



AN ACT PROVIDING A PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING OWNED BY A NONPROFIT CORPORATION AND CONSTRUCTED USING FEDERAL GRANTS; AMENDING SECTION 15-6-221, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. Section 15-6-221, MCA, is amended to read:

"15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants.

(1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) (i) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability company, or limited liability partnership in which a general partner or limited liability company member is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3), as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in 7-15-4402 and the nonprofit general partner or limited liability company member actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

~~(b)~~(ii) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner under 26 U.S.C. 42;

~~(c)~~(iii) a deed restriction or other legally binding instrument restricts the property's usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

~~(d)~~(iv) the property meets a public purpose in providing housing to an underserved population; and

~~(e)(v)~~ the owner's partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner or limited liability company member as provided for in 26 U.S.C. 42(i)(7); or

(b) the property is owned and operated by a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) and was constructed using a home investment partnerships program grant.

(2) Prior to applying to the department for the tax exemption provided for in this section, the unit of local government where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need. A record of the public hearing must be forwarded to the board of housing.

(3) (a) A party satisfies the nonprofit partner or limited liability company member requirement of subsection (1)(a)(i) if it is a single-member limited liability company that is fully owned and controlled by a nonprofit corporation described in subsection (1)(a)(i).

(b) A property must be considered to be owned and operated by an entity as described in subsection (1)(a)(i) if it is occupied by the entity as a lessee under a long-term lease exceeding 49 years in length under which most benefits and burdens of ownership during the lease term have shifted to the lessee, including the obligation to pay property taxes.

(c) If a residential rental property is an integral part of a combination of two properties that when combined make up a single commonly operated residential rental property, the qualifications for both properties under subsection ~~(1)(b)~~(1)(a)(ii) must be measured collectively with reference to the units located on both properties if:

(i) the beneficial ownership of the entities described in subsection (1)(a)(i) for both properties are substantially identical; and

(ii) all other requirements of both parties under this section are met."

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2021.

- END -

I hereby certify that the within bill,
HB 432, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 432

INTRODUCED BY S. GUNDERSON

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