

SENATE BILL No. 26

January 30, 2001, Introduced by Senator HAMMERSTROM and referred to the Committee on Finance.

A bill to impose a specific tax on certain mobile homes; to provide for the collection and distribution of that specific tax; to impose certain duties on certain state departments and on certain local units of government; and to provide remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "school construction equity tax act".

3 Sec. 3. As used in this act:

4 (a) "Cash value" means that term as defined in section 27 of
5 the general property tax act, 1893 PA 206, MCL 211.27.

6 (b) "Certificate of title" means a certificate of title to a
7 mobile home issued by the department pursuant to the mobile home
8 commission act.

1 (c) "Department" means the department of consumer and
2 industry services.

3 (d) "General property tax act" means the general property
4 tax act, 1893 PA 206, MCL 211.1 to 211.157.

5 (e) "Local tax collecting unit" means the local governmental
6 unit responsible for assessing property and collecting taxes
7 under the general property tax act.

8 (f) "Mobile home commission act" means the mobile home com-
9 mission act, 1987 PA 96, MCL 125.2301 to 125.2349.

10 (g) "Mobile home" and "mobile home park" mean those terms as
11 defined in the mobile home commission act.

12 (h) "School construction equity tax" means the specific tax
13 imposed under section 5.

14 (i) "School debt millage" means the number of mills levied
15 by a local or intermediate school district under the revised
16 school code, 1976 PA 451, MCL 380.1 to 380.1852, to satisfy bonds
17 issued under the revised school code, 1976 PA 451, MCL 380.1 to
18 380.1852, for infrastructure purposes.

19 (j) "Taxable value" means that value determined under sec-
20 tion 7.

21 Sec. 5. (1) The school construction equity tax is levied on
22 each mobile home located in a mobile home park as provided under
23 this act.

24 (2) The amount of the school construction equity tax shall
25 be determined by multiplying a mobile home's taxable value by the
26 school debt millage levied in the local tax collecting unit in
27 which the mobile home is located.

1 (3) The appropriate assessing officer for a local tax
2 collecting unit shall determine the taxable value of each mobile
3 home in that local tax collecting unit that is subject to the
4 school construction equity tax as provided in section 7.

5 (4) The local tax collecting unit shall collect the school
6 construction equity tax at the same time and in the same manner
7 as taxes collected under the general property tax act. If the
8 school construction equity tax is not paid within the time per-
9 mitted by law for payment, without penalty, of taxes collected
10 under the general property tax act, the school construction
11 equity tax shall be collected in the same manner as delinquent
12 taxes are collected under the general property tax act.

13 (5) The local tax collecting unit shall distribute the
14 school construction equity tax to the local and intermediate
15 school districts in the same proportion as school debt millage
16 collected under the general property tax act.

17 Sec. 7. (1) Except as otherwise provided in subsection (2),
18 the taxable value of each mobile home subject to the school con-
19 struction equity tax is the lesser of the following:

20 (a) The mobile home's taxable value in the immediately pre-
21 ceding year minus any losses, multiplied by the lesser of 1.05 or
22 the inflation rate, plus all additions. For the school construc-
23 tion equity tax levied in 2002, a mobile home's taxable value in
24 the immediately preceding year is 50% of the mobile home's cash
25 value in 2001. For the school construction equity tax levied
26 after 2002, if a mobile home was not subject to the school
27 construction equity tax in the immediately preceding year, the

1 mobile home's taxable value in the immediately preceding year is
2 50% of the mobile home's cash value in the immediately preceding
3 year.

4 (b) Fifty percent of a mobile home's current cash value.

5 (2) Upon a transfer of ownership of a mobile home subject to
6 the school construction equity tax, the mobile home's taxable
7 value for the calendar year following the year of the transfer is
8 50% of the mobile home's cash value for the calendar year follow-
9 ing the transfer.

10 (3) If a mobile home's taxable value is adjusted under sub-
11 section (2), a subsequent increase in the mobile home's taxable
12 value is subject to the limitation set forth in subsection (1)
13 until a subsequent transfer of ownership occurs.

14 (4) As used in this section, "transfer of ownership" means
15 the transfer of a mobile home's certificate of title, or the
16 transfer of a present interest in a mobile home, including the
17 beneficial use of the mobile home, the value of which is substan-
18 tially equal to the mobile home's cash value. Transfer of owner-
19 ship of a mobile home includes, but is not limited to, the
20 following:

21 (a) A transfer of the mobile home's certificate of title.

22 (b) A conveyance by contract. The taxable value of a mobile
23 home conveyed by a contract executed after December 31, 2001
24 shall be adjusted under subsection (2) for the calendar year fol-
25 lowing the year in which the contract is entered into and shall
26 not be subsequently adjusted under subsection (2) when the mobile
27 home's certificate of title is transferred.

1 (c) A transfer of a mobile home's certificate of title to a
2 trust after December 31, 2001, except if the settlor or the
3 settlor's spouse, or both, transfers the mobile home's certifi-
4 cate of title to the trust and the sole present beneficiary or
5 beneficiaries of the trust are the settlor or the settlor's
6 spouse, or both.

7 (d) A transfer of a mobile home's certificate of title from
8 a trust, except if the distributee is the sole present benefi-
9 ciary or the spouse of the sole present beneficiary, or both.

10 (e) A change in the sole present beneficiary or beneficia-
11 ries of a trust to which the certificate of title to a mobile
12 home was transferred, except a change that adds or substitutes
13 the spouse of the sole present beneficiary.

14 (f) A transfer of a mobile home's certificate of title by
15 distribution under a will or by intestate succession, except if
16 the distributee is the decedent's spouse.

17 (g) A conveyance of a mobile home by lease if the total
18 duration of the lease, including the initial term and all options
19 for renewal, is more than 35 years or the lease grants the lessee
20 a bargain purchase option. As used in this subdivision, "bargain
21 purchase option" means the right to purchase the mobile home at
22 the termination of the lease for not more than 80% of the mobile
23 home's projected cash value at the termination of the lease. The
24 taxable value of a mobile home conveyed by a lease with a total
25 duration of more than 35 years or with a bargain purchase option
26 shall be adjusted under subsection (2) for the calendar year
27 following the year in which the lease is entered into.

1 (h) A conveyance of an ownership interest in a corporation,
2 partnership, sole proprietorship, limited liability company,
3 limited liability partnership, or other legal entity if the
4 ownership interest conveyed is more than 50% of the corporation,
5 partnership, sole proprietorship, limited liability company,
6 limited liability partnership, or other legal entity. The corpo-
7 ration, partnership, sole proprietorship, limited liability com-
8 pany, limited liability partnership, or other legal entity shall
9 notify the appropriate assessing officer on a form provided by
10 the department not more than 45 days after a conveyance of an
11 ownership interest that constitutes a transfer of ownership under
12 this subdivision.

13 (5) Transfer of ownership does not include the following:

14 (a) The transfer of a mobile home's certificate of title
15 from 1 spouse to the other spouse or from a decedent to a surviv-
16 ing spouse.

17 (b) A transfer of a mobile home's certificate of title
18 through foreclosure or forfeiture.

19 (c) A transfer of a mobile home's certificate of title to a
20 trust if the settlor or the settlor's spouse, or both, transfers
21 the mobile home's certificate of title to the trust and the
22 trust's sole present beneficiary is the settlor or the settlor's
23 spouse, or both.

24 (d) A transfer of the mobile home's certificate of title
25 pursuant to a judgment or order of a court of record ordering the
26 transfer of the certificate of title, unless a specific monetary

1 consideration is specified or ordered by the court for the
2 transfer.

3 (e) A transfer of the mobile home's certificate of title
4 pursuant to a security agreement or assignment or discharge of a
5 security agreement.

6 (f) A transfer of the mobile home's certificate of title or
7 other ownership interest among members of an affiliated group.
8 As used in this subdivision, "affiliated group" means 1 or more
9 corporations connected by stock ownership to a common parent
10 corporation. Upon request by the department, a corporation shall
11 furnish proof within 45 days that a transfer of a mobile home's
12 certificate of title meets the requirements of this subdivision.
13 A corporation that fails to comply with a request by the depart-
14 ment under this subdivision is subject to a fine of \$200.00.

15 (g) Normal public trading of shares of stock or other owner-
16 ship interests that, over any period of time, cumulatively repre-
17 sent more than 50% of the total ownership interest in a corpora-
18 tion or other legal entity and are traded in multiple transac-
19 tions involving unrelated individuals, institutions, or other
20 legal entities.

21 (h) A transfer of a mobile home's certificate of title among
22 corporations, partnerships, limited liability companies, limited
23 liability partnerships, or other legal entities if the entities
24 involved are commonly controlled. Upon request by the depart-
25 ment, a corporation, partnership, limited liability company,
26 limited liability partnership, or other legal entity shall
27 furnish proof within 45 days that a transfer of a mobile home's

1 certificate of title meets the requirements of this subdivision.
2 A corporation, partnership, limited liability company, limited
3 liability partnership, or other legal entity that fails to comply
4 with a request by the department under this subdivision is
5 subject to a fine of \$200.00.

6 (6) The department shall notify the appropriate assessing
7 officer not less than once each month of the transfer of the cer-
8 tificate of title to a mobile home subject to the school con-
9 struction equity tax and shall make copies of the certificate of
10 title available to that assessing officer.

11 (7) As used in this section:

12 (a) "Additions" means that term as defined in section 34d of
13 the general property tax act, 1893 PA 206, MCL 211.34d.

14 (b) "Beneficial use" means the right to possession, use, and
15 enjoyment of a mobile home, limited only by encumbrances, ease-
16 ments, and restrictions of record.

17 (c) "Inflation rate" means that term as defined in section
18 34d of the general property tax act, 1893 PA 206, MCL 211.34d.

19 (d) "Losses" means that term as defined in section 34d of
20 the general property tax act, 1893 PA 206, MCL 211.34d.

21 Sec. 9. (1) An owner of a mobile home subject to the school
22 construction equity tax under this act may appeal the mobile
23 home's taxable value as determined under section 7 to the depart-
24 ment within 35 days of receipt of the mobile home's assessment
25 notice.

1 (2) An appeal to the department shall be conducted according
2 to the provisions for an informal conference in section 21 of
3 1941 PA 122, MCL 205.21.

4 (3) Within 10 days after acknowledging an appeal of an
5 assessment under this section, the department shall notify the
6 appropriate assessing officer for the local tax collecting unit
7 and the treasurer for the county in which the mobile home is
8 located that an appeal has been filed.

9 (4) If the department revises a mobile home's taxable value
10 under this section, the department shall place the corrected tax-
11 able value for the appropriate years on the appropriate school
12 construction equity tax roll. The department shall issue an
13 order certifying the amount of the school construction equity tax
14 due to the treasurer of the local tax collecting unit if the
15 local tax collecting unit has possession of a school construction
16 equity tax roll for a year for which an assessment change is made
17 or the county treasurer if the county has possession of a school
18 construction equity tax roll for a year for which an assessment
19 change is made.

20 (5) If a change to a mobile home's taxable value under this
21 section results in an increase in the school construction equity
22 tax due, the additional tax shall be collected by the treasurer
23 of the local tax collecting unit if the local tax collecting unit
24 has possession of a school construction equity tax roll for a
25 year for which an assessment change is made or by the county
26 treasurer if the county has possession of a school construction
27 equity tax roll for a year for which an assessment change is

1 made. Not later than 20 days after receiving the order
2 certifying the amount of the school construction equity tax due
3 under subsection (4), the treasurer of the local tax collecting
4 unit if the local tax collecting unit has possession of a school
5 construction equity tax roll for a year for which an assessment
6 change is made or the county treasurer if the county has posses-
7 sion of a school construction equity tax roll for a year for
8 which an assessment change is made shall submit a corrected
9 school construction equity tax bill to each person identified in
10 the order and to the owner of the mobile home on which the addi-
11 tional school construction equity tax is assessed, if different
12 than a person named in the order, by first-class mail, address
13 correction requested. If the additional school construction
14 equity tax remains unpaid on the March 1 in the year immediately
15 succeeding the year in which the department issued the order cer-
16 tifying the additional taxes under subsection (4), the additional
17 school construction equity tax shall be returned as delinquent to
18 the county treasurer and shall be collected as provided in the
19 general property tax act.

20 (6) If an assessment change made under this section results
21 in a decreased school construction equity tax liability, a refund
22 of the excess school construction equity tax paid shall be made
23 by the county treasurer and shall include interest at the rate
24 provided under section 37 of the tax tribunal act, 1973 PA 186,
25 MCL 205.737, from the date of the payment of the school construc-
26 tion equity tax to the date of the payment of the refund. The
27 county treasurer shall charge a refund of excess school

1 construction equity tax payments under this subsection to the
2 local and intermediate school districts in the same proportion as
3 the school debt millage levied.

4 (7) A person to whom the school construction equity tax is
5 assessed under this section may appeal the department's order to
6 the small claims division of the Michigan tax tribunal.

7 Enacting section 1. This amendatory act takes effect
8 December 31, 2001.