SENATE BILL 7

Introduced by Eck

1/03	Introduced
1/03	Referred to Taxation
1/03	Fiscal Note Requested
1/09	Hearing
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1/10	Fiscal Note Printed
	Died in Committee

SENATE BILL NO. 7

INTRODUCED BY Eck

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CLASS FOUR PROPERTY CLASSIFICATION AND THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; PROVIDING THAT THE APPLICATION FOR CLASS FOUR CLASSIFICATION MAY BE USED FOR THE RESIDENTIAL PROPERTY TAX CREDIT; ESTABLISHING A DUTY OF THE COUNTY TREASURER TO REPORT SUCH CREDITS; DEFINING THE TERMS "GROSS HOUSEHOLD INCOME", "GROSS RENT", AND "INFLATION FACTOR"; AMENDING SECTIONS 7-6-2111, 15-6-134, 15-6-151, 15-30-171, 15-30-172, 15-30-174, 15-30-176, AND 15-30-178, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 7-6-2111, MCA, is amended to read:

"**7-6-2111. Duties of county treasurer.** The county treasurer must:

(1) receive all money belonging to the county and all other money directed to be paid to him by law, safely keep the same, and apply and pay them out, rendering account thereof as required by law;

(2) keep an account of the receipt and expenditures of

all such money in books provided for the purpose, in which must be entered:

(a) the amount, the time when, from whom, and on what account all money was received by him;

(b) the amount, time when, to whom, and on what account all disbursements were made by him;

(3) so keep his books that the amounts received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, with the whole receipts and expenditures shown in one general or cash account;

(4) enter no money received for the current year on his account with the county for the past fiscal year until after his annual settlement for the past year has been made with the county clerk;

(5) disburse the county money only on county warrants issued by the county clerk, based on orders of the board of county commissioners, or as otherwise provided by law~~.~~;

(6) report the property tax payments of all households that were granted a residential property tax credit for the elderly, as provided in 15-30-171 through 15-30-179, on forms provided for that purpose by the department of revenue, on or before January 1 of the next succeeding tax year."

Section 2. Section 15-6-134, MCA, is amended to read:

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

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) the first $80,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least ~~10~~ 6 months a year as the primary residential dwelling of any person whose ~~total~~ gross household income ~~from--all--sources--including---otherwise tax-exempt--income-of-all-types~~, as defined in 15-30-171(4), is not more than $10,000 for a single person or $12,000 for a married couple, as adjusted according to subsection (2)(b)(ii);

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least 9 holes and not less than 3,000 lineal yards.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a) and (1)(b) is taxed at 3.86% of its market value.

(b) (i) Property described in subsection (1)(c) is taxed at 3.86% of its market value multiplied by a

percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$ 0 - $ 1,000	$ 0 - $ 1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%
3,001 - 4,000	3,601 - 4,800	30%
4,001 - 5,000	4,801 - 6,000	40%
5,001 - 6,000	6,001 - 7,200	50%
6,001 - 7,000	7,201 - 8,400	60%
7,001 - 8,000	8,401 - 9,600	70%
8,001 - 9,000	9,601 - 10,800	80%
9,001 - 10,000	10,801 - 12,000	90%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1986; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.

(4) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 3. Section 15-6-151, MCA, is amended to read:

"**15-6-151. Application for certain class four classifications.** (1) A person applying for classification of property described in subsection (1)(c) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) his income;

(b) the fact that he maintains the land and improvements as his primary residential dwelling, where

applicable; and

(c) such other information as is relevant to the applicant's eligibility.

(2) This application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.

(3) An application for a residential property tax credit for the elderly, as provided for in 15-30-171 through 15-30-179, filed on or after January 1, 1990, is an application for relief pursuant to this section if:

(a) the tax return is filed on or before March 1 of the year for which relief is sought;

(b) the taxpayer states on the return that he wishes it to be an application for relief; and

(c) the taxpayer agrees that the department and the county may use the information from the return as appropriate to provide relief under this section.

~~(3)~~(4) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 4. Section 15-30-171, MCA, is amended to read:

"**15-30-171. Residential property tax credit for elderly -- definitions.** As used in 15-30-171 through 15-30-179, the following definitions apply:

~~(1)--"income"--means--federal--adjusted--gross--income,-without--regard--to--loss,-as-that-quantity-is-defined-in-the-internal--Revenue--Code--of--the--United--States,--plus--all-nontaxable-income,-including-but-not-limited-to:~~

~~(a)--the---gross--amount--of--any--pension--or--annuity-(including-Railroad-Retirement-Act--benefits--and--veterans'-disability-benefits);~~

~~(b)--the-amount-of-capital-gains-excluded-from-adjusted-gross-income;~~

~~(c)--alimony;~~

~~(d)--support-money;~~

~~(e)--nontaxable-strike-benefits;~~

~~(f)--cash-public-assistance-and-relief;~~

~~(g)--payments--and--interest-on-federal,-state,-county,-and-municipal-bonds;-and~~

~~(h)--all-payments-under-federal-social-security;~~

~~(2)~~(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

~~(3)~~(2) "Claimant" means an individual natural person who is eligible to file a claim under 15-30-172.

~~(4)~~(3) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

~~(5)~~(4) (a) "Gross household income" means all ~~income-received-by-all-individuals-of-a-household--while--they--are-members--of--the--household.~~ monetary benefits of any kind received by each individual member of a household, without regard to losses of any kind and without regard to whether such benefits are taxable income under state or federal income tax laws. Monetary benefits include but are not limited to the following:

(i) 100% of the gains on all sales;

(ii) alimony, child support, or any other type of maintenance payments;

(iii) cash public assistance and relief (including the face value of all food stamps received);

(iv) life insurance and endowment contracts;

(v) social security and the gross amount of any pension or annuity (including railroad retirement benefits and veterans' disability benefits);

(vi) unemployment and workers' compensation benefits;

(vii) all tax refunds; and

(viii) any monetary benefits defined as income in the Internal Revenue Code or by this chapter.

(b) An individual qualified under 15-30-172 to apply for the credit provided for in 15-30-176 may subtract from the computation of gross household income an amount equal to $4,000 multiplied by the inflation factor provided for in this section, but in no case may gross household income be less than $0.

~~(6) "Household income" means $0 or the amount obtained by subtracting $4,000 from gross household income, whichever is greater.~~

~~(7)~~(5) "Homestead" means a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

~~(8)~~(6) "Department" means the department of revenue.

~~(9)~~(7) "Gross rent" means the total rent in cash or its equivalent actually paid, including any rent subsidy received by the renter or lessee for the rental or lease of

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the homestead, regardless of the homestead's taxable status, during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's length transaction with the landlord.

~~(10)~~(8) "Property tax paid" means general ad valorem taxes levied against the homestead, exclusive of special assessments, penalties, or interest and paid during the claim period.

~~(11)~~(9) "Rent-equivalent tax paid" means 15% of the gross rent.

(10) "Inflation factor" means the number determined by November 1 of each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 1987."

Section 5. Section 15-30-172, MCA, is amended to read:

"**15-30-172. Residential property tax credit for elderly -- eligibility.** (1) In order to be eligible to make a claim under 15-30-171 through 15-30-179, an individual:

(a) must have reached age 62 or older during the claim period for which relief is sought;

(b) must have resided in Montana for at least 9 months of that period; ~~and~~

(c) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period~~.~~; and

(d) must have a gross household income of less than $45,000 during the claim period.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period, provided that he occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period."

Section 6. Section 15-30-174, MCA, is amended to read:

"**15-30-174. Residential property tax credit for elderly -- filing date.** (1) (a) Except as provided in subsection (2), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. However, if the claimant is also applying for class four designation for his residential property and he chooses to apply on his tax return, he shall file his individual income tax return on or before March 1 of the year following the year for which relief is sought.

(b) For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought.

(2) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists. However, the extension granted may not exceed the statute of limitations provided for in this chapter. The department shall keep a record of each extension and the

reason for granting the extension.

(3) In the event that an individual who would have a claim under 15-30-171 through 15-30-179 dies before filing the claim, the personal representative of the estate of the decedent may file the claim."

Section 7. Section 15-30-176, MCA, is amended to read:

"**15-30-176. Residential property tax credit for elderly -- computation of relief.** The amount of the tax credit granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax paid, as reported by the claimant or as reported by the county treasurer pursuant to 7-6-2111, less the deduction specified in subsection (4).

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax paid on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4).

(4) Property tax paid and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
$ 0-999	$0
1,000-1,999	$0
2,000-2,999	the product of .006 times the household income
3,000-3,999	the product of .016 times the household income
4,000-4,999	the product of .024 times the household income
5,000-5,999	the product of .028 times the household income
6,000-6,999	the product of .032 times the household income
7,000-7,999	the product of .035 times the household income
8,000-8,999	the product of .039 times the household income
9,000-9,999	the product of .042 times the household income
10,000-10,999	the product of .045 times the household income
11,000-11,999	the product of .048 times the household income
12,000 & over	the product of .050 times the household income

(5) In no case may the credit granted exceed $400.

(6) Property taxes paid must be allocated on the basis of ownership during the claim period."

Section 8. Section 15-30-178, MCA, is amended to read:

"**15-30-178. Residential property tax credit for elderly -- proof of claim.** (1) A receipt showing property tax paid or a receipt showing gross rent paid, whichever is

appropriate, must be filed with each claim. In addition, each claimant must, at the request of the department, supply all additional information necessary to support his claim.

(2) The county treasurer is required to report the property tax payments of each household that was granted a credit in the prior year, on a form provided for that purpose by the department, on or before January 1 of the tax year, as provided in 7-6-2111."

Section 9. **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].

Section 10. **Applicability.** [This act] applies to tax years beginning on or after January 1, 1990.

Section 11. **Effective date.** [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB007 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the Class Four property classification and the residential property tax credit for the elderly; providing that the application for Class Four classification may be used for the residential property tax credit; establishing a duty of the County Treasurer to report such credits; defining the terms "gross household income", "gross rent", and "inflation factor", and providing an immediate effective date and an applicability date.

FISCAL IMPACT:

This proposal is intended to simplify and coordinate the application for low-income elderly property tax relief. Currently, the two programs are independent and confusing to elderly applicants. By coordinating the application elderly taxpayers who are unaware of the local tax relief will be provided property tax relief granted by previous legislative actions.

Allowing filers that apply for the elderly residential property tax credit to use the same form as an application for low-income property tax relief will provide for minimal saving in administrative expense.

Similarly, providing for a detailed definition of gross household income, and disallowing an elderly homeowner/renter credit for households having more than $45,000 of gross household income is expected to have only a minimal impact on revenues.

TECHNICAL NOTE:

The proposed legislation provides that the application for a residential property tax credit for the elderly, as provided for in 15-30-171 through 15-30-179, may be used as the application for relief pursuant to 15-6-151. However, the above bill title suggests that the application for relief under 15-6-151 may be used as application for relief under the elderly residential credit. The bill title should reverse this wording to be consistent with the body of the bill.

Ray Shackleford 1/7/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dorothy Eck
DOROTHY ECK , PRIMARY SPONSOR DATE

Fiscal Note for SB007 ,as introduced

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