

HOUSE BILL NO. 836

INTRODUCED BY S. ROSENZWEIG

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PROPERTY TAX DEFERRAL LOAN PROGRAM; PROVIDING THAT THE LOAN IS FOR PROPERTY TAXES THAT EXCEED 2022 PROPERTY TAXES; PROVIDING THAT THE PROGRAM IS AVAILABLE TO CERTAIN SENIOR CITIZENS AND ~~ACTIVE-DUTY MILITARY~~; PROVIDING ELIGIBILITY REQUIREMENTS; PROVIDING REPAYMENT PROVISIONS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-7-102, 15-16-101, AND 15-17-125, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 6], the following definitions apply:

- (1) "Board" means the board of housing created in 2-15-1814.
- (2) "Equity" means the difference between the market value of a property as determined by the department of revenue and the outstanding balance of all liens on the property.
- (3) "Primary residence" means a dwelling:
 - (a) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for which a property tax deferral loan is made;
 - (b) that is the only residence for which the taxpayer receives a property tax deferral loan; and
 - (c) determined using the indicators provided for in the rules authorized by [section 6].
- (4) "Property tax" means taxes levied against the primary residence, including special assessments and fees but excluding penalties or interest during the tax year.
- (5) "Property tax deferral loan" means a property tax deferral loan made pursuant to [section 3].
- (6) "Qualifying property owner" means an individual who meets the eligibility requirements provided for in [section 2].
- (7) "Qualifying property taxes" means property taxes for which a qualifying property owner

1 receives a property tax deferral loan.

2 (8) "Qualifying residence" means a primary residence for which a qualifying property owner
3 qualifies for a property tax deferral loan.

4 (9) "Resident" means an individual who maintains a permanent place of abode within the state and
5 who has not established a residence elsewhere even though the individual may be temporarily absent from the
6 state.

7
8 **NEW SECTION. Section 2. Property tax deferral loan program -- eligibility.** (1) There is a property
9 tax deferral loan program that provides a property tax deferral loan for a taxpayer that meets the qualifications
10 of [sections 1 through 6].

11 (2) To qualify for a property tax deferral loan, the applicant must meet the eligibility requirements of
12 subsection (3)(a), OR (3)(b), ~~or (3)(c)~~ and:

13 (a) be a resident of Montana;

14 (b) meet the household income requirements used by the board for homeownership programs
15 administered by the board;

16 (c) own and occupy a primary residence for 5 years or more with an assessed value for property
17 tax purposes of no more than 25% higher than the purchase price limits for homeownership programs
18 administered by the board; and

19 (d) carry hazard insurance coverage on the primary residence in an amount equal to the lesser of:

20 (i) 100% of the insurable value of the improvements as established by the property insurer; or

21 (ii) the unpaid principal balance of the property tax deferral loan, as long as the insurance
22 coverage equals the industry standard minimum amount required to compensate for damage or loss on a
23 replacement cost basis.

24 (3) The following taxpayers are eligible for a property tax deferral loan:

25 (a) a person who is 62 years of age or older and who has a minimum of 20% equity in the primary
26 residence; OR

27 ~~(b) a person who is serving on active duty in the regular armed forces, who entered into active duty~~
28 ~~from Montana, and who has a minimum of 10% equity in a primary residence; or~~

(~~e~~)(B) a surviving spouse of a qualifying property owner who had a property tax deferral loan that was outstanding in the year of the qualifying property owner's death and who:

(i) is an owner of the qualifying residence with a minimum of 20% equity in the qualifying residence;

(ii) resided in the qualifying residence at the time of the qualifying property owner's death; and

(iii) continues to reside in the qualifying residence.

NEW SECTION. Section 3. Property tax deferral loan program -- loan provisions. (1) A qualifying property owner may apply for a property tax deferral loan for the purpose of paying increased property taxes on a primary residence.

(2) Subject to subsection (6), the initial amount of the property tax deferral loan may not exceed the difference between property taxes levied on the primary residence for the current tax year and property taxes levied in tax year 2022. Once approved for the property tax deferral loan program, a qualifying property owner who continues to meet the eligibility requirements of [section 2] may increase the property tax deferral loan in subsequent years by annually certifying to the board the property taxes billed for the tax year. The annual increase to a property tax deferral loan may not exceed the difference between property taxes levied in the current year and property taxes levied in 2022.

(3) The amount of qualifying property taxes paid under subsection (2) constitutes a property tax deferral loan made by the board to the qualifying property owner. For an application approved under subsection (1), the board shall pay to the county treasurer the qualifying property taxes.

(4) The amount of a property tax deferral loan under subsection (3), together with interest, is a debt owing by the qualifying property owner to the state and must be a lien on the qualifying residence.

(5) A property tax deferral loan accrues simple interest at an annual rate of the prime mortgage interest rate or 5%, whichever is less. Interest on the property tax deferral loan begins to accrue on the date that the qualifying property taxes are paid to the county treasurer.

(6) The property tax deferral loan amount may not exceed the amount of property taxes paid less any tax credit claimed for property taxes paid, including but not limited to the residential property tax credit for the elderly provided for in 15-30-2340.

(7) When providing information for a property tax deferral loan, an applicant is subject to the false swearing penalties established in 45-7-202.

NEW SECTION. Section 4. Property tax deferral loan program -- repayment of loan. (1) A property tax deferral loan, together with interest, is payable on the earliest of the following:

(a) except as provided in subsection (2), within 90 days after the death of the qualifying property owner to whom the loan is made;

(b) the date of the transfer or sale of the qualifying residence for which the property tax deferral loan was made; or

(c) upon a determination by the board that the property owner gave false or fraudulent information when applying for the loan.

(2) Upon the death of the qualifying property owner, a surviving spouse who meets the eligibility requirements of [section 2] may apply to the board to assume the property tax deferral loan.

NEW SECTION. Section 5. Property tax deferral loan program account. (1) (a) There is a property tax deferral loan program account in the housing authority enterprise fund provided for in 90-6-107. The money in the account is allocated to the board for the purpose of providing loans to qualifying property owners.

(b) Money in the property tax deferral loan program account must be disbursed as loans pursuant to [section 3].

(2) The state treasurer shall transfer ~~\$50~~ \$6 million from the general fund to the account by July 1, 2025.

(3) Money deposited in the account must be used for the program authorized in [sections 1 through 6] and may not be used to pay the expenses of any other program or service administered by the board.

(4) The board may accept contributions, gifts, and grants for deposit into the fund. The money must be used in accordance with the provisions of [sections 1 through 6].

(5) The costs incurred by the board in administering the account may be paid from the account.

(6) Interest and principal paid on loans from the account must be repaid to the account.

(7) Interest income generated by investment of the principal of the account must be retained in the account.

NEW SECTION. **Section 6. Property tax deferral loan program -- rulemaking.** The board shall adopt rules to implement the property tax deferral loan program provided for in [sections 1 through 6].

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

"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals. (1) (a)

Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, ~~and~~ the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341, and the property tax deferral loan program provided for in [sections 1 through 6];

(ii) the total amount of mills levied against the property in the prior year;

(iii) the market value for the prior reappraisal cycle;

(iv) if the market value has increased by more than 10%, an explanation for the increase in

1 valuation;

2 (v) a statement that the notice is not a tax bill; and

3 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
4 on the notice and returning it to the department.

5 (c) When the department uses an appraisal method that values land and improvements as a unit,
6 including the sales comparison approach for residential condominiums or the income approach for commercial
7 property, the notice must contain a combined appraised value of land and improvements.

8 (d) Any misinformation provided in the information required by subsection (1)(b) does not affect the
9 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

10 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
11 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
12 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
13 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
14 changes over the prior tax year.

15 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
16 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
17 15-1-402.

18 (c) The department is not required to mail or provide electronically the notice to a new owner or
19 purchaser under contract for deed unless the department has received the realty transfer certificate from the
20 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
21 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
22 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

23 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
24 market value of the property as determined by the department or with the classification of the land or
25 improvements, the owner may request an informal classification and appraisal review by submitting an
26 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
27 notice and returning it to the department in a manner prescribed by the department.

28 (i) For property other than class three property described in 15-6-133, class four property

described in 15-6-134, class ten property described in 15-6-143, and centrally assessed property described in 15-23-101, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection may be made only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer shall make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For centrally assessed property described in 15-23-101(2)(a), the objection must be submitted within 20 days from the date on the notice. A taxpayer may submit an objection up to 10 days after this deadline on request to the department.

(iv) (A) For centrally assessed property described in 15-23-101(2)(b) and (2)(c), an objection to the valuation or classification may be made only once each valuation cycle. An objection must be made in writing within the time period specified in subsection (3)(a)(iii) for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made after the deadline specified in subsection (3)(a)(iii) will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer shall make the objection in writing no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within the time period specified in subsection (3)(a)(iii).

(B) If a property owner has exhausted the right to object to a valuation, as provided for in subsection (3)(a)(iv)(A), the property owner may ask the department to consider extenuating circumstances to adjust the value of property described in 15-23-101(2)(b) or (2)(c). Occurrences that may result in an adjustment to the value include but are not limited to extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary business operations, that are not expected to recur frequently, and that are not normally considered in the evaluation of the operating results of a

business, including bankruptcies, acquisitions, sales of assets, or mergers.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector or a representative of the objector, and only if the objector or representative signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property;

(ii) sales data used by the department to value residential property in the property taxpayer's market model area; and

(iii) if the cost approach was used by the department to value residential property, the documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) 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 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 consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. 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 may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or by checking a box on the notice; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice 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) Except as provided in 15-2-302 and 15-23-102, if a 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 Montana tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the Montana tax appeal board may consider the actual selling price of the property, independent appraisals of the property, negative property features that differentiate the subject property from the department's comparable sales, 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 Montana 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."

Section 8. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located;

(v) the amount of the total tax due itemized by mill levy that is levied as city tax, county tax, state tax, school district tax, and other tax;

(vi) an indication of which mill levies are voted levies, including voted levies to impose a new mill levy, to increase a mill levy that is required to be submitted to the electors, or to exceed the mill levy limit provided for in 15-10-420;

(vii) except as provided in subsection (2)(c), an itemization of the taxes due for each mill levy and a

comparison to the amount due for each mill levy in the prior year; and

(viii) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341, and the property tax deferral loan program provided for in [sections 1 through 6].

(b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to draw attention, a statement that a tax lien is attached to the property, that failure to respond will result in loss of property, and that the taxpayer may contact the county treasurer for complete information.

(c) The information required in subsection (2)(a)(vii) may be posted on the county treasurer's website instead of being included on the written notice.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared."

Section 9. Section 15-17-125, MCA, is amended to read:

"15-17-125. Attachment of tax lien and preparation of tax lien certificate. (1) (a) The county treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are delinquent and for which proper notification was given as provided in 15-17-122 and subsection (4) of this section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless the tax lien is assigned pursuant to 15-17-323.

(b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for which proper notice was not given.

(2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must

1 contain:

2 (a) the date on which the property taxes became delinquent;

3 (b) the date on which a property tax lien was attached to the property;

4 (c) the name and address of record of the person to whom the taxes were assessed;

5 (d) a description of the property on which the taxes were assessed;

6 (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;

7 (f) a statement that the tax lien certificate represents a lien on the property that may lead to the
8 issuance of a tax deed for the property;

9 (g) a statement specifying the date on which the county or an assignee will be entitled to a tax
10 deed; and

11 (h) an identification number corresponding to the tax lien certificate.

12 (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate
13 must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be
14 mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the
15 person may contact the county treasurer for further information on property tax liens.

16 (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the
17 pending attachment of a tax lien to the person to whom the property was assessed. The notice must include the
18 information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of
19 the availability of all the property tax assistance programs available to property taxpayers, including the
20 property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the
21 elderly under 15-30-2337 through 15-30-2341, and the property tax deferral loan program provided for in
22 [sections 1 through 6]. The notice must have been mailed at least 2 weeks prior to the date on which the county
23 treasurer attaches the tax lien.

24 (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."
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26 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 6] are intended to be
27 codified as an integral part of Title 90, chapter 6, part 1, and the provisions of Title 90, chapter 6, part 1, apply
28 to [sections 1 through 6].

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