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As of: September 10, 2012 (8:43am)

LC9501

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act requiring periodic review of certain real property that is exempt from taxation; providing for court review of written decisions regarding loss of exemption eligibility; requiring a public listing and mapping of certain real property that is exempt from taxation; establishing a state special revenue account; establishing a fee to offset review costs; providing rulemaking authority; amending section 15-16-203, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Periodic review of real property tax exemption -- rulemaking.** (1) The department shall review real property tax exemptions utilized by property owners or entities under the provisions of 15-6-201(1)(b), (1)(c), (1)(e) through (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, 15-6-227, and 15-6-230 and make determinations regarding continued eligibility for tax exempt status as provided in [section 2].

(2) The department shall review and organize all available documentation utilized as part of the initial decision to grant the real property tax exemption, including but not limited to the type of information described in subsection (5), and provide the

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information to the public as provided in [section 3]. This stage of the review must be completed by July 1, 2014.

(3) The department shall update the information in subsection (2) by requiring an application fee as provided in [section 4] and a renewal application that contains the following information:

(a) a specific description of the use of exempt real property;

(b) if the real property or a portion of the real property is rented or loaned to another person or entity, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

(i) the property that is rented or loaned;

(ii) the amount of the rent or other consideration paid or received;

(iii) the name of the party to whom the property is rented or loaned;

(iv) how the property is being used; and

(v) the monthly amount of maintenance and operation costs related to rented or loaned property if an owner or entity is claiming an exemption for property leased to another party.

(c) a statement indicating whether the real property was used to generate any unrelated business taxable income as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended;

(d) an accurate description of the real property;

(e) a legal description of the real property;

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(f) if requested by the department, for property listed in subsection (3)(b) or (3)(c):

(i) an accurate map identifying by dimension the use of all real property that shows buildings, building sites, building square footage, parking areas, landscaping, vacant areas, and floor plans of the buildings;

(ii) building permits; and

(iii) zoning changes.

(g) subject to subsection (7), any necessary information that is missing from the department's records; and

(h) a statement certifying the truth and accuracy of the information in the application.

(4) It is the responsibility of the owner or entity to provide sufficient information with the renewal application to establish continued eligibility for the exemption. Updated information may be submitted electronically in a format provided or approved by the department. The renewal application update provided for in this section must be completed by the department for the first time by July 1, 2015, and each succeeding 5 years.

(5) The information the department may request includes but is not limited to:

(a) applications;

(b) documents evidencing ownership, including deeds, contracts for deeds, and notices of purchaser's interest;

(c) articles of incorporation;

(d) constitution and by-laws;

(e) internal revenue service tax exempt status letters;

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(f) a letter explaining the specific use of the property;

(g) photographs of the property;

(h) proof that the occupant is a member of the clergy and is using the property for religious housing;

(i) attendance policy and proof of a definable curriculum with systematic instruction;

(j) licenses from the department of public health and human services;

(k) proof of a permanent care and improvement funds for cemeteries;

(l) tribal resolutions;

(m) lease agreements; and

(n) supporting documentation.

(6) Subject to available funding, after completing the renewal application update under subsections (3) and (4), the department may physically inspect real property identified as part of the update during a 4-year period.

(7) The department shall maintain consistency during the review process by utilizing the same standards and criteria and shall develop a schedule to accomplish an orderly review process. The department may adopt rules that are necessary to implement and administer the provisions of [sections 2 and 3] and this section.

(8) The department shall report biennially to the revenue and transportation interim committee with an update of the review and determination process until commencement of the 2019 legislative session.

NEW SECTION. **Section 2. Review determination -- assessment of previously exempt real property after final decision.** (1) If the department determines that real property is no longer eligible for a property tax exemption, it shall clearly state the reasons for loss of eligibility in a final written decision sent by mail to the last-known address of the owner or entity claiming the exemption. The decision may not encompass tax years prior to the date of the renewal application provided for in [section 1(3)].

(2) An owner or entity that receives a final written decision may seek review of the decision from the state tax appeal board pursuant to 15-2-302.

(3) Either party aggrieved as a result of the decision of the state tax appeal board may seek judicial review pursuant to 15-2-303.

(4) If an owner or entity files an appeal pursuant to this section, the real property at issue is not assessed as provided in 15-16-203 and this section until the decision of the court is final. Court review may not encompass tax years prior to the department's final written decision.

(5) In order to determine the amount of tax due for previously exempt real property if the owner or entity:

(a) does not seek review of the final written decision the department shall assess nonexempt real property in accordance with the final written decision; or

(b) seeks review of the final written decision the

department shall assess non-exempt real property in accordance with the judicial decision once the decision of the court is final.

(6) The department shall prepare a special assessment for subsequent tax years that are not at issue in the department's final written decision or the judicial decision by including nonexempt real property that was not previously assessed.

NEW SECTION. **Section 3. Public list of exempt property.**

(1) The department shall maintain a public listing and color-coded maps of real property that is exempt from property taxation under the provisions of 15-6-201(1)(b), (1)(c), (1)(e) through (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, 15-6-227, and 15-6-230 by utilizing information that is obtained during the periodic review process in [section 1] and new applications for property tax exemptions.

(2) The public listing and color coded-maps must include the information gathered during the first stage of review provided for in [section 1(2)] by July 1, 2014, and must be continually updated on at least an annual basis.

(3) The department shall maintain an internet version of the public listing and color-coded maps free of charge to the public.

(4) The public listing must include:

(a) the name of the owner or entity utilizing the exemption;

(b) the mailing address of the owner or entity utilizing the exemption;

(c) the county in which the exempt real property is located;

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(d) the city in which the exempt real property is located;
(e) the exempt real property legal description and total exempt acres;

(f) the property address of exempt real property;

(g) the type of exemption;

(h) the year the exemption was granted;

(i) full or partial exemption status;

(j) a general description of exempt real property improvements; and

(l) any public information considered relevant by the department in providing the public with sufficient information to analyze whether the property is eligible for an exemption.

(5) The color-coded maps must:

(a) utilize a distinct color for each category of property;

(b) be available for each county; and

(c) be available for each incorporated city.

(6) The public may provide oral or written comments to the department regarding the eligibility for an exemption, which may include communication by telephone, mail, or electronic mail.

NEW SECTION. Section 4. Exemption renewal application fee -- deposit to account -- rulemaking. (1) There is a property exemption review state special revenue account within the state special revenue fund established in 17-2-102.

(2) The application fee provided for in [section 1] is \$20 per parcel and must be deposited in this account. The department shall adopt rules establishing what constitutes a parcel under

this section by considering the following factors:

- (a) equality for similarly situated applicants;
- (b) the complexity of the review process by each category of property; and
- (c) the average amount of administrative costs associated with administering [sections 1 through 3] by each category of property.

(3) Appropriations may be made from this account to the department for the activities authorized in [sections 1 through 3].

Section 5. Section 15-16-203, MCA, is amended to read:

"15-16-203. Assessment of property previously exempt. (1) Subject to [section 2] and 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that during a tax year become ~~the property of a person~~ subject to taxation must be assessed and taxed from the date of change from a nontaxable status to a taxable status.

(2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and payable for the current year on the property under 15-16-102 if the property was not exempt.

(3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property will be in taxable status bears to 365.

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(4) If the property has not been assessed and taxed during the taxable year because of exemption, the department shall prepare a special assessment for the property and the county treasurer shall determine the amount of taxes that would have been due under subsection (2).

(5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the date or dates on which the taxes due are payable as provided in 15-16-102."

{*Internal References to 15-16-203:*
15-8-201x 15-24-1902x 15-24-2002x }

NEW SECTION. Section 6. {standard} Codification

instruction. [Sections 1 through 4] 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 1 through 4].

NEW SECTION. Section 7. {standard} Effective date. [This act] is effective July 1, 2013.

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