

SENATE BILL NO. 211

INTRODUCED BY R. TEMPEL

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX EXEMPTIONS; PROVIDING FOR A HOLDING PERIOD BEFORE CERTAIN NEWLY APPROVED REAL PROPERTY TAX EXEMPTIONS BECOME EFFECTIVE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-201, 15-6-203, 15-6-205, 15-6-209, AND 15-6-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Delayed implementation of certain property tax exemptions.** (1) Except as provided in subsection (2), in order to mitigate an immediate loss of existing taxable value, a newly approved exemption for any portion of real property granted by the department under 15-6-201(1)(b), (1)(d), (1)(e), (1)(g), (1)(i), (1)(k), (1)(n), and (1)(o), 15-6-203, 15-6-205, 15-6-209, and 15-6-221, is not effective until a 10-year holding period has elapsed. The real property must otherwise qualify for the exemption during the entire holding period in order for the exemption to become effective.

(2) This section does not apply to:

- (a) property of the United States;
- (b) personal property; and
- (c) renewal applications.

**Section 2.** Section 15-6-201, MCA, is amended to read:

**"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) ~~The~~ Subject to [section 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;



- 1 (ii) the state, counties, cities, towns, and school districts;
- 2 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
- 3 (iv) municipal corporations;
- 4 (v) public libraries;
- 5 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- 6 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
- 7 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
- 8 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
- 9 used exclusively by the tribe for essential government services. Essential government services are tribal
- 10 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public
- 11 transit, and public parks and recreational facilities.
- 12 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious
- 13 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with
- 14 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,
- 15 which must be identified in the application, and all land and improvements used for educational or youth
- 16 recreational activities if the facilities are generally available for use by the general public but may not exceed 15
- 17 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,
- 18 or subdivision requirements;
- 19 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized
- 20 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used
- 21 exclusively for religious purposes;
- 22 (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain
- 23 or profit;
- 24 (e) property, not to exceed 80 acres, which must be legally described in the application for the
- 25 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the
- 26 use of students in attendance and other structures necessary for the operation and maintenance of an
- 27 educational institution that:
- 28 (i) is not operated for gain or profit;
- 29 (ii) has an attendance policy; and
- 30 (iii) has a definable curriculum with systematic instruction;

- 1 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing  
2 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);
- 3 (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the  
4 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care  
5 facility that is not licensed by the department of public health and human services and organized under Title 35,  
6 chapter 2 or 3, is not exempt.
- 7 (h) property that is:
- 8 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;  
9 or  
10 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and  
11 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care  
12 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 13 (iii) not maintained and not operated for gain or profit;
- 14 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or  
15 local governmental entity by institutions of purely public charity if the property is directly used for purely public  
16 charitable purposes;
- 17 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of  
18 Montana;
- 19 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 20 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or  
21 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
22 irrigation of agricultural land;
- 23 (m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive  
24 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
25 prospect, or dig for oil, gas, coal, or minerals;
- 26 (n) (i) property that is owned and used by a corporation or association organized and operated  
27 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with  
28 physical or mental impairments that constitute or result in substantial impediments to employment and that is not  
29 operated for gain or profit; and  
30 (ii) subject to subsection (2)(e), property that is owned and used by an organization owning and operating

1 facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

2 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
3 and practice for or competition in international sports and athletic events and that is not held or used for private  
4 or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization  
5 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
6 under the Montana Nonprofit Corporation Act.

7 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used  
8 for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p),  
9 "property" includes land but does not include buildings. The exemption must be applied for by the municipality  
10 or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

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

13 (A) operated for gain or profit;

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

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

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

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

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

21 (B) open to the general public.

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

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

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

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

28 (iv) a Christian Science practitioner.

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

30 (i) the term "institutions of purely public charity" includes any organization that meets the following

1 requirements:

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

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

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

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

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

30 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and

1 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property  
 2 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real  
 3 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary  
 4 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a  
 5 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property  
 6 owned by other persons is exempt if it is:

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

8 (ii) held for future display; or

9 (iii) used to house or store a public display.

10 (e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection  
 11 (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income  
 12 limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a  
 13 form prescribed by the department. Applicants are subject to the false swearing penalties established in  
 14 45-7-202."

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16 **Section 3.** Section 15-6-203, MCA, is amended to read:

17 **"15-6-203. Veterans' exemptions -- clubhouse -- land -- incompetent veterans' trusts.** (1) (a) ~~There~~  
 18 Subject to [section 1], there is an exemption from taxation for a clubhouse, building, or land owned, rented,  
 19 leased, or used primarily:

20 (i) by any society or organization of honorably discharged United States military personnel; and

21 (ii) for educational, fraternal, benevolent, or purely public charitable purposes rather than for gain or profit.

22 (b) The clubhouse or building exemption provided for in this section applies:

23 (i) to the personal property necessarily used in the building; and

24 (ii) even if a business, intended primarily for the use of the members, is required to be open to the public  
 25 and is operated in a portion of the building.

26 (c) If property exempt under this subsection (1) is owned by someone other than the society or  
 27 organization, the savings from the property tax exemption must be realized by the society or organization.

28 (2) All property, real or personal, in the possession of legal guardians of incompetent veterans of U.S.  
 29 military service or minor dependents of the veterans, when the property is funds or derived from funds received  
 30 from the United States as pension, compensation, insurance, adjusted compensation, or gratuity, is exempt from

1 all taxation as property of the United States while held by the guardian, but not after title passes to the veteran  
2 or minor in the minor's own right on account of removal of legal disability."

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4 **Section 4.** Section 15-6-205, MCA, is amended to read:

5 **"15-6-205. State water conservation projects exempt.** ~~All~~ Subject to [section 1], all lands acquired  
6 and held by the department of natural resources and conservation or the state of Montana for use in connection  
7 with water conservation projects constructed or to be constructed under the laws of this state are exempt from  
8 taxation, and the county treasurer shall cancel all taxes remaining unpaid on the land for the year in which the  
9 land is acquired and for all previous years. The taxes may be canceled only if a tax certificate has not been issued  
10 or, if a tax certificate has been issued, it was issued to the county and an assignment of the certificate of sale has  
11 not been made by the county prior to the time that the land was acquired by the department."

12

13 **Section 5.** Section 15-6-209, MCA, is amended to read:

14 **"15-6-209. Community services buildings exempt.** (1) ~~The~~ Subject to [section 1], the building and  
15 appurtenant land, not exceeding 3 acres, owned by a nonprofit community service organization is exempt from  
16 property taxation, except as provided in subsections (4) and (5), if the organization:

17 (a) is a lodge of a nationally recognized fraternal organization;

18 (b) (i) furnishes services to senior citizens in the form of daytime or evening educational or recreational  
19 activities that are recognized in the state plan on aging adopted by the department of public health and human  
20 services; and

21 (ii) does not furnish living accommodations to senior citizens; or

22 (c) primarily furnishes facilities without charge, except that a minimal fee may be charged for janitorial  
23 services, for public meetings and entertainments.

24 (2) An applicant for exemption under this section shall demonstrate that it has been an active community  
25 service organization continuously from January 1, 1981.

26 (3) A community service organization exempted under this section may sell food and beverages under  
27 license from the state.

28 (4) A building and land exempted under this section must be appraised, assessed, and subject to levies  
29 for any special improvement district if the special improvement directly benefits the building or land.

30 (5) The exemption provided under this section may not be extended to any property owned by a

1 community service organization described in this section that is leased in whole or in part to any person for  
 2 business or profitmaking purposes."

3

4 **Section 6.** Section 15-6-221, MCA, is amended to read:

5 **"15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants.**

6 (1) ~~That~~ Subject to [section 1], that portion of residential rental property that is dedicated to providing affordable  
 7 housing for lower-income persons is exempt from property taxation in any year that:

8 (a) the property is owned and operated by an entity, including but not limited to a limited partnership,  
 9 limited liability corporation, or limited liability partnership in which a general partner is a nonprofit corporation  
 10 exempt from taxation under section 26 U.S.C. 501(c)(3), as amended, and incorporated and admitted under the  
 11 Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in  
 12 7-15-4402 and the nonprofit general partner actively participates in accordance with the definition found in 26  
 13 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

14 (b) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the  
 15 owner under 26 U.S.C. 42, which requires that:

16 (i) at least 20% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and  
 17 rented to tenants whose household incomes do not exceed 50% of the median family income, adjusted for family  
 18 size, for the county in which the property is located; or

19 (ii) at least 40% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and  
 20 rented to persons whose household incomes do not exceed 60% of the median income, adjusted for family size,  
 21 for the county in which the property is located;

22 (c) a deed restriction or other legally binding instrument restricts the property's usage and provides that  
 23 the units designated for use by lower-income households must be made available to or occupied by lower-income  
 24 households for the period required to qualify for low-income housing tax credits at rents that do not exceed those  
 25 prescribed by the terms of the deed restriction or other legally binding instruments;

26 (d) the property meets a public purpose in providing housing to an underserved population and provides  
 27 a minimum of 50% of the units in the property to tenants at 50% of the median family income for the area, with  
 28 rents restricted to a maximum of 30% of 50% of median family income, as calculated under 26 U.S.C. 42; and

29 (e) the owner's partnership or operating agreement or accompanying document provides that at the end  
 30 of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be



1 transferred to the nonprofit corporation or housing authority general partner as provided for in 26 U.S.C. 42(i)(7).

2 (2) Prior to the allocation of low-income housing tax credits to the owner, as provided in subsection  
3 (1)(b), the unit of local government where the proposed project is to be located shall give due notice, as defined  
4 in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental  
5 housing property meets a community housing need. A record of the public hearing must be forwarded to the  
6 board of housing for consideration in granting the allocation of tax credits.

7 (3) For purposes of this section the following definitions apply:

8 (a) "Median family income" means the household income, adjusted for family size, determined annually  
9 by the United States department of housing and urban development, or its successor agency, to be the median  
10 family income for persons residing within each county of the state.

11 (b) A residential unit is "rent-restricted" if it satisfies the criteria of 26 U.S.C. 42(g)(2)."  
12

13 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an  
14 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].  
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16 **NEW SECTION. Section 8. Saving clause.** [This act] does not affect rights and duties that matured,  
17 penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
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19 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.  
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21 **NEW SECTION. Section 10. Applicability.** [This act] applies to property tax exemptions granted for  
22 tax years that begin after December 31, 2019.  
23

- END -