

HOUSE BILL No. 6129

September 8, 2004, Introduced by Rep. Caswell and referred to the Committee on Tax Policy.

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 2002 PA 620 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
6 that property actually and permanently invested in business in
7 another 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

1 as 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
4 value of the real property is also assessed to the lessee or
5 owner of those buildings and improvements. For taxes levied
6 after December 31, 2002, buildings and improvements located upon
7 leased real property, except buildings and improvements exempt
8 under section 9f or improvements assessable under section 8(h),
9 shall be assessed as real property under section 2 to the owner
10 of the buildings or improvements in the local tax collecting unit
11 in which the buildings or improvements are located if the value
12 of the buildings or improvements is not otherwise included in the
13 assessment of the real property. For taxes levied after December
14 31, 2001, buildings and improvements exempt under section 9f or
15 improvements assessable under section 8(h) and located on leased
16 real property shall be 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
22 section 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
2 the supports and wire or other line used for communication
3 purposes in the operation of those facilities, and the rights of
4 way and the easements or other interests in real property by
5 virtue of which the mains, pipes, supports, and wires are erected
6 and maintained, shall be assessed as personal property in the
7 local tax collecting unit where laid, placed, or located.
8 Interests in underground rock strata used for gas storage
9 purposes, whether by lease or ownership separate from the surface
10 of real property, shall be separately valued and assessed as
11 personal property in the local tax collecting unit in which it is
12 located to the person who holds the interest. Interests in
13 underground rock strata shall be reported as personal property to
14 the appropriate assessing officer for all property descriptions
15 included in the storage field in the local tax collecting unit
16 and a separate valuation shall be assessed for each school
17 district. The personal property of street railroad, plank road,
18 cable or electric railroad or transportation companies, bridge
19 companies, and all other companies not required to pay a specific
20 tax to this state in lieu of all other taxes, shall, except as
21 otherwise provided in this section, be assessed in the local tax
22 collecting unit in which the property is located, used, or laid,
23 and the track, road, or bridge of a company is considered
24 personal property. None of the property assessable as personal
25 property under this subdivision shall be affected by any
26 assessment or tax levied on the real property through or over
27 which the personal property is laid, placed, or located, nor

1 shall any right of way, easement, or other interest in real
2 property, assessable as personal property under this subdivision,
3 be extinguished or otherwise affected in case the real property
4 subject to assessment is sold in the exercise of the taxing
5 power.

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

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

1 shall become a lien against the rentals paid by the sublessee to
2 the sublessor.

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

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

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

1 public auction held by a nongovernmental agency or person if
2 those sales have become a common method of acquisition in the
3 jurisdiction for the class of property being valued. The usual
4 selling price does not include sales at public auction if the
5 sale is part of a liquidation of the seller's assets in a
6 bankruptcy proceeding or if the seller is unable to use common
7 marketing techniques to obtain the usual selling price for the
8 property. A sale or other disposition by this state or an agency
9 or political subdivision of this state of land acquired for
10 delinquent taxes or an appraisal made in connection with the sale
11 or other disposition or the value attributed to the property of
12 regulated public utilities by a governmental regulatory agency
13 for rate-making purposes is not controlling evidence of true cash
14 value for assessment purposes. In determining the true cash
15 value, the assessor shall also consider the advantages and
16 disadvantages of location; quality of soil; zoning; existing use;
17 present economic income of structures, including farm structures;
18 present economic income of land if the land is being farmed or
19 otherwise put to income producing use; quantity and value of
20 standing timber; water power and privileges; and mines, minerals,
21 quarries, or other valuable deposits known to be available in the
22 land and their value. In determining the true cash value of
23 personal property owned by an electric utility cooperative, the
24 assessor shall consider the number of kilowatt hours of
25 electricity sold per mile of distribution line compared to the
26 average number of kilowatt hours of electricity sold per mile of
27 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
4 of property for assessment purposes until the property is sold.
5 For the purpose of implementing this subsection, the assessor
6 shall not increase the construction quality classification or
7 reduce the effective age for depreciation purposes, except if the
8 appraisal of the property was erroneous before nonconsideration
9 of the normal repair, replacement, or maintenance, and shall not
10 assign an economic condition factor to the property that differs
11 from the economic condition factor assigned to similar properties
12 as defined by appraisal procedures applied in the jurisdiction.
13 The increase in value attributable to the items included in
14 subdivisions (a) to (o) that is known to the assessor and
15 excluded from true cash value shall be indicated on the
16 assessment roll. This subsection applies only to residential
17 property. The following repairs are considered normal
18 maintenance if they are not part of a structural addition or
19 completion:

- 20 (a) Outside painting.
- 21 (b) Repairing or replacing siding, roof, porches, steps,
22 sidewalks, or drives.
- 23 (c) Repainting, repairing, or replacing existing masonry.
- 24 (d) Replacing awnings.
- 25 (e) Adding or replacing gutters and downspouts.
- 26 (f) Replacing storm windows or doors.
- 27 (g) Insulating or weatherstripping.

(h) Complete rewiring.

(i) Replacing plumbing and light fixtures.

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

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

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

(m) Removing partitions to enlarge rooms.

(n) Replacing an automatic hot water heater.

(o) Replacing dated interior woodwork.

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

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

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

(c) Amounts paid for surveying the property pursuant to the last conveyance of the property. The legislature may require

1 local units of government, including school districts, to submit
2 reports of revenue lost under subdivisions (a) and (b) and this
3 subdivision so that the state may reimburse those units for that
4 lost revenue.

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

13 (4) Except as otherwise provided in this subsection, prior to
14 utilizing sales data on real property purchases, including
15 purchases by land contract, in making sales ratio studies and
16 appraisals to assess real property classified as agricultural
17 real property under section 34c, a city or township assessor, a
18 county equalization department, and the state tax commission
19 shall exclude from the sales data all sales of real property
20 classified as agricultural real property under section 34c for
21 which an affidavit has not been filed under section 27a(7)(n) and
22 the sale is not representative of the class.

23 (5) ~~-(4)-~~ As used in subsection (1), "present economic
24 income" means for leased or rented property the ordinary,
25 general, and usual economic return realized from the lease or
26 rental of property negotiated under current, contemporary
27 conditions between parties equally knowledgeable and familiar

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

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

26 (7) ~~-(6)-~~ For purposes of a statement submitted under section
27 19, the true cash value of a standard tool is the net book value

1 of that standard tool as of December 31 in each tax year as
2 determined using generally accepted accounting principles in a
3 manner consistent with the established depreciation method used
4 by the person submitting that statement. The net book value of a
5 standard tool for federal income tax purposes is not the
6 presumptive true cash value of that standard tool. As used in
7 this subsection, "standard tool" means that term as defined in
8 section 9b.