

HOUSE BILL NO. 333

INTRODUCED BY S. REICHNER, BLASDEL, TAYLOR, STAHL, BRODEHL, MILBURN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO INCLUDE SALES OF RESIDENTIAL PROPERTY THAT HAS BEEN SOLD BECAUSE OF NONPAYMENT OF MORTGAGE WHEN USING THE COMPARABLE SALES METHOD OF DETERMINING MARKET VALUE OF RESIDENTIAL PROPERTY; ESTABLISHING REQUIREMENTS FOR INCLUDING THE SALES IN THE COMPARABLE SALES METHOD; AMENDING ~~SECTION~~ SECTIONS 15-7-307 AND 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

SECTION 1. SECTION 15-7-307, MCA, IS AMENDED TO READ:

"15-7-307. Certificate -- exceptions. The certificate required by this part applies to all transfers. However, the certificate filed for the following transfers need not disclose the consideration paid or to be paid for the real estate transferred:

- (1) an instrument recorded prior to July 1, 1975;
- (2) the sale of agricultural land when the land is used for agricultural purposes;
- (3) the sale of timberland when the land is used for producing timber;
- (4) a transfer by the United States, this state, or any instrumentality, agency, or subdivision of the United States or this state;
- (5) an instrument that (without added consideration) confirms, corrects, modifies, or supplements a previously recorded instrument;
- (6) a transfer pursuant to a court decree;
- (7) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;
- (8) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;
- (9) a transfer of decedents' estates;
- (10) a transfer of a gift;

1 (11) a transfer between husband and wife or parent and child with only nominal actual consideration for
2 the transfer;

3 (12) an instrument the effect of which is to transfer the property to the same party or parties;

4 (13) a sale for delinquent taxes or assessments, sheriff's sale, or a sale pursuant to a bankruptcy action
5 court order, or mortgage foreclosure;

6 (14) a transfer made in contemplation of death."
7

8 **Section 2.** Section 15-8-111, MCA, is amended to read:

9 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be
10 assessed at 100% of its market value except as otherwise provided.

11 (2) (a) ~~Market~~ Subject to subsection (2)(d), market value is the value at which property would change
12 hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both
13 having reasonable knowledge of relevant facts.

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

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

20 ~~—— (d) If the department uses comparable sales as one approximation of market value and if sufficient,~~
21 ~~relevant information on sales of residential property that has been sold because of foreclosure of the property~~
22 ~~for the nonpayment of mortgage is available, the department shall include those sales in the comparable sales~~
23 ~~method to appraise residential property.~~

24 (D) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(D)(II), IF THE DEPARTMENT USES COMPARABLE SALES AS ONE
25 APPROXIMATION OF MARKET VALUE AND IF SUFFICIENT, RELEVANT INFORMATION IS AVAILABLE ON SALES OF RESIDENTIAL
26 PROPERTIES THAT HAVE BEEN SOLD AS REAL ESTATE OWNED OR SHORT SALES, THE DEPARTMENT SHALL INCLUDE THE
27 SALES IN THE COMPARABLE SALES METHOD TO APPRAISE RESIDENTIAL PROPERTY IF THE SALES CONSTITUTE MORE THAN
28 5% OF THE SALES OF RESIDENTIAL PROPERTY IN A SPECIFIC MARKET AREA. FOR THE PURPOSE OF THIS SUBSECTION
29 (2)(D), REAL ESTATE OWNED AND SHORT SALES INCLUDE:

30 (A) A SALE BY A FINANCIAL INSTITUTION BECAUSE OF FORECLOSURE OF THE PROPERTY FOR NONPAYMENT OF

1 MORTGAGE IF DISCLOSURE OF THE TRUSTEE'S SALE IS MADE, TOGETHER WITH THE SALE PRICE, ON THE REALTY TRANSFER
 2 CERTIFICATE PURSUANT TO 15-7-305;

3 (B) A SALE BY THE OWNER OF THE PROPERTY AT AN AUCTION THAT IS HELD FOR NONPAYMENT OF MORTGAGE

4 IF:

5 (I) THE AUCTION IS ADVERTISED AND THE ADVERTISEMENT INCLUDES A STATEMENT THAT THE SELLER HAS A
 6 MINIMUM BID OR THE RIGHT OF REFUSAL OF ALL BIDS. THE ADVERTISEMENT MUST BE PUBLISHED IN A NEWSPAPER THAT
 7 MEETS THE REQUIREMENTS OF 7-1-2121 AT LEAST THREE TIMES BEFORE THE AUCTION, WITH AT LEAST 6 DAYS
 8 SEPARATING PUBLICATIONS.

9 (II) DISCLOSURE OF THE AUCTION SALE IS MADE, TOGETHER WITH THE SALE PRICE, ON THE REALTY TRANSFER
 10 CERTIFICATE PURSUANT TO 15-7-305;

11 (C) A SHORT SALE OF THE PROPERTY IF:

12 (I) THE SHORT SALE IS MADE FOR NONPAYMENT OF MORTGAGE;

13 (II) THE SHORT SALE IS DISCLOSED AS A SHORT SALE IN THE LISTING WITH A REALTY COMPANY;

14 (III) DISCLOSURE OF THE SHORT SALE IS MADE, TOGETHER WITH THE SALE PRICE, ON THE REALTY TRANSFER
 15 CERTIFICATE PURSUANT TO 15-7-305; AND

16 (IV) THE SHORT SALE BY THE OWNER OF THE PROPERTY IS VERIFIED BY THE DEPARTMENT.

17 (II) THE FOLLOWING SALES OF RESIDENTIAL PROPERTY MAY NOT BE INCLUDED IN THE COMPARABLE SALES
 18 METHOD TO VALUE RESIDENTIAL PROPERTY:

19 (A) SALES OF VANDALIZED PROPERTY;

20 (B) FORCED SALES BY A SHERIFF, RECEIVER, OR OTHER COURT OFFICER AS THE RESULT OF A COURT ORDER;

21 (C) A REAL ESTATE OWNED SALE NOT INCLUDED IN SUBSECTION (2)(D)(I).

22 ~~(d)~~(e) Except as provided in subsection (3), the market value of special mobile equipment and
 23 agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides
 24 and manuals or the value before reconditioning and profit margin. The department shall prepare valuation
 25 schedules showing the average wholesale value when a national appraisal guide does not exist.

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

28 (a) the wholesale value for agricultural implements and machinery is the average wholesale value
 29 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment
 30 dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the

1 department shall use a comparable publication or wholesale value category.

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

4 (c) for condominium property, the department shall establish the value as provided in subsection (4);

5 (d) as provided in subsection (2)(d); and

6 ~~(e)~~ as otherwise authorized in Titles 15 and 61.

7 (4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available,
8 the department shall use the comparable sales method to appraise residential condominium units. Because the
9 undivided interest in common elements is included in the sales price of the condominium units, the department
10 is not required to separately allocate the value of the common elements to the individual units being valued.

11 (b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the
12 department, the department shall use the capitalization-of-net-income method to appraise commercial
13 condominium units. Because the undivided interest in common elements contributes directly to the
14 income-producing capability of the individual units, the department is not required to separately allocate the value
15 of the common elements to the individual units being valued.

16 (c) If sufficient, relevant information on comparable sales is not available for residential condominium
17 units or if sufficient, relevant information on income is not made available for commercial condominium units, the
18 department shall value condominiums using the construction-cost method. When using the construction-cost
19 method, the department shall determine the value of the entire condominium project and allocate a percentage
20 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the
21 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether
22 the percentage expressed in the declaration conforms to market value.

23 (5) For purposes of taxation, assessed value is the same as appraised value.

24 (6) The taxable value for all property is the percentage of market or assessed value established for each
25 class of property.

26 (7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as
27 follows:

28 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
29 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
30 15-23-516, 15-23-517, or 15-23-518.

- 1 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.
- 2 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the
3 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as
4 agricultural lands for tax purposes.
- 5 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value
6 minus any portion of market value that is exempt from taxation under 15-6-222.
- 7 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the
8 land when valued as forest land.
- 9 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described
10 in 15-23-205.
- 11 (8) Land and the improvements on the land are separately assessed when any of the following
12 conditions occur:
- 13 (a) ownership of the improvements is different from ownership of the land;
14 (b) the taxpayer makes a written request; or
15 (c) the land is outside an incorporated city or town."
16
- 17 **NEW SECTION. Section 3. Applicability.** [This act] applies to tax years beginning after December 31,
18 2011.
- 19 - END -