

State Tax Commission Bulletin No. 16 of 1995
September 20, 1995
"Transfers of Ownership"

DATE: September 20, 1995
TO: Assessors, Equalization Directors
FROM: State Tax Commission (STC)

RE: "TRANSFERS OF OWNERSHIP" AS CONTAINED IN PUBLIC ACT 415 OF 1994

On March 15, 1994, the voters of the State of Michigan approved Proposal A which includes significant changes to Section 3 of Article IX of the State Constitution.

The following language from Proposal A has caused many changes in property tax procedures starting with 1995 assessments:

For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. **WHEN OWNERSHIP OF THE PARCEL OF PROPERTY IS TRANSFERRED AS DEFINED BY LAW, THE PARCEL SHALL BE ASSESSED AT THE APPLICABLE PROPORTION OF CURRENT TRUE CASH VALUE.**

This bulletin will address that part of the implementation of Proposal A which deals with the last sentence of the language above regarding transfers.

The result of Proposal A and 1994 PA 415 is to require, beginning with 1996 assessment rolls, that each Michigan Assessing Officer USE THE CURRENT YEAR'S STATE EQUALIZED VALUATION OF ANY PARCEL WHICH HAS EXPERIENCED A "TRANSFER OF OWNERSHIP" DURING THE PRIOR YEAR AS THE TAXABLE VALUE FOR DETERMINING THE PROPERTY TAXES OF THAT PARCEL OF PROPERTY ACCORDING TO THE INSTRUCTIONS THAT FOLLOW. This process, which is described in the following pages, will be referred to as the "uncapping" of Taxable Valuations. An uncapped Taxable Valuation shall be the State Equalized Valuation of the parcel of property for the year following a "transfer of ownership". Taxable Value, as in 1995, is the lower of State Equalized Value or the result of the Capped Value equation described in STC Bulletin #3 of 1995 for each individual property. It should be noted that the Capped Valuation calculation has changed in two notable respects for 1996 from what it was in 1995. They are labeled 1 & 2 below:

1) For 1996, the Capped Value calculations begin with the 1995 Taxable Value for the property, NOT with the 1995 State Equalized Value.

2) For 1996, the Value Change Multiplier will be implemented for the first time by many assessing units. The Value Change Multiplier, sometimes referred to as the "Supercap", is explained in STC Bulletin #3 of 1995 starting on page 3.

The Capped Value Formula and the Value Change Multiplier Formula are contained in the glossary at the end of this bulletin.

Public Act (PA) 415 contains many significant changes to the General Property Tax Act regarding the implementation of Proposal A. Section 27a and 27b of the Act are included with this bulletin because they deal specifically with transfers. As mentioned above, **there is also a GLOSSARY OF TERMS at the end of this bulletin. There are many items defined in the GLOSSARY OF TERMS which are not defined in the main part of this bulletin.**

A) The Taxable Values of Properties Experiencing a "Transfer of Ownership" in the Immediately Preceding Year are Uncapped Starting in 1996.

Section 27a(3) of PA 415 of 1994 states the following:

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

THIS MEANS THAT "TRANSFERS OF OWNERSHIP" BEGIN JANUARY 1, 1995 AND THAT THE 1996 TAXABLE VALUES OF PROPERTIES WHICH HAVE EXPERIENCED A "TRANSFER OF OWNERSHIP" IN 1995 WILL BE THE SAME AS THE 1996 STATE EQUALIZED VALUES (SEV) OF THE PROPERTIES. THIS PROCESS OF MAKING THE TAXABLE VALUE THE SAME AS THE SEV IN THE YEAR FOLLOWING A "TRANSFER OF OWNERSHIP" WILL BE REFERRED TO IN THIS BULLETIN AS "UNCAPPING THE TAXABLE VALUE". "TRANSFER OF OWNERSHIP" WILL BE DEFINED IN PARAGRAPH B BELOW.

Starting in the 1996 assessment year, the taxable value of properties which have experienced a "transfer of ownership" in the previous year shall be adjusted to be the State Equalized Value (SEV) of the property for the year following the "transfer of ownership" (regardless of the answer produced by the capped value formula.) In other words, properties which experience a "transfer of ownership" anytime during calendar year 1995, will have their taxable values uncapped in 1996.

The taxable value of uncapped properties shall then be capped again in the second year following the "transfer of ownership", until the year following the next "transfer of ownership".

IMPORTANT: The law requires that in the year following a "transfer of ownership", the taxable value SHALL BE uncapped. The assessor does NOT have

the authority to refuse to uncap the Taxable Value in the year following a "transfer of ownership".

Regarding the transfer of individual properties, the assessor is required to make 2 determinations:

1) The assessor shall determine whether each individual transfer meets the definition of a "transfer of ownership", ("Transfer of ownership" will be defined in paragraph B below.)

Some transfers (such as a transfer from one spouse to another) are not "transfers of ownership" and their Taxable Values are NOT uncapped in the year following the transfer.

Those transfers which are "transfers of ownership" SHALL have their Taxable Values uncapped in the year following the "transfer of ownership".

2) The assessor shall continue to determine the SEV of all properties for each year. The SEV of a parcel of property which has experienced a "transfer of ownership" in the prior year SHALL become the Taxable Value for the year following the "transfer of ownership". The assessor is not required to calculate a CAPPED VALUE for a property which has experienced a "transfer of ownership" in the immediately preceding year since the SEV will become the Taxable Value for that year. Even though it is not necessary to calculate a Capped Value for properties which have experienced a "transfer of ownership" in the prior year, it is still necessary to keep track of additions and losses for these properties since that information is needed for the millage rollback calculations.

The assessor shall follow the same procedures for determining the assessed value and SEV of properties which have experienced a "transfer of ownership" as are used for properties which have not experienced a "transfer of ownership".

Michigan Compiled Law (MCL) 211.27(5) states the following:

(5) Beginning December 31, 1994, the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction.

In the year following a sale which is determined to be a "transfer of ownership", the SEV of the property will not necessarily equal 1/2 of the sale price. An individual sale price is not always a good indicator of the true cash value of the property due to a variety of reasons such as an unformed

buyer, an uninformed seller, insufficient marketing time, buyer and seller are relatives, and other possible reasons.

The assessment SHALL be set at a uniform level with other similar properties in the assessing unit. For example, if properties in the residential class of a unit are generally assessed at 48% of true cash value and, though it is not good assessment practice, the assessor intends to take an equalization factor, the assessment of properties which have experienced a "transfer of ownership" in the prior year should also be established at 48%. **Important: MCL 211.27a requires that property shall be assessed at 50% of its true cash value. Also, the rules of the State Assessors Board state that if an assessing unit receives a state equalized multiplier of more than 1.10, "that fact shall be sufficient cause for the board to conduct a hearing to determine if the certification of the assessor who prepared the assessment roll shall be revoked or suspended".**

Neither Proposal A nor its implementing language authorizes assessors to "follow sales" when determining the assessed value of properties. "Following sales" is described in the Assessor's Manual as the practice of ignoring the assessment of properties which have not recently been sold while making significant changes to the assessments of properties which have been sold.

B) "Transfers of Ownership" Defined

PA 415 defines "transfers of ownership" and also provides that the "Buyers" of properties which have experienced a "transfer of ownership" must notify the assessor when a "transfer of ownership" has occurred. The details of the notification process will be addressed later in this bulletin.

A "transfer of ownership" is defined in PA 415 as "the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest." Fee interest (also known as fee simple interest) is defined in the Glossary of Terms.

IMPORTANT: The definition of a "transfer of ownership" found in PA 415 of 1994 is different from the definitions used to determine whether a state or local transfer tax must be paid to the Register of Deeds.

"Transfers of Ownership" start on January 1, 1995. Generally the day the instrument (such as a deed) is delivered to the transferee (buyer) is the date of the transfer. The date the instrument is delivered is usually the same as the date shown on the instrument. The date the instrument is delivered is frequently NOT the same as the date that the instrument

is recorded with the register of deeds.

"TRANSFERS OF OWNERSHIP" INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

1) A Conveyance by Deed is a "Transfer of Ownership" (MCL 211.27a(6)(a)).

A CONVEYANCE is a written instrument (such as a deed or a lease) that passes an interest in real property from one person to another. Conveyance is a general term which INCLUDES "transfers of ownership" though many conveyances are not "transfers of ownership."

The two types of deeds that are most often used are the warranty deed and the quitclaim deed. Warranty deed and quitclaim deeds are defined in the Glossary of Terms.

There are situations when a conveyance by quitclaim deed is NOT a "transfer of ownership". An example would be the situation where a quitclaim deed is used only for the purpose of settling a title dispute and no "beneficial use" of the property is actually transferred.

There are also situations when a conveyance by warranty deed is not a "transfer of ownership". These situations will be explained later in this bulletin.

2) A Conveyance by Land Contract is a "Transfer of Ownership" (MCL 211.27a(6)(b))

Land Contract is defined in the Glossary of Terms.

For the purposes of determining the date of the "transfer of ownership", a conveyance by land contract occurs on the date that the contract is entered into, NOT at the end of the contract when the deed is given.

If a land contract is entered into PRIOR to January 1, 1995, it is not a "transfer of ownership" even if the land contract is paid off and the deed is given in 1995 or thereafter. This is true because "transfers of ownership" start on January 1, 1995.

A "transfer of ownership" also occurs when a second buyer assumes the land contract of a first buyer.

EXAMPLE: A sells to B on a land contract. Later B sells to C who takes over the land contract payments. A "transfer of ownership" occurs when A sells to B and a "transfer of ownership" ALSO occurs when B sells to C.

A "transfer of ownership" does NOT occur when a seller (vendor) on a land contract sells his/her interest in the land contract.

EXAMPLE: A sells to B on a land contract. Later on A sells her vendor's interest to D and D receives the land contract payments rather than A. A "transfer of ownership" occurs when A sells the property to B on a land contract, but a "transfer of ownership" does NOT occur when A sells the contract document (and the right to receive land contract payments) to D.

3) Certain Conveyances to a Trust are "Transfers of Ownership" (MCL 211.27a(6)(c))

Before discussing conveyances to a trust, it is necessary to provide some general information about trusts. There are many types of trusts which have many different purposes. The most common type of trust is the revocable family trust. The following 2 definitions will help the reader to understand the revocable family trust.

The SETTLOR of a trust is the person(s) who creates the trust.

The BENEFICIARY of a trust is the person(s) who has the enjoyment and the beneficial use of the property during the life of the trust.

Typically, in the revocable family trust, parents (acting as settlors) deed their property to a trust and name themselves as beneficiaries and trustees of the trust. As beneficiaries, the parents have the use of the property during their lifetimes. As trustees, the parents control the property for the trust. Frequently the children are named as contingent beneficiaries (defined below) and they become actual beneficiaries upon the death of the parents.

When the trust ends, the property is deeded by the trust to the distributee(s) as specified by the trust.

A conveyance TO a trust is a "transfer of ownership", BUT NOT if the sole present beneficiary or beneficiaries of the trust are also the settlor of the trust or the settlor's spouse or both.

EXAMPLE: If person A conveys property to a trust and this same person, as beneficiary, has the sole use of the property during the life of the trust, a "transfer of ownership" has NOT occurred.

If the beneficiaries of a trust include a person who is not a settlor or the settlor's spouse, a "transfer of ownership" has occurred and the Taxable Value of the entire property shall be uncapped in the following year.

EXAMPLE: If A conveys property to a trust and the **present** beneficiaries are A and a child B, a "transfer of ownership" of the entire property has occurred because A is not the sole present beneficiary. See also the example below involving children who are contingent beneficiaries.

A CONTINGENT BENEFICIARY is a person who is NOT now a beneficiary but will become a beneficiary if some specified event occurs in the future.

EXAMPLE: A husband and wife convey property to a trust and name themselves as beneficiaries and their children as contingent beneficiaries. The children do not become beneficiaries until the death of the parents. In this example, a "transfer of ownership" occurs upon the death of the parents, when the children actually become beneficiaries, NOT when the property is originally conveyed to the trust.

4) Certain Conveyances by Distribution from a Trust are "Transfers of Ownership" (MCL 211.27a(6)(d))

A conveyance by distribution FROM a trust is a "transfer of ownership", but NOT if the distributee of the trust (defined below) is also the sole present beneficiary or the spouse of the sole present beneficiary or both. If the distributees include anyone who was not a sole present beneficiary or a spouse of a sole present beneficiary, a "transfer of ownership" of the entire property has occurred and the Taxable Value shall be uncapped in the year following the "transfer of ownership".

A DISTRIBUTEE of a trust is a person who receives a share of the property of a trust when the property is distributed.

EXAMPLE: If person A (beneficiary) gets to use a property during the life of a trust and is also the person to whom the property is distributed (distributee) at the end of the trust, there is NO "transfer of ownership" when the property is distributed from the trust.

5) Certain Changes in the Sole Present Beneficiary of a Trust are "Transfers of Ownership" (MCL 211.27a (6)(e))

A change in the sole present beneficiary or beneficiaries of a trust is a "transfer of ownership", BUT NOT if the change merely adds or substitutes the spouse of the sole present beneficiary.

EXAMPLE: If person A is the sole present beneficiary of a trust and person A's spouse is

also made a beneficiary, there is NO "transfer of ownership".

EXAMPLE: If A and B who are husband and wife are the beneficiaries of a trust and they add their child C as an additional present beneficiary, a "transfer of ownership" of the entire property has occurred and the Taxable Value of the entire property shall be uncapped in the year following the "transfer of ownership". In this example, the child was added as a present beneficiary, NOT as a contingent beneficiary.

6) Certain Conveyances by Distribution Under a Will or by Intestate (No Will) Succession are "Transfers of Ownership" (MCL 211.27a(6)(f))

A conveyance of a deceased person's property as directed by a will or as directed by a court (when there is no will) is a "transfer of ownership" BUT NOT if the person receiving the property is the deceased person's spouse.

The conveyance occurs when the property is distributed which is usually different from the day the person dies.

EXAMPLE: If A dies and if A's property goes to A's spouse, there is NO "transfer of ownership".

IMPORTANT EXAMPLE: If A dies and the property goes to A's spouse and A's children jointly, a "transfer of ownership" of the entire property has occurred in spite of the provisions regarding tenancy in common found in item 9 on page 10 of this bulletin and in spite of the provisions regarding joint tenancy found in item 8 on page 15 of this bulletin.

7) Certain Conveyances by Lease are "Transfers of Ownership" (MCL 211.27a(6)(g)).

A lease of real property , ENTERED INTO AFTER DECEMBER 31, 1994, is a "transfer of ownership" if ONE OR BOTH of the following conditions exist:

a) The total length of the lease including the initial term AND the term(s) of all options to renew the lease is MORE THAN 35 YEARS.

b) The lease gives the lessee (usually the tenant) a bargain purchase option. "Bargain purchase option" means the right to purchase the property at the end of the lease for 80% or less of the property's projected true cash value at the end of the lease. Even though a lease is less than 35 years long, it will still be a "transfer of ownership" if there is a "bargain purchase option".

The date of a conveyance by lease is the date when the lease term starts.

There has been concern expressed about the situation where only one tenant of a multi-tenant property (such as a shopping center) enters into a lease of more than 35 years. The

language of PA 415 of 1994 appears to state that, in this situation, the taxable value of the entire property shall be uncapped. Legislation is being proposed which would allow a partial uncapping when, for example, only 1 of the tenants of a multi-tenant property is involved in a "transfer of ownership" by lease. You will be informed in a future bulletin if this proposed change becomes law.

The STC advises that a "transfer of ownership" does not occur when a lease expires and the use of the property returns to the landlord.

"Transfers of Ownership" DO NOT include the leasing of PERSONAL PROPERTY.

Transfers of Ownership" DO include the following two situations even though they involve property assessed on the personal property roll, provided they meet the criteria in "a" or "b" above.

- i) The leasing of buildings on leased land provided the lease meets one or both of the requirements of "a" and "b" above.
- ii) The leasing of property assessed under the provisions of Michigan Compiled Laws (MCL) 211.8(h), (i), or (j) provided the lease meets one or both of the requirements of "a" and "b" above.

Properties assessed under the provisions of MCL 211.8(h), (i), and (j) include tenant-installed leasehold improvements (and structures) which add to the true cash value of the real property and the value of sandwich leases in which the sublessor receives net rentals in excess of net rentals required to be paid by the sublessor. See STC Bulletin No. 4 of 1985 for more information about these situations.

8) Certain Conveyances of An Ownership Interest in a Corporation, Partnership, Sole Proprietorship, Limited Liability Company, Limited Liability Partnership, or Other Legal Entity are "Transfers of Ownership" MCL 211.27a(6)(h)).

A conveyance of an ownership interest in one of the following is a "transfer of ownership" provided the ownership interest conveyed is **MORE THAN 50%** of the total ownership: (The legal cite is given for several of the items below where they are defined in the law. Non-legal definitions of these items are contained in the glossary at the end of this bulletin)

- a) Corporation (MCL 450.1104 et seq.)
- b) Partnership (MCL 449.1 et seq.)
- c) Sole Proprietorship
- d) Limited Liability Partnership (MCL 450.4102 et seq.)
- e) Limited Liability Company (MCL 450.4102 et. seq.)
- f) Other Legal Entity

If more than 50% of the total ownership interest in one of the above is conveyed, the Taxable Value of any real property owned by the entity shall be uncapped in the year following the "transfer of ownership".

If one buyer or more than one buyer gradually purchases an ownership interest in one of the entities named above over an extended period of time, a "transfer of ownership" occurs when the total purchased interest adds up to more than 50% of the total ownership. Please note the exception in the caution below.

CAUTION: Normal public trading of shares of stock or other ownership interest that, over any period of time, cumulatively represent more than 50% of the total ownership interest in a corporation or other legal entity and are traded in multiple transactions involving unrelated individuals, institutions, or other legal entities is NOT A "TRANSFER OF OWNERSHIP". Note that this exception involves NORMAL PUBLIC trading and UNRELATED individuals. A further explanation of "normal public trading" is provided in item #11 on page 18 of this bulletin.

Please note also that the following conveyances are NOT "transfers of ownership":

- a) A transfer among members of an affiliated group.
- b) A transfer among legal entities which are commonly controlled.
- c) A transaction that qualifies as a tax-free reorganization.

A further explanation of these types of transfers is provided starting on page 18 of this bulletin.

The language of section 27a(6)(h) of PA 415 requires the legal entity itself (such as a corporation) to report the "transfer of ownership" to the assessor, unless the buyer reports it.

9) Transfers of Property Held as Tenancy in Common are "Transfers of Ownership" (MCL 211.27a(6)(i))

Tenancy in common may be defined as a type of co-ownership in which the co-owners own a partial interest in an entire property and when one of the co-owners dies, the ownership interest of the person who has died goes into his/her estate, not automatically to the surviving co-owners.

The ownership interests in a tenancy in common do not have to be equal shares. Thus, if there are 2 owners by tenancy in common, their ownership interests could be 70% and 30%.

A tenancy in common can be recognized by looking at the language on the deed or land contract which describes the grantee (buyer). Usually when a tenancy in common is being created, the language of the deed or land contract will say "as tenants in common" after the names of the grantees (buyers), for example, "to A and B as tenants in common." If the language merely says "to A and B", a tenancy in common is presumed to be created, assuming that A and B are not married. This is true because in Michigan a tenancy in common is presumed to be the intent when property is conveyed to 2 or more persons and no descriptive language is included.

A conveyance of property held as a tenancy in common is a "transfer of ownership", but only that portion of the property which is actually conveyed. Thus a partial "transfer of ownership" is possible which will result in the uncapping of only a part of the taxable value.

EXAMPLE: Two people own cottages on back lots and also co-own a separate lot for access to the lake as tenants in common. Owner A decides to sell his cottage and also his interest in the access lot. The sale of owner A's interest in the access lot is a "transfer of ownership" but B's ownership interest in the access lot has not transferred.

Tenancy in common and certain transfers subject to a life lease (see page 12 of this bulletin) are the **ONLY** types of ownership under which **part of a property's taxable** value may be uncapped in the year following a "transfer of ownership" rather than the entire taxable value of the parcel. There is proposed legislation which would also allow a partial uncapping for "transfers of ownership" by lease when, for example, only 1 of the tenants of a multi-tenant property is involved in a "transfer of ownership" by lease. You will be informed in a future bulletin if this proposed change becomes law.

In a situation where TWO PARTNERSHIPS own a property as tenants in common and ALL of one of the two partnerships conveys its interest in the property, the provisions of #9 above regarding tenancy in common take precedence over the provisions of #8 above regarding partnerships. Therefore, if this conveyance is a "transfer of ownership", only the taxable value of the part conveyed shall be uncapped in the following year, NOT the total taxable value.

"TRANSFERS OF OWNERSHIP" DO NOT INCLUDE THE FOLLOWING:

1) A Transfer from One Spouse to the Other Spouse is NOT a "Transfer of Ownership" (MCL 211.27a(7)(a))

A SPOUSE is a husband or a wife.

A transfer of property from one spouse to the other spouse OR from a deceased spouse to a surviving spouse is NOT a "transfer of ownership".

2) Certain Transfers Creating or Disjoining a Tenancy by the Entireties are NOT "Transfers of

Ownership"(MCL 211.27a(7)(b))

TENANCY BY THE ENTIRETIES is a form of joint tenancy where the co-owners are husband and wife and when the husband or wife dies, the property goes to the surviving spouse. In a tenancy by the entireties, neither husband nor wife can sell the property unless the other one joins in.

A tenancy by the entireties can be recognized by looking at the language on the deed or land contract which describes the grantee (buyer). If one of the following is used, a tenancy by the entireties is being created:

- a) "to John and Mary Doe, his wife"
- b) "to John and Mary Doe, husband and wife"
- c) "to John and Mary Doe, as tenants by the entireties"

A transfer FROM a husband, a wife, or both WHOSE PURPOSE IS TO CREATE OR DISJOIN (UNDO) A TENANCY BY THE ENTIRETIES in the grantors or the grantor and his or her spouse is NOT a "transfer of ownership".

A transfer whose purpose is to create a tenancy by the entireties frequently occurs when a property owner marries and then deeds the property to himself/herself and his/her spouse. A transfer whose purpose is to disjoin a tenancy by the entireties frequently occurs when a divorce occurs and the jointly owned property is divided up between the former husband and wife.

When a husband and wife sell a property to a third party which they held as a tenancy by the entireties, a "transfer of ownership" DOES occur because this is not a transfer whose purpose is to disjoin a tenancy by the entireties.

3) Certain Transfers Subject to a Life Lease are NOT "Transfers of Ownership" (MCL 211.27a(7)(c))

A LIFE LEASE occurs when an owner transfers ownership of his/her property to someone else but keeps the right to use, occupy, and control the property during his/her lifetime.

A transfer subject to a life lease RETAINED BY THE TRANSFEROR (SELLER) is NOT a "transfer of ownership" until the life lease (life estate) ends.

The terms life lease and life estate mean the same thing for the purposes of this law.

EXAMPLE: Jane Doe sells her house in 1995 but keeps a life lease. A "transfer of ownership" does NOT occur in 1995. Jane dies in 1997 and the life lease ends. A "transfer of ownership" DOES occur in 1997 and the taxable value is uncapped in 1998.

If a life lease ends in 1995 or thereafter, a "transfer of ownership" occurs (assuming no

other exception applies) even if the original transfer which created the life lease occurred prior to 1995.

Frequently a person who owns a large-acreage parcel, which includes a house, sells the total parcel but keeps a life lease on the house and a few acres only. In this situation, the STC advises that the sale of the few acres subject to the life lease IS NOT a "transfer of ownership" until the life lease ends but the sale of the remaining large acreage parcel IS a "transfer of ownership" when the sale occurs.

4) Certain Transfers Through Foreclosure or Forfeiture are NOT "Transfers of Ownership" (MCL 211.27a(7)(d))

A transfer through foreclosure or forfeiture of a recorded instrument (usually a mortgage or land contract) under the provisions of MCL 600.3101 to 600.3280 OR of MCL 600.5701 to 600. 5785 is NOT a "transfer of ownership". A transfer of property through a deed or a conveyance in lieu of a foreclosure or forfeiture is also NOT a "transfer of ownership".

The above cited laws deal with: a) the foreclosures of mortgages and land contracts through circuit court proceedings (MCL 600.3101). b) the foreclosure of mortgages by advertisement (MCL 600.3201). c) the forfeiture of property by summary proceedings (MCL 600.5701)

Most mortgages are foreclosed by advertisement (MCL 600.3201). A Sheriff's Deed is used when a foreclosure by advertisement has occurred.

When a mortgagee (usually a bank) or a land contract vendor (seller), who has taken a property back through foreclosure or forfeiture, later transfers the property, that transfer must be separately analyzed to determine whether it is a "transfer of ownership".

If a mortgagee (usually a bank) does not transfer a property within 1 year of the expiration of the redemption period, the taxable value of the property shall be uncapped in the next assessment year. The typical redemption period is 6 months after the property is sold (usually by the Sheriff). It is important to note that the provisions in this paragraph apply only to mortgagees, NOT to land contract vendors.

5) A Transfer By Redemption is NOT a "Transfer of Ownership" (MCL 211.27a(7)(e))

This section deals with properties which may become "tax reverted lands" because of nonpayment of property taxes.

The following example illustrates the circumstances leading up to a transfer by redemption:

a) For this example assume the 1992 property taxes on a certain property have not been paid for three years after the assessment.

b) In May of 1995 a tax sale is held by the County Treasurer on the first Tuesday and the taxes are purchased by a lien buyer.

c) Also assume the property owner does not redeem within 1 year and the lien buyer receives a tax deed. (Tax deeds do not convey title to property).

d) The owner then redeems the property within the following 6 month period by paying the taxes paid by the lien buyer plus 50% and other applicable fees..

e) The lien buyer executes a quitclaim deed back to the original owner.

"e" above is a transfer by redemption and is NOT a "transfer of ownership".

If the owner had NOT redeemed the property in step "d" above, the lien buyer would then have recorded a Notice by Persons Claiming Title Under Tax Deed and would have taken title to the property. A "transfer of ownership" DOES occur when a lien buyer takes title to a property.

6) Certain Conveyances to a Trust are NOT "Transfers of Ownership" (MCL 211.27a(7)(f))

A conveyance to a trust is NOT a "transfer of ownership" when the sole present beneficiary of the trust is the settlor or the settlor's spouse. This same information was already provided under item number 3 on page 6.

7) Certain Transfers Pursuant To A Court Order or Judgment are NOT "Transfers of Ownership" (MCL 211.27a(7)(g))

A transfer pursuant to a judgment or order of a court-of-record making or ordering a transfer is NOT a "transfer of ownership" UNLESS A SPECIFIC AMOUNT OF MONEY IS SPECIFIED or ordered by the court for the transfer.

A court-of-record is any court which has been designated as a court by the legislature.

The following is an example of a transfer pursuant to a court order making or ordering a transfer:

1) An action to "quiet title" ordered by a court. A "quiet title" action is frequently the result of a dispute

regarding the question of whether a particular person has an ownership interest in a property.

This example is NOT a "transfer of ownership" provided the court does NOT order that a specific amount of money be paid. If the court had ordered the grantee to pay a specific amount of money to the grantor, this example would be a "transfer of ownership".

In the case where a court orders a division of property as a result of divorce proceedings, item #2 on page 11 of this bulletin regarding the disjoining of a tenancy by the entirety takes precedence over this item (item #7). For example, if a court orders that a husband must pay his wife \$50,000 for their house as a part of divorce proceedings, this would NOT be a "transfer of ownership" because it is the "disjoining of a tenancy by the entirety". This is so regardless of the provisions of this item (item #7).

8) Certain Transfers Creating or Terminating a Joint Tenancy are NOT "Transfers of Ownership" (MCL 211.27a(7)(h))

Joint tenancy is a type of co-ownership in which the co-owners own a partial interest in an entire property and when one of the co-owners dies, the decedent's ownership interest goes to the other co-owners, not to the decedent's heirs. The ownership interests in a joint tenancy must be equal shares. Therefore, if there are 2 co-owners in a joint tenancy, their ownership interests have to be 50% each.

A joint tenancy can be recognized by looking at the language of the deed or land contract which describes the grantee (buyer). Usually when a joint tenancy is being created, the language of the deed or land contract will say "as joint tenants" after the names of the grantees, for example, "to A and B, as joint tenants".

a) A transfer **CREATING** a new joint tenancy between 2 or more persons is NOT a "transfer of ownership" if at least one of the joint owners was an original owner before the joint tenancy was initially created.

EXAMPLE: A owns a property by himself and sells a 1/2 interest to B and creates a joint tenancy, NOT a tenancy in common. A "transfer of ownership" has NOT occurred because A was an original owner before the joint tenancy was created.

EXAMPLE: A, who owns a property by himself, sells the property to B and C as joint tenants and does not retain any ownership interest. A "transfer of ownership" HAS occurred because neither B nor C were original owners before the joint tenancy was created.

b) A transfer which **EXPANDS, SHRINKS OR TERMINATES** a joint tenancy is NOT

a "transfer of ownership" if:

i) at least 1 of the persons was an original owner and became a joint tenant when the joint tenancy was originally created

AND

ii) that person has remained a joint tenant since the joint tenancy was originally created

EXAMPLE:

A A owns a property alone.

Conveyance #1: ABC A joint tenancy is CREATED consisting of A, B, and C who are not related to each other by marriage. This is NOT a "transfer of ownership" because this is a transfer CREATING a joint tenancy and A was an original owner before the joint tenancy was originally created. See paragraph "a" above dealing with the CREATION of a joint tenancy.

Conveyance #2: AB C sells her interest to A and B and the joint tenancy is retained but it SHRINKS. This is NOT a "transfer of ownership" because A meets the tests of "i" and "ii" above (that is, A was an original owner, A became a joint tenant when the joint tenancy was originally created, and A has remained a joint tenant since the joint tenancy began in Conveyance #1.)

Conveyance #3: A The joint tenancy is TERMINATED as B sells his interest to A. This is NOT a "transfer of ownership" because A satisfies the provisions of "i" and "ii" above.

Conveyance #4: AD A joint tenancy is CREATED consisting of A and D who are not related to each other by marriage. This is NOT a "transfer of ownership" because this is a transfer CREATING a joint tenancy and A was an original owner before the joint tenancy was created. See paragraph "a" above dealing with the CREATION of a joint tenancy.

Conveyance #5: ADE The joint tenancy is EXPANDED by selling a 1/3 interest to E who is not related to A or D by marriage. This is NOT a "transfer of ownership" because A meets the tests of "i" and "ii" above (that is, A was an original owner, A became a joint tenant when the joint tenancy was originally created and A has remained a joint tenant since the joint tenancy began in Conveyance #4).

Conveyance #6: DEF A sells to F. A and F are not related by marriage. The transfer is structured in such a way that the joint tenancy continues with

D,E, and F as co-owners. A "transfer of ownership" HAS occurred because D,E, and F do not meet the test of "i" above (that is, D,E, and F were not original owners).

Section 27a(7)(h) of PA 415 states that a joint owner at the time of the last "transfer of ownership" of the property is an original owner of the property. This means that in the example above, D,E, and F in Conveyance #6 become "original owners" for future transactions because Conveyance #6 is a "transfer of ownership".

The law regarding joint tenancies also states that a person is an original owner of property owned by that person's spouse. This means that a person's spouse is the equivalent of that person when analyzing whether a "transfer of ownership" has occurred. For example, if F in Conveyance #6 were the spouse of A in Conveyance #4, Conveyance #6 would NOT be a "transfer of ownership" because DEF would now be the equivalent of DEA and A meets the tests of "i" and "ii" above (that is, A was an original owner, A became a joint tenant when the tenancy was originally created in conveyance #4 and A has remained a joint tenant since the tenancy was originally created).

9) A Transfer For Security is NOT a "Transfer of Ownership" (MCL 211.27a(7)(i))

A TRANSFER FOR SECURITY is the conveying of an interest in property for the purpose of assuring that a debt will be paid. In the case of a mortgage to a bank, the owner of a property gives a security interest to the bank which allows the bank to foreclose the mortgage and eventually take the property if the payments are not made.

A transfer for security or an assignment or discharge of a security interest is NOT a "transfer of ownership".

Therefore, the following are NOT "transfers of ownership":

- a) The beginning of a mortgage
- b) The assignment (transfer) of a mortgage to another party
- c) The end of a mortgage
- d) The transfer of a vendor's interest in a land contract. This occurs when a seller on a land contract sells his/her interest in the land contract to someone else. (See also paragraph #2 on page 5 of this bulletin.)
- e) An Equitable Mortgage - An equitable mortgage is a lien on real property which a court would recognize as a mortgage even though it may not have all the features of a typical mortgage. An example of an equitable mortgage would be when a land owner deeds land to a home builder with the expectation that it will be deeded back when the home is finished. The deed to the home builder is an equitable mortgage under these circumstances.

10) A Transfer Among Members of an Affiliated Group is NOT a "Transfer of Ownership" (MCL 211.27a(7)(j))

A transfer of real property or other ownership interests among members of an affiliated group is NOT a "transfer of ownership".

AFFILIATED GROUP means 1 or more corporations connected to a common parent corporation by stock ownership.

MCL 211.27a(7)(j) provides that, upon request by the State Tax Commission, a corporation shall furnish proof that a transfer involves members of an affiliated group. You will be informed in the future about the procedures and forms that will be used by the STC for this request for proof.

11) Certain Public Trading of Stock or Other Ownership Interests is NOT a "Transfer of Ownership" (MCL 211.27a(7)(k))

Normal public trading of shares of stock or other ownership interests in a corporation or other legal entity which are:

a) traded in multiple transactions

AND

b) involve unrelated individuals, institutions, or other legal entities is NOT a "transfer of ownership" even if they cumulatively represent more than 50% of the total ownership interest.

"Normal public trading" of shares of stock, as discussed above, includes the usual day to day trading of publicly-held stock.

The STC advises that "Normal public trading" of shares of stock does NOT include the following:

- 1) The merger of 2 or more companies.
- 2) The acquisition of one company by another or by an individual.
- 3) The Initial Public Offering (IPO) of the stock of a company. An Initial Public Offering occurs when a company's stock is first offered for sale to the public.
- 4) A Secondary Public Offering of the stock of a company. A secondary public offering occurs when a company whose stock is already publicly traded issues additional new stock for sale to the public.
- 5) The trading of the stock of a privately-held company. A privately-held company is a company whose stock is not available for sale to the public.

6) A "takeover" involving a public offer by someone to buy stock from present stockholders in order to gain control of a company.

If **any** of the events listed in items 1 to 6 above occurs and the result is that more than 50% of the ownership interest in the company is transferred, a "transfer of ownership" has occurred and the taxable value of real property owned by the company shall be uncapped in the year following the "transfer of ownership".

CAUTION: The assessor must also consider whether one of the other exemptions from a "transfer of ownership" listed in this bulletin starting on page 11 applies to the situation being considered. For example, the acquisition of a company which appears to fit #2 of the list above may be also be a tax free reorganization discussed in paragraph #13 below.

See also #8 on page 9 of this bulletin.

12) Transfers of Real Property or Other Ownership Interests Among Legal Entities Which are Commonly Controlled are NOT "Transfers of Ownership" (MCL 211.27a(7)(l))

A transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships or other legal entities is NOT a "transfer of ownership" if the entities involved are COMMONLY CONTROLLED.

An entity under common control is as defined in the Michigan Revenue Administrative Bulletin 1989-48. You may obtain a copy by calling 1-800-FORM-2-ME.

MCL 211.27a(7)(l) provides that, upon request by the State Tax Commission, a corporation, partnership, limited liability company, limited liability partnership or other legal entity shall furnish proof that it is commonly controlled. You will be informed in the future about the procedures and forms that will be used by the STC for this request for proof.

13) A Transaction That Qualifies as a Tax-Free Reorganization is NOT a "Transfer of Ownership" (MCL 211.27a(7)(m))

A direct or indirect transfer of real property or other ownership interests resulting from a transaction that qualifies as a tax-free reorganization under section 368 of the Internal Revenue Code of 1986 is NOT a "transfer of ownership".

A reorganization generally involves corporate acquisitions, divisions, etc in which stockholders of the acquired company retain an equity interest in the surviving corporation.

MCL 211.27a(7)(m) provides that, upon request by the STC, a property owner shall

furnish proof that a transfer meets the requirements of a tax-free reorganization. You will be informed in the future about the procedures and forms that will be used by the STC for this request for proof.

14) The Transfer of Personal Property is NOT a "Transfer of Ownership".

A transfer of personal property is NOT a "transfer of ownership".

Transfers of the following ARE "transfers of ownership" even though they are assessed on the personal property roll:

- a) Buildings on leased land as described in Michigan Compiled Law (MCL) 211.14(6).
- b) Leasehold improvements of a real property nature and structures installed and constructed on real property by a tenant (lessee) as described in MCL 211.8(h).
- c) Leasehold estates created in a sandwich lease situation as described in MCL 211.8(i).
- d) Leasehold estates created by the difference between contract rent and market rent as described in MCL 211.8(j).

C) The Reporting of Transfers

MCL 211.27a(8) states the following regarding the reporting of transfers:

Unless notification is provided under subsection (6) or (7), the buyer, grantee, or other transferee of the property shall notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the state tax commission that states the parties to the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description. This subsection does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

A copy of the Property Transfer Affidavit (Form L-4260) is attached to this bulletin.

- 1) The above law places the burden of filing Form L-4260 upon the BUYER (grantee, or transferee) of property, NOT upon the SELLER of property.
- 2) [Form L-4260](#) must be filed with the local township or city assessor where the property

is located regardless of whether a legal document has been recorded at the Register of Deeds.

IMPORTANT: The State Tax Commission requires that township and city assessors SHALL make all of the Property Transfer Affidavits (Form L-4260) filed with them available to the County Equalization Department for copying. There is also legislation being proposed to make this requirement part of the law.

3) The Property Transfer Affidavit (Form L-4260) must be filed within 45 days of the transfer.

4) Form L-4260 is set up in such a way that the transfer must be reported even if the transfer qualifies as an exemption on the bottom of the form. The State Tax Commission requires that the assessor then review each Form L-4260 submitted and make a determination whether it is a "transfer of ownership" or whether it qualifies as an exemption.

If it is a "transfer of ownership", the Taxable Value of the property shall be uncapped in the year following the "transfer of ownership". If it is not a "transfer of ownership", the Taxable Value shall not be uncapped in the following year.

5) If the assessor discovers a "transfer of ownership" which was not reported by the buyer on Form L-4260 the assessor is still required to uncapped Taxable Value in the year following the "transfer of ownership" even though the form L-4260 was not filed.

The assessor may discover facts indicating that "transfers of ownership" have occurred from the following sources and others:

a) Documents filed at the Register of Deeds office.

This may include deeds, land contracts, mortgages, death certificates, and others. The filing of a death certificate could indicate that a life lease has ended or that a distribution of property to heirs has or will occur.

b) Requests for name changes on the assessment roll, tax roll, or tax bill.

c) The filing of Homestead Affidavit form (T-1056) and Homestead Exemption Update form (T-1058).

While the filing of a homestead affidavit form may indicate that a "transfer of ownership" has occurred, the assessor is

NOT authorized to refuse to accept or process Homestead Exemptions because the buyer has not yet filed the Property Transfer Affidavit (form T-4260).

The penalty for not filing the Property Transfer Affidavit is established by law (Section 27b of PA 415 of 1995) and will be discussed later in this bulletin. This penalty does NOT include the authority to refuse to process Homestead Exemptions.

The filing of the Homestead Exemption form (T-1056 or T-1058) and the Transfer Affidavit Form L-4260 are separate matters not related to each other. Nor does the filing of one of these forms provide any relief from the obligation to file the other.

d) Unrecorded sale information discovered while making appraisals for various purposes.

e) Newspaper articles regarding sales which have occurred or long term leases which have been signed or other matters related to "transfers of ownership".

When the assessor discovers that a "transfer of ownership" may have occurred for which a Transfer Affidavit Form L-4260 has not been filed, the assessor is advised to send the transferee (usually a buyer) a copy of Form L-4260 and advise the transferee of the obligation under the law to file the form and the penalties which apply.

If the form is still not filed and the assessor concludes that a "transfer of ownership" has occurred, the transferee should be informed that the assessor has made the determination that a "transfer of ownership" has occurred and that the Taxable Value will be uncapped for the year following the "transfer of ownership". The appropriate action should also be taken regarding the levy of additional taxes, interest, and penalties which will be discussed in paragraph D below.

D) Additional Taxes, Interest, and Penalties

Section 27b of PA 415 of 1994 states the following regarding additional taxes, interest, and penalties that may be levied when a buyer (grantee, or transferee) does not file the Transfer Affidavit (Form L-4260) within 45 days of the occurrence of a "transfer of ownership":

"(1) If the buyer, grantor, or transferee does not notify an assessing

officer as required by this act, all of the following may be levied:

(a) Any additional taxes that would have been levied if the transfer of ownership had been recorded as required under this act from the date of transfer.

(b) Interest and penalty from the date the tax would have been originally levied.

(c) A penalty of \$5.00 per day for each separate failure beginning after the 30 days have elapsed, up to a maximum of \$200.00.

(2) The treasurer shall determine any taxes, interest, and penalty due pursuant to this section, and prepare and submit a corrected tax bill.

(3) Any taxes, interest, and penalty collected pursuant to this section shall be distributed in the same manner as other delinquent taxes are distributed under this act.

(4) The governing body of a local tax collecting unit may waive, by resolution, the penalty levied under subsection (1)(c)."

IMPORTANT: The actual language of section 27b has two mistakes in it which will be corrected by proposed future legislation. Those mistakes are the following:

- a. The language of section 27b(1) refers to the "buyer, **grantor**, or transferee". It should read "buyer, **grantee**, or transferee".
- b. The language of section 27b(1)(c) refers to a penalty beginning "after the **30 days** have elapsed". It should read "after the **45 days** have elapsed".

This bulletin is written as if these corrections had already been made.

The discussion in this bulletin regarding additional taxes, interest, and penalties will be divided into the following 3 sections:

1) The penalty of \$5.00/day (up to a maximum of \$200) for failure to file the Transfer Affidavit (form L-4260) within 45 days of a "transfer of ownership".

2) "Additional taxes" that would have been levied if the

Taxable Value had been uncapped at the proper time.

3) Interest and penalty that apply on the "additional taxes".

1) The Penalty of \$5.00/Day (Up to a Maximum of \$200)

Section 27b of PA 415 of 1994 states that if the buyer, grantee, or transferee does not file the Transfer Affidavit (form L-4260) within 45 days of a "transfer of ownership", a penalty of \$5.00 per day may be levied (up to a maximum of \$200) for each day after the 45 days have elapsed.

PA 415 of 1994 specifically states that the information reported in box numbers 4,5,6,7, and 8 on the Property Transfer Affidavit (form L-4260) SHALL be provided by the buyer (grantee or transferee).

If a Property Transfer Affidavit (Form L-4260) is filed which does not contain the information requested in box numbers 4,5,6,7, and 8, the requirements of the law have NOT been met and the \$5.00 per day penalty (up to a maximum of \$200) may be levied.

Section 27b(4) allows the governing body of a local tax collecting unit to pass a resolution waiving the \$5.00 per day penalty (up to a maximum of \$200). It is the opinion of the State Tax Commission that only the \$5.00 per day penalty may be waived, NOT the additional taxes, penalty and interest which will be discussed in "2" and "3" below.

If a local tax collecting unit has NOT waived the \$5.00 per day (up to a maximum of \$200) penalty, it is the responsibility of the local treasurer to collect the \$5.00 per day penalty where applicable. The State Tax Commission recommends that the local unit assessor assist the treasurer when necessary. The STC advises that the \$5.00 per day penalty is levied against buyers, grantees, or transferees and does not become a lien on property.

2) Additional Taxes

Section 27b(1)(a) of PA 415 of 1994 states that when it is discovered that a Transfer Affidavit (Form L-4260) was not timely filed for a particular property and because of this the assessor did not uncap the Taxable Value at the proper time, the local treasurer SHALL levy any additional taxes that would have been levied if the Transfer Affidavit Form L-4260 had been timely filed.

The State Tax Commission recommends that the local assessor assist the treasurer with the calculation of "additional taxes".

3) Interest and Penalty on the "Additional Taxes"

Section 27b(1)(b) of PA 415 of 1994 states that interest and penalty SHALL be levied on the "additional taxes" discussed in paragraph #2 above from the date the tax would have been originally levied if the Taxable Value had been uncapped at the proper time.

This means, for example, that if a Taxable Value should have been uncapped in 1996, for a tax levied on December 1, 1996 and this was discovered several years later, the penalty and interest on the "additional taxes" would be calculated starting February 15, 1997 because February 14 is the last day to pay taxes without incurring a penalty.

The State Tax Commission recommends that the assessor of the local tax collecting unit assist the local treasurer with the calculation of the appropriate penalty and interest.

The assessor and the treasurer shall not obstruct, interfere with or needlessly delay the process of uncapping taxable value and collecting the "additional taxes" interest, and penalty.

Section 27b(3) of PA 415 of 1994 states that any "additional taxes", interest, and penalties collected pursuant to this section shall be distributed in the same manner as other delinquent taxes are distributed.

There has been considerable discussion that the \$5.00 per day penalty (up to a maximum of \$200) should not be distributed to all taxing units but should be kept by the township or city which collects the penalty. While there is legislation being proposed to make this change, the present law requires that the \$5.00 per day penalty be distributed to all taxing units.

The Local Audit and Finance Division of the Michigan Department of Treasury recommends that, if "additional taxes", interest, and penalties are not paid within 30 days of billing, they should be added to the delinquent tax roll(s) for the year(s) that the taxes were originally levied.

GLOSSARY OF TERMS

IMPORTANT: The definitions in this glossary are not intended as legal definitions but are provided only as an aid to the reader for the purpose of interpreting PA 415 of 1994.

Affiliated Group - Affiliated group is defined in MCL 211.7a(7)(j) as 1 or more corporations connected by stock ownership to a common parent corporation.

Beneficiary - The beneficiary of a trust is the person(s) who has the enjoyment and the beneficial use of the property during the life of the trust.

Capped Value Formula - Capped Value = (Prior Year's Taxable Value - Losses) X (The lowest of 1.05, or the inflation rate, or the Value Change Multiplier) + Additions.

Common Control - Common control is as defined in Michigan Revenue Administrative Bulletin 1989-48. You may obtain a copy by calling 1-800-FORM-2-ME.

Contingent Beneficiary - A person who is not now a beneficiary but will become a beneficiary if some specified event occurs in the future such as the death of the present beneficiary.

Conveyance - A written instrument (such as a deed or a lease) that passes an interest in real property from one person to another.

Corporation - An organization, incorporated under the laws of 1 of the 50 states, that acts as a separate legal entity in performing certain activities. A Michigan corporation is required to file certain documents with the Michigan Department of Commerce and is assigned a corporate identification number by the department. See MCL 450.1104 for more information about corporations.

Decedent - A person who has died (deceased)

Deed - A written legal document whose purpose is to convey an interest in real property.

Distributee - A distributee of a trust is a person(s) who receives a share of the property of a trust when the property is distributed.

Fee Simple Estate - Absolute ownership subject only to the governmental powers of taxation, eminent domain, police power and taxation.

Grantor - In a sale involving a deed, the grantor is the seller.

Grantee In a sale involving a deed, the grantee is the buyer.

Joint Tenancy - A type of co-ownership in which the co-owners own a partial interest in an entire

property

and when one of the co-owners dies, the decedent's ownership interest goes to the other co-owners, not to the decedent's heirs. The ownership interests in a joint tenancy must be equal shares.

In order to create a joint tenancy, the "four unities" of time, title, interest, and possession must be present. 1) The unity of time means that the interests of all of the tenants start at the same time. 2) The unity of title means that all of the tenants acquire title by one and the same instrument (usually a deed). 3) The unity of interest means that all of the tenants have the same ownership interest. 4) The unity of possession means that all of the tenants have the same right of possession and use of the property.

Land Contract - A contract in which a buyer of real estate makes payments (usually monthly) to the seller until the entire purchase price has been paid, at which time the seller gives a deed to the buyer.

Lessor - The person in a lease who owns the property (the landlord).

Lessee - The person in a lease who uses or occupies the property during the term of the lease (the tenant).

Limited Partnership - A limited partnership is different from a limited liability partnership. A limited partnership is an ownership arrangement made up of general partners and limited partners. The general partners are the business managers and assume the liability for the debts of the partnership. The limited partners are liable only to the extent of their own capital contributions. See MCL 449.1101 for more information about limited partnerships

Limited Liability Company - A limited liability company (LLC) is type of business that has characteristics of both a partnership and a corporation. Like a partnership, the profits and losses of a limited liability company pass through to its members. Like a corporation, the members of a limited liability company are not liable for the acts, debts, or obligations of the company. A Michigan limited liability company must file certain documents with the Michigan Department of Commerce and is assigned a limited liability company identification number by the department. See MCL 450.4102 for more information about limited liability companies.

Limited Liability Partnership - A limited liability partnership is different from a limited partnership. A limited liability partnership is a limited liability company which happens to be a partnership. See MCL 450.4102 for more information about limited liability companies.

Mortgagor - The person in a mortgage who is borrowing money.

Mortgagee - The person in a mortgage who is lending the money (usually a bank or a mortgage company).

Partnership - An unincorporated legal entity in which 2 or more people jointly own a business. See MCL 449.1 for more information about partnerships.

Quitclaim Deed - A deed in which the seller conveys an ownership interest in real property but does not guarantee that he/she has good title. A seller who is not sure whether his/her title is good will usually use a quitclaim deed.

Redemption - The term redemption, as it applies to lands which may become "tax reverted lands", refers to the right of an owner to buy back (redeem) lands from a lien buyer by paying the applicable back taxes and other fees.

Sandwich Lease - The following is an example of a sandwich lease: A lease in which the lessee (user of the property) from an original lease subleases the property to a second lessee who becomes the new user of the property.

Settlor - The settlor of a trust is the person(s) who creates the trust. The term "trustor" has the same meaning as settlor.

SEV - State Equalized Value - The state equalized value is the assessed value after equalization at the county and state levels. The SEV of a property approximates 50% of true cash value.

Sheriff's Deed - A deed given by the county sheriff to a person who buys property at the public sale which is a part of foreclosure by advertisement. The deed becomes operative only if the property is not redeemed.

Sole Proprietorship - A sole (or single) proprietorship is an unincorporated business owned by an individual who is held solely responsible for the debts of the business.

Spouse - A spouse is a husband or wife.

Sublessor - A sublessor is a lessee (the user of leased property) who leases the property to another party. The sublessor is neither the owner of the property nor the present user of the property but is a former user of the property. Example: A, the owner of rental property, leases to B who operates a store at the property. B decides to go out of business but subleases the

property to C who now becomes the user of the property. In this example, B is a sublessor.

Taxable Value Formula Taxable Value is the lesser of the State Equalized Value (SEV) or the Capped Value for each individual parcel of property. In the year following a "transfer of ownership", the Taxable Value of an individual parcel shall be the same as the SEV of the parcel for the year following the "transfer of ownership".

Tax Reverted Lands - Property which the State of Michigan acquires title to due to the nonpayment of property taxes.

Tenancy By Entireties - A form of joint tenancy where the co-owners are husband and wife and when the husband or wife dies, the property goes to the surviving spouse. In a tenancy by the entireties, neither husband nor wife can sell the property unless the other one joins in.

Tenancy In Common - A type of co-ownership in which the co-owners own a partial interest in an entire property and when one of the co-owners dies, the ownership interest of the person who has died goes into his/her heirs, not automatically to the other co-owners. The ownership interests in a tenancy in common do not have to be equal shares.

Transfer for Security - A transfer for security is the conveying of an interest in property for the purpose of assuring that a debt will be paid. In the case of a mortgage to a bank, the owner of a property gives a security interest to the bank which allows the bank to foreclose the mortgage and eventually take the property if the payments are not made.

Transferor - The person or legal entity which conveys the title to or a present interest in a property. The transferor is frequently the seller of property.

Transferee - The person or legal entity to whom the title or present interest in a property is conveyed. The transferee is frequently the buyer of property.

True Cash Value - True Cash Value is defined in MCL 211.27(1). The courts have held that True Cash Value is the same as Market Value.

Trustor - The trustor of a trust is the person who creates the trust. Trustor means the same as settlor.

Trustee - The trustee of a trust is the person or agent who is appointed to administer the trust. Banks are frequently trustees.

Value Change Multiplier - The Value Change Multiplier is calculated for each parcel of property by

dividing
(Current SEV - Additions) by (Last Year's SEV - Losses).

Vendor - The seller of property.

Vendee - The buyer of property.

Warranty Deed - A deed in which the grantor (seller) guarantees that the title to the property is free and clear
of all encumbrances except those specifically set forth in the deed.

RESCINDED