestate laws have
 10 ~~parted with~~**TRANSFERRED** their interest before the ~~institution of~~
 11 ~~the proceedings provided for in this section,~~**ACTION WAS COMMENCED**
 12 and that the property is owned by a subsequent purchaser, the court
 13 shall ~~decree~~**ORDER** that the property be sold to satisfy the taxes,
 14 interest, and costs, unless the owner satisfies the taxes,
 15 interest, and costs within 3 months after the entry of the ~~decree~~
 16 **ORDER.**

17 (14) ~~In cases in which it appears that~~**IF** 2 or more pieces or
 18 parcels of land were transferred by will or under the intestate
 19 laws to 1 person ~~—~~and that ~~that~~ person, before ~~the institution of~~
 20 ~~the proceedings provided for in this section,~~ has ~~parted with~~**A**
 21 **COMPLAINT WAS FILED UNDER SUBSECTION (6), TRANSFERRED** any or all of
 22 the pieces or parcels of land, ~~and that~~**IF** the court **IN THE ACTION**
 23 can ascertain from the order of determination the amount of
 24 inheritance tax determined upon the transfer of each piece or
 25 parcel, and ~~that~~**IF** the lien against all of the pieces or parcels
 26 is being foreclosed in 1 proceeding, the court may ~~decree~~**ORDER** the
 27 sale of that piece or parcel to satisfy the amount of tax

determined upon the transfer of that piece or parcel, ~~together with~~
 the interest ~~thereon~~ **ON THE TAX** and pro rata costs of the
 proceeding. A piece or parcel of property shall not be sold to
 satisfy taxes, interest, and costs within 3 months after the entry
 of the ~~decree~~ **ORDER**.

(15) If ~~the~~ **A** person or persons owning the property **ORDERED TO**
BE SOLD UNDER THIS SECTION or an interest in the property, ~~or the~~
 person's heirs, ~~executors, administrators,~~ **OR PERSONAL**
REPRESENTATIVE, or a person lawfully claiming under ~~that~~ **THE**
 person, within 6 months after the date of the sale, redeems the
 entire premises sold ~~by~~ by paying to the register of deeds in whose
 office the deed is ~~deposited~~ **RECORDED**, as provided by subsection
 (20), for the benefit of the purchaser ~~or the purchaser's~~
~~executors, administrators,~~ **PERSONAL REPRESENTATIVE** or assigns the
 sum ~~which~~ **AMOUNT THAT** was bid on the date of sale, with interest ~~,~~
 at the rate of 6%, ~~together with the sum of \$1.00~~ **\$10.00** as a fee
 for the care and custody of the redemption money, and the fee paid
 by the purchaser for recording his or her deed, ~~then the deed is~~
 void. If a distinct lot or parcel separately sold is redeemed
 leaving a portion of the premises unredeemed, ~~then the deed shall~~
~~be~~ **IS** void only **AS** to the parcel or parcels redeemed.

(16) ~~The~~ **A** register of deeds shall not determine the amount
 necessary for redemption **UNDER SUBSECTION (15)**. The purchaser shall
 attach an affidavit ~~with~~ **TO** the deed to be recorded that states the
 exact amount required to redeem the property under subsection (15),
 including any daily per diem amounts. ~~, and the date by which the~~
~~property must be redeemed shall be stated in the certificate of the~~

~~commissioner or other person making the sale.~~ The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds ~~MONEY~~. The purchaser shall accept the amount computed by the designee.

(17) If ~~it appears to the court~~ **IN AN ACTION FILED UNDER SUBSECTION (6) DETERMINES**, after the expiration of 3 months from the date of entry of the ~~decree~~ **ORDER IN THE ACTION**, from a certificate of ~~the state of Michigan to whom the taxes, interest, penalties, and costs were to be paid,~~ **THE STATE TREASURER** attached to a ~~petition of~~ **MOTION BY** the attorney general for an order of sale of the property, that the ~~same~~ **TAXES, INTEREST, PENALTIES, AND COSTS** have not been paid, the court shall enter an order directing ~~the circuit court commissioner,~~ **A COURT OFFICER** or some other person ~~duly authorized by the order of the court,~~ to sell the property. The sale shall be at ~~A public vendue~~ **VENUE** between the hours of 9 a.m. and 6 p.m. at the courthouse or at another place as **ORDERED BY** the court, ~~directs,~~ within 60 days after the date of the order and on the date specified ~~on~~ **IN** the order. The court may, if necessary, by ~~further~~ **LATER** order adjourn the sale. ~~from time to time.~~ ~~The circuit court commissioner,~~ **THE OFFICER** or other person authorized to make the sale, ~~may,~~ if bids are not received equal to the amount of taxes, interest, and costs, adjourn the sale, ~~from time to time,~~ but the sale shall not be adjourned for more than 60 days at any 1 time.

(18) Upon receipt of a certified copy of ~~the~~ **AN** order of sale **ENTERED UNDER SUBSECTION (17)**, the ~~circuit court commissioner,~~ **OFFICER** or other person ~~duly~~ authorized by ~~the order of the court~~ to conduct the sale ~~, shall~~ publish **NOTICE OF** the sale in some newspaper printed in the county or another paper as **ORDERED BY** the court, ~~may direct, once in each~~ **PER** week ~~, for 3~~ **SUCCESSIVE** weeks. ~~in succession.~~ If the sale is adjourned by order of the court ~~, or~~ by the ~~circuit court commissioner,~~ **OFFICER** or other person ~~duly~~ authorized by ~~the order of the court~~ ~~, to~~ conduct the sale, ~~the same publication shall be had of the order or notice adjourning the sale as is provided in this section for publishing~~ **SHALL BE PUBLISHED IN THE SAME MANNER AS** the order of sale. Proof of publication shall be filed with the court before the sale.

(19) The ~~circuit court commissioner,~~ **OFFICER** or other person authorized to make the sale shall make and file a report of the sale. The report shall be entitled in the court and ~~cause,~~ **ACTION** and shall be certified and filed with the court.

(20) ~~Deeds shall thereupon be executed by the circuit court commissioner~~ **ON THE SALE OF PROPERTY UNDER SUBSECTION (18), THE OFFICER** or other person making the sale **SHALL EXECUTE A DEED**, specifying the names of the parties in the action, the date of the determination of the inheritance tax, the name of the deceased, the county in which the estate was probated, ~~with a description of the premises,~~ and the amount for which each parcel of land described was sold. The ~~commissioner,~~ **OFFICER** or other person making the sale ~~, shall~~ indorse upon ~~each~~ **THE** deed **THE DATE** when the deed ~~shall~~ **WILL** become operative ~~, if the premises are not redeemed according~~

1 to law. ~~The deed or deeds, as~~ **AS** soon as practicable and within 20
 2 days after the sale, **THE DEED** shall be ~~deposited~~ **RECORDED** with the
 3 register of deeds of the county in which the land described is
 4 situated, and the register shall indorse on the deed the time the
 5 deed was received, ~~shall record the deed at length in a book to be~~
 6 ~~provided for in his or her office for that purpose~~ **IT**, and shall
 7 index ~~the deed~~ **IT** in the regular **GENERAL** index of ~~deeds~~ **RECORDS**.
 8 The fees for recording the deed shall be paid by the purchaser and
 9 ~~be included among~~ **WITH** the other costs and expenses. ~~If the~~
 10 ~~premises or a parcel of the premises shall be redeemed, the~~
 11 ~~register of deeds shall write on the face of the record the word~~
 12 ~~"Redeemed", stating at what date the entry is made and signing the~~
 13 ~~entry with his or her official signature. Unless the premises~~
 14 ~~described in the deed, or a parcel of the premises, is redeemed~~
 15 ~~within the time limited for redemption, as provided in this~~
 16 ~~section, the deed shall thereupon as to all parcels not redeemed,~~
 17 ~~become~~ **BECOMES** operative **AS TO ALL PARCELS NOT REDEEMED** and shall
 18 ~~vest~~ **VESTS** in the grantee named in the deed, ~~and~~ **AND** the grantee's
 19 heirs or assigns all the right, title, and interest ~~therein which~~
 20 **IN THE PREMISES THAT** the person or persons received either from the
 21 deceased by ~~reason of the~~ transfer to them by will or under the
 22 intestate laws, or as subsequent purchasers.

23 (21) The proceeds of each sale ~~provided for in~~ **UNDER** this
 24 section shall be paid to the treasurer of the county where the
 25 estate was probated, ~~to be applied to the discharge of the tax,~~
 26 interest, penalty, and costs. ~~and if~~ **IF** there is any surplus, it
 27 shall be brought into court for the use of the defendant, or the

1 person entitled to the money, subject to the order of the court.

2 (22) The ~~circuit court commissioner~~, **OFFICER** or other person
3 authorized by the court to make the ~~A~~ sale, ~~shall be~~ **UNDER THIS**
4 **SECTION IS** entitled to only the following fees:

5 (A) For attending and adjourning a sale, \$1.00. ~~for~~

6 (B) **FOR** attending and making a sale, \$1.50. ~~mileage,~~

7 (C) **FOR MILEAGE**, 1 way, 10 cents per mile. ~~+~~

8 (D) **FOR** executing **A** deed or deeds on real estate sales, 25
9 cents for each deed necessarily executed. ~~+~~

10 (E) **FOR** making and filing a report of sale, \$1.00.

11 (23) The cost of publishing any legal notices required to be
12 published **UNDER THIS SECTION** shall be ~~at the rate of~~ 70 cents per
13 folio for the first insertion, ~~and~~ 35 cents per folio for each
14 subsequent insertion.

15 (24) The fees ~~which are~~ provided for in this act shall be
16 added by the ~~circuit court commissioner~~, **OFFICER** or other person
17 ~~duly~~ authorized to make the sale, ~~OF THE PROPERTY~~ to the tax,
18 interest, penalties, and costs awarded by the court as charges
19 against the land.

20 (25) ~~(23)~~ The amount stated in any affidavits recorded under
21 this section shall be the amount necessary to satisfy the
22 requirements for redemption under this section.