



Legislation Text

File #: 19-1097, **Version:** 1

Resolution to Waive Penalties for Non-Filing of Property Transfer Affidavits

Attached please find for Council action the necessary resolution to waive penalties for non-filing of Property Transfer Affidavits in accordance with MCL 211.27b.

Under PA 415 of 1994 (Proposal A), the State of Michigan mandated that owners file a Property Transfer Affidavit (Form 2766) and authorized a non-filing penalty.

Michigan Compiled Law (MCL) 211.27a(10) requires property owners to file a Property Transfer Affidavit (PTA) with the local assessor within 45 days of the transfer of ownership of real estate. The reason for the mandatory filing requirement of the affidavit is to inform the assessor of title transfers for determination of the uncapping of the taxable value or if the transfer is exempt from the uncapping of the property's taxable value. The Property Transfer Affidavit also requires the owner to disclose the sale price, which is used for sale study analysis.

The law requires local governments to levy penalties for failure to file a PTA unless a resolution to the contrary has been adopted. MCL 211.27b requires that if the buyer, grantee, or other transferee in the immediately preceding transfer of ownership of property does not notify the Assessor's Office, then penalties are levied. More specifically, if the property owner fails to file the PTA timely, the statute requires the local tax collecting unit to levy a penalty of \$5 per day, up to a maximum of \$200, for residential property and \$20 per day, up to a maximum of \$1,000 for commercial and industrial property.

The Michigan Department of Treasury establishes standards for review of assessing practices of municipalities and periodically audits assessing departments pursuant to a program called Audit of Minimum Assessing Requirements (AMAR). One of the standards in the current AMAR review is the local government's compliance with MCL 211.27b, including evaluation of the procedure used by assessing departments in levying and/or waiving the penalty.

It has traditionally been the City's practice not to levy this penalty. In addition, most municipalities in Michigan do not levy this penalty. Historically, there has been a high PTA filing rate for transfers of ownership. In most situations, the sale price for the transaction is obtained or verified from the deed, which is provided regularly from Washtenaw County.

Revenue from the potential penalty fees generally does not justify the cost of administering the penalty. The penalty does not become a lien on the property, which makes collection challenging because unpaid invoices cannot be added to the tax bill. The personnel time and financial resources of applying and collecting the penalty for failure to file a Property Transfer Affidavit is not considered cost effective.

Michigan Statute and State Tax Commission directives mandate that if the local assessing unit chooses not to levy the penalty or fine it must have the local legislative body's authorization via resolution.

MCL 211.27b(5) allows a waiver of the PTA penalty by resolution of the governing body of the local tax collecting unit.

Staff request City Council approve the attached Resolution that authorizes the waiver of late or non-filing penalties relating to Property Transfer Affidavits, except in specific situations in accordance with statute, in order to satisfy the AMAR requirement.

Prepared by: Mark Perry, Assessor

Reviewed by: Tom Crawford, Financial Services Area Administrator and CFO

Approved by: Howard Lazarus, City Administrator

Whereas, MCL 211.27a(10) requires the buyer, grantee, or other transferee of property to notify the appropriate assessing office of the transfer of ownership of the property within 45 days of such transfer, on a form prescribed by the state tax commission;

Whereas, MCL 211.27b(1) requires that if the buyer, grantee, or other transferee in the immediately preceding transfer of ownership of property does not notify the appropriate assessing office of the transfer, then penalties as described in MCL 211.27b(1)(c) or (d) are levied; and

Whereas, MCL 211.27b(5) provides that the governing body of a local tax collecting unit may waive, by resolution, the penalties levied for failure to file a Property Transfer Affidavit under MCL 211.27b(1)(c) or (d);

RESOLVED, That the City of Ann Arbor waives the penalties for failure to file a Property Transfer Affidavit following a transfer of ownership pursuant to the local unit's authority contained in MCL 211.27b; and

RESOLVED, That the Assessor or his designee may set aside this waiver and impose the penalties outlined in MCL 211.27b, when he reasonably determines that the failure to file a Property Transfer Affidavit was due the buyer's, grantee's, or other transferee's willful neglect.