

LEGISLATIVE BILL 359

Approved by the Governor February 9, 1974

Introduced by Warner, 25

AN ACT relating to revenue and taxation; to define terms; to provide a special assessment for land devoted to agricultural use; to provide eligibility requirements for such special assessment; and to provide for collection of additional tax.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires:

(1) Agricultural use shall mean the use of land for the purpose of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use;

(2) Agricultural use zone shall mean any land designated for agricultural use by any political subdivision pursuant to Chapter 14, article 4, Chapter 15, article 9, Chapter 16, article 9, Chapter 17, article 10, Chapter 18, article 13, or Chapter 23, article 1, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 2. (1) Any land which is within an agricultural use zone and which is used exclusively for agricultural use shall be assessed at its actual value for agricultural use and not at the actual value it would have if applied to other than agricultural use if application for such special assessment is made pursuant to this act; Provided, that the special assessment provisions shall not be applicable to that portion of lands zoned for agricultural use if such lands have been subdivided for residential use.

(2) The eligibility of agricultural land for the special assessment provisions of this section shall be determined as of January 1; Provided, if land so qualified becomes disqualified prior to July 1 of the same year, it shall be assessed at its actual value as defined by section 77-112, Reissue Revised Statutes of Nebraska, 1943, without regard to this section. If the land becomes disqualified after July 1, its assessment

for that year shall continue as provided in this section.

Sec. 3. (1) Any owner of agricultural lands eligible for special assessment under subsection (1) of section 2 of this act shall, to secure such assessment, make application to the county assessor on or before April 1 of the first year in which such assessment is requested.

(2) (a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include such information as may reasonably be required to determine the eligibility of the applicant.

(b) The application may be signed by any one of the following:

(i) The owner of the farmland who holds an estate in fee simple or for life;

(ii) Any one of tenants in common or joint tenants, holding an estate in the farmland in fee simple or for life;

(iii) Any person of legal age duly authorized in writing to sign an application on behalf of any person described in subdivisions (b) (i) and (ii) of this subsection;

(iv) The guardian or conservator of an owner, or the executor or administrator of an owner's estate; or

(v) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or his deputy shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

(3) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true.

Sec. 4. The Tax Commissioner shall by rule establish standards to be used by county assessors in determining eligibility for special assessment under subsection (1) of section 2 of this act. Such standards

shall not be designed to exclude from the special assessment those lands which are in agricultural use as defined in section 1 of this act for which tax relief is intended.

Sec. 5. Upon approval of an application, the county assessor shall assess the land as provided in subsection (1) of section 2 of this act, and shall also enter on the assessment the notation and potential additional tax liability until the land becomes disqualified for such assessment by:

(1) Notification by the taxpayer to the assessor to remove such special assessment;

(2) Sale or transfer to a new owner who does not make a new application as to such land within sixty days of the sale or transfer, except as provided in subdivision (3) of this section;

(3) Transfer by reason of death of the former owner to a new owner who does not make application as to such land within one hundred twenty days of the transfer;

(4) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(5) Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as agricultural land; or

(6) Change of zoning to other than agricultural use zone.

Sec. 6. (1) Whenever land which has received special assessment as agricultural use land under subsection (1) of section 2 of this act becomes disqualified for such assessment, the assessor shall notify the owner and there shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as other taxes levied upon real estate, an amount equal to the sum of the following:

(a) The total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to subsection (1) of section 2 of this act during the last five or lesser number of years in which such agricultural use assessment was in effect for the land; and

(b) Interest upon the amounts of additional tax from each year included in subsection (1) (a) of this

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section at the rate of six per cent from the dates at which such additional taxes would have been payable if no special assessment had been in effect.

(2) In cases where the designation of specially assessed agricultural land is removed as a result of a sale or transfer described in subdivision (2), (3), or (4) of section 5 of this act, the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.