

HOUSE BILL No. 6542

September 20, 2006, Introduced by Reps. Gaffney, Kahn, Hune, Hildenbrand, Marleau and Ward and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled

"The general property tax act,"

by amending section 27a (MCL 211.27a), as amended by 2005 PA 23.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27a. (1) Except as otherwise provided in this section,
2 property shall be assessed at 50% of its true cash value under
3 section 3 of article IX of the state constitution of 1963.

4 (2) Except as otherwise provided in subsection (3), for taxes
5 levied in 1995 and for each year after 1995, the taxable value of
6 each parcel of property is the lesser of the following:

7 (a) The property's taxable value in the immediately preceding
8 year minus any losses, multiplied by the lesser of 1.05 or the
9 inflation rate, plus all additions. For taxes levied in 1995, the

1 property's taxable value in the immediately preceding year is the
2 property's state equalized valuation in 1994.

3 (b) The property's current state equalized valuation.

4 (3) Upon a transfer of ownership of property after 1994
5 **THROUGH 2006**, the property's taxable value for the calendar year
6 following the year of the transfer is the property's state
7 equalized valuation for the calendar year following the transfer.
8 **UPON A TRANSFER OF OWNERSHIP OF PROPERTY AFTER 2006, THE PROPERTY'S**
9 **TAXABLE VALUE FOR THE CALENDAR YEAR FOLLOWING THE YEAR OF THE**
10 **TRANSFER IS 110% OF THE PROPERTY'S TAXABLE VALUE FOR THE YEAR**
11 **IMMEDIATELY PRECEDING THE YEAR OF THE TRANSFER.**

12 (4) If the taxable value of property is adjusted under
13 subsection (3), a subsequent increase in the property's taxable
14 value is subject to the limitation set forth in subsection (2)
15 until a subsequent transfer of ownership occurs. If the taxable
16 value of property is adjusted under subsection (3) and the assessor
17 determines that there had not been a transfer of ownership, the
18 taxable value of the property shall be adjusted at the July or
19 December board of review. Notwithstanding the limitation provided
20 in section 53b(1) on the number of years for which a correction may
21 be made, the July or December board of review may adjust the
22 taxable value of property under this subsection for the current
23 year and for the 3 immediately preceding calendar years. A
24 corrected tax bill shall be issued for each tax year for which the
25 taxable value is adjusted by the local tax collecting unit if the
26 local tax collecting unit has possession of the tax roll or by the
27 county treasurer if the county has possession of the tax roll. For

1 purposes of section 53b, an adjustment under this subsection shall
2 be considered the correction of a clerical error.

3 (5) Assessment of property, as required in this section and
4 section 27, is inapplicable to the assessment of property subject
5 to the levy of ad valorem taxes within voted tax limitation
6 increases to pay principal and interest on limited tax bonds issued
7 by any governmental unit, including a county, township, community
8 college district, or school district, before January 1, 1964, if
9 the assessment required to be made under this act would be less
10 than the assessment as state equalized prevailing on the property
11 at the time of the issuance of the bonds. This inapplicability
12 shall continue until levy of taxes to pay principal and interest on
13 the bonds is no longer required. The assessment of property
14 required by this act shall be applicable for all other purposes.

15 (6) As used in this act, "transfer of ownership" means the
16 conveyance of title to or a present interest in property, including
17 the beneficial use of the property, the value of which is
18 substantially equal to the value of the fee interest. Transfer of
19 ownership of property includes, but is not limited to, the
20 following:

21 (a) A conveyance by deed.

22 (b) A conveyance by land contract. The taxable value of
23 property conveyed by a land contract executed after December 31,
24 1994 shall be adjusted under subsection (3) for the calendar year
25 following the year in which the contract is entered into and shall
26 not be subsequently adjusted under subsection (3) when the deed
27 conveying title to the property is recorded in the office of the

1 register of deeds in the county in which the property is located.

2 (c) A conveyance to a trust after December 31, 1994, except if
3 the settlor or the settlor's spouse, or both, conveys the property
4 to the trust and the sole present beneficiary or beneficiaries are
5 the settlor or the settlor's spouse, or both.

6 (d) A conveyance by distribution from a trust, except if the
7 distributee is the sole present beneficiary or the spouse of the
8 sole present beneficiary, or both.

9 (e) A change in the sole present beneficiary or beneficiaries
10 of a trust, except a change that adds or substitutes the spouse of
11 the sole present beneficiary.

12 (f) A conveyance by distribution under a will or by intestate
13 succession, except if the distributee is the decedent's spouse.

14 (g) A conveyance by lease if the total duration of the lease,
15 including the initial term and all options for renewal, is more
16 than 35 years or the lease grants the lessee a bargain purchase
17 option. As used in this subdivision, "bargain purchase option"
18 means the right to purchase the property at the termination of the
19 lease for not more than 80% of the property's projected true cash
20 value at the termination of the lease. After December 31, 1994, the
21 taxable value of property conveyed by a lease with a total duration
22 of more than 35 years or with a bargain purchase option shall be
23 adjusted under subsection (3) for the calendar year following the
24 year in which the lease is entered into. This subdivision does not
25 apply to personal property except buildings described in section
26 14(6) and personal property described in section 8(h), (i), and
27 (j). This subdivision does not apply to that portion of the

1 property not subject to the leasehold interest conveyed.

2 (h) A conveyance of an ownership interest in a corporation,
3 partnership, sole proprietorship, limited liability company,
4 limited liability partnership, or other legal entity if the
5 ownership interest conveyed is more than 50% of the corporation,
6 partnership, sole proprietorship, limited liability company,
7 limited liability partnership, or other legal entity. Unless
8 notification is provided under subsection (10), the corporation,
9 partnership, sole proprietorship, limited liability company,
10 limited liability partnership, or other legal entity shall notify
11 the assessing officer on a form provided by the state tax
12 commission not more than 45 days after a conveyance of an ownership
13 interest that constitutes a transfer of ownership under this
14 subdivision.

15 (i) A transfer of property held as a tenancy in common, except
16 that portion of the property not subject to the ownership interest
17 conveyed.

18 (j) A conveyance of an ownership interest in a cooperative
19 housing corporation, except that portion of the property not
20 subject to the ownership interest conveyed.

21 (7) Transfer of ownership does not include the following:

22 (a) The transfer of property from 1 spouse to the other spouse
23 or from a decedent to a surviving spouse.

24 (b) A transfer from a husband, a wife, or a 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 (c) A transfer of that portion of property subject to a life

1 estate or life lease retained by the transferor, until expiration
2 or termination of the life estate or life lease. That portion of
3 property transferred that is not subject to a life lease shall be
4 adjusted under subsection (3).

5 (d) A transfer through foreclosure or forfeiture of a recorded
6 instrument under chapter 31, 32, or 57 of the revised judicature
7 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and MCL 600.5701
8 to ~~600.5785~~ **600.5759**, or through deed or conveyance in lieu of a
9 foreclosure or forfeiture, until the mortgagee or land contract
10 vendor subsequently transfers the property. If a mortgagee does not
11 transfer the property within 1 year of the expiration of any
12 applicable redemption period, the property shall be adjusted under
13 subsection (3).

14 (e) A transfer by redemption by the person to whom taxes are
15 assessed of property previously sold for delinquent taxes.

16 (f) A conveyance to a trust if the settlor or the settlor's
17 spouse, or both, conveys the property to the trust and the sole
18 present beneficiary of the trust is the settlor or the settlor's
19 spouse, or both.

20 (g) A transfer pursuant to a judgment or order of a court of
21 record making or ordering a transfer, unless a specific monetary
22 consideration is specified or ordered by the court for the
23 transfer.

24 (h) A transfer creating or terminating a joint tenancy between
25 2 or more persons if at least 1 of the persons was an original
26 owner of the property before the joint tenancy was initially
27 created and, if the property is held as a joint tenancy at the time

1 of conveyance, at least 1 of the persons was a joint tenant when
2 the joint tenancy was initially created and that person has
3 remained a joint tenant since the joint tenancy was initially
4 created. A joint owner at the time of the last transfer of
5 ownership of the property is an original owner of the property. For
6 purposes of this subdivision, a person is an original owner of
7 property owned by that person's spouse.

8 (i) A transfer for security or an assignment or discharge of a
9 security interest.

10 (j) A transfer of real property or other ownership interests
11 among members of an affiliated group. As used in this subsection,
12 "affiliated group" means 1 or more corporations connected by stock
13 ownership to a common parent corporation. Upon request by the state
14 tax commission, a corporation shall furnish proof within 45 days
15 that a transfer meets the requirements of this subdivision. A
16 corporation that fails to comply with a request by the state tax
17 commission under this subdivision is subject to a fine of \$200.00.

18 (k) Normal public trading of shares of stock or other
19 ownership interests that, over any period of time, cumulatively
20 represent more than 50% of the total ownership interest in a
21 corporation or other legal entity and are traded in multiple
22 transactions involving unrelated individuals, institutions, or
23 other legal entities.

24 (l) A transfer of real property or other ownership interests
25 among corporations, partnerships, limited liability companies,
26 limited liability partnerships, or other legal entities if the
27 entities involved are commonly controlled. Upon request by the

1 state tax commission, a corporation, partnership, limited liability
2 company, limited liability partnership, or other legal entity shall
3 furnish proof within 45 days that a transfer meets the requirements
4 of this subdivision. A corporation, partnership, limited liability
5 company, limited liability partnership, or other legal entity that
6 fails to comply with a request by the state tax commission under
7 this subdivision is subject to a fine of \$200.00.

8 (m) A direct or indirect transfer of real property or other
9 ownership interests resulting from a transaction that qualifies as
10 a tax-free reorganization under section 368 of the internal revenue
11 code of 1986. Upon request by the state tax commission, a property
12 owner shall furnish proof within 45 days that a transfer meets the
13 requirements of this subdivision. A property owner who fails to
14 comply with a request by the state tax commission under this
15 subdivision is subject to a fine of \$200.00.

16 (n) A transfer of qualified agricultural property, if the
17 person to whom the qualified agricultural property is transferred
18 files an affidavit with the assessor of the local tax collecting
19 unit in which the qualified agricultural property is located and
20 with the register of deeds for the county in which the qualified
21 agricultural property is located attesting that the qualified
22 agricultural property shall remain qualified agricultural property.
23 The affidavit under this subdivision shall be in a form prescribed
24 by the department of treasury. An owner of qualified agricultural
25 property shall inform a prospective buyer of that qualified
26 agricultural property that the qualified agricultural property is
27 subject to the recapture tax provided in the agricultural property

1 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the
2 qualified agricultural property is converted by a change in use. If
3 property ceases to be qualified agricultural property at any time
4 after being transferred, all of the following shall occur:

5 (i) The taxable value of that property shall be adjusted under
6 subsection (3) as of the December 31 in the year that the property
7 ceases to be qualified agricultural property.

8 (ii) The property is subject to the recapture tax provided for
9 under the agricultural property recapture act, 2000 PA 261, MCL
10 211.1001 to 211.1007.

11 (8) If all of the following conditions are satisfied, the
12 local tax collecting unit shall revise the taxable value of
13 qualified agricultural property taxable on the tax roll in the
14 possession of that local tax collecting unit to the taxable value
15 that qualified agricultural property would have had if there had
16 been no transfer of ownership of that qualified agricultural
17 property since December 31, 1999 and there had been no adjustment
18 of that qualified agricultural property's taxable value under
19 subsection (3) since December 31, 1999:

20 (a) The qualified agricultural property was qualified
21 agricultural property for taxes levied in 1999 and each year after
22 1999.

23 (b) The owner of the qualified agricultural property files an
24 affidavit with the assessor of the local tax collecting unit under
25 subsection (7)(n).

26 (9) If the taxable value of qualified agricultural property is
27 adjusted under subsection (8), the owner of that qualified

1 agricultural property shall not be entitled to a refund for any
2 property taxes collected under this act on that qualified
3 agricultural property before the adjustment under subsection (8).

4 (10) The register of deeds of the county where deeds or other
5 title documents are recorded shall notify the assessing officer of
6 the appropriate local taxing unit not less than once each month of
7 any recorded transaction involving the ownership of property and
8 shall make any recorded deeds or other title documents available to
9 that county's tax or equalization department. Unless notification
10 is provided under subsection (6), the buyer, grantee, or other
11 transferee of the property shall notify the appropriate assessing
12 office in the local unit of government in which the property is
13 located of the transfer of ownership of the property within 45 days
14 of the transfer of ownership, on a form prescribed by the state tax
15 commission that states the parties to the transfer, the date of the
16 transfer, the actual consideration for the transfer, and the
17 property's parcel identification number or legal description. Forms
18 filed in the assessing office of a local unit of government under
19 this subsection shall be made available to the county tax or
20 equalization department for the county in which that local unit of
21 government is located. This subsection does not apply to personal
22 property except buildings described in section 14(6) and personal
23 property described in section 8(h), (i), and (j).

24 (11) As used in this section:

25 (a) "Additions" means that term as defined in section 34d.

26 (b) "Beneficial use" means the right to possession, use, and
27 enjoyment of property, limited only by encumbrances, easements, and

1 restrictions of record.

2 (c) "Converted by a change in use" means that term as defined
3 in the agricultural property recapture act, 2000 PA 261, MCL
4 211.1001 to 211.1007.

5 (d) "Inflation rate" means that term as defined in section
6 34d.

7 (e) "Losses" means that term as defined in section 34d.

8 (f) "Qualified agricultural property" means that term as
9 defined in section 7dd.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Joint Resolution ____ or House Joint Resolution CC
12 (request no. 07562'06) of the 93rd Legislature becomes a part of
13 the state constitution of 1963 as provided in section 1 of article
14 XII of the state constitution of 1963.