

1 HOUSE BILL NO. 249

2 INTRODUCED BY W. STAHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CONSERVATION EASEMENTS THAT ARE
5 GRANTED IN PERPETUITY ARE TAXABLE CLASS FOUR PROPERTY; PROVIDING THAT CONSERVATION
6 EASEMENTS GRANTED IN PERPETUITY ARE TAXABLE EVEN IF OWNED BY THE STATE, LOCAL
7 GOVERNMENTS, OR OTHER PUBLIC AND PRIVATE ENTITIES, WHETHER OR NOT OPERATED FOR
8 PROFIT; AMENDING SECTIONS 15-6-134, 15-6-201, AND 76-6-208, MCA; AND PROVIDING AN
9 APPLICABILITY DATE."

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

- 12
13 **Section 1.** Section 15-6-134, MCA, is amended to read:
- 14 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:
- 15 (a) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all land, except that specifically
16 included in another class;
- 17 (b) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all improvements, including
18 trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another
19 class;
- 20 (c) the first \$100,000 or less of the taxable market value of any improvement on real property, including
21 trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under
22 contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any
23 person whose total income from all sources, including net business income and otherwise tax-exempt income
24 of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for
25 a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection
26 (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating
27 expenses but before deducting depreciation or depletion allowance, or both.
- 28 (d) all golf courses, including land and improvements actually and necessarily used for that purpose, that
29 consist of at least nine holes and not less than 700 lineal yards;
- 30 (e) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and

1 taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land
 2 described in 15-6-133(1)(c). The 1 acre must be valued at market value.

3 (f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;
 4 (ii) rental multifamily dwelling units;
 5 (iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon
 6 which the residences and dwelling units are located and any leasehold improvements; and

7 (iv) vacant residential lots; ~~and~~

8 (g) (i) commercial buildings and the parcels of land upon which they are situated; and

9 (ii) vacant commercial lots; and

10 (h) conservation easements, as defined in 76-6-104, granted in perpetuity, including conservation
 11 easements owned by the state, a county, a city, a town, a school district, or any other entity, whether or not
 12 operated for profit.

13 (2) Class four property is taxed as follows:

14 (a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections
 15 (1)(a), (1)(b), and (1)(e) through (1)(g) of this section is taxed at:

16 ~~—— (i) 3.22% of its taxable market value in tax year 2005;~~

17 ~~—— (ii) 3.14% of its taxable market value in tax year 2006;~~

18 ~~—— (iii) 3.07% of its taxable market value in tax year 2007; and~~

19 ~~—— (iv) 3.01% of its taxable market value in tax years after 2007.~~

20 (b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the
 21 rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income
 22 and determined from the following table:

23	Income	Income	Percentage
24	Single Person	Married Couple	Multiplier
25		Head of Household	
26	\$0 - \$ 6,000	\$0 - \$8,000	20%
27	\$6,001 - \$9,200	\$8,001 - \$14,000	50%
28	\$9,201 - \$15,000	\$14,001 - \$20,000	70%

29 (ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually
 30 by the department. The adjustment to the income levels is determined by:

1 (A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE
2 for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

3 (B) rounding the product thus obtained to the nearest whole dollar amount.

4 (iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly
5 in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

6 (c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established
7 in subsection (2)(a).

8 (3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as
9 commercial property is comparable only to other property assessed as commercial property and property
10 assessed as other than commercial property is comparable only to other property assessed as other than
11 commercial property."

12

13 **Section 2.** Section 15-6-201, MCA, is amended to read:

14 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The
15 following categories of property are exempt from taxation:

16 (a) except as provided in 15-24-1203 and subsection (3) of this section, the property of:

17 (i) the United States, except:

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

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

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

22 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

23 (iv) municipal corporations;

24 (v) public libraries; and

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

26 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious
27 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with
28 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,
29 which must be identified in the application, and all land and improvements used for educational or youth
30 recreational activities if the facilities are generally available for use by the general public but may not exceed 15

- 1 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,
2 or subdivision requirements;
- 3 (c) property owned and used exclusively for agricultural and horticultural societies not operated for gain
4 or profit;
- 5 (d) property, not to exceed 80 acres, which must be legally described in the application for the
6 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the
7 use of students in attendance and other structures necessary for the operation and maintenance of an
8 educational institution that:
- 9 (i) is not operated for gain or profit;
- 10 (ii) has an attendance policy; and
- 11 (iii) has a definable curriculum with systematic instruction;
- 12 (e) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the
13 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care
14 facility that is not licensed by the department of public health and human services and organized under Title 35,
15 chapter 2 or 3, is not exempt.
- 16 (f) property that is:
- 17 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 18 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
19 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 20 (iii) not maintained and not operated for gain or profit;
- 21 (g) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
22 local governmental entity by institutions of purely public charity if the property is directly used for purely public
23 charitable purposes;
- 24 (h) evidence of debt secured by mortgages of record upon real or personal property in the state of
25 Montana;
- 26 (i) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 27 (j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
28 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
29 irrigation of agricultural land;
- 30 (k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive

1 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,
2 prospect, or dig for oil, gas, coal, or minerals;

3 (l) (i) property that is owned and used by a corporation or association organized and operated exclusively
4 for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or
5 mental impairments that constitute or result in substantial impediments to employment and that is not operated
6 for gain or profit; and

7 (ii) property that is owned and used by an organization owning and operating facilities that are for the care
8 of the retired, aged, or chronically ill and that are not operated for gain or profit; and

9 (m) property owned by a nonprofit corporation that is organized to provide facilities primarily for training
10 and practice for or competition in international sports and athletic events and that is not held or used for private
11 or corporate gain or profit. For purposes of this subsection (1)(m), "nonprofit corporation" means an organization
12 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted
13 under the Montana Nonprofit Corporation Act.

14 (2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal
15 Internal Revenue Code:

16 (i) an ordained minister, priest, or rabbi;

17 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the
18 person has the authority to perform substantially all the religious duties of the church or denomination;

19 (iii) a member of a religious order who has taken a vow of poverty; or

20 (iv) a Christian Science practitioner.

21 (b) For the purposes of subsection (1)(g):

22 (i) the term "institutions of purely public charity" includes any organization that meets the following
23 requirements:

24 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
25 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
26 Revenue Code, as amended.

27 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
29 performances or entertainment or by other similar types of fundraising activities.

30 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used

1 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
2 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
3 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
4 the charity during the tax year, together with a statement indicating whether the exempt property was used to
5 generate any unrelated business taxable income.

6 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even
7 if the property must be improved before it can directly be used for its intended charitable purpose. If the property
8 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the
9 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property
10 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property
11 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was
12 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed
13 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.
14 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county
15 in which the property is located. The notice must indicate that an exemption pursuant to this section has been
16 granted. The notice must describe the penalty for default under this section and must specify that a default under
17 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the
18 department.

19 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally
20 applied for after December 31, 2004. An application for exemption under this section must contain a legal
21 description of the property for which the exemption is requested.

22 (c) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and
23 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
24 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
25 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
26 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
27 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
28 owned by other persons is exempt if it is:

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

30 (ii) held for future display; or

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

2 (3) Property that consists of a conservation easement, as defined in 76-6-104, that was granted in
3 perpetuity and that is owned by an entity listed in subsections (1)(a)(ii) through (1)(a)(vi) is not exempt from
4 taxation."

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6 **Section 3.** Section 76-6-208, MCA, is amended to read:

7 **"76-6-208. Taxation of property subject to conservation easement.** (1) Assessments made for
8 taxation on property subject to a conservation easement either in perpetuity or for a term of years, where a public
9 body or a qualifying private organization holds the conservation easement, ~~shall~~ must be determined on the basis
10 of the restricted purposes for which the property may be used. ~~The minimum assessed value for land subject~~
11 ~~to an easement conveyed under this chapter may not be less than the actual assessed value of such land in~~
12 ~~calendar year 1973. Any land~~ Land subject to ~~such a conservation~~ a conservation easement may not be classified into a class
13 affording a lesser ~~assessed~~ taxable valuation solely by reason of the creation of the easement. ~~The value of the~~
14 ~~interest held by a public body or qualifying private organization shall be exempt from property taxation.~~

15 (2) Expiration of an easement granted for a term of years ~~shall~~ may not result in a reassessment of the
16 land for property tax purposes if the easement is renewed and the granting instrument reflecting the renewed
17 easement is executed and properly filed not later than 15 days after the date of expiration."

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19 NEW SECTION. **Section 4. Applicability.** [This act] applies to property tax years beginning after
20 December 31, 2009.

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