

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6122

A bill to amend 1993 PA 330, entitled
"State real estate transfer tax act,"
by amending sections 2, 3, and 6 (MCL 207.522, 207.523, and
207.526), section 6 as amended by 2003 PA 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

8 (B) ~~(a)~~—"Person" means an individual, partnership,
9 corporation, limited liability company, association, governmental

1 entity, or other legal entity. If used in a penalty clause, person
2 includes the partners or members of a firm, a partnership, or an
3 association and the officers of a corporation.

4 (C) ~~(b)~~—"Property" includes land, tenements, real estate, and
5 real property and all rights to and interests in land, tenements,
6 real estate, or real property.

7 (D) ~~(e)~~—"Tax" means the state real estate transfer tax imposed
8 under this act.

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

15 (F) ~~(d)~~—"Treasurer" means the state treasurer.

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

25 Sec. 3. (1) There is imposed, in addition to all other taxes,
26 a tax upon the following written instruments executed within this
27 state when the instrument is recorded:

1 (a) Contracts for the sale or exchange of property or any
2 interest in the property or any combination of sales or exchanges
3 or any assignment or transfer of property or any interest in the
4 property.

5 (b) Deeds or instruments of conveyance of property or any
6 interest in property, for consideration.

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

12 (2) The person who is the seller or grantor of the property is
13 liable for the tax imposed under this act.

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

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

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

26 (b) A written instrument evidencing a contract or transfer
27 that is not to be performed wholly within this state only to the

1 extent the written instrument includes land lying outside of this
2 state.

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

5 (d) A written instrument given as security or an assignment or
6 discharge of the security interest.

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

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

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

13 (h) Any of the following written instruments:

14 (i) A written instrument in which the grantor is the United
15 States, this state, a political subdivision or municipality of this
16 state, or an officer of the United States or of this state, or a
17 political subdivision or municipality of this state, acting in his
18 or her official capacity.

19 (ii) A written instrument given in foreclosure or in lieu of
20 foreclosure of a loan made, guaranteed, or insured by the United
21 States, this state, a political subdivision or municipality of this
22 state, or an officer of the United States or of this state, or a
23 political subdivision or municipality of this state, acting in his
24 or her official capacity.

25 (iii) A written instrument given to the United States, this
26 state, or 1 of their officers acting in an official capacity as
27 grantee, pursuant to the terms or guarantee or insurance of a loan

1 guaranteed or insured by the grantee.

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

5 (j) A conveyance from an individual to that individual's
6 child, stepchild, or adopted child.

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

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

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

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

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

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

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

1 (ii) A TRANSFER BETWEEN ANY LIMITED LIABILITY COMPANY AND ITS
2 MEMBERS IF THE OWNERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY
3 ARE HELD BY THE SAME PERSONS AND IN THE SAME PROPORTION AS IN THE
4 LIMITED LIABILITY COMPANY PRIOR TO THE TRANSFER.

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

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

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

16 (Q) ~~(p)~~—A written instrument evidencing the transfer of
17 mineral rights and interests.

18 (R) ~~(q)~~—A written instrument creating a joint tenancy between
19 2 or more persons if at least 1 of the persons already owns the
20 property.

21 (S) ~~(r)~~—A transfer made pursuant to a bona fide sales
22 agreement made before the date the tax is imposed under sections 3
23 and 4, if the sales agreement cannot be withdrawn or altered, or
24 contains a fixed price not subject to change or modification.
25 ~~However, a sales agreement for residential construction may be~~
26 ~~adjusted up to 15% to reflect changes in construction~~
27 ~~specifications.~~

1 **(T)** ~~(s)~~—A written instrument evidencing a contract or transfer
2 of property to a person sufficiently related to the transferor to
3 be considered a single employer with the transferor under section
4 414(b) or (c) of the internal revenue code of 1986, 26 ~~U.S.C.—USC~~
5 414.

6 **(U)** ~~(t)~~—A written instrument conveying an interest in property
7 for which an exemption is claimed under section 7cc of the general
8 property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized
9 valuation of that property is equal to or lesser than the state
10 equalized valuation on the date of purchase or on the date of
11 acquisition by the seller or transferor for that same interest in
12 property. If after an exemption is claimed under this subsection,
13 the sale or transfer of property is found by the treasurer to be at
14 a value other than the true cash value, then a penalty equal to 20%
15 of the tax shall be assessed in addition to the tax due under this
16 act to the seller or transferor.

17 **(V)** ~~(u)~~—A written instrument transferring an interest in
18 property pursuant to a foreclosure of a mortgage including a
19 written instrument given in lieu of foreclosure of a mortgage. This
20 exemption does not apply to a subsequent transfer of the foreclosed
21 property by the entity that foreclosed on the mortgage.

22 **(W)** ~~(v)~~—A written instrument conveying an interest from a
23 religious society in property exempt from the collection of taxes
24 under section 7s of the general property tax act, 1893 PA 206, MCL
25 211.7s, to a religious society if that property continues to be
26 exempt from the collection of taxes under section 7s of the general
27 property tax act, 1893 PA 206, MCL 211.7s.

1 Enacting section 1. This amendatory act does not take effect
2 unless House Bill No. 5924 of the 94th Legislature is enacted into
3 law.

4 Enacting section 2. This amendatory act shall take effect
5 January 1, 2007.