

HOUSE BILL NO. 619

INTRODUCED BY S. KERNS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROPERTY TAX EXEMPTION FOR CERTAIN HOSPITALS; PROVIDING THAT HOSPITALS LOCATED IN CITIES MUST PROVIDE FREE MENTAL HEALTH SERVICES TO RETAIN THEIR PROPERTY TAX EXEMPTIONS; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, expanding access to mental health services in Montana is important for addressing high suicide rates; and

WHEREAS, not-for-profit hospitals in Montana cities are encouraged to provide free mental health services; and

WHEREAS, requiring not-for-profit hospitals in smaller and rural communities may place an undue burden on those hospitals.

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

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;

1 (v) public libraries;
2 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
3 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
4 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
5 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
6 used exclusively by the tribe for essential government services. Essential government services are tribal
7 government administration, fire, police, public health, education, recreation, sewer, water, pollution control,
8 public transit, and public parks and recreational facilities.

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

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

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

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

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

26 (ii) has an attendance policy; and

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

28 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing

1 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

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

6 (h) property that is:

7 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
8 21; or

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

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

12 (iii) not maintained and not operated for gain or profit;

13 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
14 local governmental entity by institutions of purely public charity if the property is directly used for purely public
15 charitable purposes;

16 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of
17 Montana;

18 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

19 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
20 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
21 irrigation of agricultural land;

22 (m) the right of entry that is a property right reserved in land or received by mesne conveyance
23 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
24 to explore, prospect, or dig for oil, gas, coal, or minerals;

25 (n) (i) property that is owned and used by a corporation or association organized and operated
26 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
27 physical or mental impairments that constitute or result in substantial impediments to employment and that is
28 not operated for gain or profit; and

1 (ii) subject to subsection (2)(e), property that is owned and used by an organization owning and
2 operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or
3 profit;

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

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

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

15 (A) operated for gain or profit;

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

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

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

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

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

23 (B) open to the general public.

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

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

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

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

2 (iv) a Christian Science practitioner.

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

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

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

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

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

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

1 this section and must specify that a default under this section will create a lien on the property by operation of
2 law. The notice must be on a form prescribed by the department.

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

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

13 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
14 (ii) held for future display; or
15 (iii) used to house or store a public display.

16 (e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection
17 (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income
18 limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a
19 form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-
20 202.

21 (f) (i) To qualify for the exemption provided in subsection (1)(g), a hospital, as defined in 15-66-101,
22 located within the boundaries of an incorporated city with a population of 20,000 or more shall provide free
23 mental health services equal to the value of the hospital's property tax exemption in the prior year.

24 (ii) A hospital seeking an exemption under subsection (1)(g) shall apply annually to the department by
25 April 15 of the year in which an exemption is sought. The application must include information documenting the
26 free mental health services provided in the prior year. The value of the free mental health services must be
27 determined by the hospital.

28 (iii) On receipt of the application provided for in subsection (2)(f)(ii), the department shall determine the

1 value of a hospital's property tax exemption by applying the tax rates and the mill levies that would be levied on
2 the hospital if it was not exempt to the value determined under subsection (2)(f)(iv). If the free mental health
3 services provided in the prior year are less than the value of the exemption, the department shall deny the
4 application, notify the hospital of the denial of the application, and remove the exemption for the tax year.
5 (iv) The department shall appraise hospitals eligible for an exemption under subsection (1)(g). The
6 appraised value may only be used to make the determination provided for in subsection (2)(f)(iii) and may not
7 be included in the taxable value provided to taxing jurisdictions."

8
9 NEW SECTION. Section 2. Applicability. [This act] applies to tax years beginning after December
10 31, 2021.

11 - END -