HOUSE BILL 47

Introduced by Elliott, et al.

12/01	Introduced
12/01	Referred to Taxation
12/01	First Reading
12/01	Fiscal Note Requested
12/07	Hearing
12/07	Fiscal Note Received
12/07	Fiscal Note Printed
12/14	Tabled in Committee

House BILL NO. 47

INTRODUCED BY Cobb, Franklin, Kennedy, Swanson, Bartlett, Wanzenried, Dowell, Larson

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING HOMEOWNER PROTECTION BY LIMITING FOR CERTAIN RESIDENTIAL PROPERTY OWNERS THE INCREASE IN MARKET VALUE DUE TO CYCLICAL REAPPRAISAL BY EXEMPTING FROM TAXATION, UNDER CERTAIN CONDITIONS, A PORTION OF THE INCREASE IN THE MARKET VALUE OF AN OWNER-OCCUPIED RESIDENCE; ALLOWING FOR THE TRANSFER OF THE EXEMPTION, UNDER CERTAIN CONDITIONS, FOR A NEW OWNER OR PURCHASER; AMENDING SECTIONS 15-6-134, 15-6-201, AND 15-7-102, 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 15-6-134, MCA, is amended to read:

"**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, including trailers or mobile homes used as a residence, except those specifically included in another class;

(c) the first $80,000 or less of the market value<u>, less the amount determined in [section 4],</u> of any improvement on

real property, including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than $10,000 for a single person or $12,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

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

(e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1 acre must be valued at market value.

(2) Class four property is taxed as follows:

(a) Except as provided in <u>15-6-201(1)(w),</u> 15-24-1402<u>,</u> or 15-24-1501, property described in subsections (1)(a),

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(1)(b), and (1)(e) 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 Head of Household	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, an adjustment may not 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 2. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land they occupy and furnishings in the buildings, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and

61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a

market value of less than $100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) beginning January 1, 1994, timber as defined in 15-44-102; **and**

(v) all trailers and semitrailers with a licensed gross weight of 26,000 pounds or more. For purposes of this subsection (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that is:

(i) designed and used only for carrying property;

(ii) designed and used to be drawn by a motor vehicle; and

(iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed so that some part of its weight and the weight of its load rests upon or is carried by another vehicle; and

(w) any owner-occupied residence, as defined in [section 3], and appurtenant land of 1 acre or less owned or under contract for deed and actually occupied for at least 9 months a year as the primary residential dwelling of a Montana resident, in the amount determined in [section 4].

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

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(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

NEW SECTION. **Section 3. Residential property tax exemption -- definitions.** For the purposes of [sections 3 through 5], the following definitions apply.

(1) "Current reappraisal cycle" means the reappraisal cycle in effect when a taxpayer applies for an exemption under [section 5].

(2) "Department" means the department of revenue as provided for in 2-15-1301.

(3) "Gross household income" means all income received by all individuals of a household while they are members of the household. The term includes 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 received under federal social security, except social security income paid directly to a nursing home.

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

(5) "Household income" means $0 or the amount obtained by subtracting $3,600 of total retirement benefits, if any, from gross household income, whichever is greater.

(6) "Owner-occupied residence" means a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes and appurtenant land of 1 acre or less.

NEW SECTION. **Section 4. Determination of residential property tax exemption -- limitations.** (1) Except as provided in this section, the amount of the exemption allowed under 15-6-201(1)(w) is determined by the formula E = A-MV(I) where:

(a) E is the exemption amount prior to the adjustment in subsection (4);

(b) A is the appraised value of the owner-occupied residence in effect on January 1 of the current reappraisal cycle;

(c) MV is the appraised value of the residence in effect on January 1 of the first year of the reappraisal cycle completed immediately prior to the current reappraisal cycle; and

(d) except as provided in subsection (2), I is the inflation factor determined by dividing the PCE, as defined in 15-6-134(2)(b)(iii), for June of the last year of the reappraisal cycle completed immediately prior to the current reappraisal cycle by the PCE for June of the first year of the last reappraisal cycle.

(2) In the case of an owner-occupied residence newly constructed or an existing residence purchased during the reappraisal cycle completed immediately prior to the current reappraisal cycle, the following apply to the formula in subsection (1):

(a) MV is the appraised value of the residence determined in the year following the year in which construction was completed or the existing residence was purchased; and

(b) I is the inflation factor determined by dividing the PCE for June of the last year of the reappraisal cycle completed immediately prior to the current reappraisal cycle by the PCE for the year following the year in which the new construction was completed or the existing residence was purchased.

(3) If the amount E is equal to or less than zero, then there is no exemption.

(4) The exemption amount determined under this section is reduced by 5% for every $1,000 of household income in excess of $40,000.

(5) For the purposes of this section, the appraised value in effect on January 1 of the first year of the current reappraisal cycle is the appraised value exclusive of changes in valuation as a result of expansion, addition, replacement, or remodeling of a residential improvement.

(6) Except as provided in subsection (2), the exemption amount is determined without regard to increases in valuation due to expansion, addition, replacement, or remodeling of a residential improvement.

NEW SECTION. **Section 5. Application for exemption -- transfer of exemption.** (1) A taxpayer applying for an exemption of property allowed in 15-6-201(1)(w) shall make an affidavit to the department, on a form provided by the department without cost, stating:

(a) the taxpayer's household income;

(b) the fact that the taxpayer maintains the land and improvements as the taxpayer's primary residential dwelling for at least 9 months of the year; and

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

(2) The application must be made by the later of April 1 in the year the applicant seeks the exemption or 15 days after the applicant receives notice under 15-7-102 in the year following the completion of the last reappraisal cycle. The application remains in effect during the current reappraisal cycle unless there is a change in the applicant's eligibility or a change in the ownership of the property. The taxpayer shall inform the department of any change in eligibility or change in ownership of the property. The department may inquire by mail whether any change in eligibility or ownership of the property has taken place and may require a new statement of eligibility at any time that it considers necessary.

(3) 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. This signed statement must 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.

(4) If the owner sells the residence for which an exemption is received, the new owner or purchaser is entitled to an exemption as provided in [section 4] in the year following the change in ownership if the new owner:

(a) satisfies the requirements under 15-6-201(1)(w);

(b) has household income of less than $60,000; and

(c) applies for the exemption under this section.

(5) The actual amount of the exemption for a new owner is determined with regard to the assessed value of the residence after the transfer and with regard to the new owner's or purchaser's household income.

Section 6. Section 15-7-102, MCA, is amended to read:

"**15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) The department of revenue shall, through its agent as specified in subsection (2), mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) (a) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department,

containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) For tax years beginning after December 31, 1996, the notice must include the following information:

(i) the valuation of the owner-occupied residence in effect on January 1 of the first year of the last reappraisal cycle;

(ii) the valuation of the owner-occupied residence as a result of reappraisal, exclusive of expansion, addition, replacement, or remodeling of improvements; and

(iii) the amount of appraised valuation eligible for exemption under 15-6-201(1)(w).

~~(b)~~(c) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 15 days after

receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 15 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

NEW SECTION. **Section 7. Codification instruction.**

[Sections 3 through 5] are intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [sections 3 through 5].

NEW SECTION. **Section 8. Effective date -- applicability.** [This act] is effective on passage and approval and applies to tax years and reappraisal cycles beginning after December 31, 1996.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0047, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing homeowner protection by limiting for certain residential property owners the increase in market value due to cyclical reappraisal by exempting from taxation, under certain conditions, a portion of the increase in the market value of an owner-occupied residence; allowing for the transfer of the exemption, under certain conditions, for a new owner or purchaser; and providing an immediate effective date and an applicability date.

FISCAL IMPACT:

Expenditures:
The proposal would not increase Department of Revenue administrative costs in the current biennium. However, there would be impacts on administrative costs for computer upgrading and software programming in the next biennium to meet the requirements of administering this bill.

Revenues:
Because the department's property tax database does not contain information on incomes related to individual residential properties, there is insufficient data upon which to base a reliable estimate of the revenue impact of this proposal.

Dave Lewis 12-7
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

12-7-93
JIM ELLIOTT, PRIMARY SPONSOR DATE
Fiscal Note for HB0047, as introduced

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