

HOUSE BILL 161

Introduced by Peterson, et al.

1/13	Introduced
1/14	Referred to Taxation
1/16	Fiscal Note Requested
1/23	Fiscal Note Received
1/23	Fiscal Note Printed
1/24	Hearing
2/15	Committee Report--Bill Not Passed as Amended
2/16	Adverse Committee Report Adopted

1 House BILL NO. 161  
 2 INTRODUCED BY Peterson C. Smith, Vaughn  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROPERTY  
 5 HISTORICALLY ZONED FOR RESIDENTIAL USE, BUT REZONED AS  
 6 COMMERCIAL OR INDUSTRIAL, TO BE APPRAISED AS RESIDENTIAL  
 7 PROPERTY UNTIL DEVOTED TO AN INCOME-PRODUCING PURPOSE OTHER  
 8 THAN RESIDENTIAL RENTAL; CLARIFYING THE ROLLBACK TAX LIEN;  
 9 REDUCING THE ROLLBACK PERIOD TO 3 YEARS; ALLOWING  
 10 INSTALLMENT PAYMENTS OF THE ROLLBACK TAX; AMENDING SECTIONS  
 11 15-7-401 THROUGH 15-7-403, MCA; AND PROVIDING AN IMMEDIATE  
 12 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

15 **Section 1.** Section 15-7-401, MCA, is amended to read:

16 "15-7-401. Purpose. The legislature finds that the  
 17 rapid commercial and industrial growth in many Montana  
 18 cities and towns is engulfing homes property historically  
 19 zoned for residential use. Owners of these--homes such  
 20 property are often forced to pay higher property taxes upon  
 21 these-homes because their property is appraised on its  
 22 industrial or commercial use. The legislature intends that  
 23 houses-and-lots property in these areas of changing use  
 24 shall be appraised on their value as residential property  
 25 until devoted to an income-producing purpose other than

1 residential rental."

2 **Section 2.** Section 15-7-402, MCA, is amended to read:

3 "15-7-402. Application for residential appraisal of  
 4 certain land and improvements. (1) Any person wishing to  
 5 insure ensure that his residential-land-and-improvements-are  
 6 property that was historically zoned for residential use is  
 7 appraised as residential may file a signed application with  
 8 the department of revenue or its agents.

9 (2) In the application, the owner must:

10 (a) assert that the property is not being used for any  
 11 income-producing purpose or that it is being used only for  
 12 human habitation and is-the-principal-residence-of-the-owner  
 13 not for producing income other than residential rental  
 14 income;

15 (b) assert that the property does not contain more  
 16 than four residential units;

17 ~~(b)(c)~~ sign a statement pledging that if the property  
 18 is used for any income-producing purpose, it will continue  
 19 to--be--used--as--residential--property be used only for  
 20 habitation in not more than four residential units and not  
 21 for producing income other than residential rental income;  
 22 and

23 ~~(c)(d)~~ show that the statement has been filed with the  
 24 county clerk and recorder of the county in which the  
 25 property is located.

(3) When the department has approved an application for residential use filed under this section, the department and its agents shall consider only those indicia of value that the property has for residential use.

~~(4) -- Failure to file an application under this section shall not result in reclassification on real property unless there has been an actual change in use --~~

**Section 3.** Section 15-7-403, MCA, is amended to read:

**"15-7-403. Rollback tax -- computation -- payment.**

(1) (a) If land and improvements appraised as residential as a result of an application filed under 15-7-402 are changed to industrial or commercial use, the property is subject to a rollback tax in addition to the property tax levied on the property. The rollback tax is a lien on the property and is due and payable by the owner of the property at that attaches on January 1 following the time of the change in use.

(b) As used in this section, "rollback" means the period preceding the change-in-use date on which the tax lien attaches under subsection (1)(a), not to exceed 5 3 years, during which the property was appraised as residential.

(2) The department's agent shall determine the amount of rollback tax due on the property by:

(a) determining the taxable value of the property as

industrial or commercial property;

(b) multiplying this value by the sum of the annual mill levies applied in the taxing jurisdiction in which the land is located during the rollback period; and

(c) subtracting from this figure the actual property tax paid on the property during this period.

(3) The taxpayer may pay the rollback tax in three equal annual installments in addition to the payment of first-half taxes for each of the first 3 tax years beginning with the year in which the rollback tax lien attaches to the property.

(4) No penalty, interest, or other charges beyond the actual rollback tax may be imposed for the rollback period."

**NEW SECTION. Section 4.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 5.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB161, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring property historically zoned for residential use, but rezoned as commercial or industrial, to be appraised as residential property until devoted to an income-producing purpose other than residential rental; clarifying the rollback tax lien; reducing the rollback period to 3 years; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The language 'historically zoned' does not restrict the current intent of 15-7-401, MCA.
2. Reducing the rollback period from 5 to 3 years has no significant revenue impact.
3. There were 39,000 residential rental income producing properties of four or less units in Montana in 1980 (1980 Census). It is unknown how many of these units would be affected by the proposal.
4. The proposal will increase the number of applications for residential appraisal status (15-7-402, MCA).
5. The increase in applications will require additional Department of Revenue expenditures of \$9,500 in each year of the biennium.


FISCAL IMPACT:Revenue Impact:

The proposal amends 15-7-401, MCA, to include residential rental income producing units of four or less residential units. The proposal will result in lower appraisals for some residential rental income producing property. There is not adequate information with which to estimate the number of affected residential rental income producing properties or the resulting decrease in taxable value.

Expenditure Impact:

	FY '90		
	Current Law	Proposed Law	Difference
General Fund			
Personal Services	\$ 0	\$ 8,350	\$ 8,350
Operating Expenses	0	1,150	1,150
	\$ 0	\$ 9,500	\$ 9,500

	FY '91		
	Current Law	Proposed Law	Difference
	\$ 0	\$ 8,350	\$ 8,350
	0	1,150	1,150
	\$ 0	\$ 9,500	\$ 9,500

  
 RAY SHACKLEFORD, BUDGET DIRECTOR  
 Office of Budget and Program Planning

1/2/89  
 DATE

  
 MARY LOU PETERSON, PRIMARY SPONSOR  
 DATE

Fiscal Note for HB161, as introduced

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Fiscal Note Request, HB 161, as introduced

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TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Inclusion of 'historically zoned' language in 15-7-401, MCA, may restrict the original intent of the statute.

Inclusion of residential rental income producing properties of four units or less in 15-7-401 and 15-7-402, MCA, may produce inequities in the appraisal practices of residential rental income producing properties (the land of a 4-plex could be appraised differently than the land of a 5-plex across the street).

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