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HOUSE BILL NO. 912

INTRODUCED BY E. BUTCHER, E. BUTTREY, J. READ, J. ESP, K. REGIER, B. KEENAN, C. GLIMM, G. HERTZ, M. LANG, D. ZOLNIKOV, D. LENZ, R. LYNCH, B. BROWN, J. HINKLE, F. MANDEVILLE, M. NOLAND, S. HINEBAUCH, D. LOGE, F. ANDERSON, J. TREBAS, D. BARTEL, C. KNUDSEN, B. USHER, S. VINTON, N. DURAM, J. FULLER, J. DOOLING, K. BOGNER, J. KASSMIER, D. BEDEY, B. PHALEN, L. BREWSTER, K. ZOLNIKOV, B. MITCHELL, A. REGIER, L. REKSTEN, P. FIELDER, S. KERNS, S. GALLOWAY, S. GIST, J. SCHILLINGER, K. SEEKINS-CROWE, J. GILLETTE, C. HINKLE, R. MARSHALL, C. FRIEDEL, M. YAKAWICH, T. SMITH, N. NICOL, D. EMRICH, C. SPRUNGER, T. FALK, G. NIKOLAKAKOS, J. BERGSTROM, G. KMETZ, P. GREEN, J. ETCHART, J. FITZPATRICK, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE CLASSIFICATION AND TAXATION OF CERTAIN LAND AS RECREATIONAL LAND FOR PROPERTY TAX PURPOSES; PROVIDING THAT CERTAIN CONTIGUOUS PARCELS ARE TAXED AS RECREATIONAL LAND UNLESS THE LAND IS BEING UTILIZED FOR AGRICULTURAL PRODUCTION IN A MANNER THAT GENERATES AT LEAST THE PRODUCTIVE CAPACITY THAT THE AVERAGE MONTANA FARMER OR RANCHER COULD ACHIEVE; PROVIDING THAT A PROPERTY OWNER MAY PROVE THAT THE LAND IS BEING UTILIZED FOR AGRICULTURAL PRODUCTION BY SUBMITTING SITE-SPECIFIC AND PERTINENT AVAILABLE INFORMATION; PROVIDING FOR A RATE OF TAX THAT IS HIGHER THAN THE RATE OF TAX FOR AGRICULTURAL LAND; PROVIDING EXEMPTIONS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-134, 15-6-229, 15-7-102, 15-7-111, 15-7-202, 15-8-111, AND 15-18-219, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Class nineteen property -- description of undeveloped recreational property -- taxable percentage.** (1) (a) Except as provided in subsection (1)(b), beginning January 1, ~~2025~~ 2029, class nineteen property includes contiguous parcels of land totaling 160 acres or more under one ownership that does not qualify for valuation, assessment, and taxation as agricultural land each year under 15-

1 7-202 because of the failure of the owner to satisfy the criteria in subsection (2). Property that is classified
2 under this section is referred to as undeveloped recreational property.

3 (b) Subsection (1)(a) does not apply to land that:

4 (i) was placed in a land conservation program administered by the United States before ~~the~~
5 ~~effective date of this act~~ JANUARY 1, 2029, until after the expiration of the contract; or

6 (ii) subject to subsection (4), has not had a change in ownership.

7 (2) Class nineteen recreational property does not include property classified as forest land under
8 15-6-143 and property described in subsection (1) if:

9 (a) SUBJECT TO SUBSECTION ~~(5)~~ (6), the owner applies to the department requesting classification of
10 the parcel as agricultural under 15-7-202;

11 (b) the land and any contiguous leased land of the owner is used primarily for raising and
12 marketing FOOD, FIBER COMMODITIES, AND FUEL products that are agricultural by the owner or a lessee; and

13 (c) the department verifies that the land is being utilized for agricultural production in a manner that
14 generates at least the productive capacity that the average Montana farmer or rancher could achieve.

15 (3) In determining whether subsection (2)(c) is satisfied, the department shall consider soil type,
16 historic productive capacity in the surrounding area with similar property features, any available historical
17 productive capacity information for the subject property, soil surveys and maps, livestock per capita fees paid
18 by property owners in the county based on a per acreage basis, and all other site-specific and pertinent
19 available information, including any information provided by the taxpayer such as:

20 (a) information detailing actual climate conditions;

21 (b) information from the United States department of agriculture, including but not limited to:

22 (i) natural resources conservation service rangeland inventory materials;

23 (ii) farm service agency materials; and

24 (iii) Montana agriculture statistics information; and

25 (c) any other relevant documents or publicly available information that will assist the department in
26 reaching a determination that the land is being utilized for agricultural production in a manner that generates at
27 least the productive capacity that the average Montana farmer or rancher could achieve.

28 (4) A local government taxing entity may file a request with the department to verify that land in the

1 taxing entity that is exempt from the application process pursuant to subsection (1)(b)(ii) is used for agricultural
2 production as provided in subsections (2)(b), (2)(c), and (3). On receiving a request, the department shall
3 investigate whether the land satisfies the criteria in subsections (2)(b), (2)(c), and (3) and may require that the
4 owner submit an application pursuant to subsection (2)(a).

5 ~~(4)(5)~~ Class nineteen property is taxed at the rate of tax for class three property in 15-6-133(2) of its
6 productive capacity value multiplied by 7.

7 ~~(5)(6)~~ FOR THE VALUATION CYCLE BEGINNING JANUARY 1, 2029, AND ENDING DECEMBER 31, 2031, ALL
8 CLASS NINETEEN PROPERTY MUST BE VALUED AS OF JANUARY 1, 2028. THE DEPARTMENT SHALL BEGIN ACCEPTING
9 APPLICATIONS FOR CLASSIFICATION OF A PARCEL AS AGRICULTURAL PURSUANT TO SUBSECTION (2) AFTER JUNE 30,
10 2027.

11 ~~(5)(6)(7)~~ For the purposes of this section, the following definitions apply:

12 (a) (i) "Agricultural production" means the business of agricultural production, as agriculture is
13 defined in this section, including silviculture, FOOD, FIBER COMMODITIES, AND FUEL that is reported on net farm
14 income reports for tax purposes as required by the United States internal revenue service.

15 (ii) The term does not mean the business of processing, transporting, or marketing agricultural
16 products.

17 (b) "Agriculture" has the same meaning as "agricultural" as defined in 15-1-101.

18 ~~(c)~~ "Change in ownership" means transfer of ownership to someone other than a parent, spouse,
19 or child.

20 ~~(e)(d)~~ "Marketing" has the same meaning as provided in 15-7-202(1)(c).

21 ~~(6)(7)(8)~~ The department may adopt rules to implement the provisions of this section.

22
23 **Section 2.** Section 15-6-134, MCA, is amended to read:

24 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property
25 includes:

26 (a) subject to subsection (1)(e), all land, except that specifically included in another class;

27 (b) subject to subsection (1)(e):

28 (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile

- 1 homes used as a residence, except those specifically included in another class;
- 2 (ii) appurtenant improvements to the residences, including the parcels of land upon which the
3 residences are located and any leasehold improvements;
- 4 (iii) vacant residential lots; and
- 5 (iv) rental multifamily dwelling units.
- 6 (c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural
7 land under 15-7-202 or recreational property under [section 1], including 1 acre of real property beneath
8 improvements on land described in 15-6-133(1)(c) or [section 1]. The 1 acre must be valued at market value.
- 9 (d) 1 acre of real property beneath an improvement used as a residence on land eligible for
10 valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.
- 11 (e) all commercial and industrial property, as defined in 15-1-101, and including:
- 12 (i) all commercial and industrial property that is used or owned by an individual, a business, a
13 trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of
14 income;
- 15 (ii) all golf courses, including land and improvements actually and necessarily used for that
16 purpose, that consist of at least nine holes and not less than 700 lineal yards;
- 17 (iii) commercial buildings and parcels of land upon which the buildings are situated; and
- 18 (iv) vacant commercial lots.
- 19 (2) If a property includes both residential and commercial uses, the property is classified and
20 appraised as follows:
- 21 (a) the land use with the highest percentage of total value is the use that is assigned to the
22 property; and
- 23 (b) the improvements are apportioned according to the use of the improvements.
- 24 (3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class
25 four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of
26 market value.
- 27 (b) The tax rate for the portion of the market value of a single-family residential dwelling in excess
28 of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

1 (c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a)
2 multiplied by 1.4.

3 (4) Property described in subsection (1)(e)(ii) is taxed at one-half the tax rate established in
4 subsection (3)(c)."

5

6 **Section 3.** Section 15-6-229, MCA, is amended to read:

7 **"15-6-229. Exemption for land adjacent to transmission line right-of-way easement --**

8 **application -- limitations.** (1) Subject to the conditions of this section, for tax years beginning after December
9 31, 2007, there is allowed an exemption from property taxes for land that is within 660 feet on either side of the
10 midpoint of a transmission line right-of-way or easement.

11 (2) (a) An owner or operator of a transmission line shall apply to the department for an exemption
12 under this section on a form provided by the department. The application must include a legal description and a
13 digitized certificate of survey prepared by a surveyor registered with the board of professional engineers and
14 professional land surveyors provided for in 2-15-1763 of the property in the county for which the exemption is
15 sought and other information required by the department. A separate application must be made for each county
16 in which an exemption is sought.

17 (b) An application for an exemption that would be in effect for the tax year and subsequent tax
18 years must be filed with the department by March 1 in the tax year that the exemption is sought.

19 (3) (a) The owner or operator of a transmission line shall inform the department of any change in
20 ownership of the land or other circumstances that may affect the eligibility of the land for the exemption. The
21 department shall determine whether any changes have occurred that affect the eligibility of the land for the
22 exemption.

23 (b) The exemption allowed under this section does not apply to:

24 (i) the boundaries of an incorporated or unincorporated city or town;

25 (ii) a platted and filed subdivision;

26 (iii) tracts of land used for residential, commercial, or industrial purposes; or

27 (iv) the 1 acre of land beneath improvements on land described in 15-6-133(1)(c), [section 1], and
28 15-7-206(2).

1 (4) For the purposes of this section, "transmission line" means an electric line with a design
2 capacity of 30 megavoltamperes or greater that is constructed after January 1, 2007."

3

4 **Section 4.** Section 15-7-102, MCA, is amended to read:

5 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

6 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser
7 under contract for deed a notice that includes the land classification, market value, and taxable value of the
8 land and improvements owned or being purchased. A notice must be mailed or, with property owner consent,
9 provided electronically to the owner only if one or more of the following changes pertaining to the land or
10 improvements have been made since the last notice:

11 (i) change in ownership;

12 (ii) change in classification;

13 (iii) change in valuation; or

14 (iv) addition or subtraction of personal property affixed to the land.

15 (b) The notice must include the following for the taxpayer's informational and informal classification
16 and appraisal review purposes:

17 (i) a notice of the availability of all the property tax assistance programs available to property
18 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
19 assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the
20 elderly provided for in 15-30-2337 through 15-30-2341;

21 (ii) the total amount of mills levied against the property in the prior year;

22 (iii) the market value for the prior reappraisal cycle;

23 (iv) if the market value has increased by more than 10%, an explanation for the increase in
24 valuation;

25 (v) a statement that the notice is not a tax bill; and

26 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
27 on the notice and returning it to the department.

28 (c) When the department uses an appraisal method that values land and improvements as a unit,

1 including the sales comparison approach for residential condominiums or the income approach for commercial
2 property, the notice must contain a combined appraised value of land and improvements.

3 (d) Any misinformation provided in the information required by subsection (1)(b) does not affect the
4 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

5 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
6 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
7 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
8 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
9 changes over the prior tax year.

10 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
11 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
12 15-1-402.

13 (c) The department is not required to mail or provide electronically the notice to a new owner or
14 purchaser under contract for deed unless the department has received the realty transfer certificate from the
15 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
16 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
17 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

18 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
19 market value of the property as determined by the department or with the classification of the land or
20 improvements, the owner may request an informal classification and appraisal review by submitting an
21 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
22 notice and returning it to the department in a manner prescribed by the department.

23 (i) For property other than class three property described in 15-6-133, class four property
24 described in 15-6-134, ~~and class ten property described in 15-6-143, and class nineteen property described in~~
25 [section 1], the objection must be submitted within 30 days from the date on the notice.

26 (ii) For class three property described in 15-6-133, ~~and class four property described in 15-6-134,~~
27 and class nineteen property described in [section 1], the objection may be made only once each valuation
28 cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on

1 the classification and appraisal notice for a reduction in the appraised value to be considered for both years of
2 the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and
3 appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to
4 apply to the second year of the valuation cycle, the taxpayer shall make the objection in writing or by checking a
5 box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and
6 appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the
7 notice.

8 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only
9 once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30
10 days from the date on the classification and appraisal notice for a reduction in the appraised value to be
11 considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of
12 the classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal
13 cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer shall make the
14 objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is
15 being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle,
16 within 30 days from the date on the notice.

17 (b) If the objection relates to residential or commercial property and the objector agrees to the
18 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
19 8 weeks of submission of the objection, the following information:

20 (i) the methodology and sources of data used by the department in the valuation of the property;

21 and

22 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that
23 the methodology was used.

24 (c) At the request of the objector or a representative of the objector, and only if the objector or
25 representative signs a written or electronic confidentiality agreement, the department shall provide in written or
26 electronic form:

27 (i) comparable sales data used by the department to value the property;

28 (ii) sales data used by the department to value residential property in the property taxpayer's

1 market model area; and

2 (iii) if the cost approach was used by the department to value residential property, the
3 documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

4 (d) For properties valued using the income approach as one approximation of market value, notice
5 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the
6 receipt of all aggregate model output that the department used in the valuation model for the property.

7 (e) The review must be conducted informally and is not subject to the contested case procedures
8 of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
9 selling price of the property and other relevant information presented by the taxpayer in support of the
10 taxpayer's opinion as to the market value of the property. The department shall consider an independent
11 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
12 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the
13 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall
14 provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to
15 the taxpayer of the time and place of the review.

16 (f) After the review, the department shall determine the correct appraisal and classification of the
17 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
18 not determine an appraised value that is higher than the value that was the subject of the objection unless the
19 reason for an increase was the result of a physical change in the property or caused by an error in the
20 description of the property or data available for the property that is kept by the department and used for
21 calculating the appraised value. In the notification, the department shall state its reasons for revising the
22 classification or appraisal. When the proper appraisal and classification have been determined, the land must
23 be classified and the improvements appraised in the manner ordered by the department.

24 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust
25 an appraisal or classification upon the taxpayer's objection unless:

26 (a) the taxpayer has submitted an objection on written or electronic forms provided by the
27 department or by checking a box on the notice; and

28 (b) the department has provided to the objector by mail or electronically its stated reason in writing

1 for making the adjustment.

2 (5) A taxpayer's written objection or objection made by checking a box on the notice and
3 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
4 appraisal and the department's notification to the taxpayer of its determination and the reason for that
5 determination are public records. The department shall make the records available for inspection during regular
6 office hours.

7 (6) If a property owner feels aggrieved by the classification or appraisal made by the department
8 after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax
9 appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review
10 in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days
11 from the date on the notice of the department's determination. A county tax appeal board or the Montana tax
12 appeal board may consider the actual selling price of the property, independent appraisals of the property, and
13 other relevant information presented by the taxpayer as evidence of the market value of the property. If the
14 county tax appeal board or the Montana tax appeal board determines that an adjustment should be made, the
15 department shall adjust the base value of the property in accordance with the board's order."

16

17 **Section 5.** Section 15-7-111, MCA, is amended to read:

18 **"15-7-111. Periodic reappraisal of certain taxable property.** (1) The department shall administer
19 and supervise a program for the reappraisal of all taxable property within class three under 15-6-133, class four
20 under 15-6-134, and class ten under 15-6-143, and class nineteen under [section 1] as provided in this section.
21 All other property must be revalued annually. ~~Beginning January 1, 2015, all~~ All property within class three, and
22 class four, and class nineteen must be revalued every 2 years, and all property within class ten must be
23 revalued every 6 years.

24 (2) The department shall value newly constructed, remodeled, or reclassified property in a manner
25 consistent with the valuation within the same class and the values established pursuant to subsection (1) and
26 shall phase in the value of class ten property. The department shall adopt rules for determining the assessed
27 valuation of new, remodeled, or reclassified property within the same class and the phased-in value of class ten
28 property.

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1 (3) The reappraisal of class three, and class four, and class nineteen property is complete on
2 December 31 of every second year of the reappraisal cycle, and the reappraisal of class ten property is
3 complete on December 31 of the sixth year of the reappraisal cycle. The amount of the change in valuation
4 from the base year for class ten property must be phased in each year at the rate of 16.66% of the change in
5 valuation.

6 (4) During the second year of each reappraisal cycle, the department shall provide the revenue
7 interim committee with a report, in accordance with 5-11-210, of tax rates for the upcoming reappraisal cycle
8 that will result in taxable value neutrality for each property class.

9 (5) The department shall administer and supervise a program for the reappraisal of all taxable
10 property within classes three and four. The department shall adopt a reappraisal plan by rule. The reappraisal
11 plan adopted must provide that all class three, and class four, and class nineteen property in each county is
12 revalued by January 1 of the second year of the reappraisal cycle, effective for January 1 of the following year,
13 and each succeeding 2 years, and must provide that all class ten property in each county is revalued by
14 ~~January 1, 2015, effective for January 1, 2015, and each succeeding 6 years.~~ The resulting valuation changes
15 for class ten property must be phased in for each year until the next reappraisal. If a percentage of change for
16 each year is not established, then the percentage of phase in for class ten property each year is 16.66%.

17 (6) (a) In completing the appraisal or adjustments under subsection (5), the department shall, as
18 provided in the reappraisal plan, conduct individual property inspections, building permit reviews, sales data
19 verification reviews, and electronic data reviews. The department may adopt new technologies for recognizing
20 changes to property.

21 (b) The department shall conduct a field inspection of a sufficient number of taxable properties to
22 meet the requirements of subsection (5).

23 (7) (a) In each notice of reappraisal sent to a taxpayer, the department, with the support of the
24 department of administration, shall provide to the taxpayer information on:

25 (i) the consumer price index adjusted for population and the average annual growth rate of
26 Montana personal income; and

27 (ii) the estimated annualized change in property taxes levied over the previous 10 years by the
28 state, county, and any incorporated cities or towns within the county and local school average mills by county.

1 (b) In every even-numbered year, the department shall publish in a newspaper of general
2 circulation in each county the information required pursuant to subsection (7)(a) by the second Monday in
3 October."

4

5 **Section 6.** Section 15-7-202, MCA, is amended to read:

6 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) ~~Contiguous~~ Except as provided in
7 [section 1], contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation,
8 assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential,
9 commercial, undeveloped recreational, or industrial use.

10 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one
11 ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as
12 agricultural land if:

13 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products
14 that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the
15 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross
16 income from the raising of agricultural products produced by the land; or

17 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for
18 independent, intervening causes of production failure beyond the control of the producer or a marketing delay
19 for economic advantage, in which case proof of qualification in a prior year will suffice.

20 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are
21 eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

22 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set
23 forth in subsection (1)(b)(i) as defined in this section; and

24 (B) the land is not devoted to a residential, commercial, or industrial use.

25 (iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership,
26 sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or
27 more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be
28 valued, assessed, and taxed as agricultural land if the owner:

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- 1 (A) applies to the department requesting classification of the parcel as agricultural;
- 2 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the
- 3 parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C);
- 4 and
- 5 (C) verifies that:
- 6 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or
- 7 more of the owner's Montana annual gross income is derived from agricultural production; and
- 8 (II) property taxes on the property are paid by a family corporation, family partnership, sole
- 9 proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's
- 10 Montana annual gross income is derived from agricultural production; or
- 11 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family
- 12 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of
- 13 the person's or entity's Montana annual gross income is derived from agricultural production.
- 14 (c) For the purposes of this subsection (1):
- 15 (i) "marketing" means the selling of agricultural products produced by the land and includes but is
- 16 not limited to:
- 17 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other
- 18 agricultural purposes; and
- 19 (B) rental payments made under the federal conservation reserve program or a successor to that
- 20 program;
- 21 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in
- 22 or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified
- 23 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be
- 24 valued as provided in 15-7-206.
- 25 (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership
- 26 that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural
- 27 each year that the parcels meet any of the following qualifications:
- 28 (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,

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1 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural
2 products as defined in 15-1-101;

3 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for
4 independent, intervening causes of production failure beyond the control of the producer or marketing delay for
5 economic advantage, in which case proof of qualification in a prior year will suffice; or

6 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this
7 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
8 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels
9 have not been further divided.

10 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b)
11 and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity.
12 The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income
13 as determined by the Montana state university-Bozeman college of agriculture.

14 (4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona
15 fide agricultural enterprise is not considered a bona fide agricultural operation.

16 (5) (a) Upon application by the property owner, the following parcels of land are eligible for
17 provisional agricultural classification for 5 years to allow crops to reach salable maturity:

18 (i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit
19 tree husbandry practices, including pest and disease management, fencing, and a watering system;

20 (ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry
21 practices, including weed and grass maintenance, pest and disease management, pruning, and trellising and
22 staking; and

23 (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted
24 husbandry practices, including regular shearing.

25 (b) Following the 5th year of provisional agricultural classification, the property owner shall submit
26 an application for agricultural classification. The application must include documentation proving that the
27 property continues to meet the requirements of subsection (5)(a) and that the income requirements of
28 subsection (2)(a) have been met.

1 (6) The department may not classify land ~~less than 160 acres~~ as agricultural unless the owner has
2 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
3 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
4 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it
5 must continue to be valued, assessed, and taxed as agricultural until change of ownership or until the
6 department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

7 (7) For the purposes of this part, growing timber is not an agricultural use."
8

9 **Section 7.** Section 15-8-111, MCA, is amended to read:

10 **"15-8-111. Appraisal -- market value standard -- exceptions.** (1) All taxable property must be
11 appraised at 100% of its market value except as otherwise provided.

12 (2) (a) Market value is the value at which property would change hands between a willing buyer
13 and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge
14 of relevant facts.

15 (b) If the department uses the cost approach as one approximation of market value, the
16 department shall fully consider reduction in value caused by depreciation, whether through physical
17 depreciation, functional obsolescence, or economic obsolescence.

18 (c) If the department uses the income approach as one approximation of market value and
19 sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon
20 the two methods that provide a similar market value as the better indicators of market value.

21 (d) Except as provided in subsection (4), the market value of special mobile equipment and
22 agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal
23 guides and manuals or the value before reconditioning and profit margin. The department shall prepare
24 valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

25 (3) (a) In valuing class four residential and commercial property described in 15-6-134, the
26 department shall conduct the appraisal following the appropriate uniform standards of professional appraisal
27 practice for mass appraisal promulgated by the appraisal standards board of the appraisal foundation. In
28 valuing the property, the department shall use information available from any source considered reliable.

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Drafter: Jaret Coles, 406-444-4022

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1 Comparable properties used for valuation must represent similar properties within an acceptable proximity of
2 the property being valued. The department shall use the same valuation method to value residential properties
3 in the same neighborhood or subdivision unless there is a compelling reason to use a different approach.

4 (b) When valuing residential property under the cost approach, the department shall document
5 why the comparable sales model does not support usage of the comparable sales approach, including an
6 analysis of whether the cost approach is used for other class four residential property in the market area.

7 (4) The department may not adopt a lower or different standard of value from market value in
8 making the official assessment and appraisal of the value of property, except:

9 (a) the market value for agricultural implements and machinery is the average wholesale value
10 category as provided in published national agricultural and implement valuation guides. The valuation guide
11 must provide average wholesale values specific to the state of Montana or a region that includes the state of
12 Montana. The department shall adopt by rule the valuation guides used as provided in this subsection (4)(a). If
13 the average wholesale value category is unavailable, the department shall use a comparable wholesale value
14 category.

15 (b) for agricultural implements and machinery not listed in an official guide, the department shall
16 prepare a supplemental manual in which the values reflect the same depreciation as those found in the official
17 guide;

18 (c) (i) for condominium property, the department shall establish the value as provided in
19 subsection (5); and

20 (ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the
21 value in a manner established by the department by rule; and

22 (d) as otherwise authorized in Titles 15 and 61.

23 (5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is
24 available, the department shall use the sales comparison approach to appraise residential condominium units.
25 Because the undivided interest in common elements is included in the sales price of the condominium units, the
26 department is not required to separately allocate the value of the common elements to the individual units being
27 valued.

28 (b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to

1 the department, the department shall use the income approach to appraise commercial condominium units.
2 Because the undivided interest in common elements contributes directly to the income-producing capability of
3 the individual units, the department is not required to separately allocate the value of the common elements to
4 the individual units being valued.

5 (c) If sufficient, relevant information on comparable sales is not available for residential
6 condominium units or if sufficient, relevant information on income is not made available for commercial
7 condominium units, the department shall value condominiums using the cost approach. When using the cost
8 approach, the department shall determine the value of the entire condominium project and allocate a
9 percentage of the total value to each individual unit. The allocation is equal to the percentage of undivided
10 interest in the common elements for the unit as expressed in the declaration made pursuant to 70-23-403,
11 regardless of whether the percentage expressed in the declaration conforms to market value.

12 (6) For purposes of taxation, assessed value is the same as appraised value.

13 (7) The taxable value for all property is the market value multiplied by the tax rate for each class of
14 property.

15 (8) The market value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
16 follows:

17 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds
18 after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
19 15-23-516, 15-23-517, or 15-23-518.

20 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

21 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of
22 the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as
23 agricultural lands for tax purposes.

24 (d) Properties in 15-6-134, under class four, are assessed at 100% of market value.

25 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value
26 of the land when valued as forest land.

27 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula
28 described in 15-23-205.

1 (g) Properties in [section 1], under class nineteen, are assessed at 100% of the productive
2 capacity of the lands and valued in the same manner as agricultural purposes.

3 (9) Land and the improvements on the land are separately assessed when any of the following
4 conditions occur:

5 (a) ownership of the improvements is different from ownership of the land;

6 (b) the taxpayer makes a written request; or

7 (c) the land is outside an incorporated city or town.

8 (10) For the purpose of this section, the term "compelling reason" includes but is not limited to the
9 following:

10 (a) there are no comparable sales in the neighborhood or subdivision;

11 (b) the comparable sales model prepared by the department shows that the subject property
12 cannot be valued using the market sales approach; or

13 (c) other residential properties in the same neighborhood or subdivision are also valued using the
14 cost approach and not the market sales approach."

15

16 **Section 8.** Section 15-18-219, MCA, is amended to read:

17 **"15-18-219. Application for tax deed for residential property -- fee -- notice.** (1) (a) If a property
18 tax lien attached to the property provided for in subsection (1)(b) is not redeemed in the time allowed under 15-
19 18-111, the assignee may file an application after the redemption period has expired with the county treasurer
20 for a tax deed for the property. The tax deed application must contain the same information as is required in 15-
21 18-211(1). The county treasurer shall charge the assignee a \$25 application fee. The fee must be deposited in
22 the county general fund.

23 (b) The following property is subject to the provisions of this section if it contains a dwelling that is
24 currently occupied by the legal titleholder of record:

25 (i) land classified as residential pursuant to 15-6-134;

26 (ii) land classified as agricultural pursuant to 15-6-133(1)(a) and (1)(c); ~~and~~

27 (iii) land classified as forest property pursuant to 15-6-143; and

28 (iv) land classified as recreational property pursuant to [section 1].

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1 (c) For the property provided for in subsection (1)(b)(ii) and ~~(1)(b)(iii)~~ through (1)(b)(iv), the
2 provisions of this section also apply to other property of the same class that is included on the same tax bill.

3 (2) An assignee who applies for a tax deed pursuant to this section shall pay the county treasurer
4 at the time of the tax deed application:

5 (a) the amount required to redeem any unassigned tax liens or tax liens held by other assignees;

6 (b) any delinquent taxes, penalties, and interest; and

7 (c) current taxes due for the property.

8 (3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed
9 application.

10 (b) A person acquiring an interest in the property after the tax deed application notice has been
11 filed is considered to be on notice of the pending tax deed auction, and no additional notice is required. The
12 sale at auction of the property automatically releases any filed notice of tax deed application for the property.

13 (c) If the property is redeemed, the county treasurer shall file a redemption certificate, which
14 releases the notice of tax deed application.

15 (4) (a) Between May 1 and May 30 of the year in which the redemption period expires, an
16 assignee applying for a tax deed shall notify the parties as required in subsection (4)(b) that a tax deed will be
17 auctioned unless the property tax lien is redeemed before the date of the auction.

18 (b) The notice required under subsection (4)(a) must be made by certified mail, return receipt
19 requested, in the form required by 15-18-215 and as provided in 7-1-2121, to the current occupant, if any, of the
20 property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

21 (i) has been approved by the insurance commissioner and issued by a licensed title insurance
22 producer;

23 (ii) was ordered on the property by the person required to give notice; and

24 (iii) lists the identities and addresses of the parties of record that have an interest or possible claim
25 of an interest in the property designed to disclose all parties of record that would otherwise be necessary to
26 name in a quiet title action.

27 (c) The address to which the notice must be sent is, for each party, the address disclosed by the
28 records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the

1 street address or other known address of the subject property.

2 (5) The amount of interest and costs continues to accrue until the date of redemption. The total
3 amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of
4 the date of payment.

5 (6) (a) The county treasurer shall notify the assignee of the obligation to give notice under
6 subsection (4) between January 1 and January 31 of the year in which the redemption period expires. The
7 notice of obligation must be sent by certified mail, return receipt requested, to the assignee at the address
8 contained on the assignment certificate provided for in 15-17-323.

9 (b) If the assignee fails to give notice as required by subsection (4), as evidenced by failure to file
10 proof of notice with the county clerk and recorder as required in subsection (6)(c), the county treasurer shall
11 cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon
12 cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of
13 cancellation on a form provided for in 15-18-217.

14 (c) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk
15 and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the
16 mailing or publishing of the notice. Once filed, the proof of notice is prima facie evidence of the sufficiency of
17 the notice."
18

19 **NEW SECTION. Section 9. Codification instruction.** [Section 1] is intended to be codified as an
20 integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].
21

22 **NEW SECTION. SECTION 10. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT]**
23 **IS EFFECTIVE JULY 1, 2027.**

24 **(2) [SECTIONS 1, 9, AND 11] AND THIS SECTION ARE EFFECTIVE OCTOBER 1, 2023.**
25

26 **NEW SECTION. Section 11. Applicability.** [This act] applies to property tax years beginning after
27 December 31, 2024 2028.

28 - END -