

HOUSE BILL NO. 390

INTRODUCED BY S. ESSMANN, C. KNUDSEN, J. KASSMIER, B. MITCHELL, R. MINER, L. DEMING, G. NIKOLAKAKOS, J. ETCHART, Z. WIRTH, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A HOMESTEAD EXEMPTION FOR A DWELLING USED AS A PRIMARY RESIDENCE; PROVIDING ELIGIBILITY REQUIREMENTS; AMENDING SECTIONS 15-7-102, 15-16-101, AND 15-17-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Homestead exemption -- eligibility -- recapture -- definitions. (1)

Except as provided in subsection (10), there is a homestead exemption of \$50,000 of appraised value for class four residential property owned and used as a primary residence. To be eligible for the exemption, the applicant must meet the requirements of this section.

(2) The residential property must be owned or under contract for deed by the applicant and be used by the applicant as a primary residence in the tax year for which the exemption is claimed.

(3) The applicant must apply for the homestead exemption by March 1 of the year in which the exemption is first claimed on forms provided by the department. The application form must contain:

- (a) an affirmation that the applicant owns and uses the property as a primary residence; and
(b) any other information required by the department that is relevant to the applicant's eligibility.

(4) When providing information to the department for qualification under this section, applicants are subject to the false swearing penalties established in 45-7-202. Any person who knowingly and willfully gives false information for the purpose of claiming a homestead exemption as provided in this section is guilty of a misdemeanor, punishable by a fine not to exceed \$5,000 or imprisonment in the county jail for a term not to exceed 1 year, or both.

(5) (a) On application for the homestead exemption, the department shall determine whether the property qualifies as a primary residence.



1 (b) The department shall verify at least two of the following:

2 (i) a valid Montana driver's license, Montana state identification card, or tribal identification card;

3 (ii) a Montana motor vehicle registration;

4 (iii) resident filing status listed on the Montana income tax return filed by applicant.

5 (c) The department may also consider but is not limited to the following:

6 (i) the place of employment of the applicant;

7 (ii) proof of voter registration in Montana;

8 (iii) evidence of the location where the applicant's dependent children are registered for school;

9 (iv) the address listed on the federal income tax return filed by the applicant;

10 (v) the location where the applicant's bank statements and checking accounts are registered; and

11 (vi) proof of payment of utilities at the property for which primary residency is being claimed.

12 (6) The department may investigate the information provided in an application and an applicant's
13 continued eligibility.

14 (7) Following approval for the homestead exemption, the applicant remains eligible for the
15 exemption in subsequent years as long as the applicant continues to use the property as a primary residence.
16 The department may request verification that a property granted a homestead exemption is being used as a
17 primary residence.

18 (8) (a) Except as provided in subsection (8)(b), the rental of all or substantially all of a single-family
19 dwelling previously eligible for a homestead exemption constitutes the abandonment of the dwelling as a
20 primary residence, and the abandonment continues until the dwelling is physically occupied by the applicant.
21 The abandonment of the primary residence after January 1 of any year does not affect the homestead
22 exemption for that year unless the property is rented for more than 30 days.

23 (b) Subsection (8)(a) does not apply to a member of the armed forces of the United States on
24 active duty. Valid military orders transferring a member of the armed forces are sufficient to maintain a primary
25 residence for the purpose of the homestead exemption.

26 (9) An applicant may only receive the homestead exemption for one property at a time. If the
27 applicant sells a property for which a homestead exemption is granted and purchases a new property eligible
28 for the homestead exemption, the applicant shall reapply for the homestead exemption.

1 (10) A taxpayer may not claim the homestead exemption if the taxpayer receives benefits from any
2 of the following:

3 (a) the intangible land value assistance program provided for in 15-6-240;

4 (b) the property tax assistance program provided for in 15-6-305;

5 (c) the disabled veteran program provided for in 15-6-311; or

6 (d) the mobile home exemption provided for in 15-6-241.

7 (11) The department shall mail a notice of the availability of the homestead exemption to all
8 residential property owners by July 1, 2023.

9 (12) As used in this section, the following definitions apply:

10 (a) "Primary residence" means a single-family dwelling owned and occupied for at least 7 months
11 of the year in which a person has a true, fixed, and permanent home and principal establishment to which,
12 whenever absent, the person has the intention of returning. A person may have only one primary residence at a
13 time and, when a primary residence is established in a foreign state or country, it is presumed to continue until
14 the person shows that a change has occurred.

15 (b) "Single-family dwelling" means a residential dwelling, manufactured home, trailer, mobile
16 home, condominium unit, or a unit of a multiple-unit dwelling.

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18 **Section 2.** Section 15-7-102, MCA, is amended to read:

19 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

20 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser
21 under contract for deed a notice that includes the land classification, market value, and taxable value of the
22 land and improvements owned or being purchased. A notice must be mailed or, with property owner consent,
23 provided electronically to the owner only if one or more of the following changes pertaining to the land or
24 improvements have been made since the last notice:

25 (i) change in ownership;

26 (ii) change in classification;

27 (iii) change in valuation; or

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

1 (b) The notice must include the following for the taxpayer's informational and informal classification
2 and appraisal review purposes:

3 (i) a notice of the availability of all the property tax assistance programs available to property
4 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the homestead
5 exemption provided for in [section 1], the property tax assistance programs provided for in Title 15, chapter 6,
6 part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

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

8 (iii) the market value for the prior reappraisal cycle;

9 (iv) if the market value has increased by more than 10%, an explanation for the increase in
10 valuation;

11 (v) a statement that the notice is not a tax bill; and

12 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
13 on the notice and returning it to the department.

14 (c) When the department uses an appraisal method that values land and improvements as a unit,
15 including the sales comparison approach for residential condominiums or the income approach for commercial
16 property, the notice must contain a combined appraised value of land and improvements.

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

19 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
20 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
21 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
22 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
23 changes over the prior tax year.

24 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
25 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
26 15-1-402.

27 (c) The department is not required to mail or provide electronically the notice to a new owner or
28 purchaser under contract for deed unless the department has received the realty transfer certificate from the

1 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
2 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
3 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

4 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
5 market value of the property as determined by the department or with the classification of the land or
6 improvements, the owner may request an informal classification and appraisal review by submitting an
7 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
8 notice and returning it to the department in a manner prescribed by the department.

9 (i) For property other than class three property described in 15-6-133, class four property
10 described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30
11 days from the date on the notice.

12 (ii) For class three property described in 15-6-133 and class four property described in 15-6-134,
13 the objection may be made only once each valuation cycle. An objection must be made in writing or by
14 checking a box on the notice within 30 days from the date on the classification and appraisal notice for a
15 reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection
16 made more than 30 days from the date of the classification and appraisal notice will be applicable only for the
17 second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle,
18 the taxpayer shall make the objection in writing or by checking a box on the notice no later than June 1 of the
19 second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of
20 the valuation cycle, within 30 days from the date on the notice.

21 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only
22 once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30
23 days from the date on the classification and appraisal notice for a reduction in the appraised value to be
24 considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of
25 the classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal
26 cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer shall make the
27 objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is
28 being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle,

1 within 30 days from the date on the notice.

2 (b) If the objection relates to residential or commercial property and the objector agrees to the
3 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
4 8 weeks of submission of the objection, the following information:

5 (i) the methodology and sources of data used by the department in the valuation of the property;
6 and

7 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that
8 the methodology was used.

9 (c) At the request of the objector or a representative of the objector, and only if the objector or
10 representative signs a written or electronic confidentiality agreement, the department shall provide in written or
11 electronic form:

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

13 (ii) sales data used by the department to value residential property in the property taxpayer's
14 market model area; and

15 (iii) if the cost approach was used by the department to value residential property, the
16 documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

17 (d) For properties valued using the income approach as one approximation of market value, notice
18 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the
19 receipt of all aggregate model output that the department used in the valuation model for the property.

20 (e) The review must be conducted informally and is not subject to the contested case procedures
21 of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
22 selling price of the property and other relevant information presented by the taxpayer in support of the
23 taxpayer's opinion as to the market value of the property. The department shall consider an independent
24 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
25 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the
26 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall
27 provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to
28 the taxpayer of the time and place of the review.

1 (f) After the review, the department shall determine the correct appraisal and classification of the
2 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
3 not determine an appraised value that is higher than the value that was the subject of the objection unless the
4 reason for an increase was the result of a physical change in the property or caused by an error in the
5 description of the property or data available for the property that is kept by the department and used for
6 calculating the appraised value. In the notification, the department shall state its reasons for revising the
7 classification or appraisal. When the proper appraisal and classification have been determined, the land must
8 be classified and the improvements appraised in the manner ordered by the department.

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

11 (a) the taxpayer has submitted an objection on written or electronic forms provided by the
12 department or by checking a box on the notice; and

13 (b) the department has provided to the objector by mail or electronically its stated reason in writing
14 for making the adjustment.

15 (5) A taxpayer's written objection or objection made by checking a box on the notice and
16 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
17 appraisal and the department's notification to the taxpayer of its determination and the reason for that
18 determination are public records. The department shall make the records available for inspection during regular
19 office hours.

20 (6) If a property owner feels aggrieved by the classification or appraisal made by the department
21 after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax
22 appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review
23 in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days
24 from the date on the notice of the department's determination. A county tax appeal board or the Montana tax
25 appeal board may consider the actual selling price of the property, independent appraisals of the property, and
26 other relevant information presented by the taxpayer as evidence of the market value of the property. If the
27 county tax appeal board or the Montana tax appeal board determines that an adjustment should be made, the
28 department shall adjust the base value of the property in accordance with the board's order."

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Section 3. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

- (i) the taxable value of the property;
- (ii) the total mill levy applied to that taxable value;
- (iii) itemized city services and special improvement district assessments collected by the county;
- (iv) the number of the school district in which the property is located;
- (v) the amount of the total tax due itemized by mill levy that is levied as city tax, county tax, state tax, school district tax, and other tax;
- (vi) an indication of which mill levies are voted levies, including voted levies to impose a new mill levy, to increase a mill levy that is required to be submitted to the electors, or to exceed the mill levy limit provided for in 15-10-420; and
- (vii) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the homestead exemption provided for in [section 1], the property tax assistance programs under Title 15, chapter 6, part 3,

1 and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341.

2 (b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to
3 draw attention, a statement that a tax lien is attached to the property, that failure to respond will result in loss of
4 property, and that the taxpayer may contact the county treasurer for complete information.

5 (3) The municipality shall, upon request of the county treasurer, provide the information to be
6 included under subsection (2)(a)(iii) ready for mailing.

7 (4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post
8 notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the
9 current year or of delinquent tax will not affect the legality of the tax.

10 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an
11 additional tax is not owed and a new tax bill does not need to be prepared."

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13 **Section 4.** Section 15-17-125, MCA, is amended to read:

14 **"15-17-125. Attachment of tax lien and preparation of tax lien certificate.** (1) (a) The county
15 treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are
16 delinquent and for which proper notification was given as provided in 15-17-122 and subsection (4) of this
17 section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless the tax lien is assigned
18 pursuant to 15-17-323.

19 (b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but
20 for which proper notice was not given.

21 (2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must
22 contain:

- 23 (a) the date on which the property taxes became delinquent;
- 24 (b) the date on which a property tax lien was attached to the property;
- 25 (c) the name and address of record of the person to whom the taxes were assessed;
- 26 (d) a description of the property on which the taxes were assessed;
- 27 (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;
- 28 (f) a statement that the tax lien certificate represents a lien on the property that may lead to the

1 issuance of a tax deed for the property;

2 (g) a statement specifying the date on which the county or an assignee will be entitled to a tax
3 deed; and

4 (h) an identification number corresponding to the tax lien certificate.

5 (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate
6 must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be
7 mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the
8 person may contact the county treasurer for further information on property tax liens.

9 (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the
10 pending attachment of a tax lien to the person to whom the property was assessed. The notice must include the
11 information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of
12 the availability of all the property tax assistance programs available to property taxpayers, including the
13 homestead exemption provided for in [section 1], the property tax assistance programs under Title 15, chapter
14 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341. The
15 notice must have been mailed at least 2 weeks prior to the date on which the county treasurer attaches the tax
16 lien.

17 (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."
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19 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
20 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].
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22 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.
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24 **NEW SECTION. Section 7. Applicability.** [This act] applies to property tax years beginning after
25 December 31, 2023.
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