

HOUSE BILL NO. 310  
INTRODUCED BY S. FISHER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PERSONS 65 YEARS OF AGE OR OLDER WHO OCCUPY A HOMESTEAD TO CLAIM A LIMITATION FROM INCREASED RESIDENTIAL PROPERTY TAXES ON THE HOMESTEAD; PROVIDING DEFINITIONS; ESTABLISHING ELIGIBILITY REQUIREMENTS; ESTABLISHING A BASE YEAR FOR DETERMINING THE LIMITATION ON INCREASED RESIDENTIAL PROPERTY TAXES; PROVIDING AN EXCEPTION TO THE LIMITATION ON INCREASED RESIDENTIAL PROPERTY TAXES FOR NEW IMPROVEMENTS; REQUIRING THAT A TAXPAYER FILE AN APPLICATION TO RECEIVE THE LIMITATION ON INCREASED RESIDENTIAL PROPERTY TAXES; PROVIDING THAT THE LIMITATION ON INCREASED PROPERTY TAXES DOES NOT APPLY TO SPECIAL IMPROVEMENT DISTRICT ASSESSMENTS; REQUIRING ADDITIONAL NOTICE TO THE TAXPAYER; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Homestead" means the owner-occupied, principal dwelling owned by the taxpayer and the land, not exceeding 1 acre, on which it is located or a mobile home, manufactured home, or housetrailer used as a residence referred to in Title 70, chapter 32, part 1, regardless of whether the land on which it is situated is owned by the taxpayer. If the homestead is located in a multiunit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the land on which it is built. The percentage attributable to the unit is the value of the unit consisting of the homestead compared to the total value of the building, exclusive of the common elements, if any. The value of the land and common elements must be divided equally among the units.

(2) "Tax-limited property" means the property for which increases in property taxes are limited under [sections 1 through 5].

(3) "Taxes" or "property taxes" means ad valorem taxes and other assessments, except an assessment for a special improvement district or a rural special improvement district, that are required to be paid to the county treasurer.

(4) "Taxpayer" or "owner" means an individual who has filed a claim for a limitation on increases in property taxes or individuals who have jointly filed a claim for a limitation on increases in property taxes under [sections 1 through 5].

**NEW SECTION. Section 2. Claim for property tax limitation -- eligibility -- taxes on new improvements.** (1) Subject to [section 3], residential property taxes imposed against qualifying homesteads that are owned by eligible persons may not be increased above the amount imposed against the homestead in the base tax year as provided in this section. Except as otherwise provided, a taxpayer is not required to pay property taxes in excess of property taxes levied in the base tax year.

(2) To be eligible for the limitation on increases in residential property taxes, the following conditions must be met:

(a) the owner of the homestead must be at least 65 years of age during the property tax year in which the limitation is first claimed or, if the owner is a husband and wife, then one of them must be at least 65 years of age;

(b) the owner uses the homestead as the owner's principal dwelling for at least 7 months a year; and

(c) the owner does not rent or lease the homestead.

(3) (a) Except as provided in subsections (3)(b) and (3)(c), the amount of property taxes that is exempt from payment by the taxpayer is the difference between the property taxes owed on the homestead for the base tax year and the amount that would be owed for the current tax year if the homestead was not tax-limited property. The base tax year is the tax year immediately preceding the year in which the claim for the property tax limitation was first filed.

(b) If property taxes imposed on the homestead for the current tax year are less than the amount of taxes imposed in the base year, the current tax year property taxes must be paid by the taxpayer and the current tax year becomes the base year for the next tax year and subsequent tax years in which the property qualifies as tax-limited property.

(c) If a taxpayer increases the value of improvements as a result of construction, expansion, or remodeling of improvements to the taxpayer's homestead, property taxes may increase on the homestead in the first year that the value of the homestead increases because of the construction, expansion, or remodeling of improvements. The amount of the tax increase is determined by applying the current year mill levies in the first year that the new improvements are subject to tax to the taxable value of the new improvements. The first year that the new improvements are subject to tax becomes the base year to determine the limitation on increases

in property taxes on the new improvements determined pursuant to this section.

(4) (a) If a guardian or conservator has been appointed for a taxpayer otherwise qualified to obtain the limitation on increases in property taxes under [sections 1 through 5], the guardian or conservator may act for the taxpayer in complying with the provisions of [sections 1 through 5].

(b) The limitation on increases in property taxes does not expire because the owner of an interest in the homestead conveys the interest to a qualifying trust if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the homestead.

(5) This section does not require the spouse of an individual to file a claim jointly with the individual, even though the spouse may be eligible to claim the property tax limitation jointly with the individual.

(6) The limitation on increases in property tax under [sections 1 through 5] remains in effect as long as the property is the principal dwelling owned and occupied by the taxpayer or, if the taxpayer is deceased, by the taxpayer's spouse and the spouse is:

- (a) 55 years of age or older when the taxpayer dies;
- (b) the owner and occupant of the homestead; and
- (c) unmarried.

(7) The limitation on increases in property taxes allowed by this section terminates on December 31 of the year that:

- (a) the owner of the homestead who qualified for the limitation on increases in property taxes is not using the homestead as the principal dwelling;
- (b) the owner of the homestead does not qualify for the property tax limitation;
- (c) the tax-limited property is moved out of the county; or
- (d) property taxes on tax-limited property are more than 2 years delinquent.

(8) A taxpayer who qualifies for the limitation on increases in property taxes under [sections 1 through 5] may also qualify for the property tax assistance program under 15-6-134 and the residential property tax credit for the elderly under 15-30-171 through 15-30-179.

**NEW SECTION. Section 3. Claim for property tax limitation -- property eligible for property tax limitation -- application.** (1) To qualify for the limitation on increases in property taxes under [sections 1 through 5], the tax-limited property must meet the following requirements when the claim is filed and must continue to meet the requirements as long as the payment of property tax increases by the taxpayer is limited:

- (a) the property must be the homestead of the taxpayer who files the claim for the limitation on increases

in property taxes, except for a taxpayer required to be absent from the homestead by reason of ill health; and

(b) the person claiming the limitation on increases in property taxes is required, solely or together with the person's spouse, to own the fee simple estate or to be purchasing the fee simple estate under a recorded instrument of sale.

(2) A person applying for the limitation on increases in property taxes under [sections 1 through 5] shall provide a complete affidavit to the department, on a form provided by the department, setting forth that the applicant and the property meet the requirements of [sections 1 through 5]. The form may require the applicant to supply other information that may be relevant to the applicant's eligibility. The application must be made before April 15 of the tax year in which the limitation on increases in property taxes is to begin. The property tax limitation remains in effect in subsequent years unless there is a change in the applicant's or the property's status that would result in a change in eligibility. The department may inquire by mail whether any change has taken place and may require a new statement of eligibility if it considers it necessary.

(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department. The signed statement is considered a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing.

**NEW SECTION. Section 4. Additional notice to taxpayer.** At the time that the county treasurer sends notice to each taxpayer showing the amount of taxes and assessments due for the current year under 15-16-101 or the notice referred to in 15-24-202, the county treasurer shall provide additional notice to each taxpayer who has claimed the limitation on increases in property taxes in the county. The additional notice must show:

(1) the base tax year property taxes on the homestead, exclusive of special improvement district or rural special improvement district assessments;

(2) the current tax year property taxes, exclusive of special improvement district or rural special improvement district assessments, that would be due on the homestead if the property was not tax-limited property;

(3) the amount of taxes and assessments due for the current year as the lesser of the base tax year taxes and assessments due, exclusive of special improvement district or rural special improvement district assessments, or the current year taxes and assessments due, exclusive of special improvement district or rural special improvement district assessments;

(4) the total amount of taxes and assessments due for the current year, including the amount shown

under subsection (3) and any special improvement district or rural special improvement district assessment; and

(5) the information required in subsections (1) through (4) applicable to new improvements, if any, as provided in [section 2].

NEW SECTION. **Section 5. Property tax distribution.** Taxes collected on tax-limited property under [sections 1 through 5], including tax increases related to new improvements, must be distributed in the relative proportions required by property tax levies for state, county, school district, and municipal purposes.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15, chapter 16, apply to [sections 1 through 5].

NEW SECTION. **Section 7. Applicability.** [This act] applies to property tax years beginning after December 31, 2003.

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