

HOUSE BILL No. 4173

February 10, 2015, Introduced by Reps. Maturen, Webber, Iden, Lyons, Irwin and Heise and referred to the Committee on Tax Policy.

A bill to amend 1993 PA 330, entitled
"State real estate transfer tax act,"
by amending sections 3 and 6 (MCL 207.523 and 207.526), as amended
by 2008 PA 473.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is imposed, in addition to all other taxes,
2 a tax upon the following written instruments executed within this
3 state when the instrument is recorded:

4 (a) Contracts for the sale or exchange of property or any
5 interest in the property or any combination of sales or exchanges
6 or any assignment or transfer of property or any interest in the
7 property.

8 (b) Deeds or instruments of conveyance of property or any
9 interest in property, for consideration.

1 (c) Contracts for the transfer or acquisition of a controlling
2 interest in any entity only if the real property owned by that
3 entity comprises 90% or more of the fair market value of the assets
4 of the entity determined in accordance with generally accepted
5 accounting principles which shall be recorded.

6 (2) The person who is the seller or grantor of the property is
7 liable for the tax imposed under this act.

8 (3) The tax imposed under this act shall be paid to the county
9 treasurer where the real property is located not later than 15 days
10 after the delivery of the instrument effecting the conveyance by
11 the seller or grantor to the buyer or grantee or not later than 15
12 days after the transfer of a controlling interest in any entity
13 with an interest in the real property. For purposes of this
14 section, the date of the instrument effecting the transfer is
15 presumed to be the date of delivery of the instrument.

16 (4) AFTER THE TAX IS PAID, IF THE SELLER OR THE BUYER WHO HAS
17 PAID THE TAX ON BEHALF OF THE SELLER DETERMINES THAT THE PROPERTY
18 WAS ELIGIBLE FOR AN EXEMPTION UNDER SECTION 6 AT THE TIME OF THE
19 TRANSFER, THE SELLER OR THE BUYER WHO HAS PAID THE TAX ON BEHALF OF
20 THE SELLER MAY REQUEST A REFUND FROM THE DEPARTMENT OF TREASURY IN
21 A FORM AND MANNER DETERMINED BY THE DEPARTMENT OF TREASURY. THE
22 DEPARTMENT OF TREASURY SHALL PAY THE REFUND IF IT DETERMINES THAT
23 THE PROPERTY WAS ELIGIBLE FOR THE EXEMPTION UNDER SECTION 6 AT THE
24 TIME OF THE TRANSFER. THIS SUBSECTION IS INTENDED TO BE RETROACTIVE
25 AND APPLIES TO A SALE, EXCHANGE, ASSIGNMENT, OR TRANSFER BEGINNING
26 4 YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY
27 ACT THAT ADDED THIS SUBSECTION.

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

3 (a) A written instrument in which the value of the
4 consideration for the property is less than \$100.00.

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

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

11 (d) A written instrument given as security or an assignment or
12 discharge of the security interest.

13 (e) A written instrument evidencing a lease, including an oil
14 and gas lease, or a transfer of a leasehold interest.

15 (f) A written instrument evidencing an interest that is
16 assessable as personal property.

17 (g) A written instrument evidencing the transfer of a right
18 and interest for underground gas storage purposes.

19 (h) Any of the following written instruments:

20 (i) A written instrument in which the grantor is the United
21 States, this state, a political subdivision or municipality of this
22 state, or an officer of the United States or of this state, or a
23 political subdivision or municipality of this state, acting in his
24 or her official capacity.

25 (ii) A written instrument given in foreclosure or in lieu of
26 foreclosure of a loan made, guaranteed, or insured by the United
27 States, this state, a political subdivision or municipality of this

1 state, or an officer of the United States or of this state, or a
2 political subdivision or municipality of this state, acting in his
3 or her official capacity.

4 (iii) A written instrument given to the United States, this
5 state, or 1 of their officers acting in an official capacity as
6 grantee, pursuant to the terms or guarantee or insurance of a loan
7 guaranteed or insured by the grantee.

8 (i) A conveyance from a husband or wife or husband and wife
9 creating or disjoining a tenancy by the entirety in the grantors
10 or the grantor and his or her spouse.

11 (j) A conveyance from an individual to that individual's
12 child, stepchild, or adopted child.

13 (k) A conveyance from an individual to that individual's
14 grandchild, step-grandchild, or adopted grandchild.

15 (l) A judgment or order of a court of record making or ordering
16 a transfer, unless a specific monetary consideration is specified
17 or ordered by the court for the transfer.

18 (m) A written instrument used to straighten boundary lines if
19 no monetary consideration is given.

20 (n) A written instrument to confirm title already vested in a
21 grantee, including a quitclaim deed to correct a flaw in title.

22 (o) A land contract in which the legal title does not pass to
23 the grantee until the total consideration specified in the contract
24 has been paid.

25 (p) A conveyance that meets 1 of the following:

26 (i) A transfer between any corporation and its stockholders or
27 creditors, between any limited liability company and its members or

1 creditors, between any partnership and its partners or creditors,
2 or between a trust and its beneficiaries or creditors when the
3 transfer is to effectuate a dissolution of the corporation, limited
4 liability company, partnership, or trust and it is necessary to
5 transfer the title of real property from the entity to the
6 stockholders, members, partners, beneficiaries, or creditors.

7 (ii) A transfer between any limited liability company and its
8 members if the ownership interests in the limited liability company
9 are held by the same persons and in the same proportion as in the
10 limited liability company prior to the transfer.

11 (iii) A transfer between any partnership and its partners if the
12 ownership interests in the partnership are held by the same persons
13 and in the same proportion as in the partnership prior to the
14 transfer.

15 (iv) A transfer of a controlling interest in an entity with an
16 interest in real property if the transfer of the real property
17 would qualify for exemption if the transfer had been accomplished
18 by deed to the real property between the persons that were parties
19 to the transfer of the controlling interest.

20 (v) A transfer in connection with the reorganization of an
21 entity and the beneficial ownership is not changed.

22 (q) A written instrument evidencing the transfer of mineral
23 rights and interests.

24 (r) A written instrument creating a joint tenancy between 2 or
25 more persons if at least 1 of the persons already owns the
26 property.

27 (s) A transfer made pursuant to a bona fide sales agreement

1 made before the date the tax is imposed under sections 3 and 4, if
 2 the sales agreement cannot be withdrawn or altered, or contains a
 3 fixed price not subject to change or modification.

4 (t) A written instrument evidencing a contract or transfer of
 5 property to a person sufficiently related to the transferor to be
 6 considered a single employer with the transferor under section
 7 414(b) or (c) of the internal revenue code of 1986, 26 USC 414.

8 (u) A written instrument conveying an interest in property for
 9 which an exemption is claimed under section 7cc of the general
 10 property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized
 11 valuation of that property is equal to or lesser than the state
 12 equalized valuation on the date of purchase or on the date of
 13 acquisition by the seller or transferor for that same interest in
 14 property. If after an exemption is claimed under this subsection,
 15 the sale or transfer of property is found by the treasurer to be at
 16 ~~a value other than the true cash~~ **AN AMOUNT GREATER THAN 2 TIMES THE**
 17 **STATE EQUALIZED** value, then a penalty equal to 20% of the tax shall
 18 be assessed in addition to the tax due under this act to the seller
 19 or transferor. **THE AMENDMENT TO THIS SUBDIVISION ADDED BY THE**
 20 **AMENDATORY ACT THAT ADDED THIS SENTENCE IS INTENDED TO BE**
 21 **RETROACTIVE AND APPLY TO SALES OR TRANSFERS BEGINNING 4 YEARS**
 22 **IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
 23 **ADDED THIS SENTENCE.**

24 (v) A written instrument transferring an interest in property
 25 pursuant to a foreclosure of a mortgage including a written
 26 instrument given in lieu of foreclosure of a mortgage. This
 27 exemption does not apply to a subsequent transfer of the foreclosed

1 property by the entity that foreclosed on the mortgage.

2 (w) A written instrument conveying an interest from a
3 religious society in property exempt from the collection of taxes
4 under section 7s of the general property tax act, 1893 PA 206, MCL
5 211.7s, to a religious society if that property continues to be
6 exempt from the collection of taxes under section 7s of the general
7 property tax act, 1893 PA 206, MCL 211.7s.