

HOUSE BILL NO. 361

INTRODUCED BY C. HUNTER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A REFUND OF UP TO \$400 OF 2012 MONTANA
5 PROPERTY TAXES PAID BY A TAXPAYER ON A RESIDENTIAL PROPERTY OWNED AND OCCUPIED FOR
6 AT LEAST 7 MONTHS DURING 2012 AND OF CERTAIN 2011 AND 2010 MONTANA PROPERTY TAXES PAID
7 ON THE PROPERTY; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND
8 AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED; PROVIDING
9 APPROPRIATIONS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE AND A TERMINATION DATE."

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

13
14 NEW SECTION. **Section 1. Property tax refund -- eligibility -- definition.** (1) A taxpayer is eligible
15 for the property tax refund provided for in [section 2] if the taxpayer meets the ownership and occupancy
16 requirements of this section.

17 (2) (a) Except as provided in subsections (2)(b) through (2)(d), the taxpayer must have owned in 2012
18 a property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer,
19 manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is
20 reasonably necessary for its use as a dwelling.

21 (b) The portion of a property classified under 15-6-134 as commercial property used for residential
22 purposes that is clearly distinguishable and separate from the commercial property is eligible for the refund
23 provided in [section 2].

24 (c) Purchase under a contract for deed and being the grantor under a trust indenture for a property
25 specified in subsection (2)(a) or (2)(b) also constitutes ownership.

26 (d) If a corporation or other business entity holds title to a property described in subsection (2)(a) or
27 (2)(b), each individual who has 20% or more ownership interest in the corporation or business entity and resides
28 in the property is considered to own the property.

29 (3) (a) The taxpayer must have occupied a property described in subsection (2) for at least 7 months
30 during 2012 or meet the requirements of subsection (3)(b).

- 1 (b) For the purposes of this subsection, a person is considered to have occupied a property if:
- 2 (i) the taxpayer owned and occupied more than one property described in subsection (2) on which the
- 3 taxpayer paid Montana property taxes for each property and resided in the properties for at least 7 months during
- 4 2012;
- 5 (ii) the taxpayer is a member of the military who owned a property described in subsection (2), declared
- 6 a principal residence in Montana, and occupied the property before departing for active military duty; or
- 7 (iii) the taxpayer is a member of the military stationed in Montana who owned and occupied a property
- 8 described in subsection (2) for at least 7 months in 2012 but does not file as a resident for Montana individual
- 9 income tax purposes.
- 10 (4) For the purposes of this section and [section 2], "Montana property taxes" means the ad valorem
- 11 property taxes, special assessments, and fees imposed on a property eligible for a property tax refund under this
- 12 section and [section 2].

13

14 **NEW SECTION. Section 2. Property tax refund -- manner of claiming -- limitations --**

15 **appropriation.** (1) (a) A refund of up to \$400 of 2012 Montana property taxes assessed to and paid by a taxpayer

16 on a property meeting the eligibility requirements of [section 1] may be claimed as provided in subsection (2),

17 subject to the limitations provided in subsection (3).

18 (b) If the 2012 Montana property taxes assessed to and paid by a taxpayer on a property meeting the

19 eligibility requirements of [section 1] were more than \$25 and less than \$400, a refund of the 2011 Montana

20 property taxes assessed to and paid by the taxpayer on the property may be claimed as provided in subsection

21 (2), subject to the limitations provided in subsection (3), in an amount that together with the refund under

22 subsection (1)(a) does not exceed \$400. The taxpayer must meet the ownership and occupancy requirements

23 in [section 1] for 2011 in order to receive a refund of 2011 Montana property taxes.

24 (c) If the 2012 Montana property taxes assessed to and paid by a taxpayer on a property meeting the

25 eligibility requirements of [section 1] together with the 2011 Montana property taxes allowed as a refund under

26 subsection (1)(b), were more than \$50 and less than \$400, a refund of the 2010 Montana property taxes

27 assessed to and paid by the taxpayer on the property may be claimed as provided in subsection (2), subject to

28 the limitations provided in subsection (3), in an amount that together with the refund under subsections (1)(a) and

29 (1)(b) does not exceed \$400. The taxpayer must meet the ownership and occupancy requirements in [section

30 1] for 2010 in order to receive a refund of 2010 Montana property taxes.

1 (2) (a) Subject to subsection (2)(b), the claim for refund, in the form that the department of revenue
2 prescribes, must be executed by each taxpayer under penalty of false swearing and must include the information
3 that the department requires.

4 (b) The personal representative of the estate of a deceased taxpayer may execute and file the claim for
5 refund on behalf of a deceased taxpayer who qualifies for the refund.

6 (3) The claim for a refund is subject to the following limitations:

7 (a) The claim must be filed with the department of revenue on or before December 31, 2013, unless the
8 department, for reasonable cause shown by the taxpayer, grants an extension of time for filing. The department
9 may not grant an extension of time after June 30, 2014, under any circumstance.

10 (b) Only one claim for a property tax refund may be made with respect to any property described in
11 [section 1].

12 (c) The claims for a property tax refund for 2012, 2011, and 2010 must be for the same property.

13 (d) All property taxes assessed on a property for which a claim is made and all other tax liabilities
14 imposed by Title 15 against the taxpayer must be paid before a refund will be issued. Property taxes paid under
15 protest do not preclude a taxpayer from claiming a refund. The department of revenue may offset any refund for
16 debts owed to the state or its municipalities pursuant to 17-4-105.

17 (e) Except as provided in [section 1(3)(b)(iii)], a taxpayer may not have filed as a nonresident for
18 individual income tax purposes and must have properly filed a Montana individual income tax return, if required.

19 (4) The property tax refund is in addition to other property tax or individual income tax credits,
20 abatements, or assistance programs.

21 (5) A taxpayer who owns more than one residential property classified under 15-6-134 is eligible for only
22 one property tax refund.

23 (6) The payment of property tax refunds under this section is statutorily appropriated, as provided in
24 17-7-502, from the general fund to the department of revenue for distribution to applicants.

25
26 **NEW SECTION. Section 3. Property tax refund -- penalty for false or fraudulent claim.** A person
27 who files a false or fraudulent claim for a property tax refund under [section 2] is subject to the provisions of
28 15-1-216. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other tax owed
29 the state, together with the penalties and interest provisions of 15-1-216, until paid.

30

1 **Section 4.** Section 17-7-502, MCA, is amended to read:

2 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
4 need for a biennial legislative appropriation or budget amendment.

5 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
6 of the following provisions:

7 (a) The law containing the statutory authority must be listed in subsection (3).

8 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
9 appropriation is made as provided in this section.

10 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
11 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
12 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
13 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
14 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
15 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
16 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
17 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
18 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
19 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621;
20 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; ~~and 90-9-306;~~ and [section 2].

21 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
22 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
23 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
24 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
25 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
26 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
27 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
28 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
29 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
30 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.

1 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
2 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
3 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
4 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
5 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
6 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
7 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
8 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
9 June 30, 2017.)"

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11 NEW SECTION. **Section 5. Appropriation.** There is appropriated to the department of revenue \$1.2
12 million from the general fund for the administration of the property tax refund provided in [section 2] for the 2015
13 biennium.

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

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17 NEW SECTION. **Section 7. Termination.** [This act] terminates June 30, 2014.

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