

HOUSE BILL No. 6438

September 10, 2008, Introduced by Reps. Byrnes, Bauer, Hammon, Alma Smith, Warren, Angerer, Griffin, Valentine, Kathleen Law, Sheen, Stahl, Emmons, Sak, Byrum, Dean, DeRoche, Schuitmaker, Jackson, Meadows and Clemente 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 2006 PA 446.

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
10 property's taxable value in the immediately preceding year is the

1 property's state equalized valuation in 1994.

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

3 (3) Upon a transfer of ownership of property after 1994, the
4 property's taxable value for the calendar year following the year
5 of the transfer is the property's state equalized valuation for the
6 calendar year following the transfer.

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

25 (5) Assessment of property, as required in this section and
26 section 27, is inapplicable to the assessment of property subject
27 to the levy of ad valorem taxes within voted tax limitation

1 increases to pay principal and interest on limited tax bonds issued
2 by any governmental unit, including a county, township, community
3 college district, or school district, before January 1, 1964, if
4 the assessment required to be made under this act would be less
5 than the assessment as state equalized prevailing on the property
6 at the time of the issuance of the bonds. This inapplicability
7 shall continue until levy of taxes to pay principal and interest on
8 the bonds is no longer required. The assessment of property
9 required by this act shall be applicable for all other purposes.

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

16 (a) A conveyance by deed.

17 (b) A conveyance by land contract. The taxable value of
18 property conveyed by a land contract executed after December 31,
19 1994 shall be adjusted under subsection (3) for the calendar year
20 following the year in which the contract is entered into and shall
21 not be subsequently adjusted under subsection (3) when the deed
22 conveying title to the property is recorded in the office of the
23 register of deeds in the county in which the property is located.

24 (c) A conveyance to a trust after December 31, 1994, except if
25 the settlor or the settlor's spouse, or both, conveys the property
26 to the trust and the sole present beneficiary or beneficiaries are
27 the settlor or the settlor's spouse, or both.

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

4 (e) A change in the sole present beneficiary or beneficiaries
5 of a trust, except a change that adds or substitutes the spouse of
6 the sole present beneficiary.

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

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

24 (h) A conveyance of an ownership interest in a corporation,
25 partnership, sole proprietorship, limited liability company,
26 limited liability partnership, or other legal entity if the
27 ownership interest conveyed is more than 50% of the corporation,

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

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

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

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

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

19 (b) A transfer from a husband, a wife, or a husband and wife
20 creating or disjoining a tenancy by the entirety in the grantors
21 or the grantor and his or her spouse.

22 (c) A transfer of that portion of property subject to a life
23 estate or life lease retained by the transferor, until expiration
24 or termination of the life estate or life lease. That portion of
25 property transferred that is not subject to a life lease shall be
26 adjusted under subsection (3).

27 (d) A transfer through foreclosure or forfeiture of a recorded

1 instrument under chapter 31, 32, or 57 of the revised judicature
2 act of 1961, 1961 PA 236, MCL 600.3101 to ~~600.3280~~**600.3285** and MCL
3 600.5701 to 600.5759, or through deed or conveyance in lieu of a
4 foreclosure or forfeiture, until the mortgagee or land contract
5 vendor subsequently transfers the property. If a mortgagee does not
6 transfer the property within 1 year of the expiration of any
7 applicable redemption period, the property shall be adjusted under
8 subsection (3).

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

11 (f) A conveyance to a trust if the settlor or the settlor's
12 spouse, or both, conveys the property to the trust and the sole
13 present beneficiary of the trust is the settlor or the settlor's
14 spouse, or both.

15 (g) A transfer pursuant to a judgment or order of a court of
16 record making or ordering a transfer, unless a specific monetary
17 consideration is specified or ordered by the court for the
18 transfer.

19 (h) A transfer creating or terminating a joint tenancy between
20 2 or more persons if at least 1 of the persons was an original
21 owner of the property before the joint tenancy was initially
22 created and, if the property is held as a joint tenancy at the time
23 of conveyance, at least 1 of the persons was a joint tenant when
24 the joint tenancy was initially created and that person has
25 remained a joint tenant since the joint tenancy was initially
26 created. A joint owner at the time of the last transfer of
27 ownership of the property is an original owner of the property. For

1 purposes of this subdivision, a person is an original owner of
2 property owned by that person's spouse.

3 (i) A transfer for security or an assignment or discharge of a
4 security interest.

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

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

19 (l) A transfer of real property or other ownership interests
20 among corporations, partnerships, limited liability companies,
21 limited liability partnerships, or other legal entities if the
22 entities involved are commonly controlled. Upon request by the
23 state tax commission, a corporation, partnership, limited liability
24 company, limited liability partnership, or other legal entity shall
25 furnish proof within 45 days that a transfer meets the requirements
26 of this subdivision. A corporation, partnership, limited liability
27 company, limited liability partnership, or other legal entity that

1 fails to comply with a request by the state tax commission under
2 this subdivision is subject to a fine of \$200.00.

3 (m) A direct or indirect transfer of real property or other
4 ownership interests resulting from a transaction that qualifies as
5 a tax-free reorganization under section 368 of the internal revenue
6 code, 26 USC 368. Upon request by the state tax commission, a
7 property owner shall furnish proof within 45 days that a transfer
8 meets the requirements of this subdivision. A property owner who
9 fails to comply with a request by the state tax commission under
10 this subdivision is subject to a fine of \$200.00.

11 (n) A transfer of qualified agricultural property, if the
12 person to whom the qualified agricultural property is transferred
13 files an affidavit with the assessor of the local tax collecting
14 unit in which the qualified agricultural property is located and
15 with the register of deeds for the county in which the qualified
16 agricultural property is located attesting that the qualified
17 agricultural property shall remain qualified agricultural property.
18 The affidavit under this subdivision shall be in a form prescribed
19 by the department of treasury. An owner of qualified agricultural
20 property shall inform a prospective buyer of that qualified
21 agricultural property that the qualified agricultural property is
22 subject to the recapture tax provided in the agricultural property
23 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the
24 qualified agricultural property is converted by a change in use. If
25 property ceases to be qualified agricultural property at any time
26 after being transferred, all of the following shall occur:

27 (i) The taxable value of that property shall be adjusted under

1 subsection (3) as of the December 31 in the year that the property
2 ceases to be qualified agricultural property.

3 (ii) The property is subject to the recapture tax provided for
4 under the agricultural property recapture act, 2000 PA 261, MCL
5 211.1001 to 211.1007.

6 (o) A transfer of qualified forest property, if the person to
7 whom the qualified forest property is transferred files an
8 affidavit with the assessor of the local tax collecting unit in
9 which the qualified forest property is located and with the
10 register of deeds for the county in which the qualified forest
11 property is located attesting that the qualified forest property
12 shall remain qualified forest property. The affidavit under this
13 subdivision shall be in a form prescribed by the department of
14 treasury. An owner of qualified forest property shall inform a
15 prospective buyer of that qualified forest property that the
16 qualified forest property is subject to the recapture tax provided
17 in the qualified forest property recapture tax act, 2006 PA 379,
18 MCL 211.1031 to 211.1036, if the qualified forest property is
19 converted by a change in use. If property ceases to be qualified
20 forest property at any time after being transferred, all of the
21 following shall occur:

22 (i) The taxable value of that property shall be adjusted under
23 subsection (3) as of the December 31 in the year that the property
24 ceases to be qualified forest property.

25 (ii) The property is subject to the recapture tax provided for
26 under the qualified forest property recapture tax act, 2006 PA 379,
27 MCL 211.1031 to 211.1036.

1 (p) Beginning on the effective date of the amendatory act that
2 added this subdivision, a transfer of land, but not buildings or
3 structures located on the land, which meets 1 or more of the
4 following requirements:

5 (i) The land is subject to a conservation easement under
6 subpart 11 of part 21 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in
8 this subparagraph, "conservation easement" means that term as
9 defined in section 2140 of the natural resources and environmental
10 protection act, 1994 PA 451, MCL 324.2140.

11 (ii) A transfer of ownership of the land or a transfer of an
12 interest in the land is eligible for a deduction as a qualified
13 conservation contribution under section 170(h) of the internal
14 revenue code, 26 USC 170.

15 **(Q) A TRANSFER OF REAL PROPERTY OR OTHER OWNERSHIP INTERESTS**
16 **OWNED BY A DOMESTIC NONPROFIT CORPORATION THAT IS A BOY OR GIRL**
17 **SCOUT OR CAMP FIRE GIRLS ORGANIZATION AND AT LEAST 50% OF THE**
18 **MEMBERS OF THAT ORGANIZATION ARE RESIDENTS OF THIS STATE.**

19 (8) If all of the following conditions are satisfied, the
20 local tax collecting unit shall revise the taxable value of
21 qualified agricultural property taxable on the tax roll in the
22 possession of that local tax collecting unit to the taxable value
23 that qualified agricultural property would have had if there had
24 been no transfer of ownership of that qualified agricultural
25 property since December 31, 1999 and there had been no adjustment
26 of that qualified agricultural property's taxable value under
27 subsection (3) since December 31, 1999:

1 (a) The qualified agricultural property was qualified
2 agricultural property for taxes levied in 1999 and each year after
3 1999.

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

7 (9) If the taxable value of qualified agricultural property is
8 adjusted under subsection (8), the owner of that qualified
9 agricultural property shall not be entitled to a refund for any
10 property taxes collected under this act on that qualified
11 agricultural property before the adjustment under subsection (8).

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

1 equalization department for the county in which that local unit of
2 government is located. This subsection does not apply to personal
3 property except buildings described in section 14(6) and personal
4 property described in section 8(h), (i), and (j).

5 (11) As used in this section:

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

7 (b) "Beneficial use" means the right to possession, use, and
8 enjoyment of property, limited only by encumbrances, easements, and
9 restrictions of record.

10 (c) "Converted by a change in use" means that term as defined
11 in the agricultural property recapture act, 2000 PA 261, MCL
12 211.1001 to 211.1007.

13 (d) "Inflation rate" means that term as defined in section
14 34d.

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

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

18 (g) "Qualified forest property" means that term as defined in
19 section 7jj[1].