

HOUSE BILL No. 5538

February 12, 2004, Introduced by Reps. Hune, DeRossett, Hoogendyk, Sheen, Stakoe, Ward, Wenke, LaJoy, Milosch, Drolet, Stahl, Palsrok, DeRoche, Robertson, Acciavatti, Brandenburg, Caul, Woronchak, Farhat, Pastor, Mortimer and Shaffer 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 2000 PA 260,
and by adding section 7gg.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7gg. (1) For taxes levied after December 31, 2003,
2 residential development property is exempt from the collection of
3 taxes levied by a local school district for school operating
4 purposes under section 1211 of the revised school code, 1976 PA
5 451, MCL 380.1211, to the same extent that a principal residence
6 is exempt under section 7cc from taxes levied by a local school
7 district for school operating purposes under section 1211 of the
8 revised school code, 1976 PA 451, MCL 380.1211.

9 (2) As used in this section:

10 (a) "Principal residence" means that term as defined in

1 section 7dd.

2 (b) "Residential development property" means real property
3 that meets all of the following criteria:

4 (i) Is classified as residential real property under section
5 34c.

6 (ii) Is subject to 1 of the following conditions:

7 (A) A final plat for the real property is recorded pursuant
8 to the land division act, 1967 PA 288, MCL 560.101 to 560.293,
9 after the effective date of the amendatory act that added this
10 section.

11 (B) A condominium subdivision plan is completed and a master
12 deed for all or a portion of the real property is recorded
13 pursuant to the condominium act, 1978 PA 59, MCL 559.101 to
14 559.276, after the effective date of the amendatory act that
15 added this section.

16 (iii) A residential dwelling or condominium unit that is
17 occupied or that has ever been occupied is not located on the
18 real property. Residential development property may include
19 property on which is located a partially completed residential
20 dwelling, a partially completed condominium unit, a fully
21 completed residential dwelling that is not occupied and has never
22 been occupied, or a fully completed condominium unit that is not
23 occupied and has never been occupied. Residential development
24 property does not include property on which is located a
25 residential dwelling or condominium unit used for commercial
26 purposes or as an office, showroom, or model.

27 Sec. 27a. (1) Except as otherwise provided in this section,

1 property shall be assessed at 50% of its true cash value under
2 section 3 of article IX of the state constitution of 1963.

3 (2) Except as otherwise provided in subsection (3), for taxes
4 levied in 1995 and for each year after 1995, the taxable value of
5 each parcel of property is the lesser of the following:

6 (a) The property's taxable value in the immediately preceding
7 year minus any losses, multiplied by the lesser of 1.05 or the
8 inflation rate, plus all additions. For taxes levied in 1995,
9 the property's taxable value in the immediately preceding year is
10 the property's state equalized valuation in 1994.

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

12 (3) Upon a transfer of ownership of property after 1994, the
13 property's taxable value for the calendar year following the year
14 of the transfer is the property's state equalized valuation for
15 the calendar year following the transfer.

16 (4) If the taxable value of property is adjusted under
17 subsection (3), a subsequent increase in the property's taxable
18 value is subject to the limitation set forth in subsection (2)
19 until a subsequent transfer of ownership occurs.

20 (5) Assessment of property, as required in this section and
21 section 27, is inapplicable to the assessment of property subject
22 to the levy of ad valorem taxes within voted tax limitation
23 increases to pay principal and interest on limited tax bonds
24 issued by any governmental unit, including a county, township,
25 community college district, or school district, before January 1,
26 1964, if the assessment required to be made under this act would
27 be less than the assessment as state equalized prevailing on the

1 property at the time of the issuance of the bonds. This
2 inapplicability shall continue until levy of taxes to pay
3 principal and interest on the bonds is no longer required. The
4 assessment of property required by this act shall be applicable
5 for all other purposes.

6 (6) As used in this act, "transfer of ownership" means the
7 conveyance of title to or a present interest in property,
8 including the beneficial use of the property, the value of which
9 is substantially equal to the value of the fee interest.

10 Transfer of ownership of property includes, but is not limited
11 to, the following:

12 (a) A conveyance by deed.

13 (b) A conveyance by land contract. The taxable value of
14 property conveyed by a land contract executed after December 31,
15 1994 shall be adjusted under subsection (3) for the calendar year
16 following the year in which the contract is entered into and
17 shall not be subsequently adjusted under subsection (3) when the
18 deed conveying title to the property is recorded in the office of
19 the register of deeds in the county in which the property is
20 located.

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

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

1 (e) A change in the sole present beneficiary or beneficiaries
2 of a trust, except a change that adds or substitutes the spouse
3 of the sole present beneficiary.

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

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

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

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

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

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

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

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

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

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

25 (d) A transfer through foreclosure or forfeiture of a
26 recorded instrument under chapter 31, 32, or 57 of the revised
27 judicature act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and

1 MCL 600.5701 to 600.5785, or through deed or conveyance in lieu
2 of a foreclosure or forfeiture, until the mortgagee or land
3 contract vendor subsequently transfers the property. If a
4 mortgagee does not transfer the property within 1 year of the
5 expiration of any applicable redemption period, the property
6 shall be adjusted under subsection (3).

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

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

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

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

1 (i) A transfer for security or an assignment or discharge of
2 a security interest.

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

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

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

1 request by the state tax commission under this subdivision is
2 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
5 as a tax-free reorganization under section 368 of the internal
6 revenue code of 1986. Upon request by the state tax commission,
7 a property owner shall furnish proof within 45 days that a
8 transfer meets the requirements of this subdivision. A property
9 owner who fails to comply with a request by the state tax
10 commission under this subdivision is subject to a fine of
11 \$200.00.

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

1 the following shall occur:

2 (i) The taxable value of that property shall be adjusted
3 under subsection (3) as of the December 31 in the year that the
4 property ceases to be qualified agricultural property.

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

8 (o) **A transfer of residential development property. As used**
9 **in this subdivision, "residential development property" means**
10 **that term as defined in section 7gg.**

11 (8) If all of the following conditions are satisfied, the
12 local tax collecting unit shall revise the taxable value of
13 qualified agricultural property taxable on the tax roll in the
14 possession of that local tax collecting unit to the taxable value
15 that qualified agricultural property would have had if there had
16 been no transfer of ownership of that qualified agricultural
17 property since December 31, 1999 and there had been no adjustment
18 of that qualified agricultural property's taxable value under
19 subsection (3) since December 31, 1999:

20 (a) The qualified agricultural property was qualified
21 agricultural property for taxes levied in 1999 and each year
22 after 1999.

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

26 (9) If the taxable value of qualified agricultural property
27 is adjusted under subsection (8), the owner of that qualified

1 agricultural property shall not be entitled to a refund for any
2 property taxes collected under this act on that qualified
3 agricultural property before the adjustment under subsection
4 (8).

5 (10) The register of deeds of the county where deeds or other
6 title documents are recorded shall notify the assessing officer
7 of the appropriate local taxing unit not less than once each
8 month of any recorded transaction involving the ownership of
9 property and shall make any recorded deeds or other title
10 documents available to that county's tax or equalization
11 department. Unless notification is provided under subsection
12 (6), the buyer, grantee, or other transferee of the property
13 shall notify the appropriate assessing office in the local unit
14 of government in which the property is located of the transfer of
15 ownership of the property within 45 days of the transfer of
16 ownership, on a form prescribed by the state tax commission that
17 states the parties to the transfer, the date of the transfer, the
18 actual consideration for the transfer, and the property's parcel
19 identification number or legal description. Forms filed in the
20 assessing office of a local unit of government under this
21 subsection shall be made available to the county tax or
22 equalization department for the county in which that local unit
23 of government is located. This subsection does not apply to
24 personal property except buildings described in section 14(6) and
25 personal property described in section 8(h), (i), and (j).

26 (11) As used in this section:

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

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

4 (c) "Converted by a change in use" means that term as defined
5 in the agricultural property recapture act, **2000 PA 261, MCL**
6 **211.1001 to 211.1007.**

7 (d) "Inflation rate" means that term as defined in section
8 34d.

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

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