

SENATE BILL NO. 94

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PROPERTY TAX EXEMPTION FOR CERTAIN RESIDENTIAL PROPERTY WHEN LAND VALUE IS DISPROPORTIONATELY HIGHER THAN THE VALUE OF THE ASSOCIATED IMPROVEMENTS; ~~PROVIDING THAT THE EXEMPTION AMOUNT IS BASED ON INCOME;~~ RESTRICTING THE EXEMPTION TO PRIMARY RESIDENCES; PROVIDING FOR A LAND VALUE THAT IS NO LESS THAN THE STATEWIDE AVERAGE VALUE OF CLASS FOUR RESIDENTIAL LAND; CREATING APPLICATION CRITERIA; PROVIDING DEFINITIONS; ~~PROVIDING FOR REPAYMENT OF THE EXEMPTION;~~ ~~PROVIDING FOR A LIEN ON PROPERTY TO SECURE REPAYMENT; ESTABLISHING LIEN RECOVERY PROCEDURES; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR REPAYMENT TO THE STATE AND TAXING JURISDICTIONS;~~ PROVIDING FOR NOTIFICATION TO THE PUBLIC REGARDING THE EXEMPTION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-7-102 AND 15-16-101, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Intangible land value property exemption -- application procedure. (1)

There is an intangible land value assistance program that provides graduated levels of property tax exemptions to assist owners of primary residences with land values that are disproportionate to the value of a primary residence and improvements. To be eligible for the exemption, applicants must meet the requirements of this section.

(2) If the total appraised value of the land is equal to or less than ~~75%~~ ~~150%~~ ~~200%~~ 150% of the appraised value of the primary residence and improvements situated on the land ~~OR IF INCOME IS GREATER THAN THE AMOUNT PROVIDED IN SUBSECTION (3)~~, then the land exemption provided in this section does not apply.

~~(3) Subject to subsection (6), if the total appraised value of the land is greater than 75% 150% of the appraised value of the primary residence and improvements situated on the land, then the land is valued at 75% 150% of the appraised value of the primary residence and improvements situated on the land, subject to the minimum equalization of value requirement in subsection (4), and the remainder of the land value is exempt from~~

1 ~~taxation SUBJECT TO THE LIEN AND REPAYMENT PROVISIONS OF [SECTIONS 2 THROUGH 10].~~

2 ~~(3) (A) SUBJECT TO THE MINIMUM EQUALIZATION OF VALUE REQUIREMENT IN SUBSECTION (4) AND THE~~
 3 ~~REQUIREMENTS OF SUBSECTION (6), THE LAND IS VALUED AT THE PERCENTAGE OF THE APPRAISED VALUE OF THE PRIMARY~~
 4 ~~RESIDENCE AND IMPROVEMENTS SITUATED ON THE LAND THAT CORRESPONDS TO INCOME AS PROVIDED IN THE FOLLOWING~~
 5 ~~TABLE, AND THE REMAINDER OF THE LAND VALUE IS EXEMPT FROM TAXATION:~~

INCOME	INCOME	% OF APPRAISED
SINGLE PERSON	MARRIED COUPLE	VALUE OF
	HEAD OF HOUSEHOLD	IMPROVEMENTS
LESS THAN \$33,333	LESS THAN \$50,000	200%
\$33,334 - \$40,000	\$50,001 - \$60,000	250%
\$40,001 - \$46,667	\$60,001 - \$70,000	300%
\$46,668 - \$53,333	\$70,001 - \$80,000	350%
\$53,334 - \$60,000	\$80,001 - \$90,000	400%
\$60,001 - \$66,667	\$90,001 - \$100,000	450%
\$66,668 - \$73,333	\$100,001 - \$110,000	500%

16 ~~(B) THE INCOME LEVELS CONTAINED IN SUBSECTION (3)(A) MUST BE ADJUSTED ANNUALLY USING THE PCE~~
 17 ~~INFLATION FACTOR AND ROUNDED TO THE NEAREST WHOLE DOLLAR AMOUNT.~~

18 ~~(3) SUBJECT TO SUBSECTION (6), IF THE TOTAL APPRAISED VALUE OF THE LAND IS GREATER THAN 150% OF THE~~
 19 ~~APPRAISED VALUE OF THE PRIMARY RESIDENCE AND IMPROVEMENTS SITUATED ON THE LAND, THEN THE LAND IS VALUED~~
 20 ~~AT 150% OF THE APPRAISED VALUE OF THE PRIMARY RESIDENCE AND IMPROVEMENTS SITUATED ON THE LAND, SUBJECT~~
 21 ~~TO THE MINIMUM EQUALIZATION OF VALUE REQUIREMENT IN SUBSECTION (4), AND THE REMAINDER OF THE LAND VALUE~~
 22 ~~IS EXEMPT FROM TAXATION.~~

23 (4) If the calculation in subsection (3) creates a land value that is less than the statewide average value
 24 of land, then the value of the land may not be reduced in an amount that is less than the statewide average value
 25 of land multiplied by the acreage of land for the subject property.

26 (5) This section does not provide an exemption for the primary residence and improvements situated
 27 on the land.

28 (6) (a) A claim for assistance must be filed by March 1 of the tax year for which the exemption is sought,
 29 on an application form provided by the department. After an exemption is approved, the applicant remains eligible
 30 for the exemption for the remainder of the 2-year valuation cycle provided for in 15-7-111 as long as the property

1 is continually used as a primary residence by the applicant. An applicant who does not apply for assistance during
 2 the first year of the valuation cycle may apply during the second year of the cycle. ~~A TAXPAYER MAY NOT RECEIVE~~
 3 ~~THE EXEMPTION PROVIDED FOR IN THIS SECTION AND THE PROPERTY TAX ASSISTANCE PROGRAMS PROVIDED FOR IN TITLE~~
 4 ~~15, CHAPTER 6, PART 3.~~

5 (b) The application form must contain:

6 (i) an affirmation that the applicant owns and maintains the land and improvements as the primary
 7 residence; and ~~AND~~

8 ~~(ii) AN AFFIRMATION THAT THE LAND HAS BEEN OWNED BY THE APPLICANT OR A FAMILY MEMBER OF THE~~
 9 ~~APPLICANT WITHIN THE THIRD DEGREE OF CONSANGUINITY FOR AT LEAST 30 CONSECUTIVE YEARS; AND~~

10 ~~(ii)(iii)(ii) AN AFFIRMATION THAT THE LAND HAS BEEN OWNED BY THE APPLICANT OR A FAMILY MEMBER OF THE~~
 11 ~~APPLICANT WITHIN THE THIRD DEGREE OF CONSANGUINITY FOR AT LEAST 30 CONSECUTIVE YEARS; AND~~

12 (iii) any other information required by the department that is relevant to the applicant's eligibility.

13 (c) When providing information to the department for qualification under this section, applicants are
 14 subject to the false swearing penalties established in 45-7-202.

15 (d) The department may investigate the information provided in an application and an applicant's
 16 continued eligibility.

17 (e) The department may request applicant verification of the primary residence.

18 ~~(7) A PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY THAT RECEIVES ASSISTANCE UNDER~~
 19 ~~THIS SECTION CONSENTS TO A LIEN BEING FILED UNDER [SECTION 2] FOR THE PURPOSE OF REPAYMENT OF THE AMOUNT~~
 20 ~~EXEMPTED:~~

21 ~~(7)(8)(7)~~ As used in this section ~~[SECTIONS 1 THROUGH 10]; THIS SECTION~~ the following definitions apply:

22 ~~(A) "INCOME" MEANS THE FEDERAL ADJUSTED GROSS INCOME EXCLUDING CAPITAL AND INCOME LOSSES OF AN~~
 23 ~~APPLICANT AND THE APPLICANT'S SPOUSE AS CALCULATED ON THE MONTANA INCOME TAX RETURN FOR THE PRIOR TAX~~
 24 ~~YEAR:~~

25 ~~(a)(B)(A)~~ "Land" means:

26 (i) parcels of land or lots of not more than 5 acres under single ownership that support the primary
 27 residential improvements. The term does not include parcels of land or lots that do not support the primary
 28 residential improvements, regardless of whether those parcels or lots are contiguous with or adjacent to the
 29 primary residential property.

30 (ii) subject to the limitations in subsection ~~(7)(a)(i) (8)(A)(i) (7)(A)(i) (7)(B)(i) (7)(A)(i)~~, separately assessed

1 land on which a mobile or manufactured home is located, but only if the mobile or manufactured home and the
2 land are both owned by the applicant.

3 ~~(b) "MEMBER OF THE PROPERTY OWNER'S FAMILY" INCLUDES A SPOUSE OF A PROPERTY OWNER, A LINEAL~~
4 ~~DESCENDANT OF THE PROPERTY OWNER, A SIBLING OF THE PROPERTY OWNER, OR A CHILD OF A SIBLING OF THE~~
5 ~~PROPERTY OWNER. AN ADOPTED INDIVIDUAL IS CONSIDERED THE CHILD OF AN ADOPTING PARENT OR PARENTS.~~

6 ~~(c) "PCE" HAS THE MEANING PROVIDED IN 15-6-301.~~

7 ~~(d) "PCE INFLATION FACTOR" FOR A TAX YEAR MEANS THE PCE FOR MARCH OF THE PRIOR TAX YEAR BEFORE~~
8 ~~THE TAX YEAR DIVIDED BY THE PCE FOR MARCH 2018.~~

9 ~~(b)(c)(b)(e)(b)~~ "Primary residence" means a single-family dwelling:

10 (i) in which an applicant can demonstrate the applicant lived for at least 7 months of the year for which
11 benefits are claimed;

12 (ii) that is the only residence for which the land exemption claimed in this section is claimed by the
13 applicant; and

14 (iii) that is owned or under contract for deed by the applicant.

15 ~~(e)(d)(c)(f)(c)~~ "Single-family dwelling" means a residential dwelling, manufactured home, trailer, or
16 mobile home. The term does not include a condominium unit or a unit of a multiple-unit dwelling.

17 ~~(d)(e)(d)(g)(d)~~ "Statewide average value of land" is a value calculated by the department that is equal
18 to the statewide average market value of 1 acre of class four real property described in 15-6-134(1)(a) through
19 (1)(d).

21 ~~NEW SECTION. SECTION 2. REPAYMENT OF ASSISTANCE -- DEPARTMENT LIEN UPON REAL PROPERTY --~~
22 ~~CONDITIONS. (1) A PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY THAT RECEIVES ASSISTANCE~~
23 ~~UNDER [SECTION 1] SHALL REIMBURSE THE STATE IN AN AMOUNT EQUAL TO THE AMOUNT OF PROPERTY TAXES EXEMPTED.~~
24 ~~THE DEPARTMENT SHALL MAINTAIN AN ACCOUNTING OF THE TOTAL AMOUNT OF TAXES EXEMPTED BY EACH PROPERTY~~
25 ~~OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY AND PROVIDE THE AMOUNT TO THE PUBLIC UPON REQUEST.~~
26 ~~INTEREST CHARGES DO NOT ACCUMULATE ON THE REIMBURSEMENT AMOUNT.~~

27 ~~(2) THE REIMBURSEMENT IS PAYABLE TO THE STATE UPON SALE, TRANSFER, OR EXCHANGE OF ANY RIGHT, TITLE,~~
28 ~~OR INTEREST OF THE PROPERTY TO ANYONE OTHER THAN A MEMBER OF THE PROPERTY OWNER'S FAMILY. THE~~
29 ~~DEPARTMENT SHALL DEPOSIT REIMBURSEMENTS TO THE CREDIT OF THE PROPERTY TAX EXEMPTION STATE SPECIAL~~
30 ~~REVENUE ACCOUNT PROVIDED FOR IN [SECTION 10].~~

1 ~~_____ (3) FOR THE PURPOSE OF SUBSECTION (2), A SALE OR TRANSFER DOES NOT INCLUDE:~~

2 ~~_____ (A) AN INSTRUMENT THE EFFECT OF WHICH IS TO TRANSFER THE PROPERTY TO THE SAME PARTY OR PARTIES;~~

3 ~~OR~~

4 ~~_____ (B) AN INSTRUMENT THAT, WITHOUT ADDED CONSIDERATION, CONFIRMS, CORRECTS, MODIFIES, OR~~

5 ~~SUPPLEMENTS A PREVIOUSLY RECORDED INSTRUMENT.~~

6 ~~_____ (4) (A) THE DEPARTMENT SHALL IMPOSE A LIEN EQUAL TO THE AMOUNT OF PROPERTY TAXES EXEMPTED BY~~

7 ~~[SECTION 1]. A PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY THAT RECEIVES ASSISTANCE UNDER~~

8 ~~[SECTION 1] AUTOMATICALLY CONSENTS TO THE LIEN FOR THE PURPOSE OF REPAYMENT OF THE AMOUNT EXEMPTED.~~

9 ~~_____ (B) THE LIEN ATTACHES TO THE LAND AND ANY IMPROVEMENTS SITUATED ON THE LAND THAT WAS EXEMPTED.~~

10 ~~_____ (C) THE LIEN MUST CONTAIN:~~

11 ~~_____ (i) THE NAME AND ADDRESS OF THE PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY WHO~~

12 ~~OWNS AN INTEREST IN THE PROPERTY;~~

13 ~~_____ (ii) A LEGAL DESCRIPTION OF THE PROPERTY;~~

14 ~~_____ (iii) A STATEMENT THAT THE LIEN IS IMPOSED TO SECURE THE DESCRIBED PROPERTY FOR RECOVERY OF~~

15 ~~EXEMPTED PROPERTY TAXES UNDER [SECTION 1] PRIOR TO, ON, AND AFTER THE DATE OF THE LIEN; AND~~

16 ~~_____ (iv) AN ADDRESS AND TELEPHONE NUMBER OF THE OFFICE OR REPRESENTATIVE OF THE DEPARTMENT WHO CAN~~

17 ~~PROVIDE MORE INFORMATION ABOUT THE LIEN.~~

18 ~~_____ (D) THE LIEN NEED NOT BE EXECUTED BY OR ON BEHALF OF THE PROPERTY OWNER OR MEMBER OF THE~~

19 ~~PROPERTY OWNER'S FAMILY, BUT IT MUST BE EXECUTED BY AN AUTHORIZED AGENT OR EMPLOYEE OF THE DEPARTMENT.~~

20 ~~THE EXECUTION MUST BE ACKNOWLEDGED AS PROVIDED IN 70-21-203.~~

21 ~~_____ (E) THE LIEN NEED NOT STATE THE SPECIFIC AMOUNT OF PROPERTY TAXES EXEMPTED THAT ARE OWED. THE LIEN~~

22 ~~IS SUFFICIENT TO SECURE REPAYMENT OF PAST, CURRENT, AND FUTURE PROPERTY TAXES EXEMPTED UNDER [SECTION~~

23 ~~11.~~

24 ~~_____ (F) THE LIEN MUST BE FILED IN THE OFFICE OF THE CLERK AND RECORDER IN THE COUNTY IN WHICH THE REAL~~

25 ~~PROPERTY IS LOCATED.~~

26 ~~_____ (G) FILING OF THE LIEN CONSTITUTES LEGAL NOTICE OF THE LIEN TO ALL PERSONS, INCLUDING SUBSEQUENT~~

27 ~~PURCHASERS, ENCUMBRANCERS, MORTGAGEES, AND OTHER LIENHOLDERS. UPON FILING, THE LIEN IS PRIOR TO ANY~~

28 ~~EARLIER UNRECORDED INTEREST OR CLAIM AND IS PRIOR TO ANY SUBSEQUENT INTEREST OR CLAIM, WHETHER OR NOT~~

29 ~~RECORDED. THE LIEN IS SUBJECT TO ANY UNPAID PROPERTY TAXES, ANY PRIOR RECORDED MORTGAGE, OR ANY OTHER~~

30 ~~PRIOR RECORDED ENCUMBRANCE, INTEREST, OR CLAIM. FOR PURPOSES OF RECOVERY OF PROPERTY TAXES EXEMPTED~~

1 UNDER [SECTION 1], A SALE, TRANSFER, OR EXCHANGE OF THE PROPERTY BY THE PROPERTY OWNER OR MEMBER OF THE
 2 PROPERTY OWNER'S FAMILY IS CONSIDERED A RELINQUISHMENT OF ANY HOMESTEAD EXEMPTION UNDER 70-32-201 AND
 3 70-32-202 OF THE PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY IN THE PROPERTY SUBJECT TO
 4 THE LIEN.

5
 6 ~~NEW SECTION. SECTION 3. RECOVERY OF EXEMPTED PROPERTY TAXES SECURED BY LIEN -- APPLICATION~~
 7 ~~FOR ISSUANCE OF WRIT OF EXECUTION. (1) AFTER THE SALE, TRANSFER, OR EXCHANGE OF ANY RIGHT, TITLE, OR~~
 8 ~~INTEREST OF PROPERTY THAT RECEIVED AN EXEMPTION UNDER [SECTION 1] TO ANYONE OTHER THAN THE PROPERTY~~
 9 ~~OWNER'S FAMILY AS PROVIDED IN [SECTION 2], THE DEPARTMENT MAY FILE WITH THE CLERK OF THE DISTRICT COURT IN~~
 10 ~~THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED AN APPLICATION FOR ISSUANCE OF A WRIT OF EXECUTION FOR~~
 11 ~~LEVY ON THE REAL PROPERTY DESCRIBED IN THE LIEN PURSUANT TO [SECTION 2]. THE LEVY MAY BE FOR THE AMOUNT OF~~
 12 ~~RECOVERABLE PROPERTY TAX EXEMPTIONS RECEIVED BY THE PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S~~
 13 ~~FAMILY UNDER [SECTION 1] PRIOR TO, ON, AND AFTER THE DATE OF THE LIEN, INCLUDING AMOUNTS EXEMPTED UP TO THE~~
 14 ~~DATE OF SALE OF THE PROPERTY.~~

15 ~~———— (2) THE APPLICATION FOR THE WRIT MUST BE SWORN AND MUST CONTAIN THE FOLLOWING:~~

16 ~~———— (A) THE NAME OF THE PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY, A LEGAL DESCRIPTION~~
 17 ~~OF THE REAL PROPERTY, AND A DESCRIPTION OF THE INTEREST IN THE PROPERTY;~~

18 ~~———— (B) A STATEMENT THAT THE DEPARTMENT HAS IMPOSED A LIEN ON THE PROPERTY UNDER [SECTION 2];~~

19 ~~———— (C) A STATEMENT THAT THE LIEN COMPLIES WITH THE REQUIREMENTS OF [SECTIONS 1 THROUGH 10];~~

20 ~~———— (D) THE DATE ON WHICH THE LIEN WAS FILED AND THE OFFICE IN WHICH IT WAS FILED;~~

21 ~~———— (E) A DESCRIPTION OF THE SALE, TRANSFER, EXCHANGE, OR OTHER EVENT THAT ENTITLES THE DEPARTMENT~~
 22 ~~TO RECOVER;~~

23 ~~———— (F) THE AMOUNT RECOVERABLE;~~

24 ~~———— (G) THE AMOUNT OF ANY UNREIMBURSED TAXES OR OTHER COSTS PAID;~~

25 ~~———— (H) IF APPLICABLE, A STATEMENT THAT ADDITIONAL AMOUNTS MAY BE PAID UP TO THE TIME THAT THE PROPERTY~~
 26 ~~IS SOLD IN SATISFACTION OF THE LIEN;~~

27 ~~———— (I) A STATEMENT THAT THE TOTAL AMOUNT DUE HAS NOT BEEN PAID AS OF THE DATE OF THE APPLICATION FOR~~
 28 ~~THE WRIT;~~

29 ~~———— (J) A STATEMENT THAT RECOVERY IS NOT PROHIBITED BY THIS SECTION;~~

30 ~~———— (K) THE NAMES AND ADDRESSES OF ALL PERSONS WHO HAVE A RECORDED INTEREST IN THE PROPERTY;~~

1 ~~INCLUDING A PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY THAT RECEIVED THE PROPERTY TAX~~
 2 ~~EXEMPTION OR THE PROPERTY OWNER'S ESTATE, CO-OWNER, PURCHASER, GRANTEE, ENCUMBRANCER, MORTGAGEE,~~
 3 ~~AND LIENHOLDER; AND~~

4 ~~—— (L) A REQUEST THAT A WRIT OF EXECUTION BE ISSUED FOR SALE OF THE DESCRIBED PROPERTY IF AN ACTION IS~~
 5 ~~NOT FILED WITHIN THE TIME PROVIDED FOR IN [SECTION 5].~~

6 ~~—— (3) THE FILING OF AN APPLICATION UNDER THIS SECTION FOR A WRIT OF EXECUTION IS NOT THE FILING OF A~~
 7 ~~LEGAL ACTION, AND THE REQUIREMENTS APPLICABLE TO LEGAL ACTIONS DO NOT APPLY TO THE APPLICATION OR~~
 8 ~~APPLICATION PROCEEDINGS.~~

9

10 ~~—— **NEW SECTION. SECTION 4. NOTICE OF APPLICATION -- PROOF OF NOTICE -- REQUEST FOR ISSUANCE OF WRIT**~~
 11 ~~**OF EXECUTION.** (1) THE DEPARTMENT SHALL PROVIDE NOTICE, AS REQUIRED BY THIS SECTION, OF THE FILING OF THE~~
 12 ~~APPLICATION FOR A WRIT OF EXECUTION PURSUANT TO [SECTION 3] TO ALL PERSONS HAVING A RECORDED INTEREST IN~~
 13 ~~THE PROPERTY OR RESIDING LAWFULLY ON THE PROPERTY.~~

14 ~~—— (2) THE NOTICE MUST CONTAIN A DESCRIPTION OF THE PROPERTY AND MUST STATE THAT THE DEPARTMENT HAS~~
 15 ~~A LIEN UNDER [SECTION 1] AND [SECTION 2] ON THE DESCRIBED PROPERTY, THAT THE DEPARTMENT HAS FILED AN~~
 16 ~~APPLICATION FOR A WRIT OF EXECUTION SEEKING SALE OF THE PROPERTY, AND THAT A WRIT WILL BE ISSUED UNLESS AN~~
 17 ~~ACTION CHALLENGING ISSUANCE OF THE WRIT HAS BEEN FILED IN ACCORDANCE WITH [SECTION 5] WITHIN 60 DAYS OF THE~~
 18 ~~DATE OF MAILING OR SERVICE OF NOTICE OR FIRST PUBLICATION OF NOTICE. THE DEPARTMENT SHALL INCLUDE WITH THE~~
 19 ~~NOTICE A COPY OF THE APPLICATION FOR THE WRIT.~~

20 ~~—— (3) (A) THE DEPARTMENT MAY MAIL A COPY OF THE NOTICE, POSTAGE PREPAID AND RETURN RECEIPT~~
 21 ~~REQUESTED, TO THE NAME AND ADDRESS STATED IN THE RECORDED INSTRUMENT CREATING EACH PERSON'S INTEREST~~
 22 ~~IN THE PROPERTY OR, IN THE CASE OF A PERSON RESIDING ON THE PROPERTY, TO THE ADDRESS OF THE RESIDENCE ON~~
 23 ~~THE PROPERTY. MAILING AS PROVIDED IN THIS SUBSECTION (3)(A) IS SUFFICIENT NOTICE TO THE ADDRESSEE IF THE~~
 24 ~~RETURN RECEIPT IS RETURNED TO THE DEPARTMENT AND INDICATES THAT THE NOTICE WAS RECEIVED BY OR ON BEHALF~~
 25 ~~OF THE ADDRESSEE.~~

26 ~~—— (B) IF THE RETURN RECEIPT IS NOT RETURNED TO THE DEPARTMENT INDICATING THAT THE NOTICE WAS RECEIVED~~
 27 ~~BY OR ON BEHALF OF THE ADDRESSEE, THE DEPARTMENT SHALL ATTEMPT WITH REASONABLE DILIGENCE TO LOCATE THE~~
 28 ~~ADDRESSEE AND TO PERSONALLY SERVE OR MAIL NOTICE TO THAT PERSON.~~

29 ~~—— (C) IF AFTER THE EXERCISE OF REASONABLE DILIGENCE THE DEPARTMENT IS UNABLE TO LOCATE THE PERSON~~
 30 ~~OWNING THE INTEREST IN THE PROPERTY, THE DEPARTMENT SHALL PUBLISH THE NOTICE REQUIRED BY SUBSECTION (2)~~

1 THREE TIMES, ONCE EACH WEEK FOR 3 SUCCESSIVE WEEKS, IN A NEWSPAPER PUBLISHED IN THE COUNTY IN WHICH THE
 2 PROPERTY IS LOCATED IF A NEWSPAPER IS PUBLISHED IN THE COUNTY. IF A NEWSPAPER IS NOT PUBLISHED IN THE COUNTY,
 3 THEN PUBLICATION MUST BE IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE COUNTY.

4 —— (D) WITH RESPECT TO A PERSON RESIDING LAWFULLY ON THE PROPERTY BUT HAVING NO RECORDED INTEREST
 5 IN THE PROPERTY, THE NOTICE MAY BE DELIVERED TO THE RESIDENCE AND DELIVERY IS SUFFICIENT NOTICE AS TO THAT
 6 PERSON.

7 —— (E) IN THE ALTERNATIVE, THE NOTICE AND APPLICATION MAY BE PERSONALLY SERVED UPON ANY PERSON
 8 ENTITLED TO NOTICE UNDER THIS SECTION.

9 —— (4) (A) AFTER GIVING NOTICE AS REQUIRED BY THIS SECTION, THE DEPARTMENT SHALL FILE WITH THE CLERK OF
 10 COURT AN AFFIDAVIT DESCRIBING:

11 —— (i) THE MANNER IN WHICH NOTICE HAS BEEN PROVIDED TO EACH PERSON ENTITLED TO NOTICE;

12 —— (ii) THE DATE OF MAILING, PERSONAL SERVICE, OR FIRST PUBLICATION OF THE NOTICE; AND

13 —— (iii) THE DATE BY WHICH EACH PERSON IS REQUIRED TO FILE AN ACTION TO CHALLENGE ISSUANCE OF THE WRIT
 14 OF EXECUTION.

15 —— (B) THE DEPARTMENT SHALL ATTACH TO THE AFFIDAVIT THE RETURN RECEIPT, THE AFFIDAVIT OF PERSONAL
 16 SERVICE, THE AFFIDAVIT OF PUBLICATION, OR OTHER PROOF OF SERVICE OF THE NOTICE. IF NO ACTION HAS BEEN FILED
 17 WITHIN THE TIME REQUIRED BY [SECTION 5], THE AFFIDAVIT MUST SO STATE AND MAY REQUEST IMMEDIATE ISSUANCE OF
 18 THE WRIT.

19
 20 —— NEW SECTION. SECTION 5. ACTION TO CHALLENGE ISSUANCE OF WRIT OF EXECUTION. A PERSON WITH A
 21 RECORDED INTEREST IN OR RESIDING LAWFULLY UPON THE REAL PROPERTY DESCRIBED IN AN APPLICATION FILED UNDER
 22 [SECTION 3], INCLUDING THE PROPERTY OWNER'S ESTATE OR A CO-OWNER, PURCHASER, GRANTEE, ENCUMBRANCER,
 23 MORTGAGEE, OR LIENHOLDER, MAY, WITHIN 60 DAYS OF MAILING OR SERVICE OF NOTICE OR FIRST PUBLICATION OF NOTICE
 24 AS PROVIDED IN [SECTION 4], FILE AN ACTION IN THE DISTRICT COURT IN THE COUNTY IN WHICH THE REAL PROPERTY IS
 25 LOCATED CHALLENGING THE REQUESTED ISSUANCE OF A WRIT OF EXECUTION. THE COURT SHALL DETERMINE THE VALIDITY
 26 OR INVALIDITY OF THE DEPARTMENT'S LIEN AND ORDER APPROPRIATE RELIEF, INCLUDING ISSUANCE OF THE WRIT OR
 27 DENIAL OF THE APPLICATION FOR ISSUANCE OF THE WRIT.

28
 29 —— NEW SECTION. SECTION 6. PAYMENT OF AMOUNT DUE -- PERIODIC PAYMENTS -- SUBSTITUTE SECURITY. (1)
 30 IF THE TOTAL AMOUNT DUE TO THE DEPARTMENT TO SATISFY A LIEN IMPOSED UNDER [SECTIONS 1 THROUGH 9] IS PAID,

1 ~~THE DEPARTMENT MAY NOT FILE AN APPLICATION UNDER [SECTION 3], SHALL WITHDRAW ITS APPLICATION IF THE~~
 2 ~~APPLICATION HAS ALREADY BEEN FILED, OR SHALL INSTRUCT THE SHERIFF TO CANCEL THE SALE PROCEEDINGS.~~

3 ~~———— (2) IN LIEU OF APPLYING FOR A WRIT OF EXECUTION, THE DEPARTMENT MAY AGREE TO ACCEPT PERIODIC~~
 4 ~~PAYMENTS FOR THE REPAYMENT OF RECOVERABLE PROPERTY TAXES EXEMPTED OR MAY AGREE TO ACCEPT SUBSTITUTE~~
 5 ~~SECURITY AND PARTIAL PAYMENT. THE DEPARTMENT MAY AGREE TO PERIODIC PAYMENTS OR SUBSTITUTE SECURITY IF~~
 6 ~~THE TERMS OF AGREEMENT, INCLUDING SECURITY FOR REPAYMENT, ARE ACCEPTABLE TO THE DEPARTMENT AND IF THE~~
 7 ~~AGREEMENT DOES NOT REDUCE THE AMOUNT DUE OR THE LIKELIHOOD OF RECOVERING THE AMOUNT DUE. THE~~
 8 ~~DEPARTMENT MAY DELAY FILING AN APPLICATION FOR ISSUANCE OF A WRIT OF EXECUTION FOR PURPOSES OF~~
 9 ~~CONDUCTING NEGOTIATIONS FOR AN AGREEMENT IN LIEU OF EXECUTION.~~

10
 11 ~~———— NEW SECTION. SECTION 7. ISSUANCE OF WRIT OF EXECUTION BY CLERK OF COURT. (1) IF THE~~
 12 ~~REQUIREMENTS OF SUBSECTION (2) ARE MET, THE CLERK OF COURT SHALL ISSUE A WRIT OF EXECUTION SPECIFYING THE~~
 13 ~~PROPERTY TO BE LEVIED UPON, THE AMOUNT DUE AS OF THE DATE OF FILING OF THE APPLICATION, AND A STATEMENT~~
 14 ~~THAT ADDITIONAL AMOUNTS MAY BE DUE UP TO AND THROUGH THE DATE OF THE SALE.~~

15 ~~———— (2) THE CLERK SHALL ISSUE THE WRIT IF:~~

16 ~~———— (A) (i) AN ACTION HAS NOT BEEN FILED UNDER [SECTION 5] WITHIN 60 DAYS OF MAILING, SERVICE, OR FIRST~~
 17 ~~PUBLICATION OF NOTICE, AS PROVIDED IN [SECTION 4];~~

18 ~~———— (ii) THE DEPARTMENT HAS FILED AN AFFIDAVIT MEETING THE REQUIREMENTS OF [SECTION 4(4)]; AND~~

19 ~~———— (iii) THE DEPARTMENT HAS FILED A SWORN APPLICATION CONTAINING THE STATEMENTS REQUIRED BY [SECTION~~
 20 ~~3]; OR~~

21 ~~———— (B) THE COURT HAS ORDERED THE ISSUANCE OF THE WRIT IN AN ACTION UNDER [SECTION 5];~~

22
 23 ~~———— NEW SECTION. SECTION 8. EFFECT OF SALE --- TITLE ACQUIRED --- NO FURTHER PERSONAL LIABILITY FOR~~
 24 ~~PROPERTY OWNER. (1) THE PURCHASER OF PROPERTY PURSUANT TO A WRIT OF EXECUTION ISSUED UNDER [SECTIONS~~
 25 ~~1 THROUGH 9] ACQUIRES THE RIGHT, TITLE, INTEREST, AND CLAIM THAT THE PROPERTY OWNER OR MEMBER OF THE~~
 26 ~~PROPERTY OWNER'S FAMILY HAD AT THE TIME THE LIEN WAS IMPOSED, SUBJECT ONLY TO ANY RIGHT, TITLE, INTEREST,~~
 27 ~~OR CLAIM ARISING FROM AN INSTRUMENT RECORDED PRIOR TO THE DEPARTMENT'S LIEN UNDER [SECTION 1] AND [SECTION~~
 28 ~~2] AND TO ANY UNPAID PROPERTY TAXES. THE SALE IS ABSOLUTE AND IS NOT SUBJECT TO ANY PERIOD OF REDEMPTION~~
 29 ~~ALLOWED BY TITLE 25, CHAPTER 13, PART 8, OR OTHER LAW.~~

30 ~~———— (2) AFTER A SALE OF PROPERTY PURSUANT TO A WRIT OF EXECUTION ISSUED UNDER [SECTIONS 1 THROUGH 9],~~

~~1 THE PROPERTY OWNER AND ANY MEMBER OF THE PROPERTY OWNER'S FAMILY ARE NOT PERSONALLY LIABLE FOR
2 REPAYMENT OF THE PROPERTY TAX EXEMPTIONS RECEIVED UNDER [SECTION 1], REGARDLESS OF WHETHER THE
3 PROCEEDS OF THE SALE ARE SUFFICIENT TO PAY OFF THE AMOUNT EXEMPTED UNDER [SECTION 1].~~

~~4
5 NEW SECTION. SECTION 9. DISPOSITION OF SALE PROCEEDS. (1) THE PROCEEDS OF A SALE OF PROPERTY
6 SOLD PURSUANT TO A WRIT OF EXECUTION ISSUED UNDER [SECTION 7] MUST BE DISTRIBUTED IN THE FOLLOWING ORDER:~~

~~7 (A) AS SATISFACTION OF ANY UNPAID PROPERTY TAXES AND PRIOR RECORDED INTERESTS AS DESCRIBED IN
8 [SECTION 2(4)(G)];~~

~~9 (B) TO THE DEPARTMENT FOR APPLICATION TO ANY COSTS INCURRED IN COLLECTION;~~

~~10 (C) TO THE DEPARTMENT FOR DEPOSIT IN THE STATE SPECIAL REVENUE ACCOUNT PROVIDED FOR IN [SECTION
11 10], AN AMOUNT EQUAL TO THE AMOUNT OF PROPERTY TAXES EXEMPTED UNDER [SECTION 1].~~

~~12 (2) ANY EXCESS FUNDS REMAINING AFTER APPLICATION OF PROCEEDS UNDER SUBSECTION (1) MUST BE PAID
13 TO THE PROPERTY OWNER OR MEMBER OF THE PROPERTY OWNER'S FAMILY, IF LIVING, OR OTHERWISE TO THE
14 REPRESENTATIVE OR SUCCESSOR IN INTEREST.~~

~~15
16 NEW SECTION. SECTION 10. PROPERTY TAX EXEMPTION STATE SPECIAL REVENUE ACCOUNT. (1) THERE IS
17 A PROPERTY TAX EXEMPTION ACCOUNT IN THE STATE SPECIAL REVENUE FUND. THE DEPARTMENT SHALL ADMINISTER THE
18 ACCOUNT.~~

~~19 (2) THERE MUST BE DEPOSITED IN THE ACCOUNT MONEY RECEIVED IN REPAYMENT OF PROPERTY TAXES
20 EXEMPTED UNDER [SECTION 1].~~

~~21 (3) (A) THE MONEY IN THE ACCOUNT MUST BE ALLOCATED TO THE TAXING JURISDICTIONS WHERE PROPERTY
22 TAXES WERE EXEMPTED UNDER [SECTION 1].~~

~~23 (B) SUBJECT TO 15-10-420, THE AMOUNT ALLOCATED MUST BE REMITTED TO TAXING JURISDICTIONS AND THE
24 STATE IN A PROPORTIONAL AMOUNT BASED ON TOTAL MILLS LEVIED IN THE TAXING JURISDICTION. THE STATE PORTION
25 MUST BE DEPOSITED IN THE GENERAL FUND.~~

~~26 (4) THE REMITTANCE PROVIDED FOR IN THIS SECTION TO TAXING JURISDICTIONS IS SUBJECT TO LEGISLATIVE
27 APPROPRIATION TO THE DEPARTMENT FOR DISTRIBUTION TO TAXING ENTITIES.~~

~~28
29 **Section 2.** Section 15-7-102, MCA, is amended to read:
30 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)~~

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

- 5 (i) change in ownership;
- 6 (ii) change in classification;
- 7 (iii) change in valuation; or
- 8 (iv) addition or subtraction of personal property affixed to the land.

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

- 10 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
11 including the intangible land value assistance program provided for in [section 1], the property tax assistance
12 programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided
13 for in 15-30-2337 through 15-30-2341;
- 14 (ii) the total amount of mills levied against the property in the prior year; and
- 15 (iii) a statement that the notice is not a tax bill.

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

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

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

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

28 (c) The department is not required to mail or provide electronically the notice to a new owner or
29 purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk
30 and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection

1 (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date
2 of the mailing or the date when the taxpayer is informed the information is available electronically.

3 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
4 market value of the property as determined by the department or with the classification of the land or
5 improvements, the owner may request an assessment review by submitting an objection on written or electronic
6 forms provided by the department for that purpose.

7 (i) For property other than class three property described in 15-6-133, class four property described in
8 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the
9 date on the notice.

10 (ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the
11 objection may be made only once each valuation cycle. An objection must be made within 30 days from the date
12 on the assessment notice for a reduction in the appraised value to be considered for both years of the 2-year
13 appraisal cycle. Any reduction in value resulting from an objection made more than 30 days from the date of the
14 assessment notice will be applicable only for the second year of the 2-year reappraisal cycle.

15 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only once
16 each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a
17 reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. Any reduction in
18 value resulting from an objection made more than 30 days after the date of the assessment notice applies only
19 for the subsequent remaining years of the 6-year reappraisal cycle.

20 (b) If the objection relates to residential or commercial property and the objector agrees to the
21 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
22 8 weeks of submission of the objection, the following information:

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

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

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

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

29 (ii) sales data used by the department to value residential property in the property taxpayer's market
30 model area.

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

4 (e) The review must be conducted informally and is not subject to the contested case procedures of the
5 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling
6 price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion
7 as to the market value of the property. The county tax appeal board [department] shall consider an independent
8 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
9 appraisers and the appraisal was conducted within 6 months of the valuation date. If the department does not
10 use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer
11 the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time
12 and place of the review.

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

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

23 (a) the taxpayer has submitted an objection on written or electronic forms provided by the department;
24 and

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

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

30 (6) If a property owner feels aggrieved by the classification or appraisal made by the department after

1 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
2 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
3 The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on
4 the notice of the department's determination. A county tax appeal board or the state tax appeal board may
5 consider the actual selling price of the property, independent appraisals of the property, and other relevant
6 information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal
7 board or the state tax appeal board determines that an adjustment should be made, the department shall adjust
8 the base value of the property in accordance with the board's order."

9

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

11 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
12 of the property tax record, the county treasurer shall publish a notice specifying:

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

17 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next
18 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
19 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
20 and

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

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

25 (i) the taxable value of the property;

26 (ii) the total mill levy applied to that taxable value;

27 (iii) itemized city services and special improvement district assessments collected by the county;

28 (iv) the number of the school district in which the property is located;

29 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and
30 other tax; and

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

5 (b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued
 6 under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the
 7 property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete
 8 information.

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

11 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper
 12 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish
 13 or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the
 14 current year or of delinquent tax will not affect the legality of the tax.

15 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
 16 tax is not owed and a new tax bill does not need to be prepared."
 17

18 NEW SECTION. Section 4. Codification instruction. ~~[Section 1] is [SECTIONS 1 THROUGH 10] ARE~~
 19 ~~[SECTION 1] IS~~ intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title
 20 15, chapter 6, part 2, apply to ~~[section 1] [SECTIONS 1 THROUGH 10] [SECTION 1]~~.
 21

22 NEW SECTION. SECTION 5. SEVERABILITY. ~~IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE~~
 23 ~~SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS~~
 24 ~~APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID~~
 25 ~~APPLICATIONS.~~
 26

27 NEW SECTION. Section 6. Applicability. [This act] applies to tax years beginning after December 31,
 28 2017.
 29

- END -