

SENATE BILL No. 626

December 1, 2015, Introduced by Senator HERTEL and referred to the Committee on Finance.

A bill to amend 1966 PA 134, entitled

"An act to impose a tax upon written instruments which transfer any interest in real property; to provide for the administration of this act; and to provide penalties for violations of this act,"

by amending sections 1, 2, and 5 (MCL 207.501, 207.502, and 207.505).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 ~~— (a) "Treasurer" means the county treasurer.~~

3 (A) "CONTROLLING INTEREST" MEANS MORE THAN 80% OF THE TOTAL
4 VALUE OF ALL CLASSES OF STOCK OF A CORPORATION; MORE THAN 80% OF
5 THE TOTAL INTEREST IN CAPITAL AND PROFITS OF A PARTNERSHIP,
6 ASSOCIATION, LIMITED LIABILITY COMPANY, OR OTHER UNINCORPORATED
7 FORM OF DOING BUSINESS; OR MORE THAN 80% OF THE BENEFICIAL INTEREST
8 IN A TRUST.

9 (b) "Person" means every natural person, association or

corporation. Whenever used in any penalty clause the term "person", as applied to associations, means the partners or members ~~thereof,~~ **OF THE ASSOCIATION**, and as applied to corporations, the officers ~~thereof.~~ **OF THE CORPORATION.**

(C) "TRANSFER", UNLESS OTHERWISE EXEMPT UNDER THIS ACT, MEANS THE CONVEYANCE OF TITLE TO OR OTHER TRANSFER OF A PRESENT INTEREST OR BENEFICIAL INTEREST OR ANY OTHER INTEREST IN REAL PROPERTY BY ANY METHOD, INCLUDING THE INTEREST IN REAL PROPERTY ACQUIRED THROUGH THE ACQUISITION OF A CONTROLLING INTEREST IN ANY ENTITY WITH AN INTEREST IN THE PROPERTY.

(D) "TREASURER" MEANS THE COUNTY TREASURER.

(E) ~~(e)~~—"Value" means the current or fair market worth in terms of legal monetary exchange at the time of the transfer. **THE TAX SHALL BE BASED ON THE VALUE OF THE REAL PROPERTY TRANSFERRED AND SHALL BE COLLECTED AT THE TIME THE INSTRUMENT OF CONVEYANCE IS SUBMITTED FOR RECORDING. IN THE CASE OF A CONTROLLING INTEREST IN ANY ENTITY THAT OWNS REAL PROPERTY, VALUE SHALL MEAN THE VALUE OF THE REAL PROPERTY OR INTEREST IN THE REAL PROPERTY, APPORTIONED BASED ON THE PERCENTAGE OF THE OWNERSHIP INTEREST TRANSFERRED OR ACQUIRED IN THE ENTITY.**

Sec. 2. (1) There is imposed, in addition to all other taxes, a tax upon the following written instruments executed within this state when ~~said~~ **THE** instrument is recorded.

(a) Contracts for the sale or exchange of real estate or any interest ~~therein~~ **IN REAL ESTATE** or any combination of the foregoing or any assignment or transfer ~~thereof.~~ **OF REAL ESTATE OR OF AN INTEREST IN REAL ESTATE.**

1 (b) Deeds or instruments of conveyance of real property or any
2 interest therein, **IN REAL PROPERTY**, for a consideration.

3 (C) **CONTRACTS FOR THE TRANSFER OR ACQUISITION OF A CONTROLLING**
4 **INTEREST IN ANY ENTITY ONLY IF THE REAL PROPERTY OWNED BY THAT**
5 **ENTITY COMPRISES 90% OR MORE OF THE FAIR MARKET VALUE OF THE ASSETS**
6 **OF THE ENTITY DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED**
7 **ACCOUNTING PRINCIPLES WHICH SHALL BE RECORDED.**

8 (2) The tax shall be upon the person who is the seller or
9 grantor.

10 (3) **THE TAX IMPOSED UNDER THIS ACT SHALL BE PAID TO THE COUNTY**
11 **TREASURER WHERE THE REAL PROPERTY IS LOCATED NOT LATER THAN 15 DAYS**
12 **AFTER THE DELIVERY OF THE INSTRUMENT EFFECTING THE CONVEYANCE BY**
13 **THE SELLER OR GRANTOR TO THE BUYER OR GRANTEE OR NOT LATER THAN 15**
14 **DAYS AFTER THE TRANSFER OF A CONTROLLING INTEREST IN ANY ENTITY**
15 **WITH AN INTEREST IN THE REAL PROPERTY. FOR PURPOSES OF THIS**
16 **SECTION, THE DATE OF THE INSTRUMENT EFFECTING THE TRANSFER IS**
17 **PRESUMED TO BE THE DATE OF DELIVERY OF THE INSTRUMENT.**

18 Sec. 5. The following instruments and transfers shall be
19 exempt from this act:

20 (a) Instruments where the value of the consideration is less
21 than \$100.00.

22 (b) Instruments evidencing contracts or transfers ~~which~~ **THAT**
23 are not to be performed wholly within this state ~~insofar as such~~
24 **ONLY TO THE EXTENT THAT THE** instruments include land lying outside
25 of this state.

26 (c) Written instruments ~~which~~ **THAT** this state is prohibited
27 from taxing under the **UNITED STATES** constitution or **FEDERAL**

1 statutes. ~~of the United States.~~

2 (d) Instruments or writings given as security or any
3 assignment or discharge thereof. **OF A SECURITY INTEREST.**

4 (e) Instruments evidencing leases, including oil and gas
5 leases, or transfers of ~~such~~ leasehold interests.

6 (f) Instruments evidencing any interests which are assessable
7 as personal property.

8 (g) Instruments evidencing the transfer of rights and
9 interests for underground gas storage purposes.

10 (h) ~~Instruments~~ **ANY OF THE FOLLOWING INSTRUMENTS:**

11 (i) **INSTRUMENTS** in which the grantor is the United States, ~~the~~
12 **THIS** state, **OR** any political subdivision or municipality thereof,
13 ~~or officer thereof~~ **OF THIS STATE OR IS AN OFFICER OF THE UNITED**
14 **STATES, THIS STATE, OR A POLITICAL SUBDIVISION OR MUNICIPALITY OF**
15 **THIS STATE** acting in his **OR HER** official capacity. †

16 (ii) **INSTRUMENTS** given in foreclosure or in lieu of
17 foreclosure of a loan made, guaranteed, or insured by the United
18 States, ~~the~~ **THIS** state, **OR** any political subdivision or
19 municipality ~~thereof or officer thereof~~ **OF THIS STATE OR BY AN**
20 **OFFICER OF THE UNITED STATES, THIS STATE, OR A POLITICAL**
21 **SUBDIVISION OR MUNICIPALITY OF THIS STATE** acting in his **OR HER**
22 official capacity. †

23 (iii) **INSTRUMENTS** given to the United States, ~~the~~ **THIS** state,
24 or 1 of their officers as grantee, pursuant to the terms or
25 guarantee or insurance of a loan guaranteed or insured by the
26 grantee.

27 (i) Conveyances from a husband or wife or husband and wife

1 creating or disjoining a tenancy by the entireties in the grantors
2 or the grantor and his or her spouse.

3 (j) Judgments or orders of courts of record making or ordering
4 transfers, except where a specific monetary consideration is
5 specified or ordered by the court ~~therefor~~. **OF RECORD.**

6 (k) Instruments used to straighten boundary lines where no
7 monetary consideration is given.

8 (l) Instruments to confirm titles already vested in grantees,
9 ~~such as~~ **INCLUDING** quitclaim deeds to correct flaws in titles.

10 (m) Land contracts whereby the legal title does not pass to
11 the grantee until the total consideration specified in the contract
12 has been paid.

13 (n) Instruments evidencing the transfer of mineral rights and
14 interests.

15 (o) Instruments creating a joint tenancy between 2 or more
16 persons where at least 1 of the persons already owned the property.

17 **(P) A CONVEYANCE THAT MEETS 1 OF THE FOLLOWING:**

18 **(i) A TRANSFER BETWEEN ANY CORPORATION AND ITS STOCKHOLDERS OR**
19 **CREDITORS, BETWEEN ANY LIMITED LIABILITY COMPANY AND ITS MEMBERS OR**
20 **CREDITORS, BETWEEN ANY PARTNERSHIP AND ITS PARTNERS OR CREDITORS,**
21 **OR BETWEEN A TRUST AND ITS BENEFICIARIES OR CREDITORS WHEN THE**
22 **TRANSFER IS TO EFFECTUATE A DISSOLUTION OF THE CORPORATION, LIMITED**
23 **LIABILITY COMPANY, PARTNERSHIP, OR TRUST AND IT IS NECESSARY TO**
24 **TRANSFER THE TITLE OF REAL PROPERTY FROM THE ENTITY TO THE**
25 **STOCKHOLDERS, MEMBERS, PARTNERS, BENEFICIARIES, OR CREDITORS.**

26 **(ii) A TRANSFER BETWEEN ANY LIMITED LIABILITY COMPANY AND ITS**
27 **MEMBERS IF THE OWNERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY**

1 ARE HELD BY THE SAME PERSONS AND IN THE SAME PROPORTION AS IN THE
2 LIMITED LIABILITY COMPANY PRIOR TO THE TRANSFER.

3 (iii) A TRANSFER BETWEEN ANY PARTNERSHIP AND ITS PARTNERS IF
4 THE OWNERSHIP INTERESTS IN THE PARTNERSHIP ARE HELD BY THE SAME
5 PERSONS AND IN THE SAME PROPORTION AS IN THE PARTNERSHIP PRIOR TO
6 THE TRANSFER.

7 (iv) A TRANSFER OF A CONTROLLING INTEREST IN AN ENTITY WITH AN
8 INTEREST IN REAL PROPERTY IF THE TRANSFER OF THE REAL PROPERTY
9 WOULD QUALIFY FOR EXEMPTION IF THE TRANSFER HAD BEEN ACCOMPLISHED
10 BY DEED TO THE REAL PROPERTY BETWEEN THE PERSONS THAT WERE PARTIES
11 TO THE TRANSFER OF THE CONTROLLING INTEREST.

12 (v) A TRANSFER IN CONNECTION WITH THE REORGANIZATION OF AN
13 ENTITY AND THE BENEFICIAL OWNERSHIP IS NOT CHANGED.