

SENATE BILL NO. 90

INTRODUCED BY C. GLIMM, M. NOLAND, A. REGIER, D. FERN, M. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROPERTY TAX ASSISTANCE FOR PRIMARY RESIDENCES; PROVIDING THAT THE ASSISTANCE IS FUNDED WITH LODGING TAX REVENUE AND RENTAL CAR TAX REVENUE; PROVIDING THAT THE PROPERTY TAX ASSISTANCE IS DISTRIBUTED TO COUNTIES TO BE DISTRIBUTED AS A CREDIT TO CERTAIN PRIMARY RESIDENCES; REQUIRING THE DEPARTMENT OF REVENUE TO CERTIFY PRIMARY RESIDENCES; PROVIDING A PENALTY FOR FALSE OR FRAUDULENT PRIMARY RESIDENCE APPLICATIONS; PROVIDING AN APPEALS PROCESS FOR CERTIFICATION OF A PRIMARY RESIDENCE; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; ELIMINATING REPORTING REQUIREMENTS; AMENDING SECTIONS 15-7-102, 15-10-420, 15-15-101, 15-15-102, 15-15-103, 15-16-101, 15-17-125, ~~15-65-424~~, 15-68-820, 22-3-1303, 22-3-1304, AND 22-3-1307, ~~AND 44-4-1506, MCA; REPEALING SECTION 90-1-122, MCA;~~ AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Property tax assistance for primary residences. (1) A county shall provide property tax assistance to owners of primary residences certified by the department of revenue pursuant to [section 3]. The assistance is provided with funding from the state property tax assistance account distributed to the county as provided in [section 2].

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall provide the property tax assistance distributed pursuant to [section 2] to each primary residence by listing the property tax assistance amount as a credit on the property tax bill as provided in 15-16-101(2)(a)(v).

(b) If the property tax assistance calculated pursuant to [section 2(2)] exceeds the property tax billed for an individual property, the county may retain the revenue that exceeds the property tax billed.

(3) The owner of a primary residence that receives property tax assistance under this section is not prohibited from receiving property tax assistance under another property tax assistance program.

(4) State property tax assistance provided to counties pursuant to this section may not affect the maximum mill calculation in 15-10-420.

NEW SECTION. Section 2. State property tax assistance account. (1) There is a state property tax assistance account in the state special revenue fund established in 17-2-102. The revenue allocated to the account as provided in ~~15-65-121~~ and 15-68-820 must be deposited in the account and distributed as provided in this section.

(2) (a) At the end of each fiscal year, the department shall determine the amount of property tax assistance per primary residence by subtracting the amounts listed in subsection (2)(c) and dividing the remainder by the total number of primary residences certified pursuant to [section 3].

(b) By August 31 of each year, the department shall distribute to each county the property tax assistance per primary residence multiplied by the number of primary residences within the county. The county shall deposit the money in the account in which property tax revenue is held and use the distribution to provide property tax assistance pursuant to [section 1].

(c) The department may retain 2% of the revenue allocated to the account for administering the certification of primary residences under [section 3] and shall retain \$100,000 for appeals granted under [section 5].

(3) The department shall provide each county with a list of property in the county that the department certifies pursuant to [section 3] qualifies as a primary residence to enable the county treasurer to administer the property tax assistance.

(4) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.

NEW SECTION. Section 3. Certification of primary residence for state property tax assistance -
- rulemaking -- definition. (1) To receive state property tax assistance pursuant to [section 1], the owner of a

primary residence shall apply to the department for certification of the primary residence.

(2) (a) To receive state property tax assistance for the tax year in which the application is first made, the owner shall apply electronically or by mail on a form prescribed by the department and postmarked by March 1. Approved applications received electronically or postmarked after March 1 apply to the following tax year.

(b) Once approved, the certification remains effective until:

(i) there is a change in ownership of the property;

(ii) the owner no longer uses the dwelling as a primary residence; or

(iii) the owner applies for state property tax assistance for a different primary residence.

(c) If certification is terminated pursuant to subsection (2)(b), the owner shall submit a new application to the department to reestablish the certification.

(d) An application for state property tax assistance must be submitted on a form prescribed by the department and must contain:

(i) a written declaration made under penalty of perjury that the applicant owns and maintains the land and improvements as the primary residence. The application must state the penalty provided for in [section 4].

(ii) the geocode or other property identifier for the primary residence for which the applicant is requesting the state property tax assistance;

(iii) the social security number of the applicant; and

(iv) any other information required by the department that is relevant to the applicant's eligibility.

(3) (a) Except as provided in subsection (3)(b), class four residential property owned by an entity is not eligible to receive the state property tax assistance.

(b) The trustee of a grantor revocable trust may apply for state property tax assistance for a primary residence on behalf of the trust if the dwelling meets the definition of a primary residence for the grantor.

(4) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this section.

(5) (a) For the purpose of this section and [sections 4 and 5], "primary residence" means a class

1 four residential property:

2 (i) that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home,
3 or mobile home;

4 (ii) in which an owner can demonstrate the owner owned and lived for at least 7 months of the
5 year;

6 (iii) that is the owner's only primary residence;

7 ~~(iv) THAT IS NOT SUBJECT TO THE TAX RATE PROVIDED FOR IN 15-6-134(3)(B) FOR A SINGLE-FAMILY~~
8 ~~RESIDENTIAL DWELLING IN EXCESS OF \$1.5 MILLION; and~~

9 ~~(iv) for which the value of the residential dwelling is \$1 million or less; and~~

10 ~~(iv)(v)~~ for which the owner made payment of the assessed Montana property taxes.

11 (b) An owner who cannot meet the requirements of subsection (5)(a)(ii) because the owner's
12 primary residence changed during the tax year to another primary residence may still qualify if the owner paid
13 the Montana property taxes while residing in each primary residence for a total of at least 7 consecutive months
14 of the tax year. The department shall establish rules for determining the property tax assistance when the
15 primary residences are in different counties.

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17 NEW SECTION. **Section 4. State property tax assistance -- penalty for false or fraudulent**

18 **application.** A person who files a false or fraudulent certification of primary residence for state property tax
19 assistance under [section 3] is subject to criminal prosecution under the provisions of 45-7-202 and may be
20 prohibited from claiming state property tax assistance for up to 10 years. If false or fraudulent property tax
21 assistance has been issued by the county, the amount of assistance granted may be recovered as any other
22 tax owed the county. If property tax assistance becomes due and owing, the department may issue a warrant
23 for distraint as provided in Title 15, chapter 1, part 7.

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25 NEW SECTION. **Section 5. Appeal of denial of certification of primary residence.** (1) (a) If the
26 department denies an application for certification of a primary residence, the owner may request an informal
27 review of the denial by submitting an objection on written or electronic forms provided by the department for
28 that purpose in a manner prescribed by the department. The objection must be made no later than 30 days