

## 1 HOUSE BILL NO. 74

2 INTRODUCED BY G. HERTZ

3 BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AMENDMENTS TO PROPERTY TAX LAWS  
6 ENACTED BY THE 64TH LEGISLATURE; AND AMENDING SECTIONS 15-6-301, 15-6-302, 15-6-305,  
7 15-6-311, AND 15-7-102, MCA."

8

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

10

11 **Section 1.** Section 15-6-301, MCA, is amended to read:12 **"15-6-301. Definitions.** As used in this part, the following definitions apply:

13 (1) "Annual verification" means the use of a process to:

14 (a) verify an applicant's income;

15 (b) approve, renew, or deny benefits for the current year based upon the applicant's eligibility; and

16 (c) terminate participation based upon death or loss of status as a qualified veteran or veteran's spouse.

17 (2) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly

18 in the survey of current business by the bureau of economic analysis of the U.S. department of commerce.

19 (3) "PCE inflation factor" for a tax year means the PCE for April of the prior tax year before the tax year  
20 divided by the PCE for April 2015.

21 (4) (a) "Primary residence" is, subject to the provisions of subsection (4)(b), a dwelling:

22 (i) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for which  
23 benefits are claimed;

24 (ii) that is the only residence for which property tax assistance is claimed; and

25 (iii) determined using the indicators provided for in the rules authorized by 15-6-302(2).

26 (b) A primary residence may include more than one dwelling when the taxpayer resides in one dwelling  
27 for less than 7 months during the tax year and another dwelling for less than 7 months of the same tax year, but  
28 lives in the dwellings for more than 7 months of the tax year.

29 (5) "Qualified veteran" means a veteran:

30 (a) who was killed while on active duty or died as a result of a service-connected disability; or

1 (b) if living:

2 (i) was honorably discharged from active service in any branch of the armed services; and

3 (ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of  
4 veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department  
5 of veterans affairs.

6 (6) "Qualifying income" means:

7 (a) the federal adjusted gross income excluding capital and income losses of an applicant and the  
8 applicant's spouse as calculated on the Montana income tax return for the prior year;

9 (b) for assistance under ~~15-6-305~~ ~~[15-6-311]~~ 15-6-311, the federal adjusted gross income excluding  
10 capital and income losses of an applicant as calculated on the Montana income tax return for the prior tax year;  
11 or

12 (c) for an applicant who is not required to file a Montana income tax return, the income determined using  
13 available income information.

14 (7) "Residential real property" means the land and improvements of a taxpayer's primary residence."  
15

16 **Section 2.** Section 15-6-302, MCA, is amended to read:

17 **"15-6-302. Property tax assistance -- rulemaking.** (1) The requirements of this section must be met  
18 for a taxpayer to qualify for property tax assistance under 15-6-305 or 15-6-311.

19 (2) For the property tax assistance programs provided for in 15-6-305 and 15-6-311, the residential real  
20 property must be owned by the applicant or under contract for deed and be the primary residence as defined in  
21 15-6-301. The department shall make rules specifying the indicators used for determining whether a residence  
22 is a primary residence for purposes of property tax assistance programs.

23 (3) An applicant's qualifying income, as defined in 15-6-301, may not exceed the threshold established  
24 in 15-6-305 or 15-6-311 or in rules established pursuant to those sections.

25 (4) (a) A claim for assistance must be submitted on a form prescribed by the department.

26 (b) The form must contain:

27 (i) the qualifying income of the applicant and the applicant's spouse;

28 (ii) an affirmation that the applicant owns and maintains the land and improvements as the primary  
29 residence as defined in 15-6-301;

30 (iii) the social security number of the applicant and of the applicant's spouse; and

- 1 (iv) any other information required by the department that is relevant to the applicant's eligibility.
- 2 (5) (a) An application must be filed by April 15 of the year for which assistance is first claimed.
- 3 (b) Once assistance is approved, the applicant remains eligible for property tax assistance in subsequent
- 4 years through the annual verification process defined in 15-6-301 without the need to reapply.
- 5 ~~(c) Applicants and participants in the property tax assistance program provided for in [former]~~
- 6 ~~15-6-134(1)(c) and the disabled or deceased veterans program provided for in [former] 15-6-211 as those~~
- 7 ~~sections existed on December 31, 2014, must be included in the annual verification process and are not required~~
- 8 ~~to submit a new application.~~
- 9 ~~(d)~~(c) A taxpayer shall inform the department of any change in eligibility occurring from one year to the
- 10 next.
- 11 (6) The department may verify an applicant's and an applicant's spouse's social security number and
- 12 benefits with the social security administration and the U.S. department of veterans affairs.
- 13 (7) The department must annually verify an applicant's eligibility, including the applicant's and spouse's
- 14 income, and approve, renew, or deny benefits for the current year based upon the findings.
- 15 (8) (a) When providing information for property tax assistance under 15-6-305 or 15-6-311, applicants
- 16 are subject to the false swearing penalties established in 45-7-202.
- 17 (b) The department may investigate the information provided in an application and an applicant's
- 18 continued eligibility.
- 19 (c) The department may request applicant verification of the primary residence.
- 20 (9) The department may address unusual circumstances of ownership and income that arise in
- 21 administering taxpayer assistance programs provided for in 15-6-305 and 15-6-311.
- 22 (10) A temporary stay in a nursing home or similar facility does not change a taxpayer's primary residence
- 23 for the purposes of taxpayer assistance programs provided for in 15-6-305 and 15-6-311.
- 24 (11) The department shall award property assistance under the property tax assistance program that
- 25 provides the greatest benefit to the taxpayer by reviewing applications and eligibility requirements, and notify the
- 26 applicant of the department's decision."
- 27

28 **Section 3.** Section 15-6-305, MCA, is amended to read:

29 **"15-6-305. Property tax assistance program -- fixed or limited income.** (1) There is a property tax

30 assistance program that provides graduated levels of tax assistance for the purpose of assisting citizens with

1 limited or fixed incomes. To be eligible for the program, applicants must meet the requirements of 15-6-302.

2 (2) The first \$200,000 in appraisal value of residential real property qualifying for the property tax  
 3 assistance program is taxed at the rates established by 15-6-134~~(2)~~ multiplied by a percentage figure based on  
 4 the applicant's qualifying income determined from the following table:

5 Income	Income	Percentage
6 Single Person	Married Couple	Multiplier
	7 Head of Household	
8 \$0 - \$8,413	\$0 - \$11,217	20%
9 \$8,414 - \$12,900	\$11,218 - \$19,630	50%
10 \$12,901 - \$21,032	\$19,631 - \$28,043	70%

11 (3) The qualifying income levels contained in subsection (2) must be adjusted annually using the PCE  
 12 inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount."

13  
 14 **Section 4.** Section 15-6-311, MCA, is amended to read:

15 **"15-6-311. Disabled veteran program.** (1) The residential real property of a qualified veteran or a  
 16 qualified veteran's spouse is eligible to receive a tax rate reduction as provided in ~~15-6-305 [15-6-302]~~ 15-6-302  
 17 and this section.

18 (2) Property qualifying under subsection (1) and owned by a qualified veteran is taxed at the rate  
 19 provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income determined  
 20 from the following table:

21 Income	Income	Percentage
22 Single Person	Married Couple	Multiplier
	23 Head of Household	
24 \$0 - \$37,404	\$0 - \$44,885	0%
25 \$37,405 - \$41,145	\$44,886 - \$48,626	20%
26 \$41,146 - \$44,885	\$48,627 - \$52,366	30%
27 \$44,886 - \$48,626	\$52,367 - \$56,107	50%

28 (3) For a surviving spouse who owns property qualifying under subsection (4), the property is taxed at  
 29 the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying income

1 determined from the following table:

2	Income	Percentage
3	Surviving Spouse	Multiplier
4	\$0 - \$31,170	0%
5	\$31,171 - \$34,911	20%
6	\$34,912 - \$38,651	30%
7	\$38,652 - \$42,392	50%

8 (4) The property tax exemption under this section remains in effect as long as the qualifying income  
9 requirements are met and the property is the primary residence owned and occupied by the veteran or, if the  
10 veteran is deceased, by the veteran's spouse and the spouse:

- 11 (a) is the owner and occupant of the house;
- 12 (b) is unmarried; and
- 13 (c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was  
14 rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a  
15 service-connected disability at the time of death or that the veteran died while on active duty or as a result of a  
16 service-connected disability.

17 (5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by using  
18 the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount."

19

20 **Section 5.** Section 15-7-102, MCA, is amended to read:

21 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)  
22 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser  
23 under contract for deed a notice that includes the land classification, market value, and taxable value of the land  
24 and improvements owned or being purchased. A notice must be mailed to the owner only if one or more of the  
25 following changes pertaining to the land or improvements have been made since the last notice:

- 26 (i) change in ownership;
- 27 (ii) change in classification;
- 28 (iii) change in valuation; or
- 29 (iv) addition or subtraction of personal property affixed to the land.

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

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

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

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

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

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

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

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

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

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

28 (i) For property other than class three property described in 15-6-133, class four property described in  
29 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the  
30 date on the notice.

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

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

11 (b) If the objection relates to residential or commercial property and the objector agrees to the  
12 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within  
13 8 weeks of submission of the objection, the following information:

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

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

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

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

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

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

25 (e) The review must be conducted informally and is not subject to the contested case procedures of the  
26 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling  
27 price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion  
28 as to the market value of the property. The ~~county tax appeal board~~ department shall consider an  
29 independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of  
30 real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the department

1 does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to  
2 the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer  
3 of the time and place of the review.

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

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

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

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

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

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

30

- END -