

SENATE BILL NO. 295

INTRODUCED BY B. LAKE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MANNER OF APPRAISING CERTAIN PROPERTIES
5 FOR PROPERTY TAX PURPOSES; ALLOWING ANNUAL INFORMAL REVIEWS OF CLASSIFICATION AND
6 APPRAISAL FOR AGRICULTURAL, RESIDENTIAL AND COMMERCIAL, AND FOREST PROPERTY;
7 REQUIRING CERTAIN INFORMATION BE PROVIDED TO AN OBJECTOR FOR USE IN INFORMAL REVIEWS;
8 PROHIBITING AN INCREASE IN THE VALUE OF PROPERTY THROUGH AN INFORMAL REVIEW EXCEPT
9 DUE TO A PHYSICAL CHANGE IN A PROPERTY OR A MISTAKE IN A PROPERTY DESCRIPTION;
10 REQUIRING THE USE OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; AND
11 AMENDING SECTIONS 15-7-102 AND 15-8-111, MCA."

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

14
15 **Section 1.** Section 15-7-102, MCA, is amended to read:

16 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided
17 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
18 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
19 or more of the following changes pertaining to the land or improvements have been made since the last notice:

- 20 (i) change in ownership;
- 21 (ii) change in classification;
- 22 (iii) except as provided in subsection (1)(b), change in valuation; or
- 23 (iv) addition or subtraction of personal property affixed to the land.

24 (b) After the first year, the department is not required to mail the notice provided for in subsection
25 (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the
26 phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an
27 incremental change in the tax rate.

28 (c) The notice must include the following for the taxpayer's informational purposes:
29 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
30 including the property tax assistance program under 15-6-134, the extended property tax assistance program

1 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential
2 property tax credit for the elderly under 15-30-2337 through 15-30-2341;

3 (ii) the total amount of mills levied against the property in the prior year; and

4 (iii) a statement that the notice is not a tax bill.

5 (d) Any misinformation provided in the information required by subsection (1)(c) does not affect the
6 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

7 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
8 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
9 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
10 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
11 the prior tax year.

12 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
13 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

14 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
15 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
16 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
17 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

18 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market
19 value of the property as determined by the department or with the classification of the land or improvements, the
20 owner may request an assessment review by submitting an objection in writing to the department; on forms
21 provided by the department for that purpose; For property other than class three property described in 15-6-133,
22 class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be
23 submitted within 30 days after receiving the notice of classification and appraisal from the department. For class
24 three property described in 15-6-133, class four property described in 15-6-134, and class ten property described
25 in 15-6-143, the objection may be made annually.

26 (b) For properties valued using sales price as an indication of value, the form must include a provision
27 that the objector agrees to confidentiality requirements for receipt of comparable sales data from information
28 received from realty transfer certificates under 15-7-308. Within 2 weeks of submitting an objection, if the
29 objection relates to residential property, the department shall provide the objector with:

30 (i) data from comparable sales used by the department to value the property;

1 (ii) the methodology and sources of data used by the department in the valuation of the property; and
2 (iii) if the department uses a blend of evaluations developed from various sources, the reasons that the
3 methodology was used.

4 (c) The review must be conducted informally and is not subject to the contested case procedures of the
5 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling
6 price of the property, independent appraisals of the property, and other relevant information presented by the
7 taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give
8 reasonable notice to the taxpayer of the time and place of the review.

9 (d) After the review, the department shall determine the correct appraisal and classification of the land
10 or improvements and notify the taxpayer of its determination. The department may not determine an appraised
11 value that is higher than the value that was the subject of the objection unless the reason for an increase was
12 the result of a physical change in the property or caused by an error in the description of the property that is kept
13 by the department and used for calculating the appraised value. In the notification, the department shall state its
14 reasons for revising the classification or appraisal. When the proper appraisal and classification have been
15 determined, the land must be classified and the improvements appraised in the manner ordered by the
16 department.

17 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
18 appraisal or classification upon the taxpayer's objection unless:

- 19 (a) the taxpayer has submitted an objection in writing; and
20 (b) the department has stated its reason in writing for making the adjustment.

21 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
22 taxpayer of its determination and the reason for that determination are public records. The department shall make
23 the records available for inspection during regular office hours.

24 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
25 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
26 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
27 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
28 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
29 the actual selling price of the property, independent appraisals of the property, and other relevant information
30 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the

1 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
2 of the property in accordance with the board's order."

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4 **Section 2.** Section 15-8-111, MCA, is amended to read:

5 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be
6 assessed at 100% of its market value except as otherwise provided.

7 (2) (a) Market value is the value at which property would change hands between a willing buyer and a
8 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of
9 relevant facts.

10 (b) If the department uses construction cost as one approximation of market value, the department shall
11 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional
12 obsolescence, or economic obsolescence.

13 (c) If the department uses the capitalization-of-net-income method as one approximation of market value
14 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely
15 upon the two methods that provide a similar market value as the better indicators of market value.

16 (d) Except as provided in subsection ~~(3)~~ (4), the market value of special mobile equipment and
17 agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides
18 and manuals or the value before reconditioning and profit margin. The department shall prepare valuation
19 schedules showing the average wholesale value when a national appraisal guide does not exist.

20 (3) In valuing class four residential and commercial property described in 15-6-134, the department shall
21 conduct the appraisal following the uniform standards of professional appraisal practice promulgated by the
22 appraisal standards board of the appraisal foundation. In valuing the property, the department shall use
23 information available from any source considered reliable. Comparable properties used for valuation must
24 represent similar properties within an acceptable proximity of the property being valued.

25 ~~(3)~~(4) The department may not adopt a lower or different standard of value from market value in making
26 the official assessment and appraisal of the value of property, except:

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

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

3 (c) for condominium property, the department shall establish the value as provided in subsection ~~(4)~~ (5);
4 and

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

6 ~~(4)(5)~~ (a) Subject to subsection ~~(4)(c)~~ (5)(c), if sufficient, relevant information on comparable sales is
7 available, the department shall use the comparable sales method to appraise residential condominium units.
8 Because the undivided interest in common elements is included in the sales price of the condominium units, the
9 department is not required to separately allocate the value of the common elements to the individual units being
10 valued.

11 (b) Subject to subsection ~~(4)(e)~~ (5)(c), if sufficient, relevant information on income is made available to
12 the department, the department shall use the capitalization-of-net-income method to appraise commercial
13 condominium units. Because the undivided interest in common elements contributes directly to the
14 income-producing capability of the individual units, the department is not required to separately allocate the value
15 of the common elements to the individual units being valued.

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

23 ~~(5)(6)~~ For purposes of taxation, assessed value is the same as appraised value.

24 ~~(6)(7)~~ The taxable value for all property is the percentage of market or assessed value established for
25 each class of property.

26 ~~(7)(8)~~ The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
27 follows:

28 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
29 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
30 15-23-516, 15-23-517, or 15-23-518.

- 1 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.
- 2 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the
3 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as
4 agricultural lands for tax purposes.
- 5 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value
6 minus any portion of market value that is exempt from taxation under 15-6-222.
- 7 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the
8 land when valued as forest land.
- 9 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described
10 in 15-23-205.
- 11 ~~(g)~~(9) Land and the improvements on the land are separately assessed when any of the following
12 conditions occur:
- 13 (a) ownership of the improvements is different from ownership of the land;
14 (b) the taxpayer makes a written request; or
15 (c) the land is outside an incorporated city or town."
- 16 - END -