

HOUSE BILL NO. 442

INTRODUCED BY V. COURT, J. KARJALA, K. KELKER, M. MACDONALD, K. MCCARTHY, M. MCNALLY,
J. PATELIS, T. RICHMOND, R. WEBB, D. ZOLNIKOV

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

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

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

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

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

(i) the United States, except:

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

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

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

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

(iv) municipal corporations;

(v) public libraries;

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

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

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal

1 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public
2 transit, and public parks and recreational facilities.

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

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

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

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

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

20 (ii) has an attendance policy; and

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

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

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

28 (h) property that is:

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

30 or

- 1 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and
- 2 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
- 3 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 4 (iii) not maintained and not operated for gain or profit;
- 5 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 6 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 7 charitable purposes;
- 8 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 9 Montana;
- 10 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 11 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 12 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 13 irrigation of agricultural land;
- 14 (m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive
- 15 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,
- 16 prospect, or dig for oil, gas, coal, or minerals;
- 17 (n) (i) property that is owned and used by a corporation or association organized and operated
- 18 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
- 19 physical or mental impairments that constitute or result in substantial impediments to employment and that is not
- 20 operated for gain or profit; and
- 21 (ii) property that is owned and used by an organization owning and operating facilities that are for the care
- 22 of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 23 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training
- 24 and practice for or competition in international sports and athletic events and that is not held or used for private
- 25 or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization
- 26 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted
- 27 under the Montana Nonprofit Corporation Act.
- 28 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used
- 29 for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p),
- 30 "property" includes land but does not include buildings. The exemption must be applied for by the municipality

1 or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

2 ~~(g) property, not to exceed 500 acres~~ ONE PUBLIC PARK per county, owned by a nonprofit organization
3 ~~and used for a public park.~~

4 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to
5 exemption may not be:

6 (A) operated for gain or profit;

7 (B) held under contract to operate, lease, or sell by a taxable individual;

8 (C) used or possessed exclusively by a taxable individual or entity; or

9 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

10 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must
11 be:

12 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated
13 as a recreational facility; and

14 (B) open to the general public.

15 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal
16 Internal Revenue Code:

17 (i) an ordained minister, priest, or rabbi;

18 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the
19 person has the authority to perform substantially all the religious duties of the church or denomination;

20 (iii) a member of a religious order who has taken a vow of poverty; or

21 (iv) a Christian Science practitioner.

22 (c) For the purposes of subsection (1)(i):

23 (i) the term "institutions of purely public charity" includes any organization that meets the following
24 requirements:

25 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
26 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
27 Revenue Code, as amended.

28 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
29 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
30 performances or entertainment or by other similar types of fundraising activities.

1 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
2 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
3 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
4 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
5 the charity during the tax year, together with a statement indicating whether the exempt property was used to
6 generate any unrelated business taxable income.

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

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

23 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and
24 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
25 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
26 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
27 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
28 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
29 owned by other persons is exempt if it is:

30 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

- 1 (ii) held for future display; or
- 2 (iii) used to house or store a public display.

3 (e) For the purposes of subsection (1)(g):

4 (i) the term "public park" means an area of CONTIGUOUS land NOT TO EXCEED 500 ACRES for the enjoyment
 5 of the public, having facilities for rest and recreation, and does not include:

6 (A) a park generally not accessible to or open to the public and created in order to comply with
 7 subdivision laws; or

8 (B) property with the sole or principal purpose of conservation generally or protection or conservation
 9 of wildlife;

10 (ii) an exemption for a public park must be approved by the governing body of the city or county in which
 11 the public park is located before an application for exemption is made to the department. The exemption must
 12 be considered in a public hearing and the governing body must consider the appropriateness of use of the land
 13 as a public park and the long-term sustainability of the park. If the governing body approves the exemption, a
 14 copy of the resolution or ordinance approving the exemption must be included in the application for exemption
 15 made to the department."

16
 17 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

18
 19 NEW SECTION. Section 3. Applicability. [This act] applies to tax years beginning after December 31,
 20 2017.

21 - END -