

LEGISLATIVE BILL 376A

Approved by the Governor June 3, 1987

Introduced by Hall, 7

AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3502, 77-3504, 77-3505, 77-3508, 77-3509.01, 77-3509.02, 77-3510, 77-3511, 77-3513, 77-3514, 77-3516, 77-3517, 77-3519, 77-3520, 77-3523, 77-3526, and 77-3529, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the homestead exemption; to redefine terms; to change conditions for eligibility for the exemption; to change application procedures; to reduce an appropriation; to eliminate certain provisions relating to the homestead exemption; to harmonize provisions; to provide an operative date; to repeal the original sections, and also sections 77-3518 and 77-3525, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 77-3501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3501. For the purposes of sections 77-3501 to ~~77-3525~~ 77-3524, unless the context otherwise requires, the definitions found in sections 77-3502 to 77-3505 shall be used.

Sec. 2. That section 77-3502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3502. Homestead shall mean either (1) a residence or mobile home, and the land surrounding it, not exceeding one acre, in this state actually occupied as such by a natural person who is the owner of record thereof ~~as of~~ from January 1 through August 15 in each year, (2) a residence or mobile home located on land leased by the owner of the residence or mobile home, which is located within this state, and is actually occupied by the person who is the owner of record ~~as of~~ from January 1 through August 15 in each year, or so occupied by the surviving spouse and minor children, if any, of such owner of record during the year of the owner's death, or so much thereof as shall be so

occupied, or (3) a residential unit in a dwelling complex, the record title owner of which is a not-for-profit corporation, when the purchase for fair market value of a life tenancy in a taxable unit of the dwelling complex entitles the purchaser to exclusive occupancy of that unit for life, actually occupied by a natural person who has a life tenancy therein as of from January 1 through August 15 in each year. For purposes of this section, mobile home shall include every transportable or relocatable device of any description without motive power and designed for living quarters, whether or not permanently attached to real estate, but shall not include a cabin trailer registered for operation upon the highways of this state.

Sec. 3. That section 77-3504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3504. Household (1) Until January 1, 1988, household income shall mean the total federal adjusted gross income of any claimant and spouse as defined in the Internal Revenue Code of the United States for the taxable year of the claimant immediately prior to the year for which the claim for exemption is made.

(2) Commencing on and after January 1, 1988, household income shall mean the total federal adjusted gross income, as defined in the Internal Revenue Code of the United States, of the claimant and spouse, and any additional owners who are natural persons and who occupy the homestead, for the taxable year of the claimant immediately prior to the year for which the claim for exemption is made.

Sec. 4. That section 77-3505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3505. A qualified claimant shall mean an owner of a homestead during the calendar year for which the claim is made, who was sixty-five years of age or older ~~on~~ before January 1 of such year, and who shall be entitled to relief pursuant to section 77-3507.

Sec. 5. That section 77-3508, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3508. (1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation a percentage of the first thirty-five thousand dollars of the actual value of any homestead of (a) veterans, as defined in section 80-401.01, who are totally disabled by a ~~nonmilitary~~ non-service-connected

accident or illness, (b) individuals who are paralyzed in both legs such as to preclude locomotion without the regular aid of braces, crutches, canes, or wheelchairs, (c) individuals who have undergone multiple amputation of both lower extremities such as to preclude locomotion without the regular aid of braces, crutches, canes, wheelchairs, or artificial limbs, (d) individuals with progressive neuromuscular or neurological disease such as to preclude locomotion without the regular aid of braces, crutches, canes, wheelchairs, or artificial limbs or who have permanently lost the use or control of both arms, and (e) individuals who have undergone multiple amputation of both arms above the elbow. The exemption shall be based on the income of a claimant pursuant to subsection (2) of this section. Application for such exemption shall include certification from a qualified medical physician for subdivisions (1)(a) through (1)(e) of this section or certification from the Veterans' Administration of the United States affirming that the homeowner is totally disabled due to nonmilitary non-service-connected accident or illness for subdivision (1)(a) of this section. Such certification from a qualified medical physician shall be made on forms prescribed by the Department of Revenue.

(2) For a claimant as described in subsection (1) of this section, the percentage of the exemption for which the claimant is eligible shall be the percentage in Column B which corresponds with the claimant's income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 8,400	100
8,401 through 8,900	80
8,901 through 9,400	60
9,401 through 9,900	40
9,901 through 10,400	20

Sec. 6. That section 77-3509.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3509.01. In counties having a population greater than three hundred thousand, the owner of a homestead which has been granted an exemption provided in sections 77-3507 to 77-3509, who transfers the ownership of such homestead and becomes the owner of another homestead within the county prior to September August 15 during the year for which the exemption was granted, may file an application with the county

assessor, on or before ~~September~~ August 15 of such year, for a transfer of the exemption to the new homestead. The county assessor shall examine each application and determine whether or not the new homestead, except for the January 1 through August 15 ownership and occupancy requirement, is a homestead as defined in section 77-3502. If the application is approved by the county assessor, he or she shall make a deduction upon the assessment rolls using the same criteria as previously applied to the original homestead. The county assessor may allow the application for transfer to also be considered an application for a homestead exemption for the subsequent year.

Sec. 7. That section 77-3509.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3509.02. In counties having a population greater than three hundred thousand, if the owner of any homestead granted an exemption under sections 77-3507 to 77-3509 transfers the ownership of such homestead on or before ~~September~~ August 15 of any year pursuant to section 77-3509.01 and makes the application for transfer of the homestead exemption and such application is approved, the exemption shall be disallowed for such year as applied to the original homestead if the exemption was granted based on the status of such owner.

Sec. 8. That section 77-3510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3510. On or before January 1 of each year, the Tax Commissioner shall prescribe suitable blank forms to be used by all claimants for homestead exemption or for transfer of homestead exemption. Such forms shall contain provisions for the showing of all information which the Tax Commissioner may deem necessary to (1) enable the proper county officials and the Tax Commissioner to determine whether each claim for exemption under sections 77-3507; ~~77-3508~~; and to 77-3509 should be allowed and (2) enable the county assessor to determine whether each claim for transfer of homestead exemption pursuant to section 77-3509.01 should be allowed. It shall be the duty of the county assessor of each county in this state to furnish such forms, upon request, to each person desiring to make application for homestead exemption or for transfer of homestead exemption on property located within that county. The forms so prescribed shall be used uniformly throughout the state, and no application for exemption or for transfer of homestead exemption shall be allowed

unless the applicant uses the regularly prescribed form in making an application.

Sec. 9. That section 77-3511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3511. The application for homestead exemption or for transfer of homestead exemption shall be signed by the owner of the property who qualifies for exemption under Chapter 77, article 35, unless the owner is an incompetent or unable to make such application, in which case it shall be signed by the guardian. If an owner who in all respects qualifies for a homestead exemption under such sections dies after January 1 and before April 1 and before applying for a homestead exemption, his or her personal representative may file the application for exemption on or before April 1 of that year. For tax year 1986, if an owner who in all respects qualifies for a homestead exemption under such sections dies after January 1 and before June 16 and before applying for a homestead exemption, his or her personal representative may file the application for exemption on or before June 16, 1986. Any exemption granted as a result of such application signed by a personal representative shall be in effect for only the year in which the owner died.

Sec. 10. That section 77-3513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3513. (1) For the tax year 1986 1988, it shall be the duty of each claimant who wants a homestead exemption provided in section 77-3509 or subdivision (1)(b), (c), (d), or (e) of section 77-3508 sections 77-3507 to 77-3509 to file an application therefor with the county assessor on or before June 16, 1986 April 1, 1988, and failure to do so shall constitute a waiver of the exemption for such year. The application shall include a certification of disability status as required by sections 77-3508 and 77-3509.

(2) ~~If~~ Except as required by section 77-3514, if an owner is granted a homestead exemption as provided in section 77-3507 or 77-3509 or subdivision (1)(b), (c), (d), or (e) of section 77-3508, no reapplication need be filed for succeeding years, in which case the county assessor and Tax Commissioner shall determine whether the claimant shall qualify for the homestead exemption in such succeeding years as otherwise provided in sections 77-3501 to 77-3529 as though a claim were made.

(3) It shall be the duty of each claimant who

wants the homestead exemption provided in subdivision (1)(a) of section 77-3508 to file an application therefor with the county assessor on or before April 1 of each year, and failure to do so shall constitute a waiver of the exemption for such year.

Sec. 11. That section 77-3514, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3514. The Commencing January 1, 1989, the owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509, except subdivision (1)(a) of section 77-3508, shall notify certify to the county assessor by ~~March 15~~ April 1 of each year of any that a change in the homestead exemption status occurring in the preceding year has occurred or that no change in the homestead exemption status has occurred. For purposes of this section, change in the homestead exemption status shall include any change in the name of the owner, ownership, residence, occupancy, marital status, veteran status, rating by the Veterans' Administration of the United States, or any other change that would affect the qualification for or type of exemption granted, except income checked by the Tax Commissioner under section 77-3517. In addition, in counties having a population greater than three hundred thousand, the owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509 may notify the county assessor by ~~September~~ August 15 of each year of any change in the homestead exemption status occurring in the preceding portion of the calendar year as a result of a transfer of the homestead exemption pursuant to sections 77-3509.01 and 77-3509.02. If by his or her failure to give such notice any such property owner permits the allowance of the homestead exemption for any ~~succeeding~~ year, or in the year of application in the case of transfers pursuant to sections 77-3509.01 and 77-3509.02, after the homestead exemption status of such property has changed, an amount equal to the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption, together with penalty and interest on such total sum as provided by statute on delinquent ad valorem taxes, shall be due and shall upon entry of the amount thereof on the books of the county treasurer be a lien on such property while unpaid. Such lien may be enforced in the manner provided for liens for other delinquent taxes. Any person who has permitted the improper and unlawful allowance of such homestead exemption on his or her

property shall, as an additional penalty, also forfeit his or her right to a homestead exemption on any other property in this state for the two succeeding years.

Sec. 12. That section 77-3516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3516. The county assessor shall examine each application for homestead exemption filed with him or her for an exemption pursuant to ~~section~~ sections 77-3507, 77-3508, or to 77-3509 and shall determine, except for the income test, whether or not such application should be approved or rejected, and, if approved, determine the amount of the exemption. If the application is approved, the county assessor shall mark the same approved and sign the application. and show thereon the amount of exemption allowed and make the proper deduction upon the assessment rolls. In case he or she finds that the exemption should not be allowed by reason of not being in conformity to law, the county assessor shall mark the application rejected and state thereon the reason for such rejection and sign the application. In any case when the county assessor disallows or reduces rejects an application for exemption, he or she shall notify the applicant of such action by mailing written notice to the applicant at the address shown in the application, which notice shall be mailed not later than the second Monday in July for 1986 and the fourth Monday in April of each other year, and except in cases of a change in ownership or occupancy from January 1 through August 15, in which case the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner. All applications for exemption, showing thereon the action of the county assessor, shall be delivered to the county board of equalization on or before the second Monday in July for 1986 and the fourth Monday of April of each other year.

Sec. 13. That section 77-3517, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3517. On or before the first Monday in July 1986 and on or before the third Monday in April of each year, thereafter, the county assessor shall forward approved applications for homestead exemptions and a copy of the certification of disability status which have been examined pursuant to section 77-3516 to the Tax Commissioner who shall determine from the records of the Department of Revenue whether or not the applicant meets the required income standards and. - The Tax

Commissioner shall, on or before August 15, certify his or her determinations to the county assessor. The Tax Commissioner may at any time review all other information in order to determine whether the application should be accepted. If the county assessor's and Tax Commissioner's determination is that the application should be accepted, then the county assessor shall process the application in the same manner as an approved application under section 77-3516 make the proper deduction on the assessment rolls. If the Tax Commissioner's determination is that the application does not meet the required income test or if the county assessor finds that the exemption should not be allowed or should be reduced, the county assessor shall proceed as in the case of a rejected or reduced application under section 77-3516 all the requirements, he or she shall notify the applicant of the action by mailing written notice to the applicant at the address shown on the application.

Sec. 14. That section 77-3519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3519. In any case when the county assessor or county board of equalization disallows or rejects an application for homestead exemption, or changes the amount of exemption from that claimed by the applicant, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk within ten thirty days from receipt of the notice from the county assessor or county board of equalization showing such rejection, or change in amount. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. If the appeal involves a determination made by the Tax Commissioner, the board shall notify the Tax Commissioner of the hearing and the Tax Commissioner or his or her representatives shall attend to present evidence regarding such determination. The taxpayer shall have the right to appeal from the finding of the board with reference to the application for homestead exemption, as provided by law for appeals from the county board of equalization on questions of valuation of property, and the appeal shall be taken in the same

manner and subject to the same requirements.

Sec. 15. That section 77-3520, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3520. In any case when the Tax Commissioner ~~disallows or rejects or reduces~~ a claim for exemption, the applicant may obtain a hearing before the Tax Commissioner by filing a written petition with the Tax Commissioner within ~~ten thirty~~ days from the receipt of the notice of ~~disallowance or rejection or reduction~~. The petition shall state, in clear and concise language, (1) the amount in controversy, (2) the issues involved, (3) the name and address of the applicant, and (4) a demand for relief. The hearing shall be conducted in accordance with the Administrative Procedure Act.

Sec. 16. That section 77-3523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3523. The county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner: (1) For tax year 1986, ninety per cent of the tax revenue that will be lost to all taxing agencies within his or her county from taxes levied and assessed in that year because of exemptions allowed under Chapter 77, article 35; and (2) for tax year 1987 and each tax year thereafter, the total tax revenue that will be lost to all taxing agencies within his or her county from taxes levied and assessed in that year because of exemptions allowed under Chapter 77, article 35. The county treasurer may amend the certification to show any change or correction in the total tax that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following such certification or within thirty days of any amendment to the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the funds lost shall be made to each county according to the certification and shall be distributed in six as nearly as possible equal monthly payments between the fifth and twentieth on the last business day of each month beginning in January, 1977 and each January thereafter. The State Treasurer shall, between the fifth and twentieth on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification on the last business day of each month,

draw warrants against funds appropriated. Out of the amount so received the county treasurer shall distribute to each of the taxing agencies within his or her county: (a) For tax year 1986, ninety per cent of the amount so lost by such agency; and (b) for tax year 1987 and each tax year thereafter, the full amount so lost by such agency, except that one per cent of such amount shall be deposited in the county general fund and that the amount due a Class V school district shall be paid to the district and the county shall be compensated pursuant to section 14-554. Each taxing agency shall, in preparing its annual budget, take into account the amount to be received under this section.

Sec. 17. That section 77-3526, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3526. As used in sections 77-3526 to 77-3528, unless the context otherwise requires:

(1) Paraplegic shall mean a veteran who is paralyzed in both legs such as to preclude locomotion without the aid of braces, crutches, canes, or wheelchair;

(2) Multiple amputee shall mean a veteran who has undergone ~~multiple~~ amputation of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, wheelchair, or artificial limbs;

(3) Home shall mean one housing unit and necessary land therefor not to exceed one acre occupied by the veteran or his ~~widow as long as she remains unmarried or her unmarried surviving spouse when the veteran or surviving spouse is the owner of record from January 1 through August 15 in each year;~~ and

(4) Substantially contributed by the Veterans' Administration of the United States shall mean any amount received by a veteran from the Veterans' Administration of the United States under Public Law 85-857 adopted September 2, 1958, as amended and in effect on January 1, 1979.

Sec. 18. That section 77-3529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3529. If any application for exemption pursuant to ~~subdivision (1) of section 77-202-24 or sections 77-3501 to 77-3518 and 77-3526 to 77-3528 Chapter 77, article 35,~~ is denied and the applicant would be qualified for any other exemption pursuant to ~~such subdivision or sections under Chapter 77, article 35,~~ then such denied application shall be treated as an

application for the highest exemption for which qualified. Any additional documentation necessary for such other exemption shall be submitted to the county assessor within a reasonable time after receipt of the notice of denial.

Sec. 19. The General Fund appropriation to the Department of Revenue for Program 108 shall be decreased by \$400,000 for the period July 1, 1987, to June 30, 1988, and for the period July 1, 1988, to June 30, 1989.

Sec. 20. This act shall be operative for all taxable years beginning on or after January 1, 1987.

Sec. 21. That original sections 77-3501, 77-3502, 77-3504, 77-3505, 77-3508, 77-3509.01, 77-3509.02, 77-3510, 77-3511, 77-3513, 77-3514, 77-3516, 77-3517, 77-3519, 77-3520, 77-3523, 77-3526, and 77-3529, Reissue Revised Statutes of Nebraska, 1943, and also sections 77-3518 and 77-3525, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 22. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.