

HOUSE BILL NO. 527

INTRODUCED BY Z. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO AFFORDABLE HOUSING TAX EXEMPTIONS; PROVIDING THAT QUALIFIED PROPERTY MAY BE OWNED BY CERTAIN SINGLE-MEMBER LIMITED LIABILITY COMPANIES; REMOVING LANGUAGE THAT RESTATES FEDERAL REGULATIONS TO ENSURE FUTURE COMPLIANCE; PROVIDING ADDITIONAL CLARIFICATION OF QUALIFIED PROPERTIES AND OWNERS; 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) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability corporation, or limited liability partnership in which a general partner or limited liability company member is a nonprofit corporation exempt from taxation under section 26 U.S.C. 501(c)(3), as amended, and incorporated and 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) 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, which requires that:

- (i) at least 20% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to tenants whose household incomes do not exceed 50% of the median family income, adjusted for family size, for the county in which the property is located; or
(ii) at least 40% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to persons whose household incomes do not exceed 60% of the median income, adjusted for family size,



1 for the county in which the property is located;

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

6 (d) the property meets a public purpose in providing housing to an underserved population ~~and provides~~  
7 ~~a minimum of 50% of the units in the property to tenants at 50% of the median family income for the area, with~~  
8 ~~rents restricted to a maximum of 30% of 50% of median family income, as calculated under 26 U.S.C. 42; and~~

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

13 (2) Prior to applying to the department for the tax exemption provided for in this section, ~~the allocation~~  
14 ~~of low-income housing tax credits to the owner, as provided in subsection (1)(b)~~; the unit of local government  
15 where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public  
16 hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a  
17 community housing need. A record of the public hearing must be forwarded to the board of housing ~~for~~  
18 ~~consideration in granting the allocation of tax credits.~~

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

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

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

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

