

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Rep. Barrett

ENROLLED HOUSE BILL No. 5680

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 27 and 34d (MCL 211.27 and 211.34d), section 27 as amended by 2013 PA 162 and section 34d as amended by 2014 PA 164.

The People of the State of Michigan enact:

Sec. 27. (1) As used in this act, “true cash value” means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. The usual selling price may include sales at public auction held by a nongovernmental agency or person if those sales have become a common method of acquisition in the jurisdiction for the class of property being valued. The usual selling price does not include sales at public auction if the sale is part of a liquidation of the seller’s assets in a bankruptcy proceeding or if the seller is unable to use common marketing techniques to obtain the usual selling price for the property. A sale or other disposition by this state or an agency or political subdivision of this state of land acquired for delinquent taxes or an appraisal made in connection with the sale or other disposition or the value attributed to the property of regulated public utilities by a governmental regulatory agency for rate-making purposes is not controlling evidence of true cash value for assessment purposes. In determining the true cash value, the assessor shall also consider the advantages and disadvantages of location; quality of soil; zoning; existing use; present economic income of structures, including farm structures; present economic income of land if the land is being farmed or otherwise put to income producing use; quantity and value of standing timber; water power and privileges; minerals, quarries, or other valuable deposits not otherwise exempt under this act known to be available in the land and their value. In determining the true cash value of personal property owned by an electric utility cooperative, the assessor shall consider the number of kilowatt hours of electricity sold per mile of distribution line compared to the average number of kilowatt hours of electricity sold per mile of distribution line for all electric utilities.

(2) The assessor shall not consider the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property

is sold. For the purpose of implementing this subsection, the assessor shall not increase the construction quality classification or reduce the effective age for depreciation purposes, except if the appraisal of the property was erroneous before nonconsideration of the normal repair, replacement, or maintenance, and shall not assign an economic condition factor to the property that differs from the economic condition factor assigned to similar properties as defined by appraisal procedures applied in the jurisdiction. The increase in value attributable to the items included in subdivisions (a) to (p) that is known to the assessor and excluded from true cash value shall be indicated on the assessment roll. This subsection applies only to residential property. The following repairs are considered normal maintenance if they are not part of a structural addition or completion:

- (a) Outside painting.
- (b) Repairing or replacing siding, roof, porches, steps, sidewalks, or drives.
- (c) Repainting, repairing, or replacing existing masonry.
- (d) Replacing awnings.
- (e) Adding or replacing gutters and downspouts.
- (f) Replacing storm windows or doors.
- (g) Insulating or weatherstripping.
- (h) Complete rewiring.
- (i) Replacing plumbing and light fixtures.
- (j) Replacing a furnace with a new furnace of the same type or replacing an oil or gas burner.
- (k) Repairing plaster, inside painting, or other redecorating.
- (l) New ceiling, wall, or floor surfacing.
- (m) Removing partitions to enlarge rooms.
- (n) Replacing an automatic hot water heater.
- (o) Replacing dated interior woodwork.

(p) Installing, replacing, or repairing an alternative energy system, without regard to ownership of the system, with a generating capacity of not more than 150 kilowatts, the annual energy output of which does not exceed the annual energy consumption measured by the utility-provided electrical meter on the system to which it is connected. As used in this subdivision, "alternative energy system" means that term as defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(3) A city or township assessor, a county equalization department, or the state tax commission before utilizing real estate sales data on real property purchases, including purchases by land contract, to determine assessments or in making sales ratio studies to assess property or equalize assessments shall exclude from the sales data the following amounts allowed by subdivisions (a), (b), and (c) to the extent that the amounts are included in the real property purchase price and are so identified in the real estate sales data or certified to the assessor as provided in subdivision (d):

- (a) Amounts paid for obtaining financing of the purchase price of the property or the last conveyance of the property.
- (b) Amounts attributable to personal property that were included in the purchase price of the property in the last conveyance of the property.

(c) Amounts paid for surveying the property pursuant to the last conveyance of the property. The legislature may require local units of government, including school districts, to submit reports of revenue lost under subdivisions (a) and (b) and this subdivision so that the state may reimburse those units for that lost revenue.

(d) The purchaser of real property, including a purchaser by land contract, may file with the assessor of the city or township in which the property is located 2 copies of the purchase agreement or of an affidavit that identifies the amount, if any, for each item listed in subdivisions (a) to (c). One copy shall be forwarded by the assessor to the county equalization department. The affidavit shall be prescribed by the state tax commission.

(4) In finalizing sales studies for property classified as agricultural real property under section 34c, an assessor and equalization director shall determine if an affidavit for the property has been filed under section 27a(7)(o). If an affidavit has not been filed, the property shall be reviewed to determine if classification as agricultural real property under section 34c is correct or should be changed. The assessor for the local tax collecting unit in which the property is located shall contact the property owner to determine why the property owner did not file an affidavit under section 27a(7)(o). Unless there are convincing facts to the contrary, the sale of property classified as agricultural real property under section 34c for which an affidavit under section 27a(7)(o) has not been filed shall not be included in a sales study.

(5) As used in subsection (1), "present economic income" means for leased or rented property the ordinary, general, and usual economic return realized from the lease or rental of property negotiated under current, contemporary conditions between parties equally knowledgeable and familiar with real estate values. The actual income generated by the lease or rental of property is not the controlling indicator of its true cash value in all cases. This subsection does not apply to property subject to a lease entered into before January 1, 1984 for which the terms of the lease governing the

rental rate or tax liability have not been renegotiated after December 31, 1983. This subsection does not apply to a nonprofit housing cooperative subject to regulatory agreements between the state or federal government entered into before January 1, 1984. As used in this subsection, “nonprofit cooperative housing corporation” means a nonprofit cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest upon stock or membership investment but that does distribute all earnings to its stockholders or members.

(6) Except as otherwise provided in subsection (7), the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction. As used in this subsection and subsection (7), “purchase price” means the total consideration agreed to in an arms-length transaction and not at a forced sale paid by the purchaser of the property, stated in dollars, whether or not paid in dollars.

(7) The purchase price paid in a transfer of eligible nonprofit housing property from a charitable nonprofit housing organization to a low-income person that occurs after December 31, 2010 is the presumptive true cash value of the eligible nonprofit housing property transferred. In the year immediately succeeding the year in which the transfer of eligible nonprofit housing property occurs and each year thereafter, the taxable value of the eligible nonprofit housing property shall be adjusted as provided under section 27a. As used in this subsection:

(a) “Charitable nonprofit housing organization” means a charitable nonprofit organization the primary purpose of which is the construction or renovation of residential housing for conveyance to a low-income person.

(b) “Eligible nonprofit housing property” means property owned by a charitable nonprofit housing organization, the ownership of which the charitable nonprofit housing organization intends to transfer to a low-income person after construction or renovation of the property is completed.

(c) “Family income” and “statewide median gross income” mean those terms as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(d) “Low-income person” means a person with a family income of not more than 60% of the statewide median gross income who is eligible to participate in the charitable nonprofit housing organization’s program based on criteria established by the charitable nonprofit housing organization.

(8) For purposes of a statement submitted under section 19, the true cash value of a standard tool is the net book value of that standard tool as of December 31 in each tax year as determined using generally accepted accounting principles in a manner consistent with the established depreciation method used by the person submitting that statement. The net book value of a standard tool for federal income tax purposes is not the presumptive true cash value of that standard tool. As used in this subsection, “standard tool” means that term as defined in section 9b.

Sec. 34d. (1) As used in this section or section 27a, or section 3 or 31 of article IX of the state constitution of 1963:

(a) For taxes levied before 1995, “additions” means all increases in value caused by new construction or a physical addition of equipment or furnishings, and the value of property that was exempt from taxes or not included on the assessment unit’s immediately preceding year’s assessment roll.

(b) For taxes levied after 1994, “additions” means, except as provided in subdivision (c), all of the following:

(i) Omitted real property. As used in this subparagraph, “omitted real property” means previously existing tangible real property not included in the assessment. Omitted real property shall not increase taxable value as an addition unless the assessing jurisdiction has a property record card or other documentation showing that the omitted real property was not previously included in the assessment. The assessing jurisdiction has the burden of proof in establishing whether the omitted real property is included in the assessment. Omitted real property for the current and the 2 immediately preceding years, discovered after the assessment roll has been completed, shall be added to the tax roll pursuant to the procedures established in section 154. For purposes of determining the taxable value of real property under section 27a, the value of omitted real property is based on the value and the ratio of taxable value to true cash value the omitted real property would have had if the property had not been omitted.

(ii) Omitted personal property. As used in this subparagraph, “omitted personal property” means previously existing tangible personal property not included in the assessment. Omitted personal property shall be added to the tax roll pursuant to section 154.

(iii) New construction. As used in this subparagraph, “new construction” means property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to the provisions set forth in section 27(2)(a) to (p). For purposes of determining the taxable value of property under section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

(iv) Previously exempt property. As used in this subparagraph, “previously exempt property” means property that was exempt from ad valorem taxation under this act on the immediately preceding tax day but is subject to ad valorem

taxation on the current tax day under this act. For purposes of determining the taxable value of real property under section 27a:

(A) The value of property previously exempt under section 7u is the taxable value the entire parcel of property would have had if that property had not been exempt, minus the product of the entire parcel's taxable value in the immediately preceding year and the lesser of 1.05 or the inflation rate.

(B) The taxable value of property that is a facility as that term is defined in section 2 of 1974 PA 198, MCL 207.552, that was previously exempt under section 7k is the taxable value that property would have had under this act if it had not been exempt.

(C) The value of property previously exempt under any other section of law is the true cash value of the previously exempt property multiplied by 0.50.

(v) Replacement construction. As used in this subparagraph, "replacement construction" means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the immediately preceding tax day to the extent the construction's true cash value does not exceed the true cash value of property that was damaged or destroyed by accident or act of God in the immediately preceding 3 years. Except as otherwise provided in this subparagraph, for purposes of determining the taxable value of property under section 27a, the value of the replacement construction is the true cash value of the replacement construction multiplied by a fraction, the numerator of which is the taxable value of the property to which the construction was added in the immediately preceding year and the denominator of which is the true cash value of the property to which the construction was added in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate. However, after December 31, 2011, for purposes of determining the taxable value of property under section 27a, if the property's replacement construction is of substantially the same materials as determined by the state tax commission, if the square footage is not more than 5% greater than the property that was damaged or destroyed, and if the replacement construction is completed not later than December 31 in the year 3 years after the accident or act of God occurred, the replacement construction's taxable value shall be equal to the taxable value of the property in the year immediately preceding the year in which the property was damaged or destroyed, adjusted annually as provided in section 27a(2). Any construction materials required to bring the property into compliance with any applicable health, sanitary, zoning, safety, fire, or construction codes or ordinances shall be considered to be substantially the same materials by the state tax commission for the sake of replacement construction under this section.

(vi) An increase in taxable value attributable to the complete or partial remediation of environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree of remediation based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The increase in taxable value attributable to the remediation is the increase in true cash value attributable to the remediation multiplied by a fraction, the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

(vii) Public services. As used in this subparagraph, "public services" means water service, sewer service, a primary access road, natural gas service, electrical service, telephone service, sidewalks, or street lighting. For purposes of determining the taxable value of real property under section 27a, the value of public services is the amount of increase in true cash value of the property attributable to the available public services multiplied by 0.50, and shall be added in the calendar year following the calendar year when those public services are initially available.

(c) For taxes levied after 1994, additions do not include increased value attributable to any of the following:

(i) Platting, splits, or combinations of property.

(ii) A change in the zoning of property.

(iii) For the purposes of the calculation of the millage reduction fraction under subsection (7) only, increased taxable value under section 27a(3) after a transfer of ownership of property.

(d) "Assessed valuation of property as finally equalized" means taxable value under section 27a.

(e) "Financial officer" means the officer responsible for preparing the budget of a unit of local government.

(f) "General price level" means the annual average of the 12 monthly values for the United States Consumer Price Index for all urban consumers as defined and officially reported by the United States Department of Labor, Bureau of Labor Statistics.

(g) For taxes levied before 1995, "losses" means a decrease in value caused by the removal or destruction of real or personal property and the value of property taxed in the immediately preceding year that has been exempted or removed from the assessment unit's assessment roll.

(h) For taxes levied after 1994, "losses" means, except as provided in subdivision (i), all of the following:

(i) Property that has been destroyed or removed. For purposes of determining the taxable value of property under section 27a, the value of property destroyed or removed is the product of the true cash value of that property multiplied

by a fraction, the numerator of which is the taxable value of that property in the immediately preceding year and the denominator of which is the true cash value of that property in the immediately preceding year.

(ii) Property that was subject to ad valorem taxation under this act in the immediately preceding year that is now exempt from ad valorem taxation under this act. For purposes of determining the taxable value of property under section 27a, the value of property exempted from ad valorem taxation under this act is the amount exempted.

(iii) Prior to December 31, 2013, an adjustment in value, if any, because of a decrease in the property's occupancy rate, to the extent provided by law. For purposes of determining the taxable value of real property under section 27a, the value of a loss for a decrease in the property's occupancy rate is the product of the decrease in the true cash value of the property attributable to the decreased occupancy rate multiplied by a fraction, the numerator of which is the taxable value of the property in the immediately preceding year and the denominator of which is the true cash value of the property in the immediately preceding year.

(iv) A decrease in taxable value attributable to environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree to which environmental contamination limits the use of property based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The department of environmental quality's determination of the degree to which environmental contamination limits the use of property shall be based on the criteria established for the categories set forth in section 20120a(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a. The decrease in taxable value attributable to the contamination is the decrease in true cash value attributable to the contamination multiplied by a fraction, the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

(i) For taxes levied after 1994, losses do not include decreased value attributable to either of the following:

(i) Platting, splits, or combinations of property.

(ii) A change in the zoning of property.

(j) "New construction and improvements" means additions less losses.

(k) "Current year" means the year for which the millage limitation is being calculated.

(l) "Inflation rate" means the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

(2) On or before the first Monday in May of each year, the assessing officer of each township or city shall tabulate the tentative taxable value as approved by the local board of review and as modified by county equalization for each classification of property that is separately equalized for each unit of local government and provide the tabulated tentative taxable values to the county equalization director. The tabulation by the assessing officer shall contain additions and losses for each classification of property that is separately equalized for each unit of local government or part of a unit of local government in the township or city. If as a result of state equalization the taxable value of property changes, the assessing officer of each township or city shall revise the calculations required by this subsection on or before the Friday following the fourth Monday in May. The county equalization director shall compute these amounts and the current and immediately preceding year's taxable values for each classification of property that is separately equalized for each unit of local government that levies taxes under this act within the boundary of the county. The county equalization director shall cooperate with equalization directors of neighboring counties, as necessary, to make the computation for units of local government located in more than 1 county. The county equalization director shall calculate the millage reduction fraction for each unit of local government in the county for the current year. The financial officer for each taxing jurisdiction shall calculate the compounded millage reduction fractions beginning in 1980 resulting from the multiplication of successive millage reduction fractions and shall recognize a local voter action to increase the compounded millage reduction fraction to a maximum of 1 as a new beginning fraction. Upon request of the superintendent of the intermediate school district, the county equalization director shall transmit the complete computations of the taxable values to the superintendent of the intermediate school district within that county. At the request of the presidents of community colleges, the county equalization director shall transmit the complete computations of the taxable values to the presidents of community colleges within the county.

(3) On or before the first Monday in June of each year, the county equalization director shall deliver the statement of the computations signed by the county equalization director to the county treasurer.

(4) On or before the second Monday in June of each year, the treasurer of each county shall certify the immediately preceding year's taxable values, the current year's taxable values, the amount of additions and losses for the current year, and the current year's millage reduction fraction for each unit of local government that levies a property tax in the county.

(5) The financial officer of each unit of local government shall make the computation of the tax rate using the data certified by the county treasurer and the state tax commission. At the annual session in October, or, for a county or local

tax collecting unit that approves under section 44a(2) the accelerated collection in a summer property tax levy of a millage that had been previously billed and collected as in a preceding tax year as part of the winter property tax levy, before a special meeting held before the annual levy on July 1, the county board of commissioners shall not authorize the levy of a tax unless the governing body of the taxing jurisdiction has certified that the requested millage has been reduced, if necessary, in compliance with section 31 of article IX of the state constitution of 1963.

(6) The number of mills permitted to be levied in a tax year is limited as provided in this section pursuant to section 31 of article IX of the state constitution of 1963. A unit of local government shall not levy a tax rate greater than the rate determined by reducing its maximum rate or rates authorized by law or charter by a millage reduction fraction as provided in this section without voter approval.

(7) A millage reduction fraction shall be determined for each year for each local unit of government. For ad valorem property taxes that became a lien before January 1, 1983, the numerator of the fraction shall be the total state equalized valuation for the immediately preceding year multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus new construction and improvements. For ad valorem property taxes that become a lien after December 31, 1982 and through December 31, 1994, the numerator of the fraction shall be the product of the difference between the total state equalized valuation for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus additions. For ad valorem property taxes that are levied after December 31, 1994, the numerator of the fraction shall be the product of the difference between the total taxable value for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total taxable value for the current year minus additions. For each year after 1993, a millage reduction fraction shall not exceed 1.

(8) The compounded millage reduction fraction shall be calculated by multiplying the local unit's previous year's compounded millage reduction fraction by the current year's millage reduction fraction. The compounded millage reduction fraction for the year shall be multiplied by the maximum millage rate authorized by law or charter for the unit of local government for the year, except as provided by subsection (9). A compounded millage reduction fraction shall not exceed 1.

(9) The millage reduction shall be determined separately for authorized millage approved by the voters. The limitation on millage authorized by the voters on or before April 30 of a year shall be calculated beginning with the millage reduction fraction for that year. Millage authorized by the voters after April 30 shall not be subject to a millage reduction until the year following the voter authorization which shall be calculated beginning with the millage reduction fraction for the year following the authorization. The first millage reduction fraction used in calculating the limitation on millage approved by the voters after January 1, 1979 shall not exceed 1.

(10) A millage reduction fraction shall be applied separately to the aggregate maximum millage rate authorized by a charter and to each maximum millage rate authorized by state law for a specific purpose.

(11) A unit of local government may submit to the voters for their approval the levy in that year of a tax rate in excess of the limit set by this section. The ballot question shall ask the voters to approve the levy of a specific number of mills in excess of the limit. The provisions of this section do not allow the levy of a millage rate in excess of the maximum rate authorized by law or charter. If the authorization to levy millage expires after 1993 and a local governmental unit is asking voters to renew the authorization to levy the millage, the ballot question shall ask for renewed authorization for the number of expiring mills as reduced by the millage reduction required by this section. If the election occurs before June 1 of a year, the millage reduction is based on the immediately preceding year's millage reduction applicable to that millage. If the election occurs after May 31 of a year, the millage reduction shall be based on that year's millage reduction applicable to that millage had it not expired.

(12) A reduction or limitation under this section shall not be applied to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued that were authorized before December 23, 1978, as provided by section 4 of chapter I of former 1943 PA 202, or to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued that are approved by the voters after December 22, 1978.

(13) If it is determined subsequent to the levy of a tax that an incorrect millage reduction fraction has been applied, the amount of additional tax revenue or the shortage of tax revenue shall be deducted from or added to the next regular tax levy for that unit of local government after the determination of the authorized rate pursuant to this section.

(14) If as a result of an appeal of county equalization or state equalization the taxable value of a unit of local government changes, the millage reduction fraction for the year shall be recalculated. The financial officer shall effectuate an addition or reduction of tax revenue in the same manner as prescribed in subsection (13).

(15) The fractions calculated pursuant to this section shall be rounded to 4 decimal places, except that the inflation rate shall be computed by the state tax commission and shall be rounded to 3 decimal places. The state tax commission shall publish the inflation rate before March 1 of each year.

(16) Beginning with taxes levied in 1994, the millage reduction required by section 31 of article IX of the state constitution of 1963 shall permanently reduce the maximum rate or rates authorized by law or charter. The reduced maximum authorized rate or rates for 1994 shall equal the product of the maximum rate or rates authorized by law or charter before application of this section multiplied by the compounded millage reduction applicable to that millage in 1994 pursuant to subsections (8) to (12). The reduced maximum authorized rate or rates for 1995 and each year after 1995 shall equal the product of the immediately preceding year's reduced maximum authorized rate or rates multiplied by the current year's millage reduction fraction and shall be adjusted for millage for which authorization has expired and new authorized millage approved by the voters pursuant to subsections (8) to (12).

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5143 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor