

## 1 HOUSE BILL NO. 442

2 INTRODUCED BY V. COURT

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX EXEMPTION LAWS TO PROVIDE AN  
5 EXEMPTION FOR PUBLIC PARKS NOT OPERATED FOR PROFIT; DESCRIBING ELIGIBLE PUBLIC PARKS;  
6 AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN  
7 APPLICABILITY DATE."

8

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

10

11 **Section 1.** Section 15-6-201, MCA, is amended to read:

12 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The  
13 following categories of property are exempt from taxation:

14 (a) except as provided in 15-24-1203, the property of:

15 (i) the United States, except:

16 (A) if congress passes legislation that allows the state to tax property owned by the federal government  
17 or an agency created by congress; or

18 (B) as provided in 15-24-1103;

19 (ii) the state, counties, cities, towns, and school districts;

20 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

21 (iv) municipal corporations;

22 (v) public libraries;

23 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

24 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and

25 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located  
26 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is  
27 used exclusively by the tribe for essential government services. Essential government services are tribal  
28 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public  
29 transit, and public parks and recreational facilities.

30 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious

1 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with  
2 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,  
3 which must be identified in the application, and all land and improvements used for educational or youth  
4 recreational activities if the facilities are generally available for use by the general public but may not exceed 15  
5 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,  
6 or subdivision requirements;

7 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized  
8 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used  
9 exclusively for religious purposes;

10 (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain  
11 or profit;

12 (e) property, not to exceed 80 acres, which must be legally described in the application for the  
13 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the  
14 use of students in attendance and other structures necessary for the operation and maintenance of an  
15 educational institution that:

16 (i) is not operated for gain or profit;

17 (ii) has an attendance policy; and

18 (iii) has a definable curriculum with systematic instruction;

19 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing  
20 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

21 (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the  
22 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care  
23 facility that is not licensed by the department of public health and human services and organized under Title 35,  
24 chapter 2 or 3, is not exempt.

25 (h) property that is:

26 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

27 or

28 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

29 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care  
30 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

- 1 (iii) not maintained and not operated for gain or profit;
- 2 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or  
3 local governmental entity by institutions of purely public charity if the property is directly used for purely public  
4 charitable purposes;
- 5 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of  
6 Montana;
- 7 (k) public parks, museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 8 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or  
9 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
10 irrigation of agricultural land;
- 11 (m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive  
12 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
13 prospect, or dig for oil, gas, coal, or minerals;
- 14 (n) (i) property that is owned and used by a corporation or association organized and operated  
15 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with  
16 physical or mental impairments that constitute or result in substantial impediments to employment and that is not  
17 operated for gain or profit; and
- 18 (ii) property that is owned and used by an organization owning and operating facilities that are for the care  
19 of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 20 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
21 and practice for or competition in international sports and athletic events and that is not held or used for private  
22 or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization  
23 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
24 under the Montana Nonprofit Corporation Act.
- 25 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used  
26 for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p),  
27 "property" includes land but does not include buildings. The exemption must be applied for by the municipality  
28 or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.
- 29 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to  
30 exemption may not be:

- 1 (A) operated for gain or profit;
- 2 (B) held under contract to operate, lease, or sell by a taxable individual;
- 3 (C) used or possessed exclusively by a taxable individual or entity; or
- 4 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).
- 5 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must
- 6 be:
- 7 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated
- 8 as a recreational facility; and
- 9 (B) open to the general public.
- 10 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal
- 11 Internal Revenue Code:
- 12 (i) an ordained minister, priest, or rabbi;
- 13 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the
- 14 person has the authority to perform substantially all the religious duties of the church or denomination;
- 15 (iii) a member of a religious order who has taken a vow of poverty; or
- 16 (iv) a Christian Science practitioner.
- 17 (c) For the purposes of subsection (1)(i):
- 18 (i) the term "institutions of purely public charity" includes any organization that meets the following
- 19 requirements:
- 20 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
- 21 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
- 22 Revenue Code, as amended.
- 23 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
- 24 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
- 25 performances or entertainment or by other similar types of fundraising activities.
- 26 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
- 27 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
- 28 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
- 29 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
- 30 the charity during the tax year, together with a statement indicating whether the exempt property was used to

1 generate any unrelated business taxable income.

2 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even  
 3 if the property must be improved before it can directly be used for its intended charitable purpose. If the property  
 4 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the  
 5 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property  
 6 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property  
 7 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was  
 8 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed  
 9 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.  
 10 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county  
 11 in which the property is located. The notice must indicate that an exemption pursuant to this section has been  
 12 granted. The notice must describe the penalty for default under this section and must specify that a default under  
 13 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the  
 14 department.

15 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally  
 16 applied for after December 31, 2004. An application for exemption under this section must contain a legal  
 17 description of the property for which the exemption is requested.

18 (d) (i) For the purposes of subsection (1)(k), ~~the term "public~~ public parks, museums, art galleries,  
 19 zoos, and ~~observatories" means~~ observatories are governmental entities or nonprofit organizations whose  
 20 principal purpose is to hold property for public display or for public use as a park, museum, art gallery, zoo, or  
 21 observatory. A public park is an area of land for the enjoyment of the public, having facilities for rest and  
 22 recreation, and does not include property with the sole or principal purpose of conservation generally or protection  
 23 or conservation of wildlife.

24 (ii) The exempt property includes all real and personal property owned by the public park, museum, art  
 25 gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or  
 26 ~~observatory~~ public use. Unless the property is leased for a profit to a governmental entity or nonprofit organization  
 27 by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

28 (†)(A) actually used by the governmental entity or nonprofit organization as a part of its public display or  
 29 public use;

30 (†)(B) held for future display; or

1           ~~(iii)(C)~~ used to house or store a public display."

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3           NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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5           NEW SECTION. **Section 3. Applicability.** [This act] applies to tax years beginning after December 31,  
6 2017.

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