

HOUSE BILL No. 5072

August 1, 1991, Introduced by Reps. Jondahl, O'Neill, Brown, Scott, DeMars and Perry Bullard and referred to the Committee on Taxation.

A bill to amend section 27 of Act No. 206 of the Public Acts of 1893, entitled as amended

"The general property tax act,"

as amended by Act No. 283 of the Public Acts of 1989, being section 211.27 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 27 of Act No. 206 of the Public Acts of
2 1893, as amended by Act No. 283 of the Public Acts of 1989, being
3 section 211.27 of the Michigan Compiled Laws, is amended to read
4 as follows:

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

1 at forced sale. The usual selling price may include sales at
2 public auction held by a nongovernmental agency or person when
3 those sales have become a common method of acquisition in the
4 jurisdiction for the class of property being valued. The usual
5 selling price does not include sales at public auction where the
6 sale is part of a liquidation of the seller's assets in a bank-
7 ruptcy proceeding or where the seller is unable to use common
8 marketing techniques to obtain the usual selling price for the
9 property. A sale or other disposition by the state or an agency
10 or political subdivision of the state of land acquired for delin-
11 quent taxes or an appraisal made in connection with the sale or
12 other disposition OF THE LAND or the value attributed to the
13 property of regulated public utilities by a governmental regula-
14 tory agency for rate-making purposes shall not be considered con-
15 trolling evidence of true cash value for assessment purposes. In
16 determining the value, the assessor shall also consider the
17 advantages and disadvantages of location; quality of soil;
18 zoning; existing use; present economic income of structures,
19 including farm structures; present economic income of land if the
20 land is being farmed or otherwise put to income producing use;
21 quantity and value of standing timber; water power and privi-
22 leges; and mines, minerals, quarries, or other valuable deposits
23 known to be available in the land and their value.

24 (2) IN DETERMINING THE TRUE CASH VALUE OF IMPROVED OCCUPIED
25 REAL PROPERTY THAT IS CLASSIFIED AS INDUSTRIAL UNDER SECTION 34C,
26 IF, DUE TO THE LARGE SIZE OR SPECIALIZED OR SPECIAL PURPOSE
27 NATURE OF THE IMPROVEMENTS, THERE ARE FEW COMPARABLE PROPERTIES

1 OCCUPIED AT THE TIME OF PURCHASE OR INTENDED TO BE OCCUPIED FOR
2 THE SAME USE AS THE CURRENT USE OF THE SUBJECT PROPERTY THAT WERE
3 PURCHASED IN AN ARM'S LENGTH TRANSACTION FOR THE SAME USE AS THE
4 CURRENT USE OF THE SUBJECT PROPERTY OR FOR AN EQUIVALENT USE
5 OPERATING IN ACCORDANCE WITH THE SUBJECT PROPERTY'S FULL CAPABIL-
6 ITIES AND FULLY UTILIZING ALL OF THE SALE PROPERTY, THEN THE
7 PROPERTY SHALL BE VALUED AS IF SUITED FOR THE CONTINUATION OF THE
8 CURRENT USE OF THE PROPERTY OR A HIGHER USE AND AS IF THE PROP-
9 ERTY WOULD BE PURCHASED BY A HYPOTHETICAL BUYER WHO WOULD USE IT
10 FOR THE CURRENT USE OR A HIGHER USE. IN APPLYING THIS SUBSEC-
11 TION, ALL OF THE FOLLOWING APPLY:

12 (A) IN APPLYING THE SALES COMPARISON APPROACH TO VALUE, A
13 SALE IS NOT CONSIDERED COMPARABLE UNLESS THE SALE OCCURRED FOR
14 THE CONTINUATION OF THE SAME USE AS THE CURRENT USE OF THE
15 SUBJECT PROPERTY, FOR AN EQUIVALENT USE OPERATING IN ACCORDANCE
16 WITH THE SUBJECT PROPERTY'S FULL CAPABILITIES AND FULLY UTILIZING
17 ALL OF THE SALE PROPERTY, OR FOR A HIGHER USE, AND 1 OF THE FOL-
18 LOWING APPLIES:

19 (i) THE SALE INVOLVED A PROPERTY OCCUPIED AT THE TIME OF
20 PURCHASE FOR THE SAME USE AS THE CURRENT USE OF THE SUBJECT
21 PROPERTY.

22 (ii) AFTER THE SALE, THE PROPERTY IS OCCUPIED AND OPERATED
23 FOR A USE THAT IS REQUIRED FOR A SALE TO BE CONSIDERED COMPARABLE
24 UNDER THIS SUBDIVISION AND THE SALE IS FULLY ADJUSTED FOR ALL
25 COSTS AND EXPENSES NECESSARY TO BRING THE PROPERTY TO FULL AND
26 ACTUAL OPERATING USE.

1 (B) IN APPLYING THE COST APPROACH TO VALUE, THE REAL
2 PROPERTY USED OR AVAILABLE FOR USE BY THE CURRENT OCCUPANT SHALL
3 BE PRESUMED TO HAVE VALUE TO A PROSPECTIVE PURCHASER AT LEAST
4 EQUAL TO THE VALUE TO THE SELLER OR OCCUPANT.

5 (C) AS USED IN THIS SUBSECTION:

6 (i) "HIGHER USE" MEANS A USE THAT WOULD PRODUCE A HIGHER
7 VALUE THAN THE VALUE OF THE SUBJECT PROPERTY FOR ITS CURRENT
8 USE.

9 (ii) "ARM'S LENGTH TRANSACTION" MEANS A TRANSACTION FREELY
10 ARRIVED AT IN THE OPEN MARKET, UNAFFECTED BY ABNORMAL PRESSURE OR
11 BY THE ABSENCE OF NORMAL COMPETITIVE NEGOTIATION.

12 (3) ~~(2)~~ The assessor, beginning December 31, 1976, shall
13 not consider the increase in true cash value that is a result of
14 expenditures for normal repairs, replacement, and maintenance
15 made or completed after December 30, 1976 in determining the true
16 cash value of property for assessment purposes until the property
17 is sold. For the purpose of implementing this subsection, the
18 assessor shall not increase the construction quality classifica-
19 tion or reduce the effective age for depreciation purposes,
20 except if the appraisal of the property was erroneous before non-
21 consideration of the normal repair, replacement, or maintenance,
22 and shall not assign an economic condition factor to the property
23 that differs from the economic condition factor assigned to simi-
24 lar properties as defined by appraisal procedures applied in the
25 jurisdiction. The increase in value attributable to the items
26 included in subdivisions (a) to (o) that is known to the assessor
27 and excluded from true cash value shall be indicated on the

1 assessment roll. This subsection shall apply only to residential
 2 property. The following repairs shall be considered normal main-
 3 tenance if they are not part of a structural addition or
 4 completion:

- 5 (a) Outside painting.
- 6 (b) Repairing or replacing siding, roof, porches, steps,
 7 sidewalks, and drives.
- 8 (c) Repainting, repairing, or replacing existing masonry.
- 9 (d) Replacement of awnings.
- 10 (e) Adding or replacing gutters and downspouts.
- 11 (f) Replacing storm windows or doors.
- 12 (g) Insulation or weatherstripping.
- 13 (h) Complete rewiring.
- 14 (i) Replacing plumbing and light fixtures.
- 15 (j) New furnace replacing a furnace of the same type or
 16 replacing oil or gas burner.
- 17 (k) Plaster repairs, inside painting, or other
 18 redecorating.
- 19 (l) New ceiling, wall, or floor surfacing.
- 20 (m) Removing partitions to enlarge rooms.
- 21 (n) Replacing automatic hot water heater.
- 22 (o) Replacing dated interior woodwork.
- 23 (4) ~~(3)~~ Beginning December 31, 1978, a city or township
 24 assessor, a county equalization department, or the state tax com-
 25 mission before utilizing real estate sales data on real property
 26 purchases, including purchases by land contract, for the purpose
 27 of determining assessments or in making sales ratio studies for

1 the purpose of assessing or equalizing assessments shall exclude
2 from the sales data the following amounts allowed by subdivisions
3 (a), (b), and (c) to the extent that the amounts are included in
4 the real property purchase price and are so identified in the
5 real estate sales data or certified to the assessor as provided
6 in subdivision (d):

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

9 (b) Amounts attributable to personal property ~~which~~ THAT
10 were included in the purchase price of the property in the last
11 conveyance of the property.

12 (c) Amounts paid for surveying the property pursuant to the
13 last conveyance of the property. The legislature may require
14 local units of government, including school districts, to submit
15 reports of revenue lost under subdivisions (a) and (b) and this
16 subdivision so that the state may reimburse those units for that
17 lost revenue.

18 (d) The purchaser of real property, including a purchaser by
19 land contract, may file with the assessor of the city or township
20 in which the property is located 2 copies of the purchase agree-
21 ment or of an affidavit ~~which~~ THAT shall identify the amount,
22 if any, for each item listed in subdivisions (a) to (c). One
23 copy shall be forwarded by the assessor to the county equaliza-
24 tion department. The affidavit shall be prescribed by the state
25 tax commission.

26 (5) ~~(4)~~ As used in subsection (1), "present economic
27 income" means in the case of leased or rented property the

1 ordinary, general, and usual economic return realized from the
 2 lease or rental of property negotiated under current, contempo-
 3 rary conditions between parties equally knowledgeable and famil-
 4 iar with real estate values. The actual income generated by these
 5 lease or rental of property shall not be the controlling indi-
 6 cator of its cash value in all cases. This subsection ~~shall~~
 7 DOES not apply to property ~~when~~ subject to a lease entered into
 8 ~~prior to~~ BEFORE January 1, 1984 for which the terms of the
 9 lease governing the rental rate or tax liability have not been
 10 renegotiated after December 31, 1983. This subsection ~~shall~~
 11 DOES not apply to a nonprofit housing cooperative ~~when~~ subject
 12 to regulatory agreements between the state or federal government
 13 entered into ~~prior to~~ BEFORE January 1, 1984. As used in this
 14 subsection, "nonprofit cooperative housing corporation" means a
 15 nonprofit cooperative housing corporation ~~which~~ THAT is engaged
 16 in providing housing services to its stockholders and members and
 17 ~~which~~ THAT does not pay dividends or interest upon stock or
 18 membership investment but which does distribute all earnings to
 19 its stockholders or members.

20 (6) IN ESTABLISHING THE TRUE CASH VALUE OF PROPERTY CLASSI-
 21 FIED AS INDUSTRIAL UNDER SECTION 34C, A MODEL OR SIMILAR TYPE
 22 REPLACEMENT FACILITY USED IN WHOLE OR IN PART TO ESTABLISH FUNC-
 23 TIONAL OBSOLESCENCE SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL OF
 24 THE FOLLOWING:

25 (A) THE COSTS OF, INCLUDING BUT NOT LIMITED TO, ALL INVOLVED
 26 LAND, LAND IMPROVEMENTS, AND REAL PROPERTY IMPROVEMENTS,
 27 INCLUDING PROCESS POWER AND WIRING.

1 (B) A DESCRIPTION OF THE PRODUCTIVE PROCESS INVOLVED,
2 INCLUDING THE CAPACITY.

3 (C) THE TIME INVOLVED TO BRING THE MODEL TO ACTUAL OPERATING
4 COMPLETION.

5 (D) IF NOT LOCATED ON THE REAL PROPERTY PARCEL UNDER APPEAL,
6 INFORMATION THAT ESTABLISHES WHERE ALL OF THE SPECIFIC REQUIRE-
7 MENTS OF THE REPLACEMENT MODEL OR FACILITY COULD BE ACCOMMODATED
8 ON A SINGLE SITE.

9 (E) THE CLAIMED OPERATING EXPENSE ADVANTAGES AND THE OPERAT-
10 ING EXPENSE DISADVANTAGES, WHEN COMPARED WITH THE SUBJECT
11 PROPERTY.

12 (F) ANY OTHER DETAIL THAT PERMITS ALL OF THE FOLLOWING:

13 (i) INDEPENDENT ANALYSIS AND CONCLUSIONS CONCERNING THE COST
14 OF CONSTRUCTION, TIME NECESSARY FOR COMPLETION, AND COST, IN
15 LIGHT OF AVAILABILITY AND OTHER FACTORS, OF EQUIPMENT, LABOR, AND
16 OTHER REQUISITES TO OPERATION AND USE.

17 (ii) EVALUATION OF THE MODEL, GIVEN ITS COSTS AND OTHER FAC-
18 TORS, AS A REALISTIC SUBSTITUTE FOR THE PROPERTY UNDER APPEAL.

19 (iii) INDEPENDENT ANALYSIS AND CONCLUSIONS CONCERNING THE
20 CLAIMED LOCATIONAL, OPERATING, AND OTHER COMPARATIVE ADVANTAGES
21 AND DISADVANTAGES.

22 (7) IF A TAXPAYER CHALLENGES THE TRUE CASH VALUE OF REAL
23 PROPERTY CLASSIFIED AS INDUSTRIAL UNDER SECTION 34C AND INTENDS
24 TO RELY IN WHOLE OR IN PART UPON A MODEL OR SIMILAR TYPE REPLACE-
25 MENT FACILITY TO ESTABLISH FUNCTIONAL OBSOLESCENCE, IN ESTABLISH-
26 ING THE TRUE CASH VALUE OF PERSONAL PROPERTY LOCATED ON OR USED
27 IN CONJUNCTION WITH THE REAL PROPERTY SUBJECT TO APPEAL, THE

1 ASSESSOR SHALL CONSIDER THE COST OF ACQUIRING, INSTALLING, AND
 2 MAKING OPERATIVE THE PERSONAL PROPERTY IN THE MODEL FACILITY NEC-
 3 ESSARY TO REPLACE THE PERSONAL PROPERTY IN THE SUBJECT FACILITY
 4 TO BRING THE MODEL TO ACTUAL OPERATING COMPLETION.