

HOUSE BILL NO. 27

INTRODUCED BY S. ESSMANN

BY REQUEST OF THE REVENUE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE ELIGIBILITY FOR CLASSIFICATION OF PROPERTY AS AGRICULTURAL FOR PROPERTY VALUATION PURPOSES; REQUIRING AN APPLICATION PROCESS FOR AGRICULTURAL PROPERTY; PROVIDING FOR A REVIEW PROCESS FOR PROPERTIES CLASSIFIED AS AGRICULTURAL PROPERTY; REVISING INCOME REQUIREMENTS FOR CERTAIN PROPERTY TO QUALIFY AS AGRICULTURAL PROPERTY; REMOVING THE NONQUALIFIED AGRICULTURAL PROPERTY CLASSIFICATION; PROVIDING FOR AN IDLE LAND PROPERTY CLASSIFICATION AND TAX RATE; PROVIDING FOR A SUSTENANCE USE LAND CLASSIFICATION; PROVIDING FOR A NONPRODUCTIVE FOREST LAND CLASSIFICATION AND TAX RATE; REQUIRING A REALTY TRANSFER CERTIFICATE TO INCLUDE THE SALES PRICE FOR CERTAIN AGRICULTURAL AND TIMBER PROPERTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-133, 15-6-134, 15-6-143, 15-7-202, 15-7-206, 15-7-307, 15-8-111, 15-10-420, 15-18-219, AND 15-30-2660, AND 15-44-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**NEW SECTION. SECTION 1. ELIGIBILITY OF LAND FOR VALUATION AS SUSTENANCE USE LAND. (1)**  
CONTIGUOUS PARCELS OF LAND OF LESS THAN 640 ACRES UNDER ONE OWNERSHIP THAT ARE ACTIVELY DEVOTED TO SUSTENANCE USE ARE ELIGIBLE FOR VALUATION, ASSESSMENT, AND TAXATION AS AGRICULTURAL LAND IF:  
(A) THE LAND IS USED PRIMARILY FOR GROWING FRUITS, VEGETABLES, AND GRAINS OR FOR RAISING LIVESTOCK FOR PERSONAL HOUSEHOLD CONSUMPTION OR NONCOMMERCIAL COMMUNITY FOOD SHARING;  
(B) THE LAND HAS AN OWNER-OCCUPIED RESIDENTIAL DWELLING ON THE PARCEL;  
(C) AT LEAST 60% OF THE LAND AREA IS ACTIVELY CULTIVATED FOR FOOD PRODUCTION; AND  
(D) THE LAND IS NOT USED FOR ANY COMMERCIAL OR INDUSTRIAL PURPOSE.

(2) LAND MAY NOT BE VALUED AS SUSTENANCE USE LAND IF MORE THAN \$500 OF ANNUAL GROSS INCOME IS DERIVED FROM SURPLUS PRODUCTION.

(3) LAND THAT IS DEVOTED TO RESIDENTIAL USE OR THAT IS USED FOR AGRICULTURAL BUILDINGS MUST BE CLASSIFIED AS SUSTENANCE USE LAND, AND THE LAND MUST BE VALUED AS PROVIDED IN 15-7-206.

(4) THE OWNER OF THE PROPERTY SHALL SUBMIT A SUSTENANCE USE ATTESTATION ANNUALLY BY MARCH 1 ON A FORM PRESCRIBED BY THE DEPARTMENT. THE FORM MUST INCLUDE:

(A) A SIGNED STATEMENT OF NONCOMMERCIAL AND NONINDUSTRIAL USE OF THE LAND;

(B) AN INVENTORY OF CROPS GROWN AND LIVESTOCK RAISED;

(C) FOOD PRESERVATION DOCUMENTATION; AND

(D) A STATEMENT THAT THE PROPERTY OWNER ENGAGED IN A MINIMUM OF 100 HOURS PER YEAR OF ACTIVE CULTIVATION OF FOOD FROM THE LAND.

**Section 2.** Section 15-6-133, MCA, is amended to read:

**"15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land ~~upon~~on which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to

1 agricultural grazing use.

2 (c) contiguous parcels of land of ~~20~~ 640 acres or more ~~but less than 160 acres~~ under one  
3 ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1),  
4 which are considered to be ~~nonqualified agricultural~~ idle land. ~~Nonqualified agricultural~~ Idle land may not be  
5 devoted to a commercial or industrial purpose. ~~Nonqualified agricultural~~ Idle land is valued at the average  
6 productive capacity value of grazing land.

7 (D) SUSTENANCE USE LAND AS DESCRIBED IN [SECTION 1].

8 (2) Subject to subsection (3), class three property is taxed at 2.16% of its productive capacity  
9 value.

10 (3) The taxable value of idle land described in subsection (1)(c) is computed by multiplying the  
11 value of the land by ~~seven~~ 20 SEVEN times the taxable percentage rate for agricultural land."

12

13 **SECTION 3.** Section 15-6-134, MCA, is amended to read:

14 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property  
15 includes:

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

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

18 (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile  
19 homes used as a residence, except those specifically included in another class;

20 (ii) appurtenant improvements to the residences, including the parcels of land upon which the  
21 residences are located and any leasehold improvements;

22 (iii) vacant residential lots; and

23 (iv) rental multifamily dwelling units.

24 (c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural  
25 land under 15-7-202 or sustenance use land under [section 1], including 1 acre of real property beneath  
26 improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

27 (d) 1 acre of real property beneath an improvement used as a residence on land eligible for  
28 valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

(e) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated; and

(iv) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

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

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

**SECTION 4.** Section 15-6-143, MCA, is amended to read:

**"15-6-143. Class ten property -- description -- taxable percentage.** (1) Class ten property includes:

(a) all forest lands, as defined in 15-44-102, ~~and~~ ;

(b) property described in subsection (2); ~~and~~

(c) nonproductive forest land as defined in 15-44-102. Nonproductive forest land must be valued at

the statewide average productivity value of forest land.

(2) Any parcel of growing timber totaling less than 15 acres qualifies as class ten property if, in a prior year, the parcel totaled 15 acres or more and qualified as forest land but the number of acres was reduced to less than 15 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality and, since that reduction in acres, the parcel has not been further divided.

(3) Class ~~Subject to subsection (4), class~~ ten property is taxed at:

(a) — 0.29% of its forest productivity value in tax year 2023;

(b) — 0.27% of its forest productivity value in tax year 2024; and

(c) 0.37% of its forest productivity value in tax years after 2024 .

(4) Land described in subsection (2)(c) is taxed at three times the rate provided in subsection (3)."

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

**"15-7-202. Eligibility of land for valuation as agricultural -- exclusions -- rulemaking.** (1) (a)

~~Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.~~

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

(A)(i) the land is used primarily for raising and marketing, ~~as defined in subsection (1)(c),~~ products that meet the definition of agricultural provided in 15-1-101 and if, except as for grazing land as provided in subsection (3) (4), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land not less than \$4,000 \$1,500 in annual gross income for contiguous parcels of less than 640 acres or \$4,000 \$1,500 plus \$6 an acre for each acre above 640 acres in annual gross income for contiguous parcels of 640 acres or more; or

(B)(ii) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) (1)(a)(i) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing

1 delay for economic advantage, in which case proof of qualification in a prior year will suffice  suffices.

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

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

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

7 (b) Noncontiguous parcels of land under one ownership that are actively devoted to agricultural  
8 use are eligible for valuation, assessment, and taxation as agricultural land if each noncontiguous parcel is  
9 actively devoted to agricultural use and the noncontiguous parcels collectively meet the annual gross income  
10 requirements for contiguous parcels in subsection (1)(a).

11 (c) For the purposes of determining annual gross income under this subsection (1), "marketing":

12 (i) means the selling of agricultural products produced by the land; and

13 (ii) for parcels of land of 20 acres or more, includes:

14 (A) rental or lease of the land if the land is actively used for grazing livestock or for other  
15 agricultural purposes; and

16 (B) rental payments made under the federal conservation reserve program or a successor to that  
17 program.

18 (iii)(2) Parcels of land that are part of a family-operated farm, family corporation, family partnership,  
19 family limited liability company, sole proprietorship, or family trust that is involved in Montana agricultural  
20 production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of  
21 subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land (1)(a)(i) are eligible for  
22 valuation, assessment, and taxation as agricultural land if the owner:

23 (A)(a) applies to the department requesting classification of the parcel as agricultural;

24 (B)(b) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the  
25 parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C)  
26 (2)(c); and

27 (C)(c) verifies that:

28 (1)(i) the owner of the parcel is involved in agricultural production by submitting proof that 51% or

more of the owner's Montana annual gross income is derived from agricultural production; and

(H)(ii) (A) property taxes on the property are paid by a family corporation, family partnership, family limited liability company, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(H)(B) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, family limited liability company, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) ~~For the purposes of this subsection (1):~~

(i) ~~"marketing" means the selling of agricultural products produced by the land and includes but is not limited to:~~

(A) ~~rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and~~

(B) ~~rental payments made under the federal conservation reserve program or a successor to that program;~~

(ii)(3) ~~land~~ Land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than ~~nonqualified agricultural idle~~ land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) ~~Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:~~

(a) ~~except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101 ;~~

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

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

~~(3)(4)~~ For grazing land of less than 640 acres to be eligible for classification as agricultural land under subsections ~~(1)(b)~~ and ~~(2)~~ subsection (1), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as determined by the Montana state university-Bozeman college of agriculture. Grazing land of more than 640 acres must be capable of sustaining a minimum number of animal unit months of carrying capacity equal to \$1,500 in annual gross income plus \$6 an acre for each acre above 640 acres.

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

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

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

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

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

(b) Following the 5th year of provisional agricultural classification, the property owner shall submit an application for agricultural classification. The application must include documentation proving that the property continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection ~~(2)(a)~~ (1)(a)(i) have been met.

(6) The department may not classify land ~~less than 160 acres~~ as agricultural unless the owner has applied to have land classified as agricultural land. The owner shall periodically reapply for agricultural

1 classification as provided in subsection (7). Land of 20 640 acres or more but less than 160 acres for which no  
2 application for agricultural classification has been made is idle land and is valued as provided in 15-6-133(1)(c)  
3 and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in  
4 any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the  
5 property. A reclassification does not mean revaluation pursuant to 15-7-111.

6 (7) The department shall administer a program for the periodic review of property classified as  
7 agricultural land under this section. The department may require reapplication to determine whether land is still  
8 actively devoted to agricultural use and shall notify a property owner who is required to reapply. A property  
9 owner who fails to reapply in the required timeframe may provide the application within 30 days following the  
10 date on the classification and appraisal notice.

11 (7)(8) For the purposes of this part, growing timber is not an agricultural use "agricultural use"  
12 excludes activities related to agriculture that are not generally considered agricultural use, including activities  
13 conducted for commercial purposes as defined in subsection (10) or otherwise conducted for the production of  
14 income. Excluded activities include but are not limited to:

15 (a) hobby farms and personal gardens that involve growing crops or raising animals for personal  
16 enjoyment or consumption;

17 (b) agritourism, including corn mazes, pumpkin patches, farm tours, and petting zoos;

18 (c) equestrian activities, such as keeping horses to ride for personal pleasure or competition.

19 However, the primary use of land for breeding or training horses for sale may be considered agricultural use.

20 (d) commercial activities unrelated to agriculture, such as operating a store, restaurant, or other  
21 business on agricultural land if the business is not directly related to the production of agricultural products;

22 (e) recreational use primarily for leisure, enjoyment, and outdoor activities, including but not limited  
23 to:

24 (i) hiking, nature walks, birdwatching, picnicking, camping, photography, stargazing, fishing,  
25 hunting, boating, swimming, horseback riding, off-road vehicle use, snowmobiling, skiing, and snowboarding;

26 (ii) team sports on designated fields, courts, or facilities; and

27 (iii) commercial recreation opportunities, such as privately operated campgrounds, dude ranches,  
28 resorts, theme parks, or other facilities offering recreational amenities;

(f) growing timber; and

(g) (i) except as provided in subsection (8)(g)(ii), conservation activities involving the use of land primarily for protecting and preserving nature, biodiversity, and ecological functions of land. Conservation activities include but are not limited to:

(A) maintaining or restoring diverse ecosystems to support native plants, animals, and microorganisms;

(B) protecting habitats for endangered or threatened species;

(C) implementing measures to enhance biodiversity and ecological connectivity, such as creating wildlife corridors, managing forests for diverse habitats, and restoring wetlands;

(D) protecting open space, maintaining large, undeveloped tracts of land for their aesthetic and ecological value, and preserving scenic viewsheds and natural landscapes;

(E) protecting water resources, such as rivers, streams, and watersheds; and

(F) acquiring land for public parks or preserves.

(ii) Land enrolled in the federal conservation reserve program is eligible for agricultural classification.

(9) The department may adopt rules to implement the periodic review of property receiving agricultural classification provided for in this section.

(10) For the purposes of this section, "commercial purposes", when used in reference to "agriculture" as defined in 15-1-101, means the use of land primarily for the production, cultivation, and harvesting of agricultural products with the primary intent of generating income. This includes activities undertaken on a scale and with a business model that aims to produce agricultural goods for sale."

**Section 6.** Section 15-7-206, MCA, is amended to read:

**"15-7-206. Improvements on agricultural land.** (1) In determining the total area of land actively devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs, greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

(2) One acre of land beneath residential improvements on agricultural land, as described in 15-7-202(1)(e)(ii)(3) OR SUSTENANCE USE LAND DESCRIBED IN [SECTION 1], is valued at the class with the highest

productive value and production capacity of agricultural land."

**Section 7.** Section 15-7-307, MCA, is amended to read:

**"15-7-307. Certificate -- exceptions.** The certificate required by this part applies to all transfers.

However, the certificate filed for the following transfers need not disclose the consideration paid or to be paid for the real estate transferred:

- (1) an instrument recorded prior to July 1, 1975;
- (2) the sale of agricultural land totaling 640 acres or more when the land is used for agricultural purposes;
- (3) the sale of timberland totaling 640 acres or more when the land is used for producing timber;
- (4) a transfer by the United States, this state, or any instrumentality, agency, or subdivision of the United States or this state;
- (5) an instrument that (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;
- (6) a transfer pursuant to a court decree;
- (7) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;
- (8) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;
- (9) a transfer of decedents' estates;
- (10) a transfer of a gift;
- (11) a transfer between husband and wife or parent and child with only nominal actual consideration for the transfer;
- (12) an instrument the effect of which is to transfer the property to the same party or parties;
- (13) a sale for delinquent taxes or assessments, a sheriff's sale, or a sale pursuant to a bankruptcy court order;
- (14) a transfer made in contemplation of death."

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

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

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

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

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

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

(3) (a) In valuing class four residential and commercial property described in 15-6-134, the department shall conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the department shall use information available from any source considered reliable. Comparable properties used for valuation must represent similar properties within an acceptable proximity of the property being valued. The department shall use the same valuation method to value residential properties in the same neighborhood or subdivision unless there is a compelling reason to use a different approach.

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

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

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

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

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

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

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

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

(b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the department, the department shall use the income approach to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the cost approach. When using the cost approach, the department shall value the units individually and allocate only the common area elements to the

units based on the percentage of undivided interest in the condominium declaration.

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

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

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

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

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

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 and [section 1] are valued as agricultural lands for tax purposes.

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

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

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

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

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

(b) the taxpayer makes a written request; or

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

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

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

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

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

**Section 9.** Section 15-10-420, MCA, is amended to read:

**"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For the purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the ~~purpose~~ purposes of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the ~~purpose~~ purposes of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 ~~or as nonqualified agricultural land as described in 15-6-133(1)(c).~~

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For the purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for the

purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.

The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for the purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit."

**SECTION 10.** Section 15-18-219, MCA, is amended to read:

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

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

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

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

(iii) land classified as forest property pursuant to 15-6-143.

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

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

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

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

(c) current taxes due for the property.

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

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

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

(4) (a) Between May 1 and May 30 of the year in which the redemption period expires, an assignee applying for a tax deed shall notify the parties as required in subsection (4)(b) that a tax deed will be

1 auctioned unless the property tax lien is redeemed before the date of the auction.

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

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

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

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

11 (c) The address to which the notice must be sent is, for each party, the address disclosed by the  
12 records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the  
13 street address or other known address of the subject property.

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

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

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

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

1 the notice."

2

3 **Section 11.** Section 15-30-2660, MCA, is amended to read:

4 **"15-30-2660. (Temporary) Taxpayer integrity fees.** (1) (a) The department shall assess a fee as  
5 provided in subsection (2) for a taxpayer who is a participant in the Montana Health and Economic Livelihood  
6 Partnership Act provided for in Title 53, chapter 6, part 13, and Title 39, chapter 12, and owns:

7 (i) equity in real property or improvements to real property, or both, that exceeds the limit  
8 established for homesteads under 70-32-104 by \$5,000 or more, if the real property is not agricultural land;

9 (ii) more than one light vehicle when the combined depreciated value of the manufacturer's  
10 suggested retail price totals \$20,000 or more and the participant's equity in the vehicles exceeds that combined  
11 depreciated value by \$5,000 or more; or

12 (iii) agricultural land with a taxable value in excess of \$1,500 a year.

13 (b) For the purposes of subsection (1)(a):

14 (i) "real property or improvements to real property" does not include property held in trust by the  
15 United States for the benefit of a Montana federally recognized Indian tribe; and

16 (ii) the depreciated value of the manufacturer's suggested retail price must be computed as  
17 provided in 61-3-503(2).

18 (2) The fee is \$100 a month plus an amount equal to an additional \$4 a month for:

19 (a) each \$1,000 in equity value above the limits established in subsections (1)(a)(i) and (1)(a)(ii);  
20 and

21 (b) each \$100 of taxable value in agricultural land above \$1,500.

22 (3) (a) The department shall assess a fee for an entity organized under 26 U.S.C. 501(d) and  
23 subject to taxes as provided in Title 15, chapter 31, if the entity has members who are receiving medicaid  
24 coverage under Title 53, chapter 6, part 13.

25 (b) The fee is equal to the state's share of the average annual cost per program participant, as  
26 defined in 53-6-1303, multiplied by the number of individuals in the 26 U.S.C. 501(d) organization who are  
27 receiving medicaid coverage because they are eligible under 53-6-1304, less the total annual amount the  
28 entity's members have paid in premiums.

(4) (a) For the purposes of calculating the fee required under subsection (3), the department of public health and human services shall provide the department of revenue by February 1 of each year with:

(i) the percentage of medicaid claims costs of program participants for which the state was responsible in the previous calendar year; and

(ii) the average annual cost of medical claims for program participants in the previous calendar year.

(b) The department of public health and human services shall post the average annual cost for a program participant on the department's website by February 15 of each year.

(5) An organization shall pay the fee provided for in subsection (3) as follows:

(a) on or before the last day of each month, the organization shall pay an estimated fee equal to one-twelfth of the most recently published annual cost per program participant; and

(b) on or before April 15 of each year, the organization shall report and pay any additional amount owed for the prior year or request a refund of any overpayment made in the prior year.

(6) (a) The department of public health and human services shall provide the department of revenue with the names of program participants and other necessary information to assist the department of revenue in administering and enforcing this section.

(b) The department of justice shall provide the department of revenue with vehicle registration information for the administration of this section.

(7) Fees collected pursuant to this section must be deposited in the Montana HELP Act special revenue account provided for in 53-6-1315.

(8) A fee remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.

(9) For the purposes of this section, the following definitions apply:

(a) (i) "Agricultural land" means agricultural land as described in 15-7-202 OR SUSTENANCE USE LAND AS DESCRIBED IN [SECTION 1] that is taxed as class three property at the rate provided in 15-6-133.

(ii) The term does not include:

(A) parcels of land that are considered ~~nonqualified agricultural~~ idle land as provided in 15-6-133(1)(c);

- 1 (B) improvements to real property; or
- 2 (C) land held in trust by the United States for the benefit of a Montana federally recognized Indian
- 3 tribe.
- 4 (b) "Light vehicle" has the meaning provided in 61-1-101.
- 5 (c) "Manufacturer's suggested retail price" has the meaning provided in 61-3-503(3). (Terminates
- 6 June 30, 2025--secs. 38, 48, Ch. 415, L. 2019.)"

7

8 **SECTION 12.** Section 15-44-102, MCA, is amended to read:

9 **"15-44-102. Definitions.** For the purposes of this part, unless the context requires otherwise, the

10 following definitions apply:

11 (1) "Culmination of mean annual increment" means the point of optimum net wood production on

12 an acre of forest land.

13 (2) "Cultivated Christmas trees" means Christmas trees that are grown on land prepared by

14 intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant

15 growth is controlled for the exclusive purpose of raising Christmas trees.

16 (3) "Department" means the department of revenue.

17 (4) "Forest" means forest land and the timber on the land.

18 (5) "Forest land" means contiguous land of 15 acres or more in one ownership that is capable of

19 producing timber that can be harvested in commercial quantity and is producing timber unless the trees have

20 been removed through harvest, including clearcuts, or by natural disaster, including but not limited to fire.

21 Forest land includes land:

22 (a) that has not been converted to another use; and

23 (b) on which the annual net wood production equals or exceeds 25 cubic feet an acre at the

24 culmination of mean annual increment.

25 (6) "Forest productivity value" means the value of forest land for assessment purposes, which

26 value is determined only on the basis of its potential to produce timber, other forest products, and associated

27 agricultural products through an income approach provided for in 15-44-103.

28 (7) "Harvest" means an activity related to the cutting or removal of timber for use or sale as a

1 forest product.

2 (8) "Landowner" means an individual, corporation, association, company, firm, joint venture,  
3 syndicate, or trust.

4 (9) "Mean annual net wood production" means the average net usable volume of wood that 1 acre  
5 of forest land will grow in 1 year under average current and actual forest conditions and under current and  
6 reasonable management practices for each forest valuation zone established under 15-44-103.

7 (10) "Nonproductive forest land" means land that:

8 (a) does not meet the definition of forest land in subsection (5);

9 (b) is not devoted to a commercial, industrial, or residential use;

10 (c) is not eligible for valuation as agricultural land pursuant to 15-7-202; and

11 (d) for which at least 70% of the total acreage of the parcel or contiguous parcels under one  
12 ownership is classified as forest land.

13 ~~(10)~~ (11) "Stumpage value" means the amount that timber would sell for under an arm's-length  
14 transaction made in the ordinary course of business, expressed in terms of dollars per unit of measure.

15 ~~(44)~~ (12) (a) "Timber" means all wood growth on privately owned land, mature or immature, alive  
16 or dead, standing or down, that is capable of furnishing raw material used in the manufacture of lumber or other  
17 forest products.

18 (b) The term does not include cultivated Christmas trees."  
19

20 NEW SECTION. Section 13. Effective date. [This act] is effective January 1, 2027.  
21

22 NEW SECTION. SECTION 14. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN  
23 INTEGRAL PART OF TITLE 15, CHAPTER 7, PART 2, AND THE PROVISIONS OF TITLE 15, CHAPTER 7, PART 2, APPLY TO  
24 [SECTION 1].  
25

26 NEW SECTION. Section 15. Applicability. [This act] applies to property tax years beginning after  
27 December 31, 2026.

28 - END -