

## 1 SENATE BILL NO. 295

2 INTRODUCED BY B. LAKE

3  
 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 PROVIDING THAT THE CONSIDERATION PAID ON A MORTGAGE FORECLOSURE MUST BE DISCLOSED  
 11 IN A REALTY TRANSFER CERTIFICATE; REQUIRING THE USE OF THE UNIFORM STANDARDS OF  
 12 PROFESSIONAL APPRAISAL PRACTICE; REQUIRING THAT ERRONEOUS CALCULATION ERRORS MUST  
 13 BE CORRECTED FOR ALL AFFECTED PROPERTIES; AND AMENDING SECTIONS 15-7-102, 15-7-307, AND  
 14 15-8-111, AND 15-8-601, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

15

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

17

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

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

23 (i) change in ownership;

24 (ii) change in classification;

25 (iii) except as provided in subsection (1)(b), change in valuation; or

26 (iv) addition or subtraction of personal property affixed to the land.

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

1 (c) The notice must include the following for the taxpayer's informational purposes:

2 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,  
3 including the property tax assistance program under 15-6-134, the extended property tax assistance program  
4 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential  
5 property tax credit for the elderly under 15-30-2337 through 15-30-2341;

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

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

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

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

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

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

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

29 (b) For properties valued using sales price OR THE CAPITALIZATION OF NET INCOME METHOD as an indication  
30 of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of

1 comparable sales data from information received from realty transfer certificates under 15-7-308. Within 2 4  
 2 weeks of submitting an objection, if the objection relates to residential AND COMMERCIAL property, the department  
 3 shall provide the objector BY POSTED MAIL OR E-MAIL, UNLESS THE OBJECTOR WAIVES RECEIVING THE INFORMATION,  
 4 with:

5 (i) data from comparable sales used by the department to value the property;  
 6 (ii) the methodology and sources of data used by the department in the valuation of the property; and  
 7 (iii) if the department uses a blend of evaluations developed from various sources, the reasons that the  
 8 methodology was used.

9 (C) FOR PROPERTIES VALUED USING THE CAPITALIZATION OF NET INCOME METHOD AS ONE APPROXIMATION OF  
 10 MARKET VALUE, NOTICE MUST BE PROVIDED THAT THE TAXPAYER WILL BE GIVEN A FORM TO ACKNOWLEDGE  
 11 CONFIDENTIALITY REQUIREMENTS FOR THE RECEIPT OF ALL INFORMATION THAT THE DEPARTMENT USED IN THE VALUATION  
 12 MODEL FOR THE PROPERTY.

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

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

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

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

30 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the

1 taxpayer of its determination and the reason for that determination are public records. The department shall make  
2 the records available for inspection during regular office hours.

3 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after  
4 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal  
5 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.  
6 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's  
7 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider  
8 the actual selling price of the property, independent appraisals of the property, and other relevant information  
9 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the  
10 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value  
11 of the property in accordance with the board's order."  
12

13 **SECTION 2. SECTION 15-7-307, MCA, IS AMENDED TO READ:**

14 **"15-7-307. Certificate -- exceptions.** The certificate required by this part applies to all transfers.  
15 However, the certificate filed for the following transfers need not disclose the consideration paid or to be paid for  
16 the real estate transferred:

- 17 (1) an instrument recorded prior to July 1, 1975;  
18 (2) the sale of agricultural land when the land is used for agricultural purposes;  
19 (3) the sale of timberland when the land is used for producing timber;  
20 (4) a transfer by the United States, this state, or any instrumentality, agency, or subdivision of the United  
21 States or this state;  
22 (5) an instrument that (without added consideration) confirms, corrects, modifies, or supplements a  
23 previously recorded instrument;  
24 (6) a transfer pursuant to a court decree;  
25 (7) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or  
26 other business entities;  
27 (8) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole  
28 consideration of the cancellation or surrender of subsidiary stock;  
29 (9) a transfer of decedents' estates;  
30 (10) a transfer of a gift;

1 (11) a transfer between husband and wife or parent and child with only nominal actual consideration for  
2 the transfer;

3 (12) an instrument the effect of which is to transfer the property to the same party or parties;

4 (13) a sale for delinquent taxes or assessments, a sheriff's sale, or a sale pursuant to a bankruptcy action  
5 court order, or mortgage foreclosure;

6 (14) a transfer made in contemplation of death."  
7

8 **Section 3.** Section 15-8-111, MCA, is amended to read:

9 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be  
10 assessed at 100% of its market value except as otherwise provided.

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

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

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

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

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

29 ~~(3)~~(4) 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) for condominium property, the department shall establish the value as provided in subsection ~~(4)~~ (5);

8 and

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

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

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

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

27 ~~(5)~~(6) For purposes of taxation, assessed value is the same as appraised value.

28 ~~(6)~~(7) The taxable value for all property is the percentage of market or assessed value established for  
 29 each class of property.

30 ~~(7)~~(8) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as

1 follows:

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

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

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

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

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

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

15 ~~(8)~~(9) Land and the improvements on the land are separately assessed when any of the following  
16 conditions occur:

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

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

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

21 **SECTION 4. SECTION 15-8-601, MCA, IS AMENDED TO READ:**

22 **"15-8-601. Assessment revision -- conference for review.** (1) (a) Except as provided in subsection  
23 (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped  
24 assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property  
25 provided that the property is under the ownership or control of the same person who owned or controlled it at the  
26 time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments  
27 must be made within 10 years after the end of the calendar year in which the original assessment was or should  
28 have been made.

29 (b) Within the time limits set by 15-23-116, whenever the department discovers property subject to  
30 assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been

1 omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who  
2 owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation,  
3 regardless of the ownership of the property at the time of the department's revised assessment.

4 (c) If an erroneous assessment is due to a calculation error by the department, the department shall  
5 revise the assessment of like properties that were also erroneously assessed using the same calculation.

6 (2) When the department proposes to revise the statement reported by the taxpayer under 15-8-301,  
7 the action of the department is subject to the notice and conference provisions of this section. Revised  
8 assessments of centrally assessed property are subject to review pursuant to 15-1-211.

9 (3) (a) Notice of revised assessment pursuant to this section must be made by the department by  
10 postpaid letter addressed to the person interested within 10 days after the revised assessment has been made.  
11 If the property is locally assessed, the notice must include the opportunity for a conference on the matter, at the  
12 request of the person interested, within 30 days after notice is given.

13 (b) An assessment revision review conference is not a contested case as defined in the Montana  
14 Administrative Procedure Act. The department shall keep minutes in writing of each assessment revision review  
15 conference, and the minutes are public records.

16 (c) Following an assessment revision review conference or expiration of the opportunity for a conference,  
17 the department shall order an assessment that it considers proper. Any party to the conference aggrieved by the  
18 action of the department or a taxpayer who does not request a conference may appeal to the county tax appeal  
19 board within 30 days of receipt of the revised assessment or the department's assessment made pursuant to the  
20 conference.

21 (4) The department shall enter in the property tax record all changes and corrections made by it."  
22

23 NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2012.

24 - END -