

HOUSE BILL NO. 307
INTRODUCED BY K. VAN DYK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A REFUND OF UP TO \$400 OF RENT-EQUIVALENT PROPERTY TAX PAID BY A RENTER ON THE DWELLING OR DWELLINGS THAT THE RENTER OCCUPIED AS THE RENTER'S PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006; PROVIDING A PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED; PROVIDING PENALTIES FOR FRAUDULENT CLAIMS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION 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) "Claimant" means a person who is eligible to file for a refund under [section 2].
- (2) "Dwelling" means:
 - (a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or
 - (b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.
- (3) "Gross rent" means the total rent in cash or its equivalent actually paid during calendar year 2006 by the renter or lessee for the right of occupancy of the dwelling.
- (4) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.
- (5) "Rent-equivalent property tax paid" means 15% of gross rent paid in 2006.

NEW SECTION. **Section 2. Eligibility for refund of rent-equivalent property tax paid.** In order to be eligible to receive a refund under [sections 1 through 5], a claimant must have:

- (1) resided in Montana for at least 9 months of the period for which the claim is made;

(2) occupied one or more dwellings in Montana as a renter or lessee for at least 7 months in 2006.

NEW SECTION. Section 3. Refund of rent-equivalent property tax paid -- manner of claiming -- limitations. (1) A refund of up to \$400 of 2006 Montana rent-equivalent property tax paid by a claimant on the dwelling or dwellings that the claimant rented as the claimant's principal residence for at least 7 months during 2006 may be claimed as provided in subsection (2), subject to the requirements and limitations provided in this section.

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

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

(3) (a) A receipt or other evidence of gross rent paid must be filed with the claim for a refund.

(b) When the landlord and claimant have not dealt at arm's length and the department of revenue judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.

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

(a) The claim must be filed with the department of revenue on or before December 31, 2007, unless the department, for good cause shown, grants a reasonable extension of time for filing.

(b) Only one claimant per household is entitled to a refund under this section.

(5) (a) Except as provided in subsection (5)(b), a person may not claim a refund under this section for rent-equivalent property tax paid that is derived from a public rent or tax subsidy program.

(b) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(6) A person who claimed a credit under 15-30-171 through 15-30-179 for tax year 2006 is not entitled to a refund under this section.

NEW SECTION. Section 4. Refund of rent-equivalent property tax paid -- penalty for false or fraudulent claim. A person who files a false or fraudulent claim for a property tax refund is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other tax owed the state, together with a penalty of 25% and interest on the amount of the

refund at the rate of 12% a year until paid.

NEW SECTION. Section 5. Appropriation. The amounts necessary to provide the rent-equivalent property tax refunds under [sections 1 through 5] are statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for payment to claimants.

Section 6. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: [section 5]; 2-17-105; 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 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; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of

15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2007.

NEW SECTION. **Section 8. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to rent-equivalent property taxes paid in calendar year 2006.

NEW SECTION. **Section 9. Termination.** [This act] terminates June 30, 2008.

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