

Act No. 3
Public Acts of 1994
Approved by the Governor
February 18, 1994
Filed with the Secretary of State
February 18, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Bouchard Gougeon Emmons McManus Honigman, Schwarz Arthurhultz
Gast DiNello Wartner and Dillingham

ENROLLED SENATE BILL No. 999

AN ACT to amend sections 5 6 8 and 9 of Act No 330 of the Public Acts of 1993 entitled An act to impose a state tax on the transfer of an interest in real property to provide for the administration of this act to prescribe the powers and duties of certain state and local officers to provide for the collection and distribution of the tax and to prescribe penalties and provide remedies being sections 207 525 207 526 207 528 and 207 529 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Sections 5 6 8 and 9 of Act No 330 of the Public Acts of 1993 being sections 207 525 207 526 207 528 and 207 529 of the Michigan Compiled Laws are amended to read as follows

Sec 5 (1) Except as otherwise provided in this section the tax imposed under sections 3 and 4 is levied at the following rate

(a) Beginning May 1 1994 if the sales tax is levied at a rate of 4% under the general sales tax act Act No 167 of the Public Acts of 1933 being sections 205 51 to 205 78 of the Michigan Compiled Laws \$3 75 for each \$500 00 or fraction of \$500 00 of the total value of the property being transferred However if on May 1 1994 the sales tax is levied at a rate of 6% under Act No 167 of the Public Acts of 1933 then no tax shall be levied under this subdivision

(b) Beginning January 1 1995 if the sales tax is levied at a rate of 6% under the general sales tax act Act No 167 of the Public Acts of 1933 being sections 205 51 to 205 78 of the Michigan Compiled Laws \$3 75 for each \$500 00 or fraction of \$500 00 of the total value of the property being transferred

(2) A written instrument subject to the tax imposed by this act shall state on its face the total value of the real property being transferred unless an affidavit is attached to the written instrument declaring the total value of the real property being transferred The form of the affidavit shall be prescribed by the department of treasury If the sale or transfer is of a combination of real and personal property the tax shall be imposed only upon the transfer of the real property if the values of the real and personal property are stated separately on the face of the written instrument or if an affidavit is attached to the written instrument setting forth the respective values of the real and personal property

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

(a) A written instrument in which the value of the consideration for the property is less than \$100 00

(b) A written instrument evidencing a contract or transfer that is not to be performed wholly within this state only to the extent the written instrument includes land lying outside of this state

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

- (d) A written instrument given as security or an assignment or discharge of the security interest
- (e) A written instrument evidencing a lease including an oil and gas lease or a transfer of a leasehold interest
- (f) A written instrument evidencing an interest that is assessable as personal property
- (g) A written instrument evidencing the transfer of a right and interest for underground gas storage purposes
- (h) Any of the following written instruments
 - (i) A written instrument in which the grantor is the United States this state a political subdivision or municipality of this state or an officer of the United States or of this state or a political subdivision or municipality of this state acting in his or her official capacity
 - (ii) A written instrument given in foreclosure or in lieu of foreclosure of a loan made guaranteed or insured by the United States this state a political subdivision or municipality of this state or an officer of the United States or of this state or a political subdivision or municipality of this state acting in his or her official capacity
 - (iii) A written instrument given to the United States this state or 1 of their officers acting in an official capacity as grantee pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee
 - (i) A conveyance from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse
 - (j) A conveyance from a mother or father to a son or daughter or stepchild or adopted child
 - (k) A conveyance from a grandmother or grandfather to a grandchild or step grandchild or adopted grandchild
 - (l) A judgment or order of a court of record making or ordering a transfer unless a specific monetary consideration is specified or ordered by the court for the transfer
 - (m) A written instrument used to straighten boundary lines if no monetary consideration is given
 - (n) A written instrument to confirm title already vested in a grantee including a quitclaim deed to correct a flaw in title
 - (o) A land contract in which the legal title does not pass to the grantee until the total consideration specified in the contract has been paid
 - (p) A written instrument evidencing the transfer of mineral rights and interests
 - (q) A written instrument creating a joint tenancy between 2 or more persons if at least 1 of the persons already owns the property
 - (r) A transfer made pursuant to a bona fide sales agreement made before the date the tax is imposed under sections 3 and 4 if the sales agreement cannot be withdrawn or altered or contains a fixed price not subject to change or modification However a sales agreement for residential construction may be adjusted up to 15% to reflect changes in construction specifications
 - (s) A written instrument evidencing a contract or transfer of property to a person sufficiently related to the transferor to be considered a single employer with the transferor under section 414(b) or (c) of the internal revenue code of 1986 as amended
 - (t) A written instrument conveying an interest in homestead property for which a homestead exemption is claimed under either the school code of 1976 Act No 451 of the Public Acts of 1976 being sections 380 1 to 380 1852 of the Michigan Compiled Laws or the state education tax act Act No 331 of the Public Acts of 1993 being sections 211 901 to 211 906 of the Michigan Compiled Laws if the state equalized valuation of that homestead property is equal to or lesser than the state equalized valuation on the date of purchase or on the date of acquisition by the seller or transferor for that same interest in property If after an exemption is claimed under this subsection the sale or transfer of homestead property is found by the treasurer to be at a value other than the true cash value then a penalty equal to 20% of the tax shall be assessed in addition to the tax due under this act to the seller or transferor

Sec 8 (1) Except as provided in section 9 the payment of the tax imposed by this act shall be evidenced by the affixing of a documentary stamp or stamps to each written instrument subject to the tax imposed by this act by the person making executing issuing or delivering the written instrument The stamp required by this act may also serve as the stamp required under section 7 of Act No 134 of the Public Acts of 1966 being section 207 507 of the Michigan Compiled Laws The stamps required by this section shall be purchased only in the county in which the property is located

(2) The person using or affixing the stamps shall affix the stamps so that removal requires the continued application of steam or water The person using or affixing the stamps shall write or stamp on the stamps his or her initials and the date upon which the stamps are affixed or used so that the stamps cannot again be used

(3) The treasurer may prescribe another method of cancellation as he or she considers appropriate If the county treasurer is required to utilize a tax meter machine under section 7 of Act No 134 of the Public Acts of 1966 the tax meter machine shall be used to evidence the payment of the tax imposed by this act

Sec 9 (1) The treasurer shall prescribe and prepare for use by a county treasurer adhesive stamps of the denominations and quantities that are necessary for the payment of the tax imposed by this act and the tax imposed by Act No 134 of the Public Acts of 1966 being sections 207 501 to 207 513 of the Michigan Compiled Laws The county treasurer shall requisition the stamps as required

(2) The treasurer shall prescribe conditions under which a county treasurer may utilize a tax meter machine to evidence the payment of the tax imposed under this act or the tax imposed under Act No 134 of the Public Acts of 1966 The treasurer shall provide for the use of a tax meter machine or for the sale of the stamps in such places as he or she considers necessary

(3) The treasurer may prescribe alternate means for the county treasurer to evidence the payment of the tax under this act The treasurer shall provide the alternative means to the county treasurer if alternative means are used to evidence the payment of the tax under this act

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor