

HOUSE BILL No. 4491

March 15, 2005, Introduced by Reps. Baxter, Acciavatti, Gosselin, Nitz, Brandenburg, Taub, Vander Veen, Nofs, Gaffney, Hune, Marleau, Huizenga, Elsenheimer, Hansen, Booher, Sheen and Stakoe and referred to the Committee on Tax Policy.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 2517 and 3912 (MCL 700.2517 and 700.3912), section 2517 as amended by 2000 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2517. ~~(1) In the estate of a decedent, who died before~~
2 ~~October 1, 1993, the following apply to the opening of a safe~~
3 ~~deposit box:~~

4 ~~— (a) A safe deposit box of which the decedent was an individual~~
5 ~~or joint lessee may be opened following the decedent's death only~~
6 ~~upon compliance with the Michigan estate tax act, 1899 PA 188, MCL~~
7 ~~205.201 to 205.256.~~

8 ~~— (b) A safe deposit box of the decedent who was an individual~~

1 ~~or joint lessee and for whom a fiduciary was appointed may be~~
2 ~~opened by that fiduciary in a like manner as provided by the~~
3 ~~Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256, as it~~
4 ~~relates to deceased individuals.~~

5 ~~—— (2) In the estate of a decedent who dies after September 30,~~
6 ~~1993, the following apply to the opening of a safe deposit box:~~

7 (a) Whenever it appears to the court by petition of an
8 interested person that a safe and collateral deposit company, trust
9 company, corporation, bank, or other institution has leased to a
10 decedent, either as an individual or joint lessee, a safe deposit
11 box in the county in which the probate court has jurisdiction and
12 that the safe deposit box may contain a will of the decedent or a
13 deed to a burial plot in which the decedent is to be interred, the
14 court may issue an order directing the institution to permit the
15 person named in the order to examine the safe deposit box in the
16 presence of an officer or other authorized employee of the
17 institution. If a paper purporting to be a will of the decedent or
18 a deed to a burial plot is found in the box, the person named in
19 the order shall deliver the will or deed to the probate register or
20 his or her deputy. The probate register or his or her deputy shall
21 furnish a receipt to the person named in the order. An item
22 contained in the safe deposit box other than the will or deed shall
23 not be removed from the safe deposit box. At the time of the
24 opening of the safe deposit box, all individuals in attendance
25 shall execute a written statement certifying whether a will or deed
26 to a burial plot is found and that no other items are removed,
27 which statement shall be delivered within 7 days after execution to

1 the probate register or his or her deputy. Before the court enters
2 the order, there shall be paid to the probate register a fee of
3 \$10.00, which shall be credited to the general fund of the county.
4 If the decedent's estate is administered in a probate court in the
5 state, the party making payment of the fee may file a claim in the
6 estate for that amount, which shall be charged as a cost of
7 administration.

8 (b) The safe deposit box of an individual who is an individual
9 or joint lessee and for whom a fiduciary was appointed may be
10 opened by that fiduciary and its contents removed. If the safe
11 deposit box is jointly leased, then the fiduciary may examine the
12 safe deposit box only in the presence of an officer or other
13 authorized employee of the safe deposit and collateral company,
14 trust company, corporation, bank, or other institution. At the time
15 of the opening of the safe deposit box, all individuals in
16 attendance shall execute a written statement certifying as to what
17 is removed from the box by the fiduciary. The fiduciary shall serve
18 a copy of that statement on the other joint lessees within 7 days
19 after removing the items.

20 (c) Notwithstanding another provision of this section, a
21 surviving joint lessee of a joint safe deposit box has full access
22 to the safe deposit box.

23 Sec. 3912. (1) If property distributed in kind or a security
24 interest in that property is acquired for value by a purchaser from
25 or lender to a distributee who has received an instrument or deed
26 of distribution from the personal representative, or is so acquired
27 by a purchaser from or lender to a transferee from such a

1 distributee, the purchaser or lender takes title free of rights of
2 an interested person in the estate and incurs no personal liability
3 to the estate, or to an interested person, whether or not the
4 distribution was proper or supported by court order or the personal
5 representative's authority was terminated before execution of the
6 instrument or deed.

7 (2) This section protects a purchaser from or lender to a
8 distributee who, as personal representative, has executed a deed of
9 distribution to himself or herself, as well as a purchaser from or
10 lender to another distributee or his or her transferee. To be
11 protected under this section, a purchaser or lender does not need
12 to inquire whether a personal representative acted properly making
13 the distribution in kind, even if the personal representative and
14 the distributee are the same person, or whether the authority of
15 the personal representative had terminated before the distribution.

16 (3) A recorded instrument described in this section on which
17 an exemption listed in section 5 of 1966 PA ~~135~~ **134**, MCL 207.505,
18 or section 6 of the state real estate transfer tax act, 1993 PA
19 330, MCL 207.526, is not noted is prima facie evidence that the
20 transfer is made for value. ~~Notwithstanding this section, a~~
21 ~~purchaser or lender takes title free of the lien for Michigan~~
22 ~~estate tax only to the extent provided by section 43 of the~~
23 ~~Michigan estate tax act, 1899 PA 188, MCL 205.243.~~

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No.____ or House Bill No. 4486(request no.
26 01921'05) of the 93rd Legislature is enacted into law.