

HOUSE BILL 630

IN THE HOUSE

February 7, 1979	Introduced and referred to Committee on Taxation.
March 10, 1979	Intent statement attached. Committee recommend bill, as amended.
March 12, 1979	Printed and placed on members' desks.
March 13, 1979	Second reading, do pass.
March 15, 1979	Considered correctly engrossed.
March 16, 1979	Third reading, passed.

IN THE SENATE

March 17, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

1 HOUSE BILL NO. 630
 2 INTRODUCED BY Wade Bengtson
 3 BY REQUEST OF THE GOVERNOR

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CERTAIN SENIOR
 6 CITIZENS TO DEFER THE PROPERTY TAXES DUE ON THEIR
 7 HOMESTEADS; CREATING A LIEN AGAINST A HOMESTEAD FOR THE
 8 AMOUNT OF TAX DEFERRED; PROVIDING PROCEDURES FOR
 9 ADMINISTERING THE TAX DEFERRAL PROGRAM AND FOR SATISFYING
 10 AND ENFORCING THE LIEN; AND PROVIDING AN IMMEDIATE EFFECTIVE
 11 DATE."

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

14 Section 1. Purpose. It is the intent of the
 15 legislature that senior citizens of this state be able to
 16 enjoy the benefits of continued home ownership even though
 17 their incomes are greatly diminished because of retirement
 18 or disability. The legislature finds that the annual burden
 19 of the property tax on the dwellings of these citizens may
 20 discourage continued ownership. [This act] gives senior
 21 citizens an option other than selling their home by
 22 providing that they may defer all or part of the property
 23 tax due until the title of their home passes to another
 24 individual or they choose to pay the deferred tax plus
 25 interest.

1 Section 2. Definitions. As used in [this act], the
 2 following definitions apply:

- 3 (1) "Department" means the department of revenue.
- 4 (2) "Equity" means the difference between the market
 5 value and the sum of all encumbrances on the homestead.
- 6 (3) "Homestead" means a single-family residential
 7 unit, including a mobile home or housetrailer as defined in
 8 15-24-201, and the appurtenant land, not to exceed 1 acre.
- 9 (4) "Household" means all adult persons who live in
 10 the same dwelling sharing its furnishings, facilities,
 11 accommodations, and expense. The term does not include
 12 minors, bona fide lessees, tenants, or roomers and boarders
 13 on contract.
- 14 (5) "Income" means remuneration from all services,
 15 whether taxable or not, including but not limited to all
 16 wages, salaries, tips, interest income, dividends,
 17 retirement benefits, pension and annuity payments, social
 18 security benefits excluding medicare payments, public
 19 assistance and relief payments, disability benefits, sick
 20 leave payment, and capital gains.
- 21 (6) "Market value" is the appraised value of the
 22 homestead as defined in 15-8-111 unless the owner submits
 23 two fee appraisals showing that the property has a
 24 substantially higher value.
- 25 (7) "Net worth" means the total value of all assets

1 less the total value of all liabilities.

2 (8) "Property taxes" means the total of all taxes
3 levied on a homestead, including special assessments,
4 charges, or user fees that are billed to the property by the
5 county treasurer.

6 (9) "Year of application" means the calendar year
7 during which an application for deferral of property taxes
8 is filed.

9 Section 3. Application for deferral. (1) An owner
10 wishing to defer property tax due on his homestead must
11 complete an application on forms provided by the department
12 for each year that he wishes to defer the tax. The
13 application shall contain:

- 14 (a) the address and a description of the homestead;
15 (b) the income of the household during the previous
16 year;
17 (c) the net worth of the members of the household;
18 (d) his equity in the homestead; and
19 (e) such other information and documents as the
20 department may consider necessary.

21 (2) The applicant must:

- 22 (a) sign and return the application to the department
23 at least 60 days before the property tax sought to be
24 deferred is due; and
25 (b) sign a contract agreeing to the creation of a lien

1 on the homestead for the amount of tax deferred and the
2 interest accrued on it.

3 Section 4. Conditions necessary for tax deferral. (1)
4 In order to defer the property tax due on a homestead:

5 (a) all members of the household must be at least 62
6 years old within the year of application except that one
7 spouse is not required to meet this condition when a married
8 couple constitute the only members of the household;

9 (b) the combined income of the household must not have
10 exceeded \$10,500 during the 12 months preceding the date of
11 application;

12 (c) the total net worth of the members of the
13 household may not exceed \$50,000;

14 (d) the homestead must be the principal residence of
15 the owner during at least 9 months of each year;

16 (e) no property tax on the homestead may be delinquent
17 on the date of application; and

18 (f) the owner's total equity must equal at least 4%
19 of the homestead's market value.

20 (2) An owner who has deferred taxes on his homestead
21 in a prior year and is applying for deferral of the current
22 year's tax is not required to meet the condition imposed in
23 subsection (1)(f).

24 Section 5. Tax deferral vouchers -- procedure. (1)
25 Upon determination that an application complies with the

1 conditions imposed in [section 4], the department shall mail
2 a tax deferral voucher, which shall be in two portions, to
3 the applicant.

4 (2) A homestead owner may present one portion of the
5 voucher to the county treasurer for each payment of property
6 tax due on the homestead for the year in which the taxes
7 were deferred. He may defer part or all of each payment.
8 Taxes so deferred are not considered delinquent for the
9 purposes of 15-6-301.

10 (3) If the owner's homestead is a mobile home that is
11 not taxed as an improvement to real property, he must submit
12 a certificate of ownership with the voucher.

13 (4) The county treasurer shall mark that portion of
14 the tax that has been deferred on each voucher. The
15 homestead owner must sign the completed voucher.

16 (5) The county treasurer shall submit to the
17 department for each owner who defers his property taxes:

18 (a) a copy of the tax notice;

19 (b) a signed voucher; and

20 (c) a certificate of ownership, when required.

21 Section 6. Duties and powers of the department. (1)

22 The department shall:

23 (a) determine the validity of each application;

24 (b) issue deferral vouchers as provided in [section
25 5];

1 (c) cause a warrant to be sent to the county treasurer
2 for the amount shown on signed vouchers received from that
3 county;

4 (d) file a lien on homesteads constituting real
5 property with the clerk of the county in which the property
6 is located in the amount of property tax deferred;

7 (e) endorse a lien on the certificate of ownership of
8 a homestead consisting of a mobile home that is not
9 considered an improvement to real property in the amount of
10 property tax deferred and return the certificate of
11 ownership to the division of motor vehicles;

12 (f) keep an account for each homestead upon which the
13 property tax has been deferred and accrue interest at the
14 rate of 7% a year on the outstanding balance;

15 (g) collect the balance due in each account when it
16 becomes due; and

17 (h) on or before July 1 of each year provide written
18 notice to each homestead owner who has deferred property
19 taxes stating:

20 (i) the total balance in his account; and

21 (ii) that he must reapply if he wishes to defer
22 property taxes for the current year.

23 (2) The department may adopt rules necessary to
24 administer the property tax deferral program.

25 Section 7. Payment of deferred property tax. (1) A

1 taxpayer may, at any time, pay all or part of the balance
2 due in his deferred property tax account.

3 (2) Except as provided in subsection (3), the entire
4 balance of the account is due 60 days after:

5 (a) the homestead owner dies;

6 (b) any of the conditions imposed in subsections
7 (1)(a) through (1)(e) of [section 4] is no longer met; or

8 (c) the homestead upon which the taxes have been
9 deferred is sold or a contract for its sale is signed.

10 (3) The entire balance of a deferred property tax
11 account for a homestead consisting of a mobile home not
12 taxed as an improvement to real property must be paid before
13 the mobile home may be moved.

14 (4) Any payment made upon the balance due in the
15 account must first be applied to the interest accrued on the
16 balance. The amount remaining after the interest has been
17 paid shall be applied against the balance.

18 (5) Deferred property tax and accrued interest are a
19 tax debt of the estate of the deceased homestead owner and
20 must be paid before any order for the distribution of the
21 decedent's property is entered.

22 (6) When the balance in a deferred property tax
23 account has been paid in full, the department shall record a
24 satisfaction of lien with the clerk of the county in which
25 the property is located or, if the lien was against a mobile

1 home, with the division of motor vehicles.

2 Section 8. Nature of the lien. The lien filed by the
3 department for deferred property taxes is equal in priority
4 to the lien imposed in 15-16-401.

5 Section 9. Enforcement of lien. If the balance of a
6 deferred property tax account becomes due and is not paid
7 within the time established in [section 7], the department
8 shall enforce the lien.

9 Section 10. Eligibility for other tax relief programs.
10 A homestead upon which the property tax is deferred is
11 eligible for classification in class fifteen, as described
12 in 15-6-116.

13 Section 11. Penalties. An owner who intentionally
14 supplies false information in his application to defer
15 property tax commits the offense of false swearing. All
16 deferred property tax and accrued interest become due
17 immediately upon his conviction.

18 Section 12. Effective date. This act is effective
19 passage and approval.

-End-

STATE OF MONTANA

Request No. 288-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 1979, there is hereby submitted a Fiscal Note for House Bill 630 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

This proposed bill allows certain senior citizens to defer the property taxes due on their homesteads; creating a lien against a homestead for the amount of tax deferred; providing procedures for administering the tax deferral program and for satisfying and enforcing the lien; and providing an immediate effective date.

ASSUMPTIONS:

1. There will be approximately 400 claims for deferral for 1980 and 700 claims for deferral in 1981. (Other states which have similar laws have observed that the program "catches on" slowly)
2. The average tax deferred will be \$500. (Implicit in this assumption is the assumption that most deferral claims will come from urban areas where levies are on the order of 300 mills.)
3. The cost of administration will be approximately \$25,000 each fiscal year. (\$15,000 in personal costs for processing and auditing applications, preparing vouchers and warrants, and keeping accounts, and \$10,000 for operating expenses - forms printing, cost of warrants, design and use of an automated accounting system)
4. Payments to counties will be funded from the state General Fund and receipts resulting from pay back of deferred amounts plus interest will be deposited into the State General Fund.

FISCAL IMPACT:

Additional cost of proposed legislation	<u>FY 80</u>	<u>FY 81</u>
Personal services	\$ 15,000	\$ 15,000
Operating expenses	10,000	10,000
Local assistance	200,000	350,000
Total	<u>\$225,000</u>	<u>\$375,000</u>

FUNDING INFORMATION:

The additional cost must be funded from the state General Fund; however, the cost will be recovered in later years when deferral accounts will pay back deferred amounts plus interest.

Richard L. Drury
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2/12/79

Page 2

LONG-RANGE EFFECT:

Eventually the net cost to the state ought to be minimal since early deferral accounts will begin to pay back with interest and, thus, tend to cancel out the cost of new deferral accounts.

TECHNICAL NOTE:

Page 1 Line 21: should be "...selling their home (s) by ..."

1 STATEMENT OF INTENT RE: HB 630

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A statement of intent is required by House Bill 630 because section 6 grants rulemaking authority to the Department of Revenue in order to administer the property tax deferral program contained within the bill.

Rulemaking authority is granted to the department because the department is assigned the duties of determining the validity of applications for the program, issuing vouchers for the satisfaction of deferred property taxes, causing warrants to be drawn for payment to county treasurers for the redemption of deferral vouchers, filing liens against homes on which property taxes have been deferred, maintaining an account showing the tax and interest as they become due, and annually notifying the owner of property liable for deferred taxes of the balance in his deferred tax account and the application requirement he must fulfill if he wishes to defer additional property taxes.

The program provided in House Bill 630 will require coordination between the state and each county in order to replace local property taxes that will be deferred. Rulemaking authority is intended to give the department the flexibility to design a workable program and avoid administrative detail in the statutes.

HB 630

Approved by Committee
on Taxation

HOUSE BILL NO. 630

INTRODUCED BY UHDE, BENGTSON

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CERTAIN SENIOR CITIZENS TO DEFER THE PROPERTY TAXES DUE ON THEIR HOMESTEADS; CREATING A LIEN AGAINST A HOMESTEAD FOR THE AMOUNT OF TAX DEFERRED; PROVIDING PROCEDURES FOR ADMINISTERING THE TAX DEFERRAL PROGRAM AND FOR SATISFYING AND ENFORCING THE LIEN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Purpose. It is the intent of the legislature that senior citizens of this state be able to enjoy the benefits of continued home ownership even though their incomes are greatly diminished because of retirement or disability. The legislature finds that the annual burden of the property tax on the dwellings of these citizens may discourage continued ownership. [This act] gives senior citizens an option other than selling their home by providing that they may defer all or part of the property tax due until the title of their home passes to another individual or they choose to pay the deferred tax plus interest.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Equity" means the difference between the market value and the sum of all encumbrances on the homestead.

(3) "Homestead" means a single-family residential unit, including a mobile home or housetrailer as defined in 15-24-201, and the appurtenant land, not to exceed 1 acre.

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(5) "Income" means remuneration from all services, whether taxable or not, including but not limited to all wages, salaries, tips, interest income, dividends, retirement benefits, pension and annuity payments, social security benefits excluding medicare payments, public assistance and relief payments, disability benefits, sick leave payment, and capital gains.

(6) "Market value" is the appraised value of the homestead as defined in 15-8-111 unless the owner submits two fee appraisals showing that the property has a substantially higher value.

(7) "Net worth" means the total value of all assets

1 less the total value of all liabilities.

2 (8) "Property taxes" means the total of all taxes
3 levied on a homestead, including special assessments,
4 charges, or user fees that are billed to the property by the
5 county treasurer.

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15 the owner during at least 9 months of each year;

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17 on the date of application; and

18 (f) the owner's total equity must equal at least 40%
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22 year's tax is not required to meet the condition imposed in
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25 Upon determination that an application complies with the

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- 24 (b) issue deferral vouchers as provided in [section
25 5];

1 (c) cause a warrant to be sent to the county treasurer
2 for the amount shown on signed vouchers received from that
3 county;

4 (d) file a lien on homesteads constituting real
5 property with the clerk of the county in which the property
6 is located in the amount of property tax deferred;

7 (e) endorse a lien on the certificate of ownership of
8 a homestead consisting of a mobile home that is not
9 considered an improvement to real property in the amount of
10 property tax deferred and return the certificate of
11 ownership to the division of motor vehicles;

12 (f) keep an account for each homestead upon which the
13 property tax has been deferred and accrue interest at the
14 rate of 7% a year on the outstanding balance;

15 (g) collect the balance due in each account when it
16 becomes due; and

17 (h) on or before July 1 of each year provide written
18 notice to each homestead owner who has deferred property
19 taxes stating:

- 20 (i) the total balance in his account; and
- 21 (ii) that he must reapply if he wishes to defer
22 property taxes for the current year.

23 (2) The department may adopt rules necessary to
24 administer the property tax deferral program.

25 Section 7. Payment of deferred property tax. (1) A

1 taxpayer may, at any time, pay all or part of the balance
2 due in his deferred property tax account.

3 (2) Except as provided in subsection (3), the entire
4 balance of the account is due 60 days after:

- 5 (a) the homestead owner dies;
- 6 (b) any of the conditions imposed in subsections
7 (1)(a) through (1)(e) of [section 4] is no longer met; or
- 8 (c) the homestead upon which the taxes have been
9 deferred is sold or a contract for its sale is signed.

10 (3) The entire balance of a deferred property tax
11 account for a homestead consisting of a mobile home not
12 taxed as an improvement to real property must be paid before
13 the mobile home may be moved.

14 (4) Any payment made upon the balance due in the
15 account must first be applied to the interest accrued on the
16 balance. The amount remaining after the interest has been
17 paid shall be applied against the balance.

18 (5) Deferred property tax and accrued interest are a
19 tax debt of the estate of the deceased homestead owner and
20 must be paid before any order for the distribution of the
21 decedent's property is entered.

22 (6) When the balance in a deferred property tax
23 account has been paid in full, the department shall record a
24 satisfaction of lien with the clerk of the county in which
25 the property is located or, if the lien was against a mobile

1 home, with the division of motor vehicles.

2 Section 8. Nature of the lien: The lien filed by the
3 department for deferred property taxes is equal in priority
4 to the lien imposed in 15-15-401.

5 Section 9. Enforcement of lien. If the balance of a
6 deferred property tax account becomes due and is not paid
7 within the time established in [section 7], the department
8 shall enforce the lien.

9 Section 10. Eligibility for other tax relief programs:
10 A homestead upon which the property tax is deferred is
11 eligible for classification in class fifteen, as described
12 in 15-6-116.

13 Section 11. Penalties. An owner who intentionally
14 supplies false information in his application to defer
15 property tax commits the offense of false swearing. All
16 deferred property tax and accrued interest become due
17 immediately upon his conviction.

18 Section 12. Effective date. This act is effective on
19 passage and approval.

-End-