

HOUSE BILL No. 4440

March 12, 2013, Introduced by Reps. Lyons and Rendon and referred to the Committee on Tax Policy.

A bill to amend 1993 PA 330, entitled
"State real estate transfer tax act,"
by amending section 6 (MCL 207.526), as amended by 2008 PA 473.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. The following written instruments and transfers of
2 property are exempt from the tax imposed by this act:

3 (a) A written instrument in which the value of the
4 consideration for the property is less than \$100.00.

5 (b) A written instrument evidencing a contract or transfer
6 that is not to be performed wholly within this state only to the
7 extent the written instrument includes land lying outside of this
8 state.

9 (c) A written instrument that this state is prohibited from
10 taxing under the United States constitution or federal statutes.

11 (d) A written instrument given as security or an assignment or

1 discharge of the security interest.

2 (e) A written instrument evidencing a lease, including an oil
3 and gas lease, or a transfer of a leasehold interest.

4 (f) A written instrument evidencing an interest that is
5 assessable as personal property.

6 (g) A written instrument evidencing the transfer of a right
7 and interest for underground gas storage purposes.

8 (h) Any of the following written instruments:

9 (i) A written instrument in which the grantor is the United
10 States, this state, a political subdivision or municipality of this
11 state, or an officer of the United States or of this state, or a
12 political subdivision or municipality of this state, acting in his
13 or her official capacity.

14 (ii) A written instrument given in foreclosure or in lieu of
15 foreclosure of a loan made, guaranteed, or insured by the United
16 States, this state, a political subdivision or municipality of this
17 state, or an officer of the United States or of this state, or a
18 political subdivision or municipality of this state, acting in his
19 or her official capacity.

20 (iii) A written instrument given to the United States, this
21 state, or 1 of their officers acting in an official capacity as
22 grantee, pursuant to the terms or guarantee or insurance of a loan
23 guaranteed or insured by the grantee.

24 (i) A conveyance from a husband or wife or husband and wife
25 creating or disjoining a tenancy by the entirety in the grantors
26 or the grantor and his or her spouse.

27 (j) A conveyance from an individual to that individual's

1 child, stepchild, or adopted child.

2 (k) A conveyance from an individual to that individual's
3 grandchild, step-grandchild, or adopted grandchild.

4 (l) A judgment or order of a court of record making or ordering
5 a transfer, unless a specific monetary consideration is specified
6 or ordered by the court for the transfer.

7 (m) A written instrument used to straighten boundary lines if
8 no monetary consideration is given.

9 (n) A written instrument to confirm title already vested in a
10 grantee, including a quitclaim deed to correct a flaw in title.

11 (o) A land contract in which the legal title does not pass to
12 the grantee until the total consideration specified in the contract
13 has been paid.

14 (p) A conveyance that meets 1 of the following:

15 (i) A transfer between any corporation and its stockholders or
16 creditors, between any limited liability company and its members or
17 creditors, between any partnership and its partners or creditors,
18 or between a trust and its beneficiaries or creditors when the
19 transfer is to effectuate a dissolution of the corporation, limited
20 liability company, partnership, or trust and it is necessary to
21 transfer the title of real property from the entity to the
22 stockholders, members, partners, beneficiaries, or creditors.

23 (ii) A transfer between any limited liability company and its
24 members if the ownership interests in the limited liability company
25 are held by the same persons and in the same proportion as in the
26 limited liability company prior to the transfer.

27 (iii) A transfer between any partnership and its partners if the

1 ownership interests in the partnership are held by the same persons
2 and in the same proportion as in the partnership prior to the
3 transfer.

4 (iv) A transfer of a controlling interest in an entity with an
5 interest in real property if the transfer of the real property
6 would qualify for exemption if the transfer had been accomplished
7 by deed to the real property between the persons that were parties
8 to the transfer of the controlling interest.

9 (v) A transfer in connection with the reorganization of an
10 entity and the beneficial ownership is not changed.

11 (q) A written instrument evidencing the transfer of mineral
12 rights and interests.

13 (r) A written instrument creating a joint tenancy between 2 or
14 more persons if at least 1 of the persons already owns the
15 property.

16 (s) A transfer made pursuant to a bona fide sales agreement
17 made before the date the tax is imposed under sections 3 and 4, if
18 the sales agreement cannot be withdrawn or altered, or contains a
19 fixed price not subject to change or modification.

20 (t) A written instrument evidencing a contract or transfer of
21 property to a person sufficiently related to the transferor to be
22 considered a single employer with the transferor under section
23 414(b) or (c) of the internal revenue code of 1986, 26 USC 414.

24 (u) A written instrument conveying an interest in property for
25 which an exemption is claimed under section 7cc of the general
26 property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized
27 valuation of that property is equal to or lesser than the state

1 equalized valuation on the date of purchase or on the date of
2 acquisition by the seller or transferor for that same interest in
3 property. If after an exemption is claimed under this subsection,
4 the sale or transfer of property is found by the treasurer to be at
5 a value other than the true cash value, then a penalty equal to 20%
6 of the tax shall be assessed in addition to the tax due under this
7 act to the seller or transferor.

8 (v) A written instrument transferring an interest in property
9 pursuant to a foreclosure of a mortgage including a written
10 instrument given in lieu of foreclosure of a mortgage. ~~This~~ **EXCEPT**
11 **AS PROVIDED IN SUBDIVISION (X), THIS** exemption does not apply to a
12 subsequent transfer of the foreclosed property by the entity that
13 foreclosed on the mortgage.

14 (w) A written instrument conveying an interest from a
15 religious society in property exempt from the collection of taxes
16 under section 7s of the general property tax act, 1893 PA 206, MCL
17 211.7s, to a religious society if that property continues to be
18 exempt from the collection of taxes under section 7s of the general
19 property tax act, 1893 PA 206, MCL 211.7s.

20 **(X) A WRITTEN INSTRUMENT TRANSFERRING AN INTEREST IN PROPERTY**
21 **TO THE FORMER MORTGAGOR FROM A PERSON THAT RECEIVED THE PROPERTY**
22 **PURSUANT TO A FORECLOSURE OF A MORTGAGE INCLUDING A WRITTEN**
23 **INSTRUMENT GIVEN IN LIEU OF FORECLOSURE OF A MORTGAGE OR FROM THAT**
24 **PERSON'S SUCCESSOR IN INTEREST. THIS SUBDIVISION ONLY APPLIES TO A**
25 **WRITTEN INSTRUMENT TRANSFERRING AN INTEREST IN PROPERTY IF THAT**
26 **WRITTEN INSTRUMENT IS EXECUTED NOT LATER THAN 90 DAYS AFTER THE**
27 **DATE OF THE LAST DAY OF THE PERIOD OF REDEMPTION FOLLOWING THE**

1 FORECLOSURE OF THE MORTGAGE OR NOT LATER THAN 90 DAYS AFTER THE
2 DATE OF THE EXECUTION OF THE WRITTEN INSTRUMENT GIVEN IN LIEU OF
3 FORECLOSURE OF A MORTGAGE. AS USED IN THIS SUBDIVISION, "FORMER
4 MORTGAGOR" MEANS THE IMMEDIATELY PRECEDING MORTGAGOR WHOSE INTEREST
5 WAS FORECLOSED OR WHOSE INTEREST WAS GIVEN UP BY EXECUTING A
6 WRITTEN INSTRUMENT GIVEN IN LIEU OF FORECLOSURE OF A MORTGAGE.