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As of: August 31, 2010 (9:38am)

LC0147

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act reducing the tax rate on class four property that has suffered an ascertainable loss of market value due to market forces since reappraisal base values were established; requiring a minimum loss of market value to qualify for a rate reduction; allowing only one application for a rate reduction during the course of a reappraisal cycle; requiring a property owner to apply and submit an appraisal to qualify for a property tax reduction; providing that a rate reduction does not apply retroactively except in case of certain appeals; providing for the appeal of an valuation decision that was disagreed with by the department of revenue; amending sections 15-6-134 and 15-15-103, MCA."

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

NEW SECTION. **Section 1. Loss of value of class four property -- rate reduction -- appeal.** (1) For the purpose of ameliorating the payment of property taxes on class four property that has diminished in market value since its value was established at the last revaluation of cycle, the owner of a class four property that has suffered an appreciable verifiable reduction in value is entitled to a reduction in the rate of tax applied to the property's taxable market value for the remaining

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years of the current reappraisal cycle as provided in this section.

(2) The tax reduction provisions of this section apply only to class four property described in 15-6-134 and a property may be the subject of only one application during a reappraisal cycle established under 15-7-111.

(3) (a) A tax rate reduction may only be granted due to a loss of value caused by or resulting from market forces and the loss of value occurred after December 31 of the last year of the previous revaluation cycle. A tax rate reduction may not be granted for loss of value caused by deterioration, damage, or other change in the physical condition of the property.

(b) A tax rate reduction application may not be granted or, if a rate reduction has been granted, a rate reduction must be terminated if:

(i) the property qualifies under 15-16-611 for destruction of property that occurred after December 31 of the last year of the previous revaluation cycle or after granting of the tax rate reduction; or

(ii) a land use change occurred that decreases the market value of the land after December 31 of the last year of the previous revaluation cycle or after the grant of the tax rate reduction.

(4) (a) An application on a form provided by the department is required to receive a tax rate reduction under this section. The application must be signed under oath.

(b) To qualify for a tax rate reduction, the property must

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have suffered a loss in the market value that was established as the base value for the current reappraisal cycle. The loss must be at least 10% of the base value or \$5,000, whichever is greater. The loss in value must be certified by a licensed real estate appraiser qualified to perform appraisals on the type of property subject to the tax rate adjustment. The certification of the change in valuation must be submitted to the department with the application for a reduction in tax rate. If the department refuses to grant a property tax rate reduction because it disagrees that there has been a qualifying reduction in value, the department's decision is subject to the provisions of subsection (7).

(5) (a) Upon approval of an application for a reduction in tax rate or upon notification of an appeal or judgement on a lowered value as provided in subsection (7), the department shall calculate a tax rate for the property for the next and succeeding tax years of the reappraisal cycle. The rate shall be calculated for each applicable tax year established in 15-6-134(2)(a). The reduction shall be:

Valuation Loss	Percentage Multiplier of 15-6-134(2)(a) Tax Rate
10% -- 14.99%	90%
15% -- 19.99	85%
20% -- 24,99%	80%
25% -- 29.99%	75%
30% -- 34.99%	70%
35% -- 39.99%	65%

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40% or greater            60%

(b) Unless the valuation determination was a result of an appeal under an application made before the prior tax year, the reduced tax rate is effective only for the tax years beginning after December 31 of the year of application for the rate reduction through the final tax year of the current reappraisal cycle established in 15-7-111. A property owner is not entitled to a refund of property taxes paid unless the property owner paid the taxes under protest for any year in which a pending application could have reduced the tax rate on the property but the valuation was denied by the department and that determination was under appeal.

(6) (a) A person who applies for a tax rate reduction and submits a false or fraudulent application for a tax rate reduction is guilty of false swearing under 45-7-202.

(b) A person who is granted a tax rate reduction must report to the department any event described in subsection (3) (b) which may terminate the reduction [effective January 1 of the following yer].

(7) (a) If the department disagrees with the amount of loss of value as provided in subsection (4), the department must notify the property owner in writing. The taxpayer may, within 30 days after receiving the notice of the department's decision, appeal the decision to the county tax appeal board in the county in which the property is located as provided in Title 15, chapter 15, part 1. The county tax appeal board may not automatically grant an appeal application made under this section. If the

county tax appeal board is not in session, the appeal shall be carried forward to be decided in the next session of the board.

(b) An appeal to a county tax appeal board shall be held to determine the value of the property subject to the appeal and whether the amount of the loss qualifies under the provisions of subsection (4). If the county tax appeal board renders a decision in favor of the property owner or if on judicial appeal a final order is issued in favor of the property owner, the value determined by the appeal does not change the market value of the property on the records of the department. The value determined on appeal shall be provided to the department and the department shall use the value as the basis of a rate reduction determined under subsection (5) (a).

**Section 2.** Section 15-6-134, MCA, is amended to read:

**"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

(a) subject to 15-6-222 and subsections (1) (f) and (1) (g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections (1) (f) and (1) (g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not

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exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of one or more qualified claimants:

(i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection (2) (b) (i); or

(ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established in subsection (2) (b) (i);

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1) (c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

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(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-6-193, [section 1],

15-24-1402, 15-24-1501, 15-24-1502, and 15-24-2101, property described in subsections (1)(a), (1)(b), and (1)(e) through (1)(g) of this section is taxed at:

(i) 2.93% of its taxable market value in tax year 2009;

(ii) 2.82% of its taxable market value in tax year 2010;

(iii) 2.72% of its taxable market value in tax year 2011;

(iv) 2.63% of its taxable market value in tax year 2012;

(v) 2.54% of its taxable market value in tax year 2013; and

(vi) 2.47% of its taxable market value in tax years after

2013.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on the income for the preceding calendar year of the owner or owners who occupied the property as their primary residence and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
Head of Household		
\$0 - \$6,000	\$0 - \$8,000	20%
\$6,001 - \$9,200	\$8,001 - \$14,000	50%
\$9,201 - \$15,000	\$14,001 - \$20,000	70%

(ii) The income levels contained in the table in subsection

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(2) (b) (i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2) (b) (i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1) (d) is taxed at one-half the taxable percentage rate established in subsection (2) (a).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.

(4) (a) As used in this section, "qualified claimants" means one or more owners who:

(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;

(ii) had combined income for the preceding calendar year that does not exceed the threshold provided in subsection (2) (b);

and

(iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.

(b) For the purposes of subsection (1)(c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a return.

(c) The combined income of two or more owners who are qualified claimants:

(i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b); and

(ii) determines the amount of tax reduction under subsection (2)(b)."

{ *Internal References to 15-6-134:*

<i>2-15-122</i>	<i>5-2-301</i>	<i>15-2-301</i>	<i>15-6-133</i>
<i>15-6-156</i>	<i>15-6-211</i>	<i>15-6-211</i>	<i>15-6-222</i>
<i>15-6-222</i>	<i>15-7-102</i>	<i>15-7-103</i>	<i>15-7-111</i>
<i>15-8-111</i>	<i>15-8-111</i>	<i>15-8-205</i>	<i>15-10-420</i>
<i>15-16-101</i>	<i>15-16-102</i>	<i>15-24-2101</i>	<i>15-24-2102</i>
<i>15-24-3001</i>	<i>15-30-2336</i>		

**Section 3.** Section 15-15-103, MCA, is amended to read:

**"15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any

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application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county tax appeal board hearing. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing. On written request by the person or the person's agent and on the written concurrence of the department, the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county tax appeal board refuses or fails to hear a taxpayer's timely

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application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

(i) those listed in 15-2-302; ~~and~~

(ii) a valuation appeal under [section 1]; and

(ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current session.

(b) The county tax appeal board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the state tax appeal board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property."

{Internal References to 15-15-103:

15-2-301      15-15-104      15-15-104      15-15-104 }

**NEW SECTION. Section 4. {standard} Codification**

**instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].

- END -

{Name :        Lee Heiman  
Title :        Staff Attorney

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Agency: Montana Legislative Services  
Phone : (406) 444-3064  
E-Mail: lheiman@mt.gov}