

SENATE BILL NO. 54

INTRODUCED BY DICK BARRETT

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REALTY TRANSFER ACT; ~~MAKING CERTAIN INFORMATION ON A REALTY TRANSFER CERTIFICATE PUBLIC INFORMATION; ELIMINATING THE PENALTY FOR VIOLATING PROVISIONS RELATED TO THE REALTY TRANSFER ACT~~ PROVIDING TAXPAYERS WITH ADDITIONAL ACCESS TO CONFIDENTIAL SALES PRICE INFORMATION; AMENDING SECTIONS 15-7-102 AND 15-7-308, MCA; ~~REPEALING SECTION 15-7-310, MCA~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential

1 property tax credit for the elderly under 15-30-2337 through 15-30-2341;

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

3 (iii) a statement that the notice is not a tax bill.

4 (d) When the department uses an appraisal method that values land and improvements as a unit,
5 including the comparable sales method for residential condominiums or the income method for commercial
6 property, the notice must contain a combined appraised value of land and improvements.

7 (e) Any misinformation provided in the information required by subsection (1)(c) does not affect the
8 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

9 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
10 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
11 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
12 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
13 the prior tax year.

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

16 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
17 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
18 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
19 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

20 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
21 market value of the property as determined by the department or with the classification of the land or
22 improvements, the owner may request an assessment review by submitting an objection in writing to the
23 department on forms provided by the department for that purpose. For property other than class three property
24 described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143,
25 the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the
26 department. For class three property described in 15-6-133, class four property described in 15-6-134, and class
27 ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

28 (b) ~~For properties valued using sales price or the capitalization of net income method as an indication~~
29 ~~of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of~~
30 ~~comparable sales data from information received from realty transfer certificates under 15-7-308. Within 4 weeks~~

1 of submitting an objection, if the objection relates to residential and commercial property, the department shall
 2 provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

- 3 ~~(i)~~ data from comparable sales used by the department to value the property;
 4 ~~(ii)~~(I) the methodology and sources of data used by the department in the valuation of the property; and
 5 ~~(iii)~~(II) if the department uses a blend of evaluations developed from various sources, the reasons that
 6 the methodology was used.

7 (C) AT THE REQUEST OF THE OBJECTOR, AND ONLY IF THE OBJECTOR SIGNS A WRITTEN OR ELECTRONIC
 8 CONFIDENTIALITY AGREEMENT, THE DEPARTMENT SHALL PROVIDE IN WRITTEN OR ELECTRONIC FORM:

- 9 (I) COMPARABLE SALES DATA USED BY THE DEPARTMENT TO VALUE THE PROPERTY; AND
 10 (II) SALES DATA USED BY THE DEPARTMENT TO VALUE RESIDENTIAL PROPERTY IN THE PROPERTY TAXPAYER'S
 11 MARKET MODEL AREA.

12 ~~(c)~~(D) For properties valued using the capitalization of net income method as one approximation of market
 13 value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements
 14 for the receipt of all aggregate model output that the department used in the valuation model for the property.

15 ~~(d)~~(E) The review must be conducted informally and is not subject to the contested case procedures of
 16 the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
 17 selling price of the property, independent appraisals of the property, and other relevant information presented by
 18 the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give
 19 reasonable notice to the taxpayer of the time and place of the review.

20 ~~(e)~~(F) After the review, the department shall determine the correct appraisal and classification of the land
 21 or improvements and notify the taxpayer of its determination. The department may not determine an appraised
 22 value that is higher than the value that was the subject of the objection unless the reason for an increase was
 23 the result of a physical change in the property or caused by an error in the description of the property that is kept
 24 by the department and used for calculating the appraised value. In the notification, the department shall state its
 25 reasons for revising the classification or appraisal. When the proper appraisal and classification have been
 26 determined, the land must be classified and the improvements appraised in the manner ordered by the
 27 department.

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

- 30 (a) the taxpayer has submitted an objection in writing; and

1 (b) the department has stated its reason in writing for making the adjustment.

2 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
3 taxpayer of its determination and the reason for that determination are public records. The department shall make
4 the records available for inspection during regular office hours.

5 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
6 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
7 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
8 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
9 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
10 the actual selling price of the property, independent appraisals of the property, and other relevant information
11 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the
12 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
13 of the property in accordance with the board's order."
14

15 **Section 2.** Section 15-7-308, MCA, is amended to read:

16 **"15-7-308. Disclosure of information restricted -- exceptions.** ~~(1) Except as provided in subsection~~
17 ~~(2), the~~ The (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE certificate required by this part ~~and the information~~
18 ~~contained in the certificate~~ AND THE INFORMATION CONTAINED IN THE CERTIFICATE is not a public record ~~and must~~
19 ~~be held confidential by the county clerk and recorder and the department~~ AND MUST BE HELD CONFIDENTIAL BY THE
20 COUNTY CLERK AND RECORDER AND THE DEPARTMENT. ~~This is because the legislature finds that the demands of~~
21 ~~individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to~~
22 ~~compilations from the certificates or to summaries, analyses, and evaluations based upon the compilations. THIS~~
23 ~~IS BECAUSE THE LEGISLATURE FINDS THAT THE DEMANDS OF INDIVIDUAL PRIVACY OUTWEIGH THE MERITS OF PUBLIC~~
24 ~~DISCLOSURE. THE CONFIDENTIALITY PROVISIONS DO NOT APPLY TO COMPILATIONS FROM THE CERTIFICATES, TO~~
25 ~~SUMMARIES, ANALYSES, AND EVALUATIONS BASED UPON THE COMPILATIONS, OR TO SALES USED BY THE DEPARTMENT~~
26 ~~TO VALUE RESIDENTIAL PROPERTY IN A PROPERTY TAXPAYER'S MARKET MODEL AREA AFTER THE PROPERTY TAXPAYER~~
27 ~~SIGNS A WRITTEN OR ELECTRONIC CONFIDENTIALITY AGREEMENT. The purchaser's name, property description, sales~~
28 ~~information, description of transfer, and water rights disclosure information contained in the certificate are public~~
29 ~~and may be made available for disclosure.~~

30 ~~(2) The confidentiality provisions of this section do not apply to the information contained in the water~~

1 right ownership update form or any other form prepared and filed with the department of natural resources and
 2 conservation pursuant to 85-2-424 for purposes of maintaining a system of centralized water right records as
 3 mandated by Article IX, section 3(4), of the Montana constitution. A person may access water right transfer
 4 information through the department of natural resources and conservation pursuant to the department's
 5 implementation of the requirements of 85-2-112(3):

6 (2) THE CONFIDENTIALITY PROVISIONS OF THIS SECTION DO NOT APPLY TO THE INFORMATION CONTAINED IN THE
 7 WATER RIGHT OWNERSHIP UPDATE FORM OR ANY OTHER FORM PREPARED AND FILED WITH THE DEPARTMENT OF NATURAL
 8 RESOURCES AND CONSERVATION PURSUANT TO 85-2-424 FOR PURPOSES OF MAINTAINING A SYSTEM OF CENTRALIZED
 9 WATER RIGHT RECORDS AS MANDATED BY ARTICLE IX, SECTION 3(4), OF THE MONTANA CONSTITUTION. A PERSON MAY
 10 ACCESS WATER RIGHT TRANSFER INFORMATION THROUGH THE DEPARTMENT OF NATURAL RESOURCES AND
 11 CONSERVATION PURSUANT TO THE DEPARTMENT'S IMPLEMENTATION OF THE REQUIREMENTS OF 85-2-112(3)."

12
 13 ~~NEW SECTION. Section 3. Repealer.~~ The following section of the Montana Code Annotated is
 14 ~~repealed:~~
 15 ~~15-7-310. Penalty.~~

16
 17 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

18 - END -