

1 SENATE BILL NO. 194

2 INTRODUCED BY M. DUNWELL, T. FRANCE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX CREDIT FOR A PROPERTY
5 OWNER THAT RENTS A DWELLING BELOW MARKET RATE; PROVIDING THAT THE CREDIT IS
6 AVAILABLE FOR INDIVIDUAL INCOME TAXPAYERS AND CORPORATE INCOME TAXPAYERS;

7 PROVIDING AN ANNUAL CREDIT LIMITATION FOR EACH DWELLING UNIT; PROVIDING THAT THE
8 CREDIT MAY BE CARRIED FORWARD; PROVIDING DEFINITIONS; ~~AMENDING SECTION 15-30-2303,~~
9 ~~MCA~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND
10 A TERMINATION DATE."

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

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14 NEW SECTION. Section 1. Credit for renting dwelling below market rate. (1) A taxpayer or
15 corporation is allowed a credit against the tax imposed by chapter 30 or 31 for property owners who rent a
16 dwelling in Montana below market rate. The credit is available to a taxpayer or corporation that charges rent on
17 a dwelling of less than 110% of fair market rent for the county in which the property is located.

18 (2) (a)The Subject to subsection (2)(b), the amount of the credit is equal to ~~\$200 for each \$100 by~~
19 ~~which 110% of fair market rent exceeds monthly rent~~ the amount that the dwelling's monthly rent is below fair
20 market rent, not to exceed a credit of \$100 per month for each dwelling.

21 (b) The maximum amount of the credit for the tax year for each dwelling may not exceed \$1,000
22 per year.

23 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but
24 may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried
25 first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

26 (4) A dwelling for which the credit is claimed must:

27 (a) be subject to a written lease agreement of not less than 1-year month; and

28 (b) meet the ~~housing quality standards for the housing choice voucher program provided for in 24~~

1 CFR, part 982.404 standards of the Montana Residential Landlord and Tenant Act of 1977 provided for in Title
2 70, chapter 24.

3 (5) If the credit allowed under this section is claimed by a small business corporation, a pass-
4 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the
5 same proportion as used to report the entity's income or loss.

6 (6) The credit may not be claimed for a dwelling for which the rent is limited due to participation in
7 any other program that provides a benefit to the property owner for limiting rent.

8 (7) The department may disallow the credit when the landlord and tenant have not dealt at arm's
9 length.

10 (8) The taxpayer or corporation shall file with each claim for the credit a receipt or lease agreement
11 showing rent paid on the dwelling and, if rent includes utilities, information on the annual cost of the included
12 utilities. In addition, a taxpayer or corporation shall, at the request of the department, supply all additional
13 information necessary to support a claim for the credit.

14 (9) Pursuant to 5-4-104, the purpose of this credit is to incentivize landlords to provide affordable
15 rental housing.

16 (10) For the purposes of [section 2] and this section, the following definitions apply:

17 (a) "Dwelling" means a residential dwelling, manufactured home, trailer, mobile home, or unit of a
18 multiple-unit dwelling and as much of the surrounding land, but not in excess of 1 acre, as is reasonably
19 necessary for its use as a dwelling.

20 (b) (i) "Fair market rent" means the fair market rent in the county where the dwelling is located
21 based on the size of the dwelling as published annually by the U.S. department of housing and urban
22 development.

23 (ii) The term excludes any charges for utilities.

24 (c) "Utility" means a service provided to a dwelling that may be included in a rent payment,
25 including but not limited to energy, water and wastewater, and trash removal.

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27 **NEW SECTION. Section 2. Credit for renting dwelling below market rate.** There is a credit against
28 the tax liability under this chapter for renting a dwelling below market rate as provided in [section 1].

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Section 3. Section 15-30-2303, MCA, is amended to read:

~~"15-30-2303. Tax credits subject to review by interim committee. (1) The following tax credits must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10 years thereafter:~~

~~(a) the credit for contractor's gross receipts provided for in 15-50-207; and~~

~~(b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341;~~

~~and~~

~~(c) the credit for renting a dwelling below market rate provided for in [sections 1 and 2].~~

~~(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 10 years thereafter:~~

~~(a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and~~

~~(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.~~

~~(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and during each biennium commencing 10 years thereafter:~~

~~(a) the credit for infrastructure use fees provided for in 17-6-316;~~

~~(b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162; and~~

~~(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6.~~

~~(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and during each biennium commencing 10 years thereafter:~~

~~(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;~~

~~(b) the credit for unlocking state lands provided for in 15-30-2380;~~

~~(c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and~~

~~(d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.~~

1 ~~(5) — The following tax credits must be reviewed during the biennium commencing July 1, 2027, and~~
2 ~~during each biennium commencing 10 years thereafter:~~

3 ~~(a) — the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357~~
4 ~~and 15-31-173;~~

5 ~~(b) — the earned income tax credit provided for in 15-30-2318; and~~

6 ~~(c) — the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.~~

7 ~~(6) — The revenue interim committee shall review the tax credits scheduled for review and make~~
8 ~~recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about~~
9 ~~whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date~~
10 ~~or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or~~
11 ~~terminate.~~

12 ~~(7) — The revenue interim committee shall review the credits using the following criteria:~~

13 ~~(a) — whether the credit changes taxpayer decisions, including whether the credit rewards decisions~~
14 ~~that may have been made regardless of the existence of the tax credit;~~

15 ~~(b) — to what extent the credit benefits some taxpayers at the expense of other taxpayers;~~

16 ~~(c) — whether the credit has out-of-state beneficiaries;~~

17 ~~(d) — the timing of costs and benefits of the credit and how long the credit is effective;~~

18 ~~(e) — any adverse impacts of the credit or its elimination and whether the benefits of continuance or~~
19 ~~elimination outweigh adverse impacts; and~~

20 ~~(f) — the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)~~
21 ~~terminates December 31, 2026—sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028—~~
22 ~~sec. 24(1), Ch. 550, L. 2021.)"~~

24 **NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an
25 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section
26 1].

27 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the
28 provisions of Title 15, chapter 31, part 1, apply to [section 2].

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NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability Retroactive applicability.** [This act] applies retroactively,
within the meaning of 1-2-109, to income tax years beginning after December 31, ~~2023~~ 2022.

NEW SECTION. **Section 6. Termination.** [Sections 1 and 2] terminate December 31, 2028.

- END -

