

1 HOUSE BILL NO. 407  
2 INTRODUCED BY D. FERN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PROPERTY TAX ABATEMENTS FOR  
5 AFFORDABLE RENTAL HOUSING; PROVIDING THAT A LOCAL GOVERNMENT MAY CHOOSE TO OFFER  
6 THE ABATEMENTS; PROVIDING FOR AN ABATEMENT FOR AFFORDABLE MULTIFAMILY RENTAL  
7 HOUSING WITH FIVE UNITS OR MORE; PROVIDING FOR AN ABATEMENT FOR AFFORDABLE RENTAL  
8 HOUSING WITH FOUR UNITS OR FEWER OR FOR AN AFFORDABLE ACCESSORY DWELLING UNIT;  
9 PROVIDING AN ABATEMENT FOR AFFORDABLE TRAILER COURTS; PROVIDING DEFINITIONS; AND  
10 PROVIDING AN APPLICABILITY DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through ~~3~~4], unless the context  
15 clearly indicates otherwise, the following definitions apply:

16 (1) "Accessory dwelling unit" means a self-contained living unit subordinate to and on the same  
17 parcel as a single-family dwelling that includes its own cooking, sleeping, and sanitation facilities and is created  
18 within or detached from the single-family dwelling, including but not limited to an attached or detached garage.

19 (2) "Affordable accessory dwelling unit" means a rent-restricted accessory dwelling unit with a  
20 lease term of 30 days or longer.

21 (3) "Affordable multifamily rental housing" means rental housing with a minimum of 5 units and a  
22 lease term of 30 days or longer for which 20% or more of units are rent restricted.

23 (4) "Affordable rental housing" means one or more rent-restricted units of a multifamily rental  
24 dwelling with 4 units or fewer and with a lease term of 30 days or longer.

25 (5) "Affordable trailer court" means a trailer court determined to be affordable by a local  
26 government offering an abatement under [section 4].

27 ~~(5)~~(6) "Gross household income" means all income received by all individuals of a household while  
28 they are members of the household.

**Amendment - 1st Reading-white - Requested by: Dave Fern - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0407.001.003

1 ~~(6)(7)~~ (a) "Income" means, except as provided in subsection ~~(6)(b)(7)(b)~~, federal adjusted gross  
2 income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States,  
3 plus all nontaxable income, including but not limited to:

4 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'  
5 disability benefits;

6 (ii) the amount of capital gains excluded from adjusted gross income;

7 (iii) alimony;

8 (iv) support money;

9 (v) nontaxable strike benefits;

10 (vi) cash public assistance and relief;

11 (vii) interest on federal, state, county, and municipal bonds; and

12 (viii) all payments received under federal social security except social security income paid directly  
13 to a nursing home.

14 (b) For the purposes of this subsection ~~(6)(7)~~, income is reduced by the taxpayer's basis.

15 ~~(7)(8)~~ "Rent restricted" means the tenant's gross household income is between 60% and 120% of  
16 area median income for the county and the tenant's rent is 35% or less of gross household income.

17 ~~(9)~~ "Trailer court" has the meaning provided in 50-52-101.

18  
19 **NEW SECTION. Section 2. Affordable multifamily rental housing abatement.** (1) A local  
20 government may provide for a program for abatements for affordable multifamily rental housing as provided in  
21 this section. The governing body of the county or the incorporated city or town that wishes to offer the  
22 abatement shall approve the program by resolution. The governing body may cease the abatement program by  
23 resolution, but any abatements already granted remain in effect.

24 (2) If approved by the county or incorporated city or town, affordable multifamily rental housing that  
25 meets the requirements of this section is eligible for an exemption as provided in this section. Eligible affordable  
26 multifamily rental housing is fully exempt in the first year, and, subject to 15-10-420, each year afterward the  
27 taxable percentage must be increased by 9.09% until the full taxable value is attained in the 12th year. In  
28 subsequent years, the property must be taxed at 100% of its taxable value.

1 abatement under the provisions of this section was in effect. The amount recaptured, including penalty and  
2 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio  
3 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to  
4 property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated  
5 taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to  
6 meet the requirements is a result of circumstances beyond the control of the taxpayer.

7 (4) The taxpayer shall apply to the department for the tax treatment allowed under subsection (2).  
8 The application by the taxpayer must be approved first by the city or county of the appropriate local taxing  
9 jurisdiction, and the city or county shall indicate in its approval that the property of the applicant qualifies for the  
10 tax treatment provided for in this section. On receipt of the form with the approval of the city or county of the  
11 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

12 (5) The tax benefit described in subsection (2) applies only to the number of mills levied and  
13 assessed for local high school district and elementary school district purposes and to the number of mills levied  
14 and assessed by the governing body approving the benefit over which the governing body has sole discretion.  
15 The tax benefit described in subsection (2) may not apply to levies or assessments required under Title 15,  
16 chapter 10, 20-9-331, 20-9-333, 20-9-360, 20-25-439, or otherwise required under state law.

17  
18 **NEW SECTION. Section 4. Affordable trailer court abatement.** (1) A local government may provide  
19 for a program for abatements for the development of affordable trailer courts as provided in this section. The  
20 governing body of the county or the incorporated city or town that wishes to offer the abatement shall approve  
21 the program by resolution. The governing body may cease the abatement program by resolution, but any  
22 abatements already granted remain in effect.

23 (2) If approved by the county or incorporated city or town, an affordable trailer court that meets the  
24 requirements of this section is eligible for an exemption as provided in this section. The value of affordable  
25 trailer court lots is fully exempt in the first year, and, subject to 15-10-420, each year afterward the taxable  
26 percentage must be increased by 11% until the full taxable value is attained in the 10th year. In subsequent  
27 years, the property must be taxed at 100% of its taxable value, unless the taxpayer reapplies for and is granted  
28 a new abatement. The exemption applies only to the land value of the affordable trailer court.

1 (3) (a) In order for a taxpayer to receive the tax benefits described in subsection (2), the taxpayer  
2 may submit an application by March 1 of the year during which the benefit is first applicable. The governing  
3 body of the county or the incorporated city or town in which the affordable trailer court is located shall approve  
4 the abatement by separate resolution for each property, following due notice as provided in 7-1-2121 if a county  
5 or 7-1-4127 if an incorporated city or town and a public hearing. The governing body may not grant approval for  
6 the exemption until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude  
7 approval.

8 (b) The governing body shall:

9 (i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax  
10 treatment provided for in this section;

11 (ii) request a determination as to whether the trailer court qualifies as an affordable trailer court  
12 from the county housing authority or municipal housing authority as applicable or, if there is no county housing  
13 authority or municipal housing authority, from county or municipal staff; and

14 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this  
15 section and deny or approve it within 120 days of receiving the application as provided in subsection (3)(a).

16 (c) If the governing body fails to hold a hearing or to deny or approve the application within 120  
17 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the  
18 county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

19 (d) Subject to 15-10-420 and subsection (3)(f) of this section, a tax benefit may not be denied after  
20 it has been approved.

21 (e) The resolution provided for in subsection (3)(a) must include a description of the affordable  
22 trailer court that qualifies for the tax treatment that is to be allowed in the taxing jurisdiction.

23 (f) Property taxes abated from the reduction in taxable value allowed by this section are subject to  
24 termination or recapture by the local governing body if the ownership or use of the property does not meet the  
25 requirements of [section 1], this section, or the resolution required by subsections (3)(a) and (3)(e) of this  
26 section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of  
27 property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this  
28 section was in effect. The amount recaptured, including penalty and interest, must be distributed by the

1 treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A  
2 recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the  
3 abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or  
4 in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of  
5 circumstances beyond the control of the taxpayer.

6 (4) The taxpayer shall apply to the department for the tax treatment allowed under subsection (2).  
7 The application by the taxpayer must be approved first by the governing body of the appropriate local taxing  
8 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for  
9 the tax treatment provided for in this section. On receipt of the form with the approval of the governing body of  
10 the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

11 (5) The tax benefit described in subsection (2) applies only to the number of mills levied and  
12 assessed for local high school district and elementary school district purposes and to the number of mills levied  
13 and assessed by the governing body approving the benefit over which the governing body has sole discretion.  
14 The tax benefit described in subsection (2) may not apply to levies or assessments required under Title 15,  
15 chapter 10, 20-9-331, 20-9-333, 20-9-360, or 20-25-439, or otherwise required under state law.

16 (6) Prior to approving the resolution under this section, the governing body shall notify by certified  
17 mail all taxing jurisdictions affected by the tax benefit.

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19 NEW SECTION. Section 5. Codification instruction. [Sections 1 through ~~3~~4] are intended to be  
20 codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [sections  
21 1 through ~~3~~4].

22

23 NEW SECTION. Section 6. Applicability. [This act] applies to property tax years beginning after  
24 December 31, 2023.

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- END -