

SENATE BILL NO. 24

INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONDOMINIUM, TOWNHOME, AND
5 TOWNHOUSE LAWS; PROHIBITING THE DEPARTMENT OF REVENUE FROM REQUIRING A PERCENTAGE
6 OF CONDOMINIUM OWNERS IN EXCESS OF THE AMOUNT REQUIRED BY THE CONDOMINIUM'S
7 DECLARATION FOR THE CONVERSION OF CONDOMINIUMS TO TOWNHOMES OR TOWNHOUSES;
8 REQUIRING A DECLARATION TO STATE THE APPORTIONED SIZE OF THE TOTAL ORIGINAL PARCEL;
9 REQUIRING A DECLARATION TO STATE THE PERCENTAGE OF OWNERS ALLOWED TO AMEND THE
10 DECLARATION IF LESS THAN 100%; AMENDING SECTIONS 15-8-111 AND 70-23-301, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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15 **Section 1.** Section 15-8-111, MCA, is amended to read:

16 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be
17 assessed at 100% of its market value except as otherwise provided.

18 (2) (a) Market value is the value at which property would change hands between a willing buyer and a
19 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of
20 relevant facts.

21 (b) If the department uses construction cost as one approximation of market value, the department shall
22 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional
23 obsolescence, or economic obsolescence.

24 (c) If the department uses the capitalization-of-net-income method as one approximation of market value
25 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely
26 upon the two methods that provide a similar market value as the better indicators of market value.

27 (d) Except as provided in subsection (4), the market value of special mobile equipment and agricultural
28 tools, implements, and machinery is the average wholesale value shown in national appraisal guides and
29 manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules
30 showing the average wholesale value when a national appraisal guide does not exist.

1 (3) In valuing class four residential and commercial property described in 15-6-134, the department shall
2 conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass
3 appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the
4 department shall use information available from any source considered reliable. Comparable properties used for
5 valuation must represent similar properties within an acceptable proximity of the property being valued.

6 (4) The department may not adopt a lower or different standard of value from market value in making
7 the official assessment and appraisal of the value of property, except:

8 (a) the wholesale value for agricultural implements and machinery is the average wholesale value
9 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment
10 dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the
11 department shall use a comparable publication or wholesale value category.

12 (b) for agricultural implements and machinery not listed in an official guide, the department shall prepare
13 a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

14 (c) (i) for condominium property, the department shall establish the value as provided in subsection (5);
15 and

16 (ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in
17 a manner established by the department by rule; and

18 (d) as otherwise authorized in Titles 15 and 61.

19 (5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is available,
20 the department shall use the comparable sales method to appraise residential condominium units. Because the
21 undivided interest in common elements is included in the sales price of the condominium units, the department
22 is not required to separately allocate the value of the common elements to the individual units being valued.

23 (b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the
24 department, the department shall use the capitalization-of-net-income method to appraise commercial
25 condominium units. Because the undivided interest in common elements contributes directly to the
26 income-producing capability of the individual units, the department is not required to separately allocate the value
27 of the common elements to the individual units being valued.

28 (c) If sufficient, relevant information on comparable sales is not available for residential condominium
29 units or if sufficient, relevant information on income is not made available for commercial condominium units, the
30 department shall value condominiums using the construction-cost method. When using the construction-cost

1 method, the department shall determine the value of the entire condominium project and allocate a percentage
2 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the
3 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether
4 the percentage expressed in the declaration conforms to market value.

5 (d) For property to be converted from condominium units to townhome or townhouse units, the
6 department may not require the consent of more unit owners than required by the most recently recorded
7 declaration of the condominium. For the purposes of this subsection (5)(d), the definitions in 70-23-102 apply.

8 (6) For purposes of taxation, assessed value is the same as appraised value.

9 (7) The taxable value for all property is the percentage of market or assessed value established for each
10 class of property.

11 (8) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
12 follows:

13 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
14 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
15 15-23-516, 15-23-517, or 15-23-518.

16 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

17 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the
18 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as
19 agricultural lands for tax purposes.

20 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value
21 minus any portion of market value that is exempt from taxation under 15-6-222.

22 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the
23 land when valued as forest land.

24 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described
25 in 15-23-205.

26 (9) Land and the improvements on the land are separately assessed when any of the following
27 conditions occur:

28 (a) ownership of the improvements is different from ownership of the land;

29 (b) the taxpayer makes a written request; or

30 (c) the land is outside an incorporated city or town."

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Section 2. Section 70-23-301, MCA, is amended to read:

"70-23-301. Contents of declaration. A declaration must contain:

- (1) a description of the land, whether leased or in fee simple, on which the building is located or is to be located;
- (2) the name by which the property will be known and a general description of the building, including the number of stories and basements, the number of units, and the principal materials of which it is constructed;
- (3) the unit designation, location, ~~approximate area of each unit~~ apportioned size of the total original parcel, and any other data necessary for proper identification;
- (4) a description of the general common elements and the percentage of the interest of each unit owner in the common elements;
- (5) a description of the limited common elements, if any, stating to which units their use is reserved and in what percentage;
- (6) a statement of the use for which the building and each of the units is intended;
- (7) the name of a person to receive service of process in the cases provided in 70-23-901 and the residence or place of business of the person which must be within the county in which the property is located;
- (8) an exhibit containing certification from the applicable local government that the condominiums, townhomes, or townhouses are either exempt from review under 76-3-203 or have been approved following review under Title 76, chapter 3, parts 5 and 6; ~~and~~
- (9) if less than 100%, the percentage of unit owners required to amend the declaration, except that the percentage of unit owners may not be less than 75%; and
- ~~(10)~~ any other details regarding the property that the person executing the declaration considers desirable."

NEW SECTION. **Section 3. Saving clause.** [Section 2] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [Section 2] applies to declarations recorded on or after [the

1 effective date of this act].

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