

# SENATE BILL No. 312

March 24, 2011, Introduced by Senators CASWELL, CASPERSON, EMMONS, GREEN and KAHN and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 8 and 27 (MCL 211.8 and 211.27), section 8 as amended by 2006 PA 633 and section 27 as amended by 2003 PA 274.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 8. For the purposes of taxation, personal property  
2 includes all of the following:

3           (a) All goods, chattels, and effects within this state.

4           (b) All goods, chattels, and effects belonging to inhabitants  
5 of this state, located ~~without~~ **OUTSIDE OF** this state, except that  
6 property actually and permanently invested in business in another  
7 state shall not be included.

8           (c) All interests owned by individuals in real property, the  
9 fee title to which is in this state or the United States, except as

1 otherwise provided in this act.

2 (d) For taxes levied before January 1, 2003, buildings and  
3 improvements located upon leased real property, except if the value  
4 of the real property is also assessed to the lessee or owner of  
5 those buildings and improvements. For taxes levied after December  
6 31, 2002, buildings and improvements located upon leased real  
7 property, except buildings and improvements exempt under section 9f  
8 or improvements assessable under subdivision (h), shall be assessed  
9 as real property under section 2 to the owner of the buildings or  
10 improvements in the local tax collecting unit in which the  
11 buildings or improvements are located if the value of the buildings  
12 or improvements is not otherwise included in the assessment of the  
13 real property. For taxes levied after December 31, 2001, buildings  
14 and improvements exempt under section 9f or improvements assessable  
15 under subdivision (h) and located on leased real property shall be  
16 assessed as personal property.

17 (e) Tombs or vaults built within any burial grounds and kept  
18 for hire or rent, in whole or in part, and the stock of a  
19 corporation or association owning the tombs, vaults, or burial  
20 grounds.

21 (f) All other personal property not enumerated in this section  
22 and not especially exempted by law.

23 (g) The personal property of gas and coke companies, natural  
24 gas companies, electric light companies, waterworks companies,  
25 hydraulic companies, and pipe line companies transporting oil or  
26 gas as public or common carriers, to be assessed in the local tax  
27 collecting unit in which the personal property is located. The

1 mains, pipes, supports, and wires of these companies, including the  
2 supports and wire or other line used for communication purposes in  
3 the operation of those facilities, and the rights of way and the  
4 easements or other interests in real property by virtue of which  
5 the mains, pipes, supports, and wires are erected and maintained,  
6 shall be assessed as personal property in the local tax collecting  
7 unit where laid, placed, or located. Interests in underground rock  
8 strata used for gas storage purposes, whether by lease or ownership  
9 separate from the surface of real property, shall be separately  
10 valued and assessed as personal property in the local tax  
11 collecting unit in which it is located to the person who holds the  
12 interest. Interests in underground rock strata shall be reported as  
13 personal property to the appropriate assessing officer for all  
14 property descriptions included in the storage field in the local  
15 tax collecting unit and a separate valuation shall be assessed for  
16 each school district. The personal property of street railroad,  
17 plank road, cable or electric railroad or transportation companies,  
18 bridge companies, and all other companies not required to pay a  
19 specific tax to this state in lieu of all other taxes, shall,  
20 except as otherwise provided in this section, be assessed in the  
21 local tax collecting unit in which the property is located, used,  
22 or laid, and the track, road, or bridge of a company is considered  
23 personal property. None of the property assessable as personal  
24 property under this subdivision shall be affected by any assessment  
25 or tax levied on the real property through or over which the  
26 personal property is laid, placed, or located, nor shall any right  
27 of way, easement, or other interest in real property, assessable as

1 personal property under this subdivision, be extinguished or  
2 otherwise affected in case the real property subject to assessment  
3 is sold in the exercise of the taxing power.

4 (h) During the tenancy of a lessee, leasehold improvements and  
5 structures installed and constructed on real property by the  
6 lessee, provided and to the extent the improvements or structures  
7 add to the true cash taxable value of the real property  
8 notwithstanding that the real property is encumbered by a lease  
9 agreement, and the value added by the improvements or structures is  
10 not otherwise included in the assessment of the real property or  
11 not otherwise assessable under subdivision (j). The cost of  
12 leasehold improvements and structures on real property shall not be  
13 the sole indicator of value. Leasehold improvements and structures  
14 assessed under this subdivision shall be assessed to the lessee.

15 (i) A leasehold estate received by a sublessor from which the  
16 sublessor receives net rentals in excess of net rentals required to  
17 be paid by the sublessor except to the extent that the excess  
18 rentals are attributable to the installation and construction of  
19 improvements and structures assessed under subdivision (h) or (j)  
20 or included in the assessment of the real property. For purposes of  
21 this act, a leasehold estate is considered to be owned by the  
22 lessee receiving additional net rentals. A lessee in possession is  
23 required to provide the assessor with the name and address of its  
24 lessor. Taxes collected under this act on leasehold estates shall  
25 become a lien against the rentals paid by the sublessee to the  
26 sublessor.

27 (j) To the extent not assessed as real property, a leasehold

1 estate of a lessee created by the difference between the income  
2 that would be received by the lessor from the lessee on the basis  
3 of the present economic income of the property as defined and  
4 allowed by section ~~27(4)~~27(5), minus the actual value to the  
5 lessor under the lease. This subdivision does not apply to property  
6 if subject to a lease entered into before January 1, 1984 for which  
7 the terms of the lease governing the rental rate or the tax  
8 liability have not been renegotiated after December 31, 1983. This  
9 subdivision does not apply to a nonprofit housing cooperative. As  
10 used in this subdivision, "nonprofit cooperative housing  
11 corporation" means a nonprofit cooperative housing corporation that  
12 is engaged in providing housing services to its stockholders and  
13 members and that does not pay dividends or interest upon stock or  
14 membership investment but that does distribute all earnings to its  
15 stockholders or members.

16 (k) For taxes levied after December 31, 2002, a trade fixture.

17 (l) For taxes levied after December 31, 2005, a wind energy  
18 system. As used in this subdivision, "wind energy system" means an  
19 integrated unit consisting of a wind turbine composed of a rotor,  
20 an electrical generator, a control system, an inverter or other  
21 power conditioning unit, and a tower, which uses moving air to  
22 produce power.

23 Sec. 27. (1) As used in this act, "true cash value" means the  
24 usual selling price at the place where the property to which the  
25 term is applied is at the time of assessment, being the price that  
26 could be obtained for the property at private sale, and not at  
27 auction sale except as otherwise provided in this section, or at

1 forced sale. The usual selling price may include sales at public  
2 auction held by a nongovernmental agency or person if those sales  
3 have become a common method of acquisition in the jurisdiction for  
4 the class of property being valued. The usual selling price does  
5 not include sales at public auction if the sale is part of a  
6 liquidation of the seller's assets in a bankruptcy proceeding or if  
7 the seller is unable to use common marketing techniques to obtain  
8 the usual selling price for the property. A sale or other  
9 disposition by this state or an agency or political subdivision of  
10 this state of land acquired for delinquent taxes or an appraisal  
11 made in connection with the sale or other disposition or the value  
12 attributed to the property of regulated public utilities by a  
13 governmental regulatory agency for rate-making purposes is not  
14 controlling evidence of true cash value for assessment purposes. In  
15 determining the true cash value, the assessor shall also consider  
16 the advantages and disadvantages of location; quality of soil;  
17 zoning; existing use; present economic income of structures,  
18 including farm structures; present economic income of land if the  
19 land is being farmed or otherwise put to income producing use;  
20 quantity and value of standing timber; water power and privileges;  
21 and mines, minerals, quarries, or other valuable deposits known to  
22 be available in the land and their value. In determining the true  
23 cash value of personal property owned by an electric utility  
24 cooperative, the assessor shall consider the number of kilowatt  
25 hours of electricity sold per mile of distribution line compared to  
26 the average number of kilowatt hours of electricity sold per mile  
27 of distribution line for all electric utilities.

1           (2) The assessor shall not consider the increase in true cash  
2 value that is a result of expenditures for normal repairs,  
3 replacement, and maintenance in determining the true cash value of  
4 property for assessment purposes until the property is sold. For  
5 the purpose of implementing this subsection, the assessor shall not  
6 increase the construction quality classification or reduce the  
7 effective age for depreciation purposes, except if the appraisal of  
8 the property was erroneous before nonconsideration of the normal  
9 repair, replacement, or maintenance, and shall not assign an  
10 economic condition factor to the property that differs from the  
11 economic condition factor assigned to similar properties as defined  
12 by appraisal procedures applied in the jurisdiction. The increase  
13 in value attributable to the items included in subdivisions (a) to  
14 (o) that is known to the assessor and excluded from true cash value  
15 shall be indicated on the assessment roll. This subsection applies  
16 only to residential property. The following repairs are considered  
17 normal maintenance if they are not part of a structural addition or  
18 completion:

19           (a) Outside painting.

20           (b) Repairing or replacing siding, roof, porches, steps,  
21 sidewalks, or drives.

22           (c) Repainting, repairing, or replacing existing masonry.

23           (d) Replacing awnings.

24           (e) Adding or replacing gutters and downspouts.

25           (f) Replacing storm windows or doors.

26           (g) Insulating or weatherstripping.

27           (h) Complete rewiring.

1 (i) Replacing plumbing and light fixtures.

2 (j) Replacing a furnace with a new furnace of the same type or  
3 replacing an oil or gas burner.

4 (k) Repairing plaster, inside painting, or other redecorating.

5 (l) New ceiling, wall, or floor surfacing.

6 (m) Removing partitions to enlarge rooms.

7 (n) Replacing an automatic hot water heater.

8 (o) Replacing dated interior woodwork.

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

19 (a) Amounts paid for obtaining financing of the purchase price  
20 of the property or the last conveyance of the property.

21 (b) Amounts attributable to personal property that were  
22 included in the purchase price of the property in the last  
23 conveyance of the property.

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



1 so that the state may reimburse those units for that lost revenue.

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

9 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, BEFORE  
10 UTILIZING SALES DATA ON REAL PROPERTY PURCHASES, INCLUDING  
11 PURCHASES BY LAND CONTRACT, IN MAKING SALES RATIO STUDIES AND  
12 APPRAISALS TO ASSESS REAL PROPERTY CLASSIFIED AS AGRICULTURAL REAL  
13 PROPERTY UNDER SECTION 34C, A CITY OR TOWNSHIP ASSESSOR, A COUNTY  
14 EQUALIZATION DEPARTMENT, AND THE STATE TAX COMMISSION SHALL EXCLUDE  
15 FROM THE SALES DATA ALL SALES OF REAL PROPERTY CLASSIFIED AS  
16 AGRICULTURAL REAL PROPERTY UNDER SECTION 34C FOR WHICH AN AFFIDAVIT  
17 HAS NOT BEEN FILED UNDER SECTION 27A(7)(N). SALES DATA EXCLUDED  
18 UNDER THIS SUBSECTION MAY BE INCLUDED IN A SALES STUDY OR APPRAISAL  
19 ONLY IF BOTH THE LOCAL ASSESSOR AND THE COUNTY EQUALIZATION  
20 DIRECTOR AGREE TO INCLUDE THAT SALES DATA IN THE SALES STUDY OR  
21 APPRAISAL.

22 (5) ~~(4)~~As used in subsection (1), "present economic income"  
23 means for leased or rented property the ordinary, general, and  
24 usual economic return realized from the lease or rental of property  
25 negotiated under current, contemporary conditions between parties  
26 equally knowledgeable and familiar with real estate values. The  
27 actual income generated by the lease or rental of property is not

1 the controlling indicator of its true cash value in all cases. This  
2 subsection does not apply to property subject to a lease entered  
3 into before January 1, 1984 for which the terms of the lease  
4 governing the rental rate or tax liability have not been  
5 renegotiated after December 31, 1983. This subsection does not  
6 apply to a nonprofit housing cooperative subject to regulatory  
7 agreements between the state or federal government entered into  
8 before January 1, 1984. As used in this subsection, "nonprofit  
9 cooperative housing corporation" means a nonprofit cooperative  
10 housing corporation that is engaged in providing housing services  
11 to its stockholders and members and that does not pay dividends or  
12 interest upon stock or membership investment but that does  
13 distribute all earnings to its stockholders or members.

14 (6) ~~(5)~~—Beginning December 31, 1994, the purchase price paid  
15 in a transfer of property is not the presumptive true cash value of  
16 the property transferred. In determining the true cash value of  
17 transferred property, an assessing officer shall assess that  
18 property using the same valuation method used to value all other  
19 property of that same classification in the assessing jurisdiction.  
20 As used in this subsection, "purchase price" means the total  
21 consideration agreed to in an arms-length transaction and not at a  
22 forced sale paid by the purchaser of the property, stated in  
23 dollars, whether or not paid in dollars.

24 (7) ~~(6)~~—For purposes of a statement submitted under section  
25 19, the true cash value of a standard tool is the net book value of  
26 that standard tool as of December 31 in each tax year as determined  
27 using generally accepted accounting principles in a manner

1 consistent with the established depreciation method used by the  
2 person submitting that statement. The net book value of a standard  
3 tool for federal income tax purposes is not the presumptive true  
4 cash value of that standard tool. As used in this subsection,  
5 "standard tool" means that term as defined in section 9b.