

HOUSE BILL NO. 426

INTRODUCED BY D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONDOMINIUM AND TOWNHOUSE

5 OWNERSHIP LAWS; PROHIBITING THE DEPARTMENT OF REVENUE FROM REQUIRING INFORMATION

6 THAT IS IN EXCESS OF INFORMATION CONTAINED IN DOCUMENTS THAT ARE REQUIRED TO BE

7 RECORDED PRIOR TO CONVERSION OF A CONDOMINIUM TO A TOWNHOUSE; PROVIDING THAT A

8 DECLARATION PERTAINING TO THE CONVERSION OF CONDOMINIUMS TO TOWNHOUSES MUST BE

9 SIGNED BY OWNERS OF AT LEAST 75% OF THE UNITS; REQUIRING THAT A NOTICE OF THE

10 CONVERSION BE GIVEN TO MORTGAGE HOLDERS ON THE UNITS TO BE CONVERTED TO

11 TOWNHOUSES; PROVIDING THAT CHANGES RESULTING FROM THE CONVERSION MAY NOT BE

12 CONSIDERED AS CONSTITUTING A DEFAULT IN THE LENDING AGREEMENTS BETWEEN THE LENDERS

13 AND THE UNIT OWNERS; REQUIRING TITLE COMPANIES TO ACCEPT AND INSURE ALL CHANGES

14 CONTAINED IN A DECLARATION PERTAINING TO A CONVERSION FROM A CONDOMINIUM TO A

15 TOWNHOUSE WHEN THE LEGAL DESCRIPTION IS NOT MODIFIED; AND AMENDING SECTIONS 15-8-111,

16 70-23-301, AND 70-23-902, MCA."

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

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20 **Section 1.** Section 15-8-111, MCA, is amended to read:

21 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be

22 assessed at 100% of its market value except as otherwise provided.

23 (2) (a) Market value is the value at which property would change hands between a willing buyer and a

24 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of

25 relevant facts.

26 (b) If the department uses construction cost as one approximation of market value, the department shall

27 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional

28 obsolescence, or economic obsolescence.

29 (c) If the department uses the capitalization-of-net-income method as one approximation of market value

30 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely

1 upon the two methods that provide a similar market value as the better indicators of market value.

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

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

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

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

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

19 (c) (i) for condominium property, the department shall establish the value as provided in subsection (5);
20 and

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

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

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

28 (b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the
29 department, the department shall use the capitalization-of-net-income method to appraise commercial
30 condominium units. Because the undivided interest in common elements contributes directly to the

1 income-producing capability of the individual units, the department is not required to separately allocate the value
2 of the common elements to the individual units being valued.

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

10 (d) For the purposes of this subsection (5), when applicable, the department may not require information
11 that is in excess of information contained in documents that are required to be recorded prior to conversion of
12 a condominium to a townhouse.

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

14 (7) The taxable value for all property is the percentage of market or assessed value established for each
15 class of property.

16 (8) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
17 follows:

18 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
19 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
20 15-23-516, 15-23-517, or 15-23-518.

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

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

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

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

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

1 (9) Land and the improvements on the land are separately assessed when any of the following
2 conditions occur:

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

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

5 (c) the land is outside an incorporated city or town."
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7 **Section 2.** Section 70-23-301, MCA, is amended to read:

8 **"70-23-301. Contents of declaration. (1)** A declaration must contain:

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

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

13 ~~(3)~~(c) the unit designation, location, approximate area of each unit, and any other data necessary for
14 proper identification;

15 ~~(4)~~(d) a description of the general common elements and the percentage of the interest of each unit
16 owner in the common elements;

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

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

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

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

25 ~~(9)~~(i) any other details regarding the property that the person executing the declaration considers
26 desirable.

27 (2) (a) A declaration pertaining to the conversion of condominiums to townhouses must be signed by
28 owners of at least 75% of the units regardless of whether the original declaration requires a greater or lesser
29 percentage of owners' signatures for amendments to the declaration.

30 (b) (i) Lenders possessing a mortgage on any unit that is being converted from a condominium to a

1 townhouse must be notified of the proposed conversion and must be given at least 15 days to respond prior to
2 the conversion.

3 (ii) Any lender responding and approving the conversion or any lender failing to respond within 15 days
4 to the notice acquiesces to the conversion of the units from condominiums to townhouses.

5 (iii) Changes to general or limited common elements and other similar changes resulting from the
6 conversion may not be considered as constituting a default in the lending agreements between the lenders and
7 the unit owners.

8 (c) Title companies shall accept and insure all changes contained in a declaration pertaining to a
9 conversion from a condominium to a townhouse when the legal description is not modified other than to change
10 the designation of the unit from a condominium to a townhouse or townhome."

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12 **Section 3.** Section 70-23-902, MCA, is amended to read:

13 **"70-23-902. Change of agent for service of process.** If the association of unit owners wishes to
14 designate a person other than the one named in the declaration to receive service of process in the cases
15 provided in 70-23-901, it shall record an amendment to the declaration. The amendment must be certified by the
16 presiding officer and the secretary of the association of unit owners and must state the name of the successor
17 with the successor's residence or place of business as required by ~~70-23-301(7)~~ 70-23-301(1)(g) and that the
18 person named in the amendment was designated by resolution duly adopted by the association of unit owners."

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