

# SENATE BILL No. 370

March 12, 2009, Introduced by Senators VAN WOERKOM, JANSEN, RICHARDVILLE, GILBERT, GARCIA, CROPSEY and KUIPERS and referred to the Committee on Commerce and Tourism.

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending section 27a (MCL 211.27a), as amended by 2008 PA 506.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 27a. (1) Except as otherwise provided in this section,  
2 property shall be assessed at 50% of its true cash value under  
3 section 3 of article IX of the state constitution of 1963.

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

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

1 property's taxable value in the immediately preceding year is the  
2 property's state equalized valuation in 1994.

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

4 (3) Upon a transfer of ownership of property after 1994, the  
5 property's taxable value for the calendar year following the year  
6 of the transfer is the property's state equalized valuation for the  
7 calendar year following the transfer.

8 (4) If the taxable value of property is adjusted under  
9 subsection (3), a subsequent increase in the property's taxable  
10 value is subject to the limitation set forth in subsection (2)  
11 until a subsequent transfer of ownership occurs. If the taxable  
12 value of property is adjusted under subsection (3) and the assessor  
13 determines that there had not been a transfer of ownership, the  
14 taxable value of the property shall be adjusted at the July or  
15 December board of review. Notwithstanding the limitation provided  
16 in section 53b(1) on the number of years for which a correction may  
17 be made, the July or December board of review may adjust the  
18 taxable value of property under this subsection for the current  
19 year and for the 3 immediately preceding calendar years. A  
20 corrected tax bill shall be issued for each tax year for which the  
21 taxable value is adjusted by the local tax collecting unit if the  
22 local tax collecting unit has possession of the tax roll or by the  
23 county treasurer if the county has possession of the tax roll. For  
24 purposes of section 53b, an adjustment under this subsection shall  
25 be considered the correction of a clerical error.

26 (5) Assessment of property, as required in this section and  
27 section 27, is inapplicable to the assessment of property subject

1 to the levy of ad valorem taxes within voted tax limitation  
2 increases to pay principal and interest on limited tax bonds issued  
3 by any governmental unit, including a county, township, community  
4 college district, or school district, before January 1, 1964, if  
5 the assessment required to be made under this act would be less  
6 than the assessment as state equalized prevailing on the property  
7 at the time of the issuance of the bonds. This inapplicability  
8 shall continue until levy of taxes to pay principal and interest on  
9 the bonds is no longer required. The assessment of property  
10 required by this act shall be applicable for all other purposes.

11 (6) As used in this act, "transfer of ownership" means the  
12 conveyance of title to or a present interest in property, including  
13 the beneficial use of the property, the value of which is  
14 substantially equal to the value of the fee interest. Transfer of  
15 ownership of property includes, but is not limited to, the  
16 following:

17 (a) A conveyance by deed.

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

25 (c) A conveyance to a trust after December 31, 1994, except if  
26 the settlor or the settlor's spouse, or both, conveys the property  
27 to the trust and the sole present beneficiary or beneficiaries are

1 the settlor or the settlor's spouse, or both.

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

5 (e) A change in the sole present beneficiary or beneficiaries  
6 of a trust, except a change that adds or substitutes the spouse of  
7 the sole present beneficiary.

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

10 (g) A conveyance by lease if the total duration of the lease,  
11 including the initial term and all options for renewal, is more  
12 than 35 years or the lease grants the lessee a bargain purchase  
13 option. As used in this subdivision, "bargain purchase option"  
14 means the right to purchase the property at the termination of the  
15 lease for not more than 80% of the property's projected true cash  
16 value at the termination of the lease. After December 31, 1994, the  
17 taxable value of property conveyed by a lease with a total duration  
18 of more than 35 years or with a bargain purchase option shall be  
19 adjusted under subsection (3) for the calendar year following the  
20 year in which the lease is entered into. This subdivision does not  
21 apply to personal property except buildings described in section  
22 14(6) and personal property described in section 8(h), (i), and  
23 (j). This subdivision does not apply to that portion of the  
24 property not subject to the leasehold interest conveyed.

25 (h) A conveyance of an ownership interest in a corporation,  
26 partnership, sole proprietorship, limited liability company,  
27 limited liability partnership, or other legal entity if the

1 ownership interest conveyed is more than 50% of the corporation,  
2 partnership, sole proprietorship, limited liability company,  
3 limited liability partnership, or other legal entity. Unless  
4 notification is provided under subsection (10), the corporation,  
5 partnership, sole proprietorship, limited liability company,  
6 limited liability partnership, or other legal entity shall notify  
7 the assessing officer on a form provided by the state tax  
8 commission not more than 45 days after a conveyance of an ownership  
9 interest that constitutes a transfer of ownership under this  
10 subdivision.

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

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

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

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

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

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

1 (d) A transfer through foreclosure or forfeiture of a recorded  
2 instrument under chapter 31, 32, or 57 of the revised judicature  
3 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3285 and MCL 600.5701  
4 to 600.5759, or through deed or conveyance in lieu of a foreclosure  
5 or forfeiture, until the mortgagee or land contract vendor  
6 subsequently transfers the property. If a mortgagee does not  
7 transfer the property within 1 year of the expiration of any  
8 applicable redemption period, the property shall be adjusted under  
9 subsection (3).

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

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

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

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

1 ownership of the property is an original owner of the property. For  
2 purposes of this subdivision, a person is an original owner of  
3 property owned by that person's spouse.

4 (i) A transfer for security or an assignment or discharge of a  
5 security interest.

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

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

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

1 company, limited liability partnership, or other legal entity that  
2 fails to comply with a request by the state tax commission under  
3 this subdivision is subject to a fine of \$200.00.

4 (m) A direct or indirect transfer of real property or other  
5 ownership interests resulting from a transaction that qualifies as  
6 a tax-free reorganization under section 368 of the internal revenue  
7 code, 26 USC 368. Upon request by the state tax commission, a  
8 property owner shall furnish proof within 45 days that a transfer  
9 meets the requirements of this subdivision. A property owner who  
10 fails to comply with a request by the state tax commission under  
11 this subdivision is subject to a fine of \$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 property.  
19 The affidavit under this subdivision shall be in a form prescribed  
20 by the department of treasury. An owner of qualified agricultural  
21 property shall inform a prospective buyer of that qualified  
22 agricultural property that the qualified agricultural property is  
23 subject to the recapture tax provided in the agricultural property  
24 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the  
25 qualified agricultural property is converted by a change in use. If  
26 property ceases to be qualified agricultural property at any time  
27 after being transferred, all of the following shall occur:

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

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

7           (o) A transfer of qualified forest property, if the person to  
8 whom the qualified forest property is transferred files an  
9 affidavit with the assessor of the local tax collecting unit in  
10 which the qualified forest property is located and with the  
11 register of deeds for the county in which the qualified forest  
12 property is located attesting that the qualified forest property  
13 shall remain qualified forest property. The affidavit under this  
14 subdivision shall be in a form prescribed by the department of  
15 treasury. An owner of qualified forest property shall inform a  
16 prospective buyer of that qualified forest property that the  
17 qualified forest property is subject to the recapture tax provided  
18 in the qualified forest property recapture tax act, 2006 PA 379,  
19 MCL 211.1031 to 211.1036, if the qualified forest property is  
20 converted by a change in use. If property ceases to be qualified  
21 forest property at any time after being transferred, all of the  
22 following shall occur:

23           (i) The taxable value of that property shall be adjusted under  
24 subsection (3) as of the December 31 in the year that the property  
25 ceases to be qualified forest property.

26           (ii) The property is subject to the recapture tax provided for  
27 under the qualified forest property recapture tax act, 2006 PA 379,

1 MCL 211.1031 to 211.1036.

2 (p) Beginning on ~~the effective date of the amendatory act that~~  
3 ~~added this subdivision~~ **DECEMBER 8, 2006**, a transfer of land, but  
4 not buildings or structures located on the land, which meets 1 or  
5 more of the following requirements:

6 (i) The land is subject to a conservation easement under  
7 subpart 11 of part 21 of the natural resources and environmental  
8 protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in  
9 this subparagraph, "conservation easement" means that term as  
10 defined in section 2140 of the natural resources and environmental  
11 protection act, 1994 PA 451, MCL 324.2140.

12 (ii) A transfer of ownership of the land or a transfer of an  
13 interest in the land is eligible for a deduction as a qualified  
14 conservation contribution under section 170(h) of the internal  
15 revenue code, 26 USC 170.

16 (q) A transfer of real property or other ownership interests  
17 resulting from a consolidation or merger of a domestic nonprofit  
18 corporation that is a boy or girl scout or camp fire girls  
19 organization, a 4-H club or foundation, a young men's Christian  
20 association, or a young women's Christian association and at least  
21 50% of the members of that organization or association are  
22 residents of this state.

23 (8) If all of the following conditions are satisfied, the  
24 local tax collecting unit shall revise the taxable value of  
25 qualified agricultural property taxable on the tax roll in the  
26 possession of that local tax collecting unit to the taxable value  
27 that qualified agricultural property would have had if there had

1 been no transfer of ownership of that qualified agricultural  
2 property since December 31, 1999 and there had been no adjustment  
3 of that qualified agricultural property's taxable value under  
4 subsection (3) since December 31, 1999:

5 (a) The qualified agricultural property was qualified  
6 agricultural property for taxes levied in 1999 and each year after  
7 1999.

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

11 (9) If the taxable value of qualified agricultural property is  
12 adjusted under subsection (8), the owner of that qualified  
13 agricultural property shall not be entitled to a refund for any  
14 property taxes collected under this act on that qualified  
15 agricultural property before the adjustment under subsection (8).

16 (10) The register of deeds of the county where deeds or other  
17 title documents are recorded shall notify the assessing officer of  
18 the appropriate local taxing unit not less than once each month of  
19 any recorded transaction involving the ownership of property and  
20 shall make any recorded deeds or other title documents available to  
21 that county's tax or equalization department. Unless notification  
22 is provided under subsection (6), the buyer, grantee, or other  
23 transferee of the property shall notify the appropriate assessing  
24 office in the local unit of government in which the property is  
25 located of the transfer of ownership of the property within 45 days  
26 of the transfer of ownership, on a form prescribed by the state tax  
27 commission that states the parties to the transfer, the date of the

1 transfer, the actual consideration for the transfer, and the  
2 property's parcel identification number or legal description. Forms  
3 filed in the assessing office of a local unit of government under  
4 this subsection shall be made available to the county tax or  
5 equalization department for the county in which that local unit of  
6 government is located. This subsection does not apply to personal  
7 property except buildings described in section 14(6) and personal  
8 property described in section 8(h), (i), and (j).

9 (11) IF A TRANSFER OF OWNERSHIP OF PROPERTY WILL RESULT IN AN  
10 ADJUSTMENT OF THE PROPERTY'S TAXABLE VALUE UNDER SUBSECTION (3), A  
11 PERSON WHO PREPARES A CLOSING STATEMENT FOR THE SALE OF THAT  
12 PROPERTY SHALL PROVIDE TO THE BUYER AT CLOSING A STATEMENT OF HIS  
13 OR HER ESTIMATED PROPERTY TAX LIABILITY AFTER THE TRANSFER OF  
14 OWNERSHIP OCCURS. THE STATEMENT SHALL BE SIGNED BY THE PERSON WHO  
15 PREPARES THE CLOSING STATEMENT, EACH REALTOR INVOLVED IN THE  
16 TRANSFER OF OWNERSHIP, AND THE BUYER. IF NO CLOSING STATEMENT IS  
17 PREPARED, THE STATEMENT SHALL BE SIGNED BY THE SELLER, EACH REALTOR  
18 INVOLVED IN THE TRANSFER OF OWNERSHIP, AND THE BUYER.

19 (12) ~~(11)~~—As used in this section:

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

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

24 (c) "Converted by a change in use" means that term as defined  
25 in the agricultural property recapture act, 2000 PA 261, MCL  
26 211.1001 to 211.1007.

27 (d) "Inflation rate" means that term as defined in section

1 34d.

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

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

5 (g) "Qualified forest property" means that term as defined in  
6 section 7jj[1].