

History of Application of Credit to Tax Exempt Properties
Elderly Homeowner and Renter Credit Study
Prepared for the Revenue and Transportation Interim Committee
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This briefing provides additional information on the history of the eligibility of tax-exempt property for the elderly homeowner and renter income tax credit.

Original Legislation Disallows Credit for Tax-Exempt Property

Tax-exempt property was not eligible for the elderly homeowner and renter credit under the definition of "homestead" in the original legislation enacted in 1981.¹ The definition provided that a homestead is "a single-family dwelling or unit of a multiple-unit dwelling *that is subject to ad valorem taxes in Montana* [emphasis added]..." The section that provided for the computation of the credit referred to "a claimant who owns the homestead for which a claim is made..."² When read in conjunction these sections prohibit a credit for property that is not subject to ad valorem (property) taxes.

1983 Amendments Address Tax-Exempt Rental Property

The 1983 Legislature revised the elderly homeowner and renter credit by increasing the maximum credit, revising definitions related to income eligibility, and clarifying the treatment of property that is partially owned and partially rented. As part of the clarifications related to claimants who both own and rent property (for example, a mobile home on a rented lot), the Legislature also added language to clarify that rented land or dwellings not subject to ad valorem taxes are not eligible for the credit.³

The only written testimony that relates to the treatment of tax-exempt rental property was provided by the bill sponsor, Rep. Dan Yardley, to the House Taxation Committee. Rep. Yardley wrote the following in an exhibit provided to the committee:

The current law is also not clear on the treatment of rented property on which no taxes are paid. The bill would exclude such property from relief under this program just as owned property on which no taxes are paid are excluded from relief.⁴

In addition, Rep. Yardley foreshadowed future legislative action to allow the credit for residents of public housing. In his opening comments on the bill, Rep. Yardley offered an amendment with the following statement:

¹Sec. 1, Ch. 584, L. 1981. Current section [15-30-2337](#), MCA.

²Sec. 6, Ch. 584, L. 1981. Current section [15-30-2340](#), MCA.

³Sec. 3, Ch. 134, L. 1983. Current section [15-30-2341](#), MCA.

⁴Rep. Dan Yardley, Exhibit 2: "Comments on HB 227 Revising the Elderly Homeowner and Renter Credit and Increasing the Maximum Amount of the Credit to \$400," Minutes of the Meeting of the House Taxation Committee, January 20, 1983.

The rebate program is not available to persons living in certain types of public housing according to the theory that no property tax is levied in certain types of public housing. I would suggest the committee give serious thought to amending this provision. Persons renting in public housing units have income well below the poverty line and could benefit from this program.⁵

During executive action on the bill in the House Taxation Committee, for which Rep. Yardley served as chairman, the minutes do not indicate that any amendments were moved. A "do pass" motion was made and the bill passed unanimously.⁶

1989 Legislature Authorizes Credit for Residents of Public Housing

The 1989 Legislature revised the definition of "homestead" and created an exception to the provision that rented property not subject to property taxation was not eligible for the credit. The definition of homestead was amended to include "a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15."⁷ As discussed above, a "homestead" qualifies for the credit.

The House Taxation Committee heard from two proponents and one opponent during the hearing on House Bill No. 564 but there was no proponent or opponent testimony during the Senate Taxation Committee hearing.

Greg Grepher discussed two main reasons to extend the credit to taxpayers renting from housing authorities:

- some residents of housing authority dwellings already receive the credit because they apply for the credit and there is no indication the dwelling is rented from a housing authority; and
- the Legislature intended to include in the original legislation eligibility for properties for which payments in lieu of taxes are made, such as housing authorities.

The second proponent, Virginia Jellison of the Low Income Coalition, also supported the bill and affirmed that housing authorities make payments in lieu of taxes.⁸ (Payments in lieu of taxes are authorized in section [7-15-2115](#), MCA.)

The opponent of the bill was Jeff Miller of the Department of Revenue. Miller's testimony provided that the proposed legislation "loses sight of the original intent of the elderly renter credit program." He also

⁵Rep. Dan Yardley, written testimony identified as Exhibit 1, Minutes of the Meeting of the House Taxation Committee, January 20, 1983.

⁶Minutes of the Meeting of the House Taxation Committee, Jan. 26, 1983.

⁷Ch. 559, L. 1989.

⁸Testimony of Greg Grepher and Virginia Jellison, Minutes of the Meeting of the House Taxation committee, Feb. 15, 1989. Greg Grepher's affiliation is listed in the minutes as "at the request of Rep. McCormick [the bill sponsor]." Mr. Grepher represented the Office of Public Instruction (OPI) in at least three other bill hearings during the 1989 legislative session but does not appear to be representing OPI at this hearing.

commented that the rent paid by residents of housing authority properties "is not connected in any way" with the payments in lieu of taxes.⁹

During executive action in the House Taxation Committee, there was one comment made after the motion to pass the bill. Rep. Leo Giacometto said that the proposed bill was a change from the original intent for the tax credit. The motion carried on a 10-5 vote.¹⁰ The third reading vote of the House was 78-14.

Though no proponents or opponents testified on House Bill No. 564 during the Senate Taxation Committee hearing, the sponsor made an opening statement in which he quoted the fiscal note as indicating the bill would affect 586 people, at most.¹¹ The Senate Taxation Committee then voted to amend the effective date and passed the amended bill unanimously. The third reading vote in the Senate was 49-1.

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⁹Testimony of Jeff Miller, Minutes of the Meeting of the House Taxation committee, Feb. 15, 1989.

¹⁰Minutes of the Meeting of the House Taxation committee, Feb. 28, 1989.

¹¹Minutes of the Meeting of the Senate Taxation committee, March 17, 1989.