SENATE BILL 191

Introduced by Aklestad, et al.

1/19	Introduced
1/19	Fiscal Note Requested
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3/27	Tabled in Committee

Senate BILL NO. 191

INTRODUCED BY AKLESTAD Bob Brown
HARP Stang Fanish [illegible] Foster M Fisher
Driscoll [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN PERSONS 62 YEARS OF AGE OR OLDER TO DEFER INCREASES IN THE MARKET VALUE OF THEIR PRIMARY RESIDENCES; ESTABLISHING ELIGIBILITY REQUIREMENTS; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 8] delegates rulemaking authority to the department of revenue. It is the intent of the legislature that the rules adopted by the department prescribe the forms and procedures to be used by eligible applicants. It is also the intent of the legislature that the rules adopted by the department prescribe the procedures for county clerk and recorders to record market value-deferred property.

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

NEW SECTION. **Section 1.** Definitions. As used in [sections 1 through 8], the following definitions apply:

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

(2) "Homestead" means the owner-occupied, principal

dwelling, either real or personal property, owned by the taxpayer and the land, not exceeding 5 acres, on which it is located. If the homestead is located in a multiunit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the land on which it is built. The percentage attributable to the unit is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any. The value of the land and common elements must be divided equally among the units.

(3) "Market value-deferred property" means the property on which the increase in market value is deferred under [sections 1 through 8].

(4) "Taxpayer" means an individual who has filed a claim for deferral under [section 3].

NEW SECTION. **Section 2. Establishment of market value for property tax purposes.** The market value of the homestead for the assessment and levying of property taxes of a taxpayer who satisfies the provisions of [sections 1 through 8] is the lowest of:

(1) the market value of the homestead to take effect on January 1, 1993, and thereafter, on the effective date when each revaluation cycle takes effect pursuant to 15-7-111;

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(2) the market value of the homestead on January 1, 1992, if the taxpayer would have then been eligible for the deferral under [sections 1 through 8]; or

(3) the market value of the homestead in the year immediately preceding the year in which the taxpayer becomes eligible for the deferral under [sections 1 through 8].

NEW SECTION. **Section 3. Claim for deferral in increase in market value of homestead.** (1) A person may elect to defer the increase in market value of the homestead as a result of revaluation pursuant to 15-7-111 by filing a claim for the deferral with the county assessor between January 1 and April 15 of the first year in which the deferral is claimed if the person:

(a) except as provided in [section 7(2)], is 62 years of age or older in the year in which the claim is filed;

(b) has been a resident of the state of Montana for 5 years or longer immediately preceding the year in which the claim is filed;

(c) has owned and occupied the homestead for 3 years or longer immediately preceding the year in which the claim is filed; and

(d) resides in the homestead for at least 8 months a year.

(2) The taxpayer claiming the deferral must, individually or with the taxpayer's spouse, own the fee

simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or two or more persons must together own or be purchasing the fee simple estate, with rights of survivorship, under a recorded instrument of sale.

(3) The county assessor shall forward each claim filed under subsection (1) to the department. The department shall determine if the property is eligible as market value-deferred property.

NEW SECTION. **Section 4. Application for deferral of market value.** (1) A claim for a deferral in the increase in market value of a homestead allowed under [sections 1 through 8] must be in writing on a form supplied by the department and must:

(a) describe the homestead;

(b) state that the homestead is maintained by the applicant as the applicant's primary residential dwelling;

(c) provide other information required by the department to show that the requirements of [section 3] have been met; and

(d) be signed and dated by the applicant. The signature is considered an affidavit that the contents of the claim are true.

(2) 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 occurred and may require a new statement of eligibility at any time it considers necessary.

NEW SECTION. **Section 5. Listing of market value-deferred property.** (1) If eligibility for market value-deferred property is established as provided in [sections 1 through 8], the department shall notify the county assessor and the county assessor shall show on the current assessment roll the market value of the property as determined under [section 2].

(2) The market value recorded under this section applies only to the provisions of [sections 1 through 8].

NEW SECTION. **Section 6. Loss of eligibility.** Any deferral in the increase in the market value of property terminates when:

(1) the taxpayer who claimed the deferral of the homestead dies;

(2) the property with respect to which deferral is claimed is sold, a contract to sell is entered into, or some person other than the taxpayer who claimed the deferral becomes the owner of the property;

(3) the market value-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from the

deferred property by reason of health; or

(4) the property is moved out of the county.

NEW SECTION. **Section 7. Election by spouse to continue market value deferral.** (1) Except as provided in subsection (2), when any of the circumstances listed in [section 6(1) through (3)] occur, a spouse who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its market value-deferred status by filing a claim within the time limitation and in the manner provided under [section 3] if the property is the homestead of the spouse and the spouse meets the requirements of [section 3].

(2) Notwithstanding the provisions of [section 3], a spouse who does not meet the age requirements of [section 3] but is otherwise qualified to continue the property in its market value-deferred status under subsection (1) may continue the market value-deferred status of the property by filing a claim within the time limitation and in the manner provided under [section 3].

NEW SECTION. **Section 8. Rulemaking authority.** The department may adopt rules to implement [sections 1 through 8].

NEW SECTION. **Section 9. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 15, chapter 8, and the provisions of Title 15, chapter 8, apply to [sections 1 through 8].

NEW SECTION. **Section 10. Applicability.** [This act] applies to tax years beginning on or after January 1, 1994.

NEW SECTION. **Section 11. Effective dates.** [Section 8 and this section] are 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 SB0191, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act allowing certain persons 62 years of age or older to defer increases in the market value of their primary residences; establishing eligibility requirements; granting rule making authority to the Department of Revenue; and providing effective dates and an applicability date.

ASSUMPTIONS:
1. In Montana there are 64,100 people aged 62 or older who own and occupy their housing unit. (U.S. Bureau of Census, 1990)
2. It is estimated that 57% of those meeting the age requirement would also be in a position to defer market value.
3. Average assessed value of the residential property is $43,368.
4. The average percent of assessed value deferred is estimated to be 20%.
5. The average taxable value deferred is $335. The statewide total deferred taxable value is $12,232,491. Of this total, 45% is within a city/town.
6. Average mill levies for the impacted property are 6.00 mills for universities, 95.00 mills for the school foundation program, 78.66 mills for counties, 140.97 mills for local schools, and 98.98 mills for city/town.
7. Given the applicability date the proposal will impact FY94 and FY95 expenditures and FY95 property tax revenues.

FISCAL IMPACT:
Revenues:
The proposal results in a total net reduction in property tax revenue of $4,466,951 in FY95 and subsequent fiscal years. The results are summarized in tables below:

Estimated Property Tax Revenue Loss Due to the Proposal

	FY94	FY95
Universities	$ 0	$ (73,395)
School Foundation	0	(1,162,087)
Total	$ 0	$(1,235,482)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Estimated Property Tax Revenue Loss Due to the Proposal

	FY94	FY95
Counties	$ 0	$ (962,208)
Local Schools	0	(1,724,414)
City/Town	0	(544,847)
Total	$ 0	$(3,231,469)

Dave Lewis 1-25-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

1/27/93
GARY AKLESTAD, PRIMARY SPONSOR DATE

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FISCAL IMPACT: (Continued)

Expenditures:
Implementation of this proposal would require additional total administrative expenses of $120,056 in FY94, and $37,717 in FY95.

Property Valuation	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	398.66	401.66	3.00	398.66	399.66	1.00
Personal Services	$ 11,885,655	$ 11,958,435	$ 72,780	$ 11,913,545	$ 11,934,985	$ 21.440
Operating Expenses	2,180,406	2,227,682	47,276	2,192,109	2,208,386	16,277
Equipment	222,278	222,278	0	205,648	0	0
Debt Service	269,800	269,800	0	269,800	0	0
Total	$ 14,558,139	$ 14,678,195	$ 120,056	$ 14,581,102	$ 14,618,819	$ 37,717
General Fund	$ 14,558,139	$ 14,678,195	$ 120,056	$ 14,581,102	$ 14,618,819	$ 37.717

TECHNICAL NOTES:
The proposal does not allow for increasing the market value of the affected property in cases of remodeling or new construction.

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