

## 1 HOUSE BILL NO. 38

2 INTRODUCED BY MCNUTT

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE EXEMPTION OF AGRICULTURAL AGREAGE LAND  
6 BY A PURELY PUBLIC CHARITY TO 160 ACRES FOR EXEMPTIONS APPLIED FOR AFTER DECEMBER  
7 31, 2004; REQUIRING THAT AN APPLICATION FOR EXEMPTION CONTAIN A LEGAL DESCRIPTION OF THE  
8 PROPERTY; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
9 AND A RETROACTIVE APPLICABILITY DATE."

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

12  
13 **Section 1.** Section 15-6-201, MCA, is amended to read:

14 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

15 (a) except as provided in 15-24-1203, the property of:

16 (i) the United States, except:

17 (A) if congress passes legislation that allows the state to tax property owned by the federal government  
18 or an agency created by congress; or

19 (B) as provided in 15-24-1103;

20 (ii) the state, counties, cities, towns, and school districts;

21 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

22 (iv) municipal corporations;

23 (v) public libraries; and

24 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

25 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church  
26 and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably  
27 necessary for convenient use of the buildings;

28 (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and  
29 for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human  
30 services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department

- 1 of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
- 2 (d) property that is:
- 3 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 4 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
- 5 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 6 (iii) not maintained and operated for private or corporate profit;
- 7 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 8 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 9 charitable purposes;
- 10 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 11 Montana;
- 12 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
- 13 corporate profit;
- 14 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
- 15 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
- 16 purposes or for furnishing or equipping the family residence;
- 17 (i) truck canopy covers or toppers and campers;
- 18 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 19 (k) motor homes;
- 20 (l) all watercraft;
- 21 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 22 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 23 irrigation of agricultural land;
- 24 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 25 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
- 26 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 27 (o) (i) property that is owned and used by a corporation or association organized and operated
- 28 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
- 29 physical or mental impairments that constitute or result in substantial impediments to employment and that is
- 30 not operated for gain or profit; and

- 1 (ii) property that is owned and used by an organization owning and operating facilities that are for the  
2 care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 3 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and  
4 machinery with a market value of less than \$100;
- 5 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
6 and practice for or competition in international sports and athletic events and that is not held or used for private  
7 or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization  
8 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
9 under the Montana Nonprofit Corporation Act.
- 10 (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
11 hand-held and that are used to:
- 12 (A) construct, repair, and maintain improvements to real property; or  
13 (B) repair and maintain machinery, equipment, appliances, or other personal property;
- 14 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,  
15 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and  
16 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and  
17 that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- 18 (s) harness, saddlery, and other tack equipment;
- 19 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in  
20 33-25-105;
- 21 (u) timber as defined in 15-44-102;
- 22 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in  
23 61-1-114, and travel trailers as defined in 61-1-131;
- 24 (w) all vehicles registered under 61-3-456;
- 25 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,  
26 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and  
27 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection  
28 (1)(x)(i);
- 29 (y) motorcycles and quadricycles;
- 30 (z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and

- 1 (1)(f):
- 2 (i) 31% for tax year 2003;
- 3 (ii) 31.4% for tax year 2004;
- 4 (iii) 32% for tax year 2005;
- 5 (iv) 32.6% for tax year 2006;
- 6 (v) 33.2% for tax year 2007;
- 7 (vi) 34% for tax year 2008 and succeeding tax years;
- 8 (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):
- 9 (i) 13% for tax year 2003;
- 10 (ii) 13.3% for tax year 2004;
- 11 (iii) 13.8% for tax year 2005;
- 12 (iv) 14.2% for tax year 2006;
- 13 (v) 14.6% for tax year 2007;
- 14 (vi) 15% for tax year 2008 and succeeding tax years;
- 15 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
- 16 by an industrial dairy;
- 17 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item
- 18 of personal property satisfies all of the following:
- 19 (i) the acquired cost of the personal property is less than \$15,000;
- 20 (ii) the personal property is owned by a business whose primary business income is from rental or lease
- 21 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
- 22 rentals or leases during a calendar year; and
- 23 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- 24 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from
- 25 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion
- 26 of construction of the manufacturing facility;
- 27 (ee) light vehicles as defined in 61-1-139; and
- 28 (ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and
- 29 15-6-156, if the tax rate in 15-6-138 reaches zero:
- 30 (i) all agricultural implements and equipment;

- 1 (ii) all mining machinery, fixtures, equipment, tools, and supplies;
- 2 (iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage  
3 tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units,  
4 communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and  
5 similar equipment that is skidable, portable, or movable, tools, and supplies;
- 6 (iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;
- 7 (v) all goods and equipment that are intended for rent or lease;
- 8 (vi) special mobile equipment as defined in 61-1-104;
- 9 (vii) furniture, fixtures, and equipment;
- 10 (viii) x-ray and medical and dental equipment;
- 11 (ix) citizens' band radios and mobile telephones;
- 12 (x) radio and television broadcasting and transmitting equipment;
- 13 (xi) cable television systems;
- 14 (xii) coal and ore haulers; and
- 15 (xiii) theater projectors and sound equipment.
- 16 (2) (a) For the purposes of subsection (1)(e):
- 17 (i) the term "institutions of purely public charity" includes any organization that meets the following  
18 requirements:
- 19 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
20 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
21 Revenue Code, as amended.
- 22 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
23 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
24 performances or entertainment or by other similar types of fundraising activities.
- 25 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
26 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
27 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
28 with the department a copy of its federal tax return reporting any unrelated business taxable income received  
29 by the charity during the tax year, together with a statement indicating whether the exempt property was used  
30 to generate any unrelated business taxable income.

1            (iii) not more than 160 acres may be exempted by a purely public charity for agricultural purposes under  
 2 any exemption originally applied for after December 31, 2004. AN APPLICATION FOR EXEMPTION UNDER THIS  
 3 SECTION MUST CONTAIN A LEGAL DESCRIPTION OF THE PROPERTY FOR WHICH THE EXEMPTION IS REQUESTED.

4            (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
 5 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
 6 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes  
 7 all real and personal property reasonably necessary for use in connection with the public display or observatory  
 8 use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual  
 9 or for-profit organization, real and personal property owned by other persons is exempt if it is:

10            (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

11            (ii) held for future display; or

12            (iii) used to house or store a public display.

13            (3) For the purposes of subsection (1)(bb):

14            (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes  
 15 the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products  
 16 solely for export from the state, either directly by the dairy or after the milk or milk product has been further  
 17 processed by an industrial milk processor. After export, any unprocessed milk must be further processed into  
 18 other dairy products.

19            (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into  
 20 milk products for export from the state.

21            (4) The following portions of the appraised value of a capital investment in a recognized nonfossil form  
 22 of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt  
 23 from taxation for a period of 10 years following installation of the property:

24            (a) \$20,000 in the case of a single-family residential dwelling;

25            (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

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 27            **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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 29            **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the  
 30 meaning of 1-2-109, to property tax exemption applications made after December 31, 2004.

31            - END -