

HOUSE BILL NO. 315

INTRODUCED BY REHBERG, ADDY, SANDS, HOLLIDAY, SALES,  
J. BROWN, PISTORIA, O'CONNELL, M. WILLIAMS, DEVLIN

IN THE HOUSE

January 22, 1985	Introduced and referred to Committee on Taxation.
January 24, 1985	Fiscal Note requested.
January 30, 1985	Fiscal Note returned.  Committee recommend bill do pass as amended. Report adopted.  Bill printed and placed on members' desks.
February 2, 1985	Second reading, do pass.  Considered correctly engrossed.
February 4, 1985	Third reading, passed. Ayes, 97; Noes, 3.  Transmitted to Senate.

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Taxation.
March 27, 1985	Committee recommend bill be concurrent in. Report adopted.
March 29, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Ayes, 47; Noes, 0.  Returned to House.

IN THE HOUSE

April 2, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.



1 recreational areas, pathways, sidewalks, private roads,  
2 street lights, main communication cables, main gas or  
3 electric lines, community water and sewer systems, or any  
4 other common element enumerated in [section 1], but not for  
5 park areas that serve the lots.

6 (2) The assessment provisions of subsection (1) are  
7 not negated by the existence or formation of a contract  
8 between the developer and lot purchasers or an agreement  
9 among lot purchasers that would attempt to obligate the  
10 developer or an association of lot owners to pay taxes on  
11 the common elements.

12 Section 3. Section 70-23-801, MCA, is amended to read:

13 "70-23-801. Removal from chapter -- recorded  
14 instrument -- consent of lienholders. (1) All of the unit  
15 owners may remove a property from the provisions of this  
16 chapter by executing and recording an instrument to that  
17 effect if the holders of all liens affecting any of the  
18 units consent thereto or agree, in either case by  
19 instruments duly recorded, that their liens be transferred  
20 to the undivided interest of the unit owner in the property  
21 after removal from the provisions of this chapter.

22 ~~(2) The tax collector for any taxing unit having a~~  
23 ~~lien for taxes or assessments shall have authority to~~  
24 ~~consent to such a transfer of any tax or assessment lien."~~

25 NEW SECTION. Section 4. Repealer. Sections 70-23-701

1 through 70-23-703, MCA, are repealed.

2 NEW SECTION. Section 5. Extension of authority. Any  
3 existing authority of the department of revenue to make  
4 rules on the subject of the provisions of this act is  
5 extended to the provisions of this act.

6 NEW SECTION. Section 6. Codification instruction.  
7 Sections 1 and 2 are intended to be codified as an integral  
8 part of Title 15, chapter 8, part 5, and the provisions of  
9 Title 15 apply to sections 1 and 2.

10 NEW SECTION. Section 7. Effective date --  
11 applicability. This act is effective on passage and approval  
12 and applies to taxable years beginning after December 31,  
13 1984.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN225-85

Form BD-15

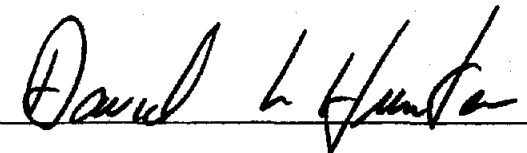
In compliance with a written request received January 24, 19 85, there is hereby submitted a Fiscal Note for House Bill 315 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to prorate taxes on common elements of a condominium project and common elements serving lots in a residential or commercial project, providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. It is estimated that this proposal will cause a \$250,000 per year loss in market value due to elimination of park land valuation.
2. If enacted, this proposal would cost the Department of Revenue \$132 in postage fees and \$2,000 for personal services in FY 1986.
3. 8.55% of the market value of \$250,000 equals a taxable value of \$21,375.
4. The University System levy is 6 mills; the School Foundation Program levy is 45 mills; the average mill levy in a Montana city is 275 mills.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date:

Jan 30, 1985  
HB 315

AFFECT ON REVENUE:

	<u>Under</u> <u>Current Law</u>	<u>FY 1986</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Under</u> <u>Current Law</u>	<u>FY 1987</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
University Levy	\$ 14,453,418	\$ 14,453,290	(\$ 128)	\$ 14,974,770	\$ 14,974,642	(\$ 128)
School Foundation Program	108,400,635	108,399,673	(\$ 962)	112,310,775	112,309,813	(\$ 962)
TOTAL	<u>\$122,854,053</u>	<u>\$122,852,963</u>	<u>(\$ 1,090)</u>	<u>\$127,285,545</u>	<u>\$127,284,455</u>	<u>(\$ 1,090)</u>

EXPENDITURES:

Personal Services	-0-	\$ 2,000	\$ 2,000	-0-	-0-	-0-
Operating Expenses	-0-	132	132	-0-	-0-	-0-
TOTAL	<u>\$ -0-</u>	<u>\$ 2,132</u>	<u>\$ 2,132</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

NET EFFECT

(\$3,222) (\$1,090)

EFFECT ON COUNTY/LOCAL REVENUE:

	<u>FY 1986</u>	<u>FY 1987</u>
Estimated decrease in revenue	\$4,788	\$4,788

APPROVED BY COMMITTEE  
ON TAXATION

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PRORATE TAXES ON  
COMMON ELEMENTS OF A CONDOMINIUM PROJECT AND COMMON ELEMENTS  
SERVING LOTS IN A RESIDENTIAL OR COMMERCIAL PROJECT;  
AMENDING SECTION 70-23-801, MCA; REPEALING SECTIONS  
70-23-701 THROUGH 70-23-703, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Undivided interest in common  
elements of condominium project. (1) Each unit of a  
condominium project is considered a parcel of real property  
subject to separate assessment and taxation. Each unit  
owner must be assessed for the unit owner's percentage of  
undivided interest in elements of the condominium project,  
except parks, owned in common by the unit owners. The  
percentage of undivided interest stated in a unit  
declaration is the figure to be used in assessing common  
elements under this section.

(2) Unless otherwise agreed by all the unit owners,  
for purposes of assessment common elements include:

(a) the land on which the building is located, except

any portion thereof included in a unit or made a limited  
common element by the declaration;

(b) the foundations, columns, girders, beams,  
supports, mainwalls, roofs, halls, corridors, lobbies,  
stairs, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas,  
outside storage spaces, private pathways, sidewalks, and  
private roads;

(d) installations of central services such as power,  
light, gas, hot and cold water, heating, refrigeration, air  
conditioning, waste disposal, and incinerating;

(e) the elevators, tanks, pumps, motors, fans,  
compressors, ducts, and in general all apparatus and  
installations existing for common use;

(f) the premises for the lodging of janitors or  
caretakers of the property; and

(g) all other elements of the building necessary or  
convenient to its existence, maintenance, and safety and  
normally in common use.

NEW SECTION. Section 2. Common elements serving  
residential or commercial development. (1) Each lot in a  
residential or commercial development, regardless of whether  
improved or unimproved, is considered a parcel of real  
property subject to separate assessment and taxation. Each  
lot owner is assessed on a pro rata basis for elements of

1 the development serving the lots in common, such as  
2 recreational areas, pathways, sidewalks, private roads,  
3 street lights, main communication cables, main gas or  
4 electric lines, community water and sewer systems, or any  
5 other common element enumerated in [section 1], but not for  
6 park areas that serve the lots.

7 (2) The assessment provisions of subsection (1) are  
8 not negated by the existence or formation of a contract  
9 between the developer and lot purchasers or an agreement  
10 among lot purchasers that would attempt to obligate the  
11 developer or an association of lot owners to pay taxes on  
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13 Section 3. Section 70-23-801, MCA, is amended to read:

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21 to the undivided interest of the unit owner in the property  
22 after removal from the provisions of this chapter.

23 {2}--The tax collector for any taxing unit having a  
24 lien for taxes or assessments shall have authority to  
25 consent to such a transfer of any tax or assessment lien."

1 NEW SECTION. Section 4. Repealer. Sections 70-23-701  
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3 NEW SECTION. Section 5. Extension of authority. Any  
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6 extended to the provisions of this act.

7 NEW SECTION. Section 6. Codification instruction.  
8 Sections 1 and 2 are intended to be codified as an integral  
9 part of Title 15, chapter 8, part 5, and the provisions of  
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12 applicability. This act is effective on passage and approval  
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outside storage spaces, private pathways, sidewalks, and  
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