

LEGISLATIVE BILL 1039

Approved by the Governor April 15, 1996

Introduced by Revenue Committee: Warner, 25, Chairperson; Coordsen, 32; Hartnett, 45; Kristensen, 37; Landis, 46; Schellpeper, 18; Wickersham, 49; Will, 8; Preister, 5; Chambers, 11; Jones, 43; Pedersen, 39; Cudaback, 36; Beutler, 28; Vrtiska, 11; Avery, 3; Wesely, 26; Hilgert, 7; Lynch, 13; Robak, 22; Crosby, 29; Stuhr, 24; Brown, 6; Bohlke, 33; Schimek, 27; Jensen, 20; Abboud, 12; Fisher, 35; Witek, 31; Maurstad, 30

AN ACT relating to property tax; to amend sections 77-1348 and 77-3524, Reissue Revised Statutes of Nebraska, section 77-1344, Revised Statutes Supplement, 1994, and sections 77-3504, 77-3505.02, 77-3512, 77-3513, 77-3514, 77-3516, 77-3517, and 77-3528, Revised Statutes Supplement, 1995; to change a provision relating to valuation of agricultural and horticultural lands; to redefine terms; to change filing dates; to change homestead exemption review provisions; to change statistic requirements; to provide for applicability of legislative changes; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 77-1344, Revised Statutes Supplement, 1994, is amended to read:

77-1344. (1) Any land which has an actual value as defined in subsection (1) of section 77-112 reflecting a potential use other than agricultural or horticultural use, is located outside the corporate boundaries of any sanitary and improvement district, city, or village, is used exclusively for agricultural or horticultural use, and is zoned for agricultural or horticultural use shall be valued at its actual value for agricultural or horticultural use pursuant to sections 77-1359 to 77-1367 and 77-1371 and not at the actual value it would have if applied to other than agricultural or horticultural use if application for such special valuation is made pursuant to sections 77-1343 to 77-1348, except that the special valuation provisions shall not be applicable to that portion of lands zoned predominantly for agricultural or horticultural use if such lands have been subdivided for residential use. No land which has an actual value as defined in subsection (1) of section 77-112 reflecting a potential use other than agricultural or horticultural use shall be valued as agricultural land or horticultural land unless it receives the special valuation pursuant to sections 77-1343 to 77-1348.

(2) The eligibility of land for the special valuation provisions of this section shall be determined as of January 1, but if land so qualified becomes disqualified prior to July 1 the levy date of the same year, it shall be valued at its actual value as defined by subsection (1) of section 77-112 without regard to this section. If the land becomes disqualified after July 1 the date of levy, its valuation for that year shall continue as provided in this section.

Sec. 2. Section 77-1348, Reissue Revised Statutes of Nebraska, is amended to read:

77-1348. (1) Whenever land which has received special valuation under subsection (1) of section 77-1344 becomes disqualified for such valuation pursuant to section 77-1347, 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 If the land was disqualified for the special valuation pursuant to section 77-1347 before the levy date of the year of disqualification, 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 77-1344 during the last five three or lesser number of years in which such agricultural or horticultural use valuation was in effect for the land, and, if the land was disqualified on or after the levy date of the year of disqualification, the total amount by which the taxes assessed against the land would have increased if it had been valued without regard to subsection (1) of section 77-1344 during the last four or lesser number of years in which such agricultural or horticultural use valuation was in effect for the land; and

(b) Interest upon the amounts of additional tax from each year

included in subdivision (1)(a) of this section at the rate of six percent from the dates at which such additional taxes would have been payable if no special valuation under subsection (1) of section 77-1344 had been in effect.

(2) In cases when the designation of specially valued land is removed as a result of a sale or transfer described in subdivision (2) of section 77-1347 other than an acquisition described in subsection (4) of this section, the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.

(3) Land receiving special assessment as agricultural use land immediately prior to August 26, 1983, which becomes disqualified on August 26, 1983, solely because of the amendment of sections 77-1343, 77-1344, and 77-1347 by Laws 1983, LB 26, shall not be subject to subsection (1) of this section at that time, but shall be subject to subsection (1) of this section if any other event occurs which would disqualify such land if it were receiving the special valuation under subsection (1) of section 77-1344.

(4) The provisions of subsection (1) of this section do not apply if the land was acquired by eminent domain or if the land was sold to a public entity which would have had the authority to acquire the land by eminent domain.

Sec. 3. Section 77-3504, Revised Statutes Supplement, 1995, is amended to read:

77-3504. Household income ~~shall mean~~ means the total federal adjusted gross income, as defined in the Internal Revenue Code, plus (1) any Nebraska adjustments increasing the total federal adjusted gross income, (2) any interest or dividends received by the owner regarding obligations of the State of Nebraska or any political subdivision, authority, commission, or instrumentality thereof to the extent excluded in the computation of gross income for federal income tax purposes, and (3) any social security or railroad retirement benefit to the extent excluded in the computation of gross income for federal income tax purposes, 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, less all medical expenses actually incurred and paid by the claimant, his or her spouse, or any owner-occupant which are in excess of four percent of household income calculated prior to the deduction for medical expenses. For purposes of this section, medical expenses means the costs of health insurance premiums and the costs of goods and services purchased from a person licensed under Chapter 71, article 1 or 47, or a facility licensed pursuant to Chapter 71, article 20, for purposes of restoring or maintaining health, including insulin and prescription medicine but not including nonprescription medicine.

Sec. 4. Section 77-3505.02, Revised Statutes Supplement, 1995, is amended to read:

77-3505.02. Maximum value shall mean:

(1) For applicants eligible under sections 77-3507 and 77-3509, one hundred fifty percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or ninety-five thousand dollars, whichever is greater; and

(2) For applicants eligible under section 77-3508, one hundred seventy-five percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or one hundred ten thousand dollars, whichever is greater.

Sec. 5. Section 77-3512, Revised Statutes Supplement, 1995, is amended to read:

77-3512. It shall be the duty of each owner who applies for the homestead exemption provided in sections 77-3507 to 77-3509 to file an application therefor with the county assessor of the county in which the homestead is located after January 1 and on or before ~~April 30~~ May 31 in 1996 and April 30 in subsequent years. Failure to do so shall constitute a waiver of the exemption for that year, except that the county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before ~~May 20~~ June 20 in 1996 and May 20 in subsequent years. An extension shall not be granted to an applicant who received an extension in the immediately preceding year.

Sec. 6. Section 77-3513, Revised Statutes Supplement, 1995, is amended to read:

77-3513. (1) For tax year 1995, all persons who apply for a homestead exemption provided in sections 77-3507 to 77-3509 shall file an application pursuant to section 77-3512. For tax year 1996 and subsequent tax years, 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 qualifies for the homestead exemption in such succeeding years as otherwise provided in sections 77-3501 to 77-3529 as though a claim were made.

(2) 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 30 of each year May 31 in 1996 and April 30 in subsequent years. Failure to do so shall constitute a waiver of the exemption for such year, except that the county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before May 20 June 20 in 1996 and May 20 in subsequent years. An extension shall not be granted to an applicant who received an extension in the immediately preceding year.

Sec. 7. Section 77-3514, Revised Statutes Supplement, 1995, is amended to read:

77-3514. In tax year 1996 and subsequent tax years, a claimant who is 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 certify to the county assessor on or before April 30 of each year May 31 in 1996 and April 30 in subsequent years that a change in the homestead exemption status has occurred or that no change in the homestead exemption status has occurred. The county board of the county in which the homestead is located may, by majority vote, extend the deadline to on or before May 20 June 20 in 1996 and May 20 in subsequent years. An extension shall not be granted to an applicant who received an extension in the immediately preceding year. 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, or rating by the United States Department of Veterans Affairs 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. The certificate shall require the attachment of an income statement as prescribed by the Tax Commissioner fully accounting for all household income. The certification and the information contained on any attachments to the certification shall be confidential and available to tax officials only. In addition, a claimant who is the owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509 may notify the county assessor by 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 property owner permits the allowance of the homestead exemption for any 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 property in this state for the two succeeding years.

Sec. 8. Section 77-3516, Revised Statutes Supplement, 1995, is amended to read:

77-3516. The county assessor shall examine each application for homestead exemption filed with him or her for an exemption pursuant to sections 77-3507 to 77-3509 and shall determine, except for the income requirements, whether or not such application should be approved or rejected. If the application is approved, the county assessor shall mark the same approved and sign the application. 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 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 May 31 June 30 in 1996 and May 31 in subsequent years, except that in cases of a change in ownership or occupancy from January 1 through August 15 or a late application authorized by the county board, the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner.

Sec. 9. Section 77-3517, Revised Statutes Supplement, 1995, is

amended to read:

77-3517. (1) On or before ~~June 1~~ July 1 in 1996 and June 1 in subsequent years, the county assessor shall forward approved applications for homestead exemptions and a copy of the certification of disability status to the Tax Commissioner who shall determine if the applicant meets the income requirements and, on or before November 1, certify his or her determinations to the county assessor. If the application is approved, the county assessor shall make the proper deduction on the assessment rolls. If the application is denied or approved in part, the Tax Commissioner shall notify the applicant of the denial or partial approval by mailing written notice to the applicant at the address shown on the application. The applicant may appeal the Tax Commissioner's denial or partial approval pursuant to section 77-3520. Late applications authorized by the county board shall be processed in a similar manner after approval by the county assessor.

(2)(a) Upon his or her own action or upon a request by an applicant, a or surviving spouse, or an owner-occupant, the Tax Commissioner may review the income information of applicants. Any action taken by the Tax Commissioner pursuant to this subsection shall be taken within three years after December 31 of the year in which the exemption was claimed.

(b) If an exemption should have been approved or increased for reasons of the income requirements, the Tax Commissioner shall notify the applicant, or the surviving spouse, or owner-occupant and the county treasurer and assessor of his or her determination. The applicant, or surviving spouse, or owner-occupant shall receive a refund of the tax, if any, that was paid as a result of the exemption being denied, in whole or in part. The county treasurer shall make the refund and shall amend the county's claim for reimbursement from the state. No reimbursement shall be made if the applicant and surviving spouse are deceased.

(c) If an exemption should have been denied or reduced for reasons of the income requirements, the Tax Commissioner shall notify the applicant, or surviving spouse, or owner-occupant of such denial or reduction. The applicant, the or surviving spouse, and any owner-occupant may appeal the Tax Commissioner's denial or reduction pursuant to section 77-3520. Upon the expiration of the appeal period in section 77-3520, the Tax Commissioner shall notify the county assessor of the denial or reduction and the county assessor shall remove or reduce the exemption from the tax rolls of the county. Upon notification by the Tax Commissioner to the county assessor, the amount of tax due as a result of the action of the Tax Commissioner shall become a lien on the homestead until paid. Upon attachment of the lien, the county treasurer shall refund to the Tax Commissioner the amount of tax equal to the denied or reduced exemption for deposit into the General Fund. No lien shall be created if a change in ownership of the homestead or death of the applicant, the and surviving spouse, and all other owner-occupants has occurred prior to the Tax Commissioner's notice to the county assessor.

Sec. 10. Section 77-3524, Reissue Revised Statutes of Nebraska, is amended to read:

77-3524. The Department of Revenue shall maintain statistics to demonstrate the number of claimants and the amount of relief granted for each category the categories of homestead exemption. The categories shall include, but not be limited to, claimants for conventional homes, mobile homes, and homes on leased land and claimants eligible due to disabilities.

Sec. 11. Section 77-3528, Revised Statutes Supplement, 1995, is amended to read:

77-3528. Any veteran claiming the exemption as provided by section 77-3527 shall make application to the county assessor upon forms prescribed and furnished by the Tax Commissioner. Such application shall be made on or before April 30 of each year May 31 in 1996 and April 30 in subsequent years. Exemptions claimed before April 30 of each year May 31 in 1996 and April 30 in subsequent years shall apply for the year such exemption is claimed.

Sec. 12. The changes made to sections 77-3504, 7-3505.02, 77-3512, 77-3513, 77-3514, 77-3516, 77-3517, 77-3524, and 77-3528 by this legislative bill apply to applications filed for 1996 and thereafter.

Sec. 13. Original sections 77-1348 and 77-3524, Reissue Revised Statutes of Nebraska, section 77-1344, Revised Statutes Supplement, 1994, and sections 77-3504, 77-3505.02, 77-3512, 77-3513, 77-3514, 77-3516, 77-3517, and 77-3528, Revised Statutes Supplement, 1995, are repealed.

Sec. 14. Since an emergency exists, this act takes effect when passed and approved according to law.