

1 HOUSE BILL NO. 19

2 INTRODUCED BY T. JACOBSON

3 BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ELDERLY HOMEOWNER AND RENTER INCOME
 6 TAX CREDIT; PROVIDING THAT THE CREDIT MAY BE CLAIMED ON A DWELLING THAT IS NOT SUBJECT
 7 TO PROPERTY TAXES; PROVIDING A TRANSITION FOR THE PURPOSE OF CLAIMING THE CREDIT IN
 8 A PRIOR TAX YEAR; AMENDING SECTIONS 15-7-102, 15-16-101, 15-30-2337, AND 15-30-2341, MCA; AND
 9 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12

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

14 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

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

19 (i) change in ownership;

20 (ii) change in classification;

21 (iii) change in valuation; or

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

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

24 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
 25 including the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the ~~residential~~
 26 ~~property homeowner and renter income tax credit for the elderly~~ provided for in 15-30-2337 through 15-30-2341;

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

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

29 (c) When the department uses an appraisal method that values land and improvements as a unit,
 30 including the sales comparison approach for residential condominiums or the income approach for commercial

1 property, the notice must contain a combined appraised value of land and improvements.

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

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

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

11 (c) The department is not required to mail or provide electronically the notice to a new owner or
12 purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk
13 and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
14 (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date
15 of the mailing or the date when the taxpayer is informed the information is available electronically.

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

20 (i) For property other than class three property described in 15-6-133, class four property described in
21 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the
22 date on the notice.

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

28 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only once
29 each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a
30 reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. Any reduction in

1 value resulting from an objection made more than 30 days after the date of the assessment notice applies only
2 for the subsequent remaining years of the 6-year reappraisal cycle.

3 (b) If the objection relates to residential or commercial property and the objector agrees to the
4 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
5 8 weeks of submission of the objection, the following information:

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

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

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

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

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

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

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

26 (f) After the review, the department shall determine the correct appraisal and classification of the land
27 or improvements and notify the taxpayer of its determination by mail or electronically. The department may not
28 determine an appraised value that is higher than the value that was the subject of the objection unless the reason
29 for an increase was the result of a physical change in the property or caused by an error in the description of the
30 property or data available for the property that is kept by the department and used for calculating the appraised

1 value. In the notification, the department shall state its reasons for revising the classification or appraisal. When
2 the proper appraisal and classification have been determined, the land must be classified and the improvements
3 appraised in the manner ordered by the department.

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

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

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

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

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

22

23 **Section 2.** Section 15-16-101, MCA, is amended to read:

24 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
25 of the property tax record, the county treasurer shall publish a notice specifying:

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

30 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next

1 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
2 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
3 and

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

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

8 (i) the taxable value of the property;

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

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

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

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

14 (vi) a notice of the availability of all the property tax assistance programs available to property taxpayers,
15 including the property tax assistance programs under Title 15, chapter 6, part 3, and the ~~residential property~~
16 homeowner and renter income tax credit for the elderly under 15-30-2337 through 15-30-2341.

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

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

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

27 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
28 tax is not owed and a new tax bill does not need to be prepared."
29

30 **Section 3.** Section 15-30-2337, MCA, is amended to read:

1 **"15-30-2337. Residential property tax credit for elderly -- definitions Homeowner and renter**
2 **income tax credit for older adults.** As used in 15-30-2337 through 15-30-2341, the following definitions apply:

3 (1) "Claim period" means the tax year for individuals required to file Montana individual income tax
4 returns and the calendar year for individuals not required to file returns.

5 (2) "Claimant" means a person who is eligible to file a claim under 15-30-2338.

6 (3) "Department" means the department of revenue.

7 (4) "Gross household income" means all income received by all individuals of a household while they
8 are members of the household.

9 (5) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the
10 renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the
11 landlord.

12 (6) "Homestead" means:

13 ~~——(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana~~
14 ~~and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a~~
15 ~~dwelling; or~~

16 ~~——(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal~~
17 ~~housing authority as provided in Title 7, chapter 15.~~

18 (7) (a) "Household" means an association of persons who live in the same dwelling, sharing its
19 furnishings, facilities, accommodations, and expenses.

20 (b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

21 (8) "Household income" means the amount obtained by subtracting \$6,300 from gross household
22 income.

23 (9) (a) "Income" means, except as provided in subsection (9)(b), federal adjusted gross income, without
24 regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable
25 income, including but not limited to:

26 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
27 disability benefits;

28 (ii) the amount of capital gains excluded from adjusted gross income;

29 (iii) alimony;

30 (iv) support money;

- 1 (v) nontaxable strike benefits;
 2 (vi) cash public assistance and relief;
 3 (vii) interest on federal, state, county, and municipal bonds; and
 4 (viii) all payments received under federal social security except social security income paid directly to a
 5 nursing home.

6 (b) For the purposes of this subsection (9), income is reduced by the taxpayer's basis.

7 (10) "Property tax billed" means taxes levied against the homestead, including special assessments and
 8 fees but excluding penalties or interest during the claim period.

9 (11) "Rent-equivalent tax paid" means 15% of the gross rent."
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11 **Section 4.** Section 15-30-2341, MCA, is amended to read:

12 **"15-30-2341. Residential property tax credit for elderly Homeowner and renter income tax credit**

13 **for older adults -- limitations -- denial of claim.** (1) Only one claimant per household in a claim period under
 14 the provisions of 15-30-2337 through 15-30-2341 is entitled to relief.

15 (2) ~~Except as provided in subsection (3), a~~ A claim for relief may not be allowed for any portion of
 16 property taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

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

20 (4) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341
 21 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or
 22 fraudulent claim has been paid, the amount paid, penalties, and interest may be recovered as provided in
 23 15-1-216."
 24

25 **NEW SECTION. Section 5. Transition.** For the tax year ending December 31, 2016:

26 (1) the April 15 deadline in 15-30-2339(1) does not apply; and

27 (2) subject to 15-30-2339(3), the claim for relief must be filed by September 15, 2017.
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29 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.
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