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HOUSE BILL NO. 274

INTRODUCED BY S. FISHER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PERSONS 65 YEARS OF AGE OR OLDER WHO OCCUPY A HOMESTEAD TO CLAIM A LIMITATION FROM INCREASED RESIDENTIAL PROPERTY TAXES ON THE HOMESTEAD; ESTABLISHING ELIGIBILITY REQUIREMENTS; PROVIDING AN EXCEPTION FOR NEW IMPROVEMENTS; REQUIRING ADDITIONAL NOTICE TO THE TAXPAYER; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5], the following definitions

apply:

(1) "Homestead" means the owner-occupied, principal dwelling owned by the taxpayer and the land, not exceeding 1 acre, on which it is located or a mobile home, manufactured home, or housetrailer used as a residence referred to in Title 70, chapter 32, part 1, regardless of whether the land on which it is situated is owned by the taxpayer. If the homestead is located in a multiunit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the land on which it is built. The percentage attributable to the unit is the value of the unit consisting of the homestead compared to the total value of the building, exclusive of the common elements, if any. The value of the land and common elements must be divided equally among the units.

(2) "Tax-limited property" means the property for which increases in property taxes are limited under [sections 1 through 5].

(3) "Taxes" or "property taxes" means ad valorem taxes and other assessments, fees, and charges, except an assessment for a special improvement district or a rural special improvement district, that are required to be paid to the county treasurer.

(4) "Taxpayer" or "owner" means an individual who has filed a claim for a limitation on increases in property taxes or individuals who have jointly filed a claim for a limitation on increases in property taxes under [sections 1 through 5].

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2 **NEW SECTION. Section 2. Claim for property tax limitation -- eligibility -- taxes on improvements.**

3 (1) Subject to [section 3], residential property taxes imposed against qualifying homesteads that are owned
4 by eligible persons may not be increased above the amount imposed against the homestead in the base
5 tax year as provided in this section. Except as otherwise provided, a taxpayer is not required to pay
6 property taxes in excess of property taxes levied in the base tax year.

7 (2) To be eligible for the limitation on increases in residential property taxes, the following
8 conditions must be met:

9 (a) The owner of the homestead must be at least 65 years of age during the property tax year in
10 which the exemption is first claimed, or if the owner is a husband and wife, then either one of them must
11 be at least 65 years of age.

12 (b) The owner uses the homestead as the owner's principal dwelling for at least 7 months a year.

13 (c) The owner does not rent or lease the homestead.

14 (3) (a) Except as provided in subsections (3)(b) and (3)(c), the amount of property taxes that is
15 exempt from payment by the taxpayer is the difference between the property taxes owed on the
16 homestead for the base tax year and the amount that would be owed for the current tax year if the
17 homestead was not tax-limited property. The base tax year is the tax year immediately preceding the year
18 in which the claim for exemption was first filed.

19 (b) If property taxes imposed on the homestead for the current tax year are less than the amount
20 of taxes imposed in the base year, the current tax year property taxes must be paid by the taxpayer and
21 the current tax year becomes the base year for the next tax year and subsequent tax years in which the
22 property qualifies as tax-limited property.

23 (c) If a taxpayer makes improvements to the taxpayer's homestead, property taxes may increase
24 on the homestead in the first year that the value of the homestead increases because of the improvements.
25 The amount of the tax increase is determined by applying the current year mill levies in the first year that
26 the improvements are subject to tax to the taxable value of the improvements. The first year that the
27 improvements are subject to tax becomes the base year to determine the limitation on increases in
28 property taxes on the improvements determined pursuant to this section.

29 (4) (a) If a guardian or conservator has been appointed for a taxpayer otherwise qualified to obtain
30 the limitation on increases in property taxes under [sections 1 through 5], the guardian or conservator may

1 act for the taxpayer in complying with the provisions of [sections 1 through 5].

2 (b) The limitation on increases in property taxes does not expire because the owner of an interest
3 in the structure conveys the interest to a qualifying trust if the owner or the owner's spouse is a trustor
4 of the trust and is entitled to occupy the homestead.

5 (5) This section does not require the spouse of an individual to file a claim jointly with the
6 individual, even though the spouse may be eligible to claim the exemption jointly with the individual.

7 (6) The limitation on increases in property tax under [sections 1 through 5] remains in effect as
8 long as the property is the principal dwelling owned and occupied by the taxpayer or, if the taxpayer is
9 deceased, by the taxpayer's spouse and the spouse:

10 (a) is 55 years of age or older when the taxpayer dies;

11 (b) is the owner and occupant of the homestead; and

12 (c) is unmarried.

13 (7) The limitation on increases in property taxes allowed by this section terminates on December
14 31 of the year that:

15 (a) the owner of the homestead who qualified for the limitation on increases in property taxes is
16 not using the homestead as the principal dwelling;

17 (b) the owner of the homestead does not qualify for the exemption;

18 (c) the tax-limited property is moved out of county; or

19 (d) property taxes on tax-limited property are more than 2 years delinquent.

20 (8) A taxpayer who qualifies for the limitation on increases in property taxes under [sections 1
21 through 5] may also qualify for the property tax assistance program under 15-6-134 and the residential
22 property tax credit for the elderly under 15-30-171 through 15-30-179.

23

24 **NEW SECTION. Section 3. Claim for property tax limitation -- property eligible for property tax**
25 **limitation -- application.** (1) To qualify for the limitation on increases in property taxes under [sections 1
26 through 5], the tax-limited property must meet all of the following requirements when the claim is filed and
27 must continue to meet the requirements as long as the payment of property tax increases by the taxpayer
28 is limited:

29 (a) The property must be the homestead of the taxpayer who files the claim for the property tax
30 increase limitation, except for a taxpayer required to be absent from the homestead by reason of ill health.

1 (b) The person claiming the limitation on increases in property taxes is required, solely or together
2 with the person's spouse, to own the fee simple estate or to be purchasing the fee simple estate under
3 a recorded instrument of sale.

4 (2) A person applying for the limitation on increases in property taxes under [sections 1 through
5 5] shall provide a complete affidavit to the department, on a form provided by the department, setting
6 forth that the applicant and the property meet the requirements of [sections 1 through 5]. The form may
7 require the applicant to supply other information that may be relevant to the applicant's eligibility. The
8 application must be made before April 15 of the tax year in which the limitation on increases in property
9 taxes is to begin. The exemption remains in effect in subsequent years unless there is a change in the
10 applicant's or the property's status that would result in a change in eligibility. The department may inquire
11 by mail whether any change has taken place and may require a new statement of eligibility if it considers
12 it necessary.

13 (3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the
14 information supplied, whether or not the statement is signed before a person authorized to administer
15 oaths, and mails the application and statement to the department. The signed statement is considered a
16 statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal
17 offense of false swearing.

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19 NEW SECTION. **Section 4. Additional notice to taxpayer.** At the time that the county treasurer
20 sends notice to each taxpayer showing the amount of taxes and assessments due for the current year
21 under 15-16-101 or the notice referred to in 15-24-202, the county treasurer shall provide additional
22 notice to each taxpayer who has claimed the limitation on increases in property taxes in the county. The
23 additional notice must show:

24 (1) the base tax year property taxes on the homestead, exclusive of special improvement district
25 or rural special improvement district assessments;

26 (2) the current tax year property taxes, exclusive of special improvement district or rural special
27 improvement district assessments, that would be due on the homestead if the property was not tax-limited
28 property;

29 (3) the amount of taxes and assessments due for the current year as the lesser of the base tax
30 year taxes and assessments due, exclusive of special improvement district or rural special improvement

1 district assessments, or the current year taxes and assessments due, exclusive of special improvement
2 district or rural special improvement district assessments;

3 (4) the total amount of taxes and assessments due for the current year, including the amount
4 shown under subsection (3) and any special improvement district or rural special improvement district
5 assessment; and

6 (5) the information required in subsections (1) through (4) applicable to improvements, if any, as
7 provided in [section 2].

8

9 NEW SECTION. **Section 5. Property tax distribution.** Taxes collected on tax-limited property,
10 including tax increases related to improvements, under [sections 1 through 5] must be distributed in the
11 relative proportions required by the levies for state, county, school districts, and municipal purposes as
12 property taxes are distributed.

13

14 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be
15 codified as an integral part of Title 15, chapter 16, and the provisions of Title 15, chapter 16, apply to
16 [sections 1 through 5].

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18 NEW SECTION. **Section 7. Applicability.** [This act] applies to property tax years beginning after
19 December 31, 2001.

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