

HOUSE BILL NO. 460

INTRODUCED BY K. PETERSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH
5 BY RULE A METHOD FOR VALUING TOWNHOUSES; DEFINING "TOWNHOUSE" AND "TOWNHOME";
6 PROVIDING THAT THE UNIT OWNERSHIP ACT ~~DOES NOT MAY~~ APPLY TO TOWNHOUSES; CONFORMING
7 PROVISIONS OF THE UNIT OWNERSHIP ACT WITH THE DEFINITIONS OF "TOWNHOUSE" AND
8 "TOWNHOME"; AMENDING SECTIONS 15-8-111, 70-23-102, ~~AND 70-23-103, 70-23-301, AND 76-3-203~~, MCA;
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

12
13 **Section 1.** Section 15-8-111, MCA, is amended to read:
14 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be
15 assessed at 100% of its market value except as otherwise provided.
16 (2) (a) Market value is the value at which property would change hands between a willing buyer and a
17 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of
18 relevant facts.
19 (b) If the department uses construction cost as one approximation of market value, the department shall
20 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional
21 obsolescence, or economic obsolescence.
22 (c) If the department uses the capitalization-of-net-income method as one approximation of market value
23 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely
24 upon the two methods that provide a similar market value as the better indicators of market value.
25 (d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural
26 tools, implements, and machinery is the average wholesale value shown in national appraisal guides and
27 manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules
28 showing the average wholesale value when a national appraisal guide does not exist.
29 (3) The department may not adopt a lower or different standard of value from market value in making
30 the official assessment and appraisal of the value of property, except:

1 (a) the wholesale value for agricultural implements and machinery is the average wholesale value
2 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment
3 dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the
4 department shall use a comparable publication or wholesale value category.

5 (b) for agricultural implements and machinery not listed in an official guide, the department shall prepare
6 a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

7 (c) (i) for condominium property, the department shall establish the value as provided in subsection (4);
8 and

9 (ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in
10 a manner established by the department by rule; and

11 (d) as otherwise authorized in Titles 15 and 61.

12 (4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available,
13 the department shall use the comparable sales method to appraise residential condominium units. Because the
14 undivided interest in common elements is included in the sales price of the condominium units, the department
15 is not required to separately allocate the value of the common elements to the individual units being valued.

16 (b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the
17 department, the department shall use the capitalization-of-net-income method to appraise commercial
18 condominium units. Because the undivided interest in common elements contributes directly to the
19 income-producing capability of the individual units, the department is not required to separately allocate the value
20 of the common elements to the individual units being valued.

21 (c) If sufficient, relevant information on comparable sales is not available for residential condominium
22 units or if sufficient, relevant information on income is not made available for commercial condominium units, the
23 department shall value condominiums using the construction-cost method. When using the construction-cost
24 method, the department shall determine the value of the entire condominium project and allocate a percentage
25 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the
26 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether
27 the percentage expressed in the declaration conforms to market value.

28 (5) For purposes of taxation, assessed value is the same as appraised value.

29 (6) The taxable value for all property is the percentage of market or assessed value established for each
30 class of property.

1 (7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
2 follows:

3 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
4 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
5 15-23-516, 15-23-517, or 15-23-518.

6 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

7 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the
8 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as
9 agricultural lands for tax purposes.

10 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value
11 minus any portion of market value that is exempt from taxation under 15-6-222.

12 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the
13 land when valued as forest land.

14 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described
15 in 15-23-205.

16 (8) Land and the improvements on the land are separately assessed when any of the following
17 conditions occur:

18 (a) ownership of the improvements is different from ownership of the land;

19 (b) the taxpayer makes a written request; or

20 (c) the land is outside an incorporated city or town."

21

22 **Section 2.** Section 70-23-102, MCA, is amended to read:

23 **"70-23-102. Definitions.** In this chapter, unless the context requires otherwise, the following definitions
24 apply:

25 (1) "Association of unit owners" means all the unit owners acting as a group in accordance with the
26 declaration and bylaws.

27 (2) "Building" means a multiple-unit building or buildings comprising a part of the property.

28 (3) "Common elements" means the general common elements and the limited common elements.

29 (4) "Common expenses" means:

30 (a) expenses of administration, maintenance, repair, or replacement of the common elements;

- 1 (b) expenses agreed upon as common by all the unit owners; and
- 2 (c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the
3 particular condominium.
- 4 (5) "Condominium" means the ownership of single units with common elements located on property
5 submitted to the provisions of this chapter. The term does not include a townhome or townhouse.
- 6 (6) "Declaration" means the instrument by which the property is submitted to the provisions of this
7 chapter.
- 8 (7) "General common elements", unless otherwise provided in a declaration or by consent of all the unit
9 owners, means:
- 10 (a) the land on which the building is located, except any portion of the land included in a unit or made
11 a limited common element by the declaration;
- 12 (b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs,
13 fire escapes, entrances, and exits of the building;
- 14 (c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways,
15 sidewalks, and private roads;
- 16 (d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration,
17 air conditioning, waste disposal, and incinerating;
- 18 (e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and
19 installations existing for common use;
- 20 (f) the premises for the lodging of janitors or caretakers of the property; and
- 21 (g) all other elements of the building necessary or convenient to its existence, maintenance, and safety
22 or normally in common use.
- 23 (8) "Limited common elements" means those common elements designated in the declaration or by
24 agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of
25 the other units.
- 26 (9) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the
27 owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements
28 as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever
29 a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided
30 ownership.

1 (10) "Manager" means the manager, board of managers, or other person in charge of the administration
2 of or managing the property.

3 (11) "Project" means a real estate condominium project whereby a condominium of two or more units
4 located on property submitted to the provisions of this chapter are offered or proposed to be offered for sale.

5 (12) "Property" means the land, all buildings, improvements, and structures on the land, and all
6 easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

7 (13) "Recording officer" means the county officer charged with the duty of filing and recording deeds and
8 mortgages or other instruments or documents affecting the title to real property.

9 (14) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which
10 persons own their own units and hold separate title to the land beneath their units, but under which they may
11 jointly own the common areas and facilities.

12 ~~(14)~~(15) "Unit" means a part of the property including one or more rooms occupying one or more floors
13 or a part or parts of the property intended for any type of independent use and with a direct exit to a public street
14 or highway or to a common area or area leading to a public street or highway.

15 ~~(15)~~(16) "Unit designation" means the number, letter, or combination of numbers and letters designating
16 a unit in the declaration.

17 ~~(16)~~(17) "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner
18 in any real estate tenancy relationship recognized under the laws of this state. However, for all purposes,
19 including the exercise of voting rights, provided by lease filed with the presiding officer of the association of unit
20 owners, a lessee of a unit must be considered a unit owner."

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22 **SECTION 3. SECTION 70-23-301, MCA, IS AMENDED TO READ:**

23 **"70-23-301. Contents of declaration.** A declaration must contain:

24 (1) a description of the land, whether leased or in fee simple, on which the building is located or is to be
25 located;

26 (2) the name by which the property will be known and a general description of the building, including the
27 number of stories and basements, the number of units, and the principal materials of which it is constructed;

28 (3) the unit designation, location, approximate area of each unit, and any other data necessary for proper
29 identification;

30 (4) a description of the general common elements and the percentage of the interest of each unit owner

1 in the common elements;

2 (5) a description of the limited common elements, if any, stating to which units their use is reserved and
3 in what percentage;

4 (6) a statement of the use for which the building and each of the units is intended;

5 (7) the name of a person to receive service of process in the cases provided in 70-23-901 and the
6 residence or place of business of the person which must be within the county in which the property is located;

7 (8) an exhibit containing certification from the applicable local government that the condominiums,
8 townhomes, or townhouses are either exempt from review under 76-3-203 or have been approved following
9 review under Title 76, chapter 3, parts 5 and 6; and

10 (9) any other details regarding the property that the person executing the declaration considers
11 desirable."

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13 **SECTION 4. SECTION 76-3-203, MCA, IS AMENDED TO READ:**

14 **"76-3-203. Exemption for certain condominiums.** Condominiums, townhomes, or townhouses, as
15 those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this
16 chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

17 (1) the approval of the original subdivision of land expressly contemplated the construction of the
18 condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are
19 complied with; or

20 (2) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning
21 regulations when local zoning regulations are in effect."

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23 **Section 5.** Section 70-23-103, MCA, is amended to read:

24 **"70-23-103. Applicability -- submission by declaration required -- ~~inapplicability to~~ OPTIONAL**
25 **DECLARATION FOR townhouses.** (1) In order to submit any property to the provisions of this chapter, the sole
26 owner or sole lessee or all of the owners or all of the lessees ~~thereof of the property~~ shall execute, acknowledge,
27 and record a declaration in the office of the recording officer of the county in which the property is located. The
28 declaration ~~shall~~ must be executed in accordance with 70-23-301.

29 (2) A DECLARATION FOR A TOWNHOME OR TOWNHOUSE MAY BE EXECUTED UNDER THIS SECTION. The
30 provisions of this chapter do not apply to townhomes or townhouses ONLY IF A DECLARATION IS EXECUTED UNDER

1 THIS SECTION."

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3 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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5 NEW SECTION. Section 7. Applicability. [Section 1] applies to tax years beginning after December
6 31, 2011.

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