

AMENDMENTS TO LB356

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 77-1333, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-1333 (1) For purposes of this section, rent-restricted housing
6 project means a project consisting of five or more houses or residential
7 units that has received an allocation of federal low-income housing tax
8 credits under section 42 of the Internal Revenue Code from the Nebraska
9 Investment Finance Authority or its successor agency and, for the year of
10 assessment, is a project as defined in section 58-219.

11 (2) The Legislature finds that:

12 (a) The provision of safe, decent, and affordable housing to all
13 residents of the State of Nebraska is a matter of public concern and
14 represents a legitimate and compelling state need, affecting the general
15 welfare of all residents;

16 (b) Rent-restricted housing projects effectively provide safe,
17 decent, and affordable housing for residents of Nebraska;

18 (c) Such projects are restricted by federal law as to the rents paid
19 by the tenants thereof;

20 (d) Of all the professionally accepted mass appraisal methodologies,
21 which include the sales comparison approach, the income approach, and the
22 cost approach, the utilization of the income-approach methodology results
23 in the most accurate determination of the actual value of such projects;
24 and

25 (e) This section is intended to (i) further the provision of safe,
26 decent, and affordable housing to all residents of Nebraska and (ii)
27 comply with Article VIII, section 1, of the Constitution of Nebraska,

1 which empowers the Legislature to prescribe standards and methods for the
2 determination of value of real property at uniform and proportionate
3 values.

4 (3) Except as otherwise provided in this section, the ~~The~~ county
5 assessor shall utilize ~~perform~~ an income-approach calculation to
6 determine the actual value of a ~~for all~~ rent-restricted housing project
7 projects constructed to allow an allocation of low-income housing tax
8 credits under section 42 of the Internal Revenue Code and approved by the
9 Nebraska Investment Finance Authority when determining ~~considering~~ the
10 assessed valuation to place on the property for each assessment year. The
11 income-approach calculation shall be consistent with this section and any
12 rules and regulations adopted and promulgated by the Tax Commissioner and
13 shall comply with professionally accepted mass appraisal techniques.

14 (4) The Rent-Restricted Housing Projects Valuation Committee is
15 created. For administrative purposes only, the committee shall be within
16 the Department of Revenue. The committee's purpose shall be to develop a
17 market-derived capitalization rate to be used by county assessors in
18 determining the assessed valuation for rent-restricted housing projects.
19 The committee shall consist of the following four persons:

20 (a) A representative of county assessors appointed by the Tax
21 Commissioner. Such representative shall be skilled in the valuation of
22 property and shall hold a certificate issued under section 77-422;

23 (b) A representative of the low-income housing industry appointed by
24 the Tax Commissioner. The appointment shall be based on a recommendation
25 made by the Nebraska Commission on Housing and Homelessness;

26 (c) The Property Tax Administrator or a designee of the Property Tax
27 Administrator who holds a certificate issued under section 77-422. Such
28 person shall serve as the chairperson of the committee; and

29 (d) An appraiser from the private sector appointed by the Tax
30 Commissioner. Such appraiser must hold either a valid credential as a
31 certified general real property appraiser under the Real Property

1 Appraiser Act or an MAI designation from the Appraisal Institute.

2 (5) The owner of a rent-restricted housing project shall file a
3 statement with the Rent-Restricted Housing Projects Valuation Committee
4 and the county assessor on or before October 1 of each year that details
5 income and expense data for the prior year, a description of any land-use
6 restrictions, a description of the terms of any mortgage loans, including
7 loan amount, interest rate, and amortization period, and such other
8 information as the committee or the county assessor may require for
9 purposes of this section.

10 (6) The Rent-Restricted Housing Projects Valuation Committee shall
11 meet annually in November to examine the information on rent-restricted
12 housing projects that was provided pursuant to subsection (5) of this
13 section. The Department of Revenue shall electronically publish notice of
14 such meeting no less than thirty days in advance. The committee shall
15 also solicit information on the sale of any such rent-restricted housing
16 projects and information on the yields generated to investors in rent-
17 restricted housing projects. The committee shall, after reviewing all
18 such information, calculate a market-derived capitalization rate on an
19 annual basis using the band-of-investment technique or other generally
20 accepted technique used to derive capitalization rates depending upon the
21 data available. The capitalization rate shall be a composite rate
22 weighted by the proportions of total property investment represented by
23 equity and debt, with equity weighted at eighty percent and debt weighted
24 at twenty percent unless a substantially different market capital
25 structure can be verified to the county assessor. The yield for equity
26 shall be calculated using the data on investor returns gathered by the
27 committee. The yield for debt shall be calculated using the data provided
28 to the committee pursuant to subsection (5) of this section. If the
29 committee determines that a particular county or group of counties
30 requires a different capitalization rate than that calculated for the
31 rest of the state pursuant to this subsection, then the committee may

1 calculate an additional capitalization rate that will apply only to such
2 county or group of counties.

3 (7) After the Rent-Restricted Housing Projects Valuation Committee
4 has calculated the capitalization rate or rates under subsection (6) of
5 this section, the committee shall provide such rate or rates and the
6 information reviewed by the committee in calculating such rate or rates
7 in an annual report. Such report shall be forwarded by the Property Tax
8 Administrator to each county assessor in Nebraska no later than December
9 1 of each year for his or her use in determining the valuation of rent-
10 restricted housing projects. The Department of Revenue shall publish the
11 annual report electronically but may charge a fee for paper copies. The
12 Tax Commissioner shall set the fee based on the reasonable cost of
13 producing the report.

14 (8) Except as provided in subsections (9) through (11) of this
15 section, each county assessor shall use the capitalization rate or rates
16 contained in the report received under subsection (7) of this section and
17 the income and expense data filed by owners of rent-restricted housing
18 projects under subsection (5) of this section in the county assessor's
19 income-approach calculation. Any low-income housing tax credits
20 authorized under section 42 of the Internal Revenue Code that were
21 granted to owners of the project shall not be considered income for
22 purposes of the calculation.

23 (9) If the income and expense data required to be filed for a rent-
24 restricted housing project under subsection (5) of this section is not
25 filed in a timely manner, the county assessor may use any method for
26 determining actual value for such rent-restricted housing project that is
27 consistent with professionally accepted mass appraisal methods described
28 in section 77-112 but may be considered in determining the capitalization
29 rate to be used when capitalizing the income stream. The county assessor,
30 in determining the actual value of any specific property, may consider
31 other methods of determining value that are consistent with

1 ~~professionally accepted mass appraisal methods described in section~~
2 ~~77-112.~~

3 (10) If a county assessor, based on the facts and circumstances,
4 believes that the income-approach calculation does not result in a
5 valuation of a rent-restricted housing project at actual value, then the
6 county assessor shall present such facts and circumstances to the county
7 board of equalization. If the county board of equalization, based on such
8 facts and circumstances, concurs with the county assessor, then the
9 county board of equalization shall petition the Tax Equalization and
10 Review Commission to consider the county assessor's utilization of
11 another professionally accepted mass appraisal technique that, based on
12 the facts and circumstances presented by a county board of equalization,
13 would result in a substantially different determination of actual value
14 of the rent-restricted housing project. Petitions must be filed within
15 thirty days after the property's valuation date. The burden of proof is
16 on the petitioning county board of equalization to show that failure to
17 make a determination that a different methodology should be used would
18 result in a value that is not equitable and in accordance with the law.
19 At the hearing, the commission may receive testimony from any interested
20 person. After a hearing, the commission shall, within the powers granted
21 in section 77-5007, enter its order based on evidence presented to it at
22 such hearing.

23 (11) If the Tax Commissioner, based on the facts and circumstances,
24 believes that the applicable capitalization rate set by the Rent-
25 Restricted Housing Projects Valuation Committee to value a rent-
26 restricted housing project does not result in a valuation at actual value
27 for such rent-restricted housing project, then the Tax Commissioner shall
28 petition the Tax Equalization and Review Commission to consider an
29 adjustment to the capitalization rate of such rent-restricted housing
30 project. Petitions must be filed within thirty days after the property's
31 valuation date. The burden of proof is on the Tax Commissioner to show

1 that failure to make an adjustment to the capitalization rate employed
2 would result in a value that is not equal to the rent-restricted housing
3 project's actual value. At the hearing, the commission may receive
4 testimony from any interested person. After a hearing, the commission
5 shall, within the powers granted in section 77-5007, enter its order
6 based on evidence presented to it at such hearing.

7 ~~(2) The owner of a rent-restricted housing project shall file a~~
8 ~~statement with the county assessor on or before October 1 of each year~~
9 ~~that details income and expense data for the prior year, a description of~~
10 ~~any land-use restrictions, and such other information as the county~~
11 ~~assessor may require.~~

12 Sec. 2. Section 77-5007, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 77-5007 The commission has the power and duty to hear and determine
15 appeals of:

16 (1) Decisions of any county board of equalization equalizing the
17 value of individual tracts, lots, or parcels of real property so that all
18 real property is assessed uniformly and proportionately;

19 (2) Decisions of any county board of equalization granting or
20 denying tax-exempt status for real or personal property or an exemption
21 from motor vehicle taxes and fees;

22 (3) Decisions of the Tax Commissioner determining the taxable
23 property of a railroad company, car company, public service entity, or
24 air carrier within the state;

25 (4) Decisions of the Tax Commissioner determining adjusted valuation
26 pursuant to section 79-1016;

27 (5) Decisions of any county board of equalization on the valuation
28 of personal property or any penalties imposed under sections 77-1233.04
29 and 77-1233.06;

30 (6) Decisions of any county board of equalization on claims that a
31 levy is or is not for an unlawful or unnecessary purpose or in excess of

1 the requirements of the county;

2 (7) Decisions of any county board of equalization granting or
3 rejecting an application for a homestead exemption;

4 (8) Decisions of the Department of Motor Vehicles determining the
5 taxable value of motor vehicles pursuant to section 60-3,188;

6 (9) Decisions of the Tax Commissioner made under section 77-1330;

7 (10) Any other decision of any county board of equalization;

8 (11) Any other decision of the Tax Commissioner regarding property
9 valuation, exemption, or taxation;

10 (12) Decisions of the Tax Commissioner pursuant to section 77-3520;

11 (13) Final decisions of a county board of equalization appealed by
12 the Tax Commissioner or Property Tax Administrator pursuant to section
13 77-701;

14 (14) Determinations of the Rent-Restricted Housing Projects
15 Valuation Committee regarding the capitalization rate to be used to value
16 rent-restricted housing projects pursuant to section 77-1333 or the
17 requirement under such section that an income-approach calculation be
18 used by county assessors to value rent-restricted housing projects;

19 (15 14) The requirement under section 77-1314 that the income
20 approach, including the use of a discounted cash-flow analysis, be used
21 by county assessors; and

22 (16 15) Any other decision, determination, action, or order from
23 which an appeal to the commission is authorized.

24 The commission has the power and duty to hear and grant or deny
25 relief on petitions.

26 Sec. 3. Original section 77-1333, Reissue Revised Statutes of
27 Nebraska, and section 77-5007, Revised Statutes Cumulative Supplement,
28 2014, are repealed.