

HOUSE BILL NO. 253

INTRODUCED BY E. STAFMAN, C. KEOGH, J. HAMILTON, F. ANDERSON, D. HAWK, A. BUCKLEY, D.
FERN, M. CAFERRO, D. HARVEY, J. KARLEN, E. MATTHEWS, S. HOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A HOMESTEAD EXEMPTION FOR A DWELLING
USED AS A PRIMARY RESIDENCE; PROVIDING PENALTIES; ALLOWING FOR THE ADJUSTMENT OF
STATE MILL LEVIES TO ACCOUNT FOR THE HOMESTEAD EXEMPTION; PROVIDING DEFINITIONS;
AMENDING SECTIONS 15-10-109 AND 15-10-420, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, many Montana homeowners have experienced significant increases in property taxes in
recent years; and

WHEREAS, property tax increases have especially burdened those whose home is their primary
residence, sometimes forcing them from their homes; and

WHEREAS, many other states, such as Florida and Texas, recognize a distinction between primary
residences and other residential property, such as second homes, investment properties, and short-term
rentals, by providing an exemption from valuation for homeowners whose home is their primary residence; and

WHEREAS, Montana is experiencing significant housing shortages with many causes, including
increased demand for properties used as second homes, investment properties, and short-term rentals that
sometimes sit vacant for periods of time, thereby making housing less available as primary residences and
correspondingly increasing housing costs for primary residences; and

WHEREAS, the policy proposed here would reduce property taxes on primary residences, slightly
increase property taxes on homes that are not primary residences resulting in less demand for these homes,
and be revenue-neutral to all Montana taxing authorities.

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

NEW SECTION. Section 1. Homestead exemption -- eligibility -- recapture -- definitions. (1)

There is a homestead exemption of \$25,000 of appraised value for class four residential property owned and

1 used as a primary residence. To be eligible for the exemption, the applicant must meet the requirements of this
2 section.

3 (2) The residential property must be owned or under contract for deed by the applicant and be
4 used by the applicant as a primary residence in the tax year for which the exemption is claimed.

5 ~~(3) The applicant must apply for the homestead exemption by April 15 of the year in which the~~
6 ~~exemption is first claimed on forms provided by the department.~~

7 (3) (a) To receive the exemption in the first year, an applicant must apply to the department
8 electronically by April 15, 2024. If requested by an applicant, a county treasurer shall assist an applicant in filing
9 an electronic application.

10 (b) In subsequent years, the department shall accept electronic applications and may also accept
11 paper applications.

12 (c) The application ~~form~~ must contain:

13 (a)(i) an affirmation that the applicant owns and uses the property as a primary residence, under
14 penalty of false swearing and the penalty provided for in subsection (4); and

15 (b)(ii) any other information required by the department that is relevant to the applicant's eligibility.

16 (4) When providing information to the department for qualification under this section, applicants
17 are subject to the false swearing penalties established in 45-7-202. Any person who knowingly and willfully
18 gives false information for the purpose of claiming a homestead exemption as provided in this section is guilty
19 of a misdemeanor, punishable by a fine not to exceed \$5,000 or imprisonment in the county jail for a term not to
20 exceed 1 year, or both.

21 ~~(5) On application for the homestead exemption, the department shall determine whether the~~
22 ~~property qualifies as a primary residence. The department may investigate the information provided in an~~
23 ~~application and an applicant's continued eligibility.~~ The department may consider but is not limited to the
24 following:

- 25 (a) a valid Montana driver's license, Montana state identification card, or tribal identification card;
26 (b) the place of employment of the applicant;
27 (c) proof of voter registration in Montana;
28 (d) a Montana motor vehicle registration;

- 1 (e) evidence of the location where the applicant's dependent children are registered for school;
- 2 (f) the address listed on the federal income tax return filed by the applicant;
- 3 (g) the residency status listed on the Montana income tax return filed by applicant;
- 4 (h) the location where the applicant's bank statements and checking accounts are registered; and
- 5 (i) proof of payment of utilities at the property for which primary residency is being claimed.

6 ~~(6) The department may investigate the information provided in an application and an applicant's~~
7 ~~continued eligibility.~~

8 ~~(7)(6)~~ Following approval for the homestead exemption, the applicant remains eligible for the
9 exemption in subsequent years as long as the applicant continues to use the property as a primary residence.
10 The department may request verification that a property granted a homestead exemption is being used as a
11 primary residence. The department may request verification electronically or in writing.

12 ~~(8)(7)~~ (a) Except as provided in subsection ~~(8)(b)(7)(b)~~, the rental of all, or substantially all, of a
13 single-family dwelling previously eligible for a homestead exemption constitutes the abandonment of the
14 dwelling as a primary residence, and the abandonment continues until the dwelling is physically occupied by
15 the applicant. The abandonment of the primary residence after January 1 of any year does not affect the
16 homestead exemption for that year unless the property is rented for more than 30 days.

17 (b) Subsection ~~(8)(a)(7)(a)~~ does not apply to a member of the armed forces of the United States on
18 active duty. Valid military orders transferring a member of the armed forces are sufficient to maintain a primary
19 residence for the purpose of the homestead exemption.

20 ~~(9)(8)~~ An applicant may only receive the homestead exemption for one property at a time. If the
21 applicant sells a property for which a homestead exemption is granted and purchases a new property eligible
22 for the homestead exemption, the applicant shall reapply for the homestead exemption.

23 ~~(10)(9)~~ As used in this section, the following definitions apply:

24 (a) "Primary residence" means a single-family dwelling occupied by the owner for at least 7
25 months of the year in which a person has a true, fixed, and permanent home and principal establishment to
26 which, whenever absent, the person has the intention of returning. A person may have only one primary
27 residence at a time and, when a primary residence is established in a foreign state or country, it is presumed to
28 continue until the person shows that a change has occurred.

(b) "Single-family dwelling" means a residential dwelling, manufactured home, trailer, mobile home, condominium unit, or a unit of a multiple-unit dwelling.

Section 2. Section 15-10-109, MCA, is amended to read:

"15-10-109. (Temporary) Tax levy for university system. ~~There Subject to 15-10-420, there is~~ levied ~~upon~~ on the taxable value of all real estate and personal property subject to taxation in the state of Montana 6 mills for the continued support, maintenance, and improvement of the Montana university system. The funds raised from the levy must be deposited in the state special revenue fund. (Terminates December 31, 2028--sec. 4, Ch. 73, L. 2017.)"

Section 3. 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,

1 including newly taxable property.

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

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

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

5 (iii) transfer of property into a taxing unit;

6 (iv) subdivision of real property; and

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

8 (b) Newly taxable property does not include an increase in value:

9 (i) that arises because of an increase in the incremental value within a tax increment financing
10 district; or

11 (ii) caused by the termination of an exemption that occurs due to the American Rescue Plan Act,
12 Public Law 117-2, and section 14, Chapter 506, Laws of 2021.

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

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

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

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

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

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

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

Amendment - 1st Reading-white - Requested by: Ed Stafman - (H) Taxation

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- (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 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 purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439 pursuant to subsection (1). ~~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(2)(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.

Amendment - 1st Reading-white - Requested by: Ed Stafman - (H) Taxation

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(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 purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit. (Subsection (3)(b)(ii) terminates December 31, 2025--sec. 13(5), Ch. 506, L. 2021.)"

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

NEW SECTION. Section 5. Applicability. [This act] applies to property tax years beginning on or after January 1, 2024.

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