

Montana Code Annotated, 2017
Selected Fire Protection Assessment Sections

76-13-201. Costs for protection from fire. (1) An owner of land classified as forest land that is within a wildland fire protection district or that is otherwise under contract for fire protection by a recognized agency is subject to the fees for fire protection provided in this section.

(2) The department shall provide fire protection to the land described in subsection (1) at a cost to the landowner of not more than \$50 for each landowner in the protection district and of not more than an additional 30 cents per acre per year for each acre in excess of 20 acres owned by each landowner in each protection district, as necessary to yield the amount of money provided for in 76-13-207. Assessment, payment, and collection of the fire protection costs must be in accordance with 76-13-207.

(3) Other charges may not be assessed to a participating landowner except in cases of proved negligence on the part of the landowner or the landowner's agent or in the event of a violation of 50-63-103.

History: En. Sec. 9, Ch. 128, L. 1939; amd. Sec. 2, Ch. 141, L. 1941; amd. Sec. 1, Ch. 188, L. 1955; amd. Sec. 1, Ch. 91, L. 1959; amd. Sec. 1, Ch. 148, L. 1967; amd. Sec. 1, Ch. 252, L. 1974; amd. Sec. 6, Ch. 253, L. 1974; amd. Sec. 4, Ch. 397, L. 1977; R.C.M. 1947, 28-109; amd. Sec. 1, Ch. 643, L. 1985; amd. Sec. 1, Ch. 360, L. 1991; amd. Sec. 6, Ch. 27, L. 1997; amd. Sec. 195, Ch. 574, L. 2001; amd. Sec. 17, Ch. 336, L. 2007; amd. Sec. 1, Ch. 334, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 334 in (2) in first sentence increased maximum cost from \$45 to \$50 and increased additional cost per acre from 25 cents to 30 cents. Amendment effective April 28, 2015.

2007 Amendment: Chapter 336 deleted former (1) that read: "(1) An owner of land classified as forest land by the department shall protect against the starting or existence and suppress the spread of fire on that land. This protection and suppression must be in conformity with reasonable rules and standards for adequate fire protection adopted by the department"; in (1) substituted language clarifying that the owner of forest land within a wildfire district is subject to fees for fire protection for "If the owner does not provide for the protection and suppression"; in (2) near beginning of first sentence substituted "shall" for "may" and raised the fee from \$30 to \$45 for each landowner and from 20 cents to 25 cents per acre per year for each acre in excess of 20 acres and substituted second sentence on assessment, payment, and collection of fire protection costs in accordance with 76-13-207 for former second and third sentences that read: "The owner of the land shall pay the charge approved by the department in accordance with part 1 and this part to the department of revenue. Payments to the department of revenue are due on or before November 30 of each year"; in (3) at end inserted "in the event of a violation of 50-63-103"; and made minor changes in style. Amendment effective June 1, 2007.

2001 Amendment: Chapter 574 in (2) in second sentence after "pay" deleted "to the county treasurer of the county in which the land is situated" and at end inserted "to the department of revenue" and inserted third sentence concerning timing of payments; and made

minor changes in style. Amendment effective July 1, 2001.

1997 Amendment: Chapter 27 in (1), at end, substituted "department" for "board"; and made minor changes in style. Amendment effective February 21, 1997.

1991 Amendment: In (2), in first sentence, increased maximum allowable assessment from not more than 17 cents per acre per year with a minimum of up to \$14 per owner per year to not more than \$30 for each landowner in the district and up to 20 cents per acre per year for each acre in excess of 20 acres owned by each landowner. Amendment effective April 6, 1991.

Retroactive Applicability: Section 2, Ch. 360, L. 1991, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to calendar years beginning after December 31, 1989."

1985 Amendment: In (2), in first sentence, after "not more than" substituted "17 cents per acre per year except that the department shall make a minimum assessment of up to \$14" for "16 cents per acre per year and not less than \$6", and at end of sentence, after "district", inserted "as necessary to yield the amount of money provided for in 76-13-207".

Interim Study Committee Bill: Chapter 643, L. 1985, was introduced by request of Joint Interim Subcommittee No. 2. See committee report entitled "Timber Management and Forest Fire Protection Costs in Montana", Montana Legislative Council, December 1984.

Administrative Rules

ARM 36.10.125 Railroads and powerlines.

ARM 36.10.161 Formula to set landowner assessments for fire protection.

76-13-207. Determination and collection of costs of fire protection. (1) The department shall prepare an annual operation assessment plan in which fire protection costs are determined. The department shall request the legislature to appropriate the state's portion of the cost. After the appropriation is made by the legislature, the department shall cause an assessment to be made on the owners of land, as specified in 76-13-105 and 76-13-201, sufficient to bring the total amount received from the landowners to no greater than one-third of the amount specified in the appropriation.

(2) On or before the first Tuesday in September of each year, the department shall certify in writing to the department of revenue the names of these owners of lands in each county, together with a description of their lands and a statement of the amount found to be due and owing by each of the owners to the department for wildland fire protection.

(3) Upon receiving the certificate from the department showing the amount due, the department of revenue shall extend the amounts upon the county tax rolls covering the lands, and the sums become obligations of the owner, to be paid and collected in the same manner and at the same time and subject to the same penalties as general state and county taxes upon the same property are collected.

History: En. Sec. 11, Ch. 128, L. 1939; amd. Sec. I, Ch. 95, L. 1959; amd. Sec. 215, Ch. 147, L. 1963; amd. Sec. 8, Ch. 253, L. 1974; amd. Sec. 1, Ch. 110, L. 1977; amd. Sec. 6, Ch. 397, L. 1977; R.C.M. 1947, 28-111(part); amd. Sec. 2, Ch. 643, L. 1985; amd. Sec. 138, Ch. 27, Sp. L. November 1993; amd. Sec. 23, Ch. 336, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 336 in (1) in third sentence before "land" deleted "classified forest" and inserted reference to 76-13-105; in (2) substituted "first Tuesday in September" for "second Tuesday in August", near middle before "lands" deleted "forest", and near end substituted "wildland" for "forest"; and made minor changes in style. Amendment effective June 1, 2007.

1993 Special Session Amendment: Chapter 27 in (2) and (3) substituted "department of revenue" for "county assessor"; and made minor changes in style. Amendment effective January 1, 1994.

Applicability: Section 171(2), Ch. 27, Sp. L. November 1993, provided that the amendments to this section apply to tax years after December 31, 1993.

1985 Amendment: In (1) near end, after "total amount received" substituted "from such landowners to no greater than one-third of the amount specified in the appropriation" for "to the amount specified in the approved plan".

Interim Study Committee Bill: Chapter 643, L. 1985, was introduced by request of Joint Interim Subcommittee No. 2. See committee report entitled "Timber Management and Forest Fire Protection Costs in Montana", Montana Legislative Council, December 1984.

Administrative Rules

ARM 36.10.161 Formula to set landowner assessments for fire protection.

76-13-213. Formula to set landowner assessments for fire protection. (1) The department shall, pursuant to 76-13-207, set the annual fire assessment fee due from landowners pursuant to Title 76, chapter 13, parts 1 and 2. The total of all statewide landowner assessments may be no greater than one-third of the amount appropriated by the legislature to fund the protection costs.

(2) The individual assessments must be established using the following criteria:

(a) Each person or corporation who is responsible for fire protection pursuant to 76-13-108 and 76-13-201 and for whom the department provides fire protection must be assessed a per capita landowner fee. The total per capita landowner assessments statewide from persons or corporations who own 20 acres or less of land for which the department provides protection must be as close as administratively possible to 60% of the total private landowner assessments.

(b) A person or corporation who owns more than 20 acres of land for which the department provides protection shall, in addition to the fee assessed pursuant to subsection (2)(a), pay a per-acre fee for each whole acre that the person owns in excess of 20 acres. The total of all assessments statewide from persons or corporations that own more than 20 acres must be as close as administratively possible to 40% of the total private landowner assessments.

(c) A person who owns a share of property and has full ownership of a unit on the property must be assessed an amount not less than one-half of the amount established to be assessed for the property under subsection (2)(a).

(3) (a) Except as provided in subsection (3)(b), the per capita and per-acre fees must remain in effect for subsequent years.

(b) The department shall reset the per capita and per-acre fees whenever it is necessary to obtain up to one-third of the amount appropriated by the legislature.

(c) Whenever the department resets the fees pursuant to subsection (3)(b), it shall do so in accordance with 76-13-201(2).

History: En. Sec. 29, Ch. 336, L. 2007; amd. Sec. 1, Ch. 173, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 173 inserted (2)(c) establishing a minimum assessment fee for fire protection for persons who own a share of property and an individual unit on the property. Amendment effective May 1, 2009.

Effective Date: Section 35, Ch. 336, L. 2007, provided that this section is effective June 1, 2007.