

LEGISLATIVE BILL 809

Passed over the Governor's veto April 9, 1984

Introduced by Newell, 13; Remmers, 1; V. Johnson, 8; Withem, 14; McDonald, 31; Wesely, 26; Hefner, 19; Hoagland, 6; Von Minden, 17; Pappas, 42; Schmit, 23; DeCamp, 40; Goll, 16; Hannibal, 4; Higgins, 9; Labedz, 5; Pirsch, 10; Morehead, 30; Scofield, 49; Kilgarin, 7

AN ACT relating to homestead exemptions; to amend sections 77-3501, 77-3521, and 77-3522, Reissue Revised Statutes of Nebraska, 1943, and sections 77-3509.01 to 77-3514, 77-3516, and 77-3529, Revised Statutes Supplement, 1983; to provide an exemption based on actual value as prescribed; to provide requirements for property tax statements; to harmonize provisions; and to repeal the original sections.

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 and sections 2 and 3 of this act, unless the context otherwise requires, the definitions found in sections 77-3502 to 77-3505 shall be used.

Sec. 2. All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation the first three thousand dollars of the actual value of the homestead.

Sec. 3. All property tax statements for homesteads granted an exemption in sections 77-3507 to 77-3509 or section 2 of this act shall show the amount of the exemption, the tax that would otherwise be due, and a statement that the tax loss shall be reimbursed by the state as a homestead exemption.

Sec. 4. That section 77-3509.01, Revised Statutes Supplement, 1983, 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 or section 2 of this act, who transfers the ownership of such homestead and becomes the owner of another homestead within the county prior to September 15 during the year for which the exemption was granted, may file an application with the county assessor, on or before September 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 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. 5. That section 77-3509.02, Revised Statutes Supplement, 1983, 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 or section 2 of this act transfers the ownership of such homestead on or before September 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. 6. That section 77-3510, Revised Statutes Supplement, 1983, 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 to determine whether each claim for exemption under sections 77-3508, and 77-3509, and section 2 of this act should be allowed, (2) enable the Tax Commissioner to determine whether each claim for exemption under section 77-3507 should be allowed, and (3) 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. 7. That section 77-3511, Revised Statutes Supplement, 1983, 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 sections 77-3501 to 77-3529 and sections 2 and 3 of this act, 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 77-3501 through 77-3529 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. 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. 8. That section 77-3512, Revised Statutes Supplement, 1983, be amended to read as follows:

77-3512. It shall be the duty of each owner who applies for the homestead exemption provided in sections 77-3507 to 77-3509 and section 2 of this act 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 1, and failure to do so shall constitute a waiver of the exemption for that year.

Sec. 9. That section 77-3513, Revised Statutes Supplement, 1983, be amended to read as follows:

77-3513. (1) If an owner is granted a homestead exemption as provided in section 2 of this act, section 77-3509, or subdivision (2), (3), (4), or (5) of section 77-3508, the homestead exemption as to such property shall remain in full force and effect for each succeeding year without reapplication, if the same owner is in all respects entitled to the same exemption granted under the provisions of sections 77-3501 to 77-3529 and sections 2 and 3 of this act. Once a qualified claimant has filed an application for homestead exemption and the exemption has been granted for that year, 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 and sections 2 and 3 of this act as though a claim were made.

(2) It shall be the duty of each claimant who wants the homestead exemption provided in subdivision (1) 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. 10. That section 77-3514, Revised Statutes Supplement, 1983, be amended to read as follows:

77-3514. The owner of a homestead which has been granted an exemption under sections 77-3507 to 77-3509 or section 2 of this act shall notify the county assessor by March 15 of each year of any change in the homestead exemption status occurring in the 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, marital status, veteran status, rating by the Veterans' Administration, 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 or section 2 of this act may notify the county assessor by September 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. 11. That section 77-3516, Revised Statutes Supplement, 1983, 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 77-3508, or 77-3509, or section 2 of this act and shall determine 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 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. In any case when the county assessor disallows or reduces 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 fourth Monday in April of each year and 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 fourth Monday of April of each year.

Sec. 12. That section 77-3521, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3521. It shall be the duty of the Tax Commissioner to issue for the information and guidance of the county assessors and county boards of equalization proper rules and regulations, not inconsistent with the provisions of sections 77-3501 to 77-3523 and sections 2 and 3 of this act, affecting the application, hearing, assessment, or equalization of property which is claimed to be entitled to the exemption granted by such sections. ~~77-3501 to 77-3523.~~

Sec. 13. That section 77-3522, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3522. (1) Any person who makes any false or fraudulent claim for exemption, or any false statement or false representation of a material fact in support of such claim, or any person who assists another in the preparation of any such false or fraudulent claim, or enters into any collusion with another by the execution of a fictitious deed or other instrument for the purpose of obtaining unlawful exemption under the provisions of sections 77-3501 to 77-3523 and sections 2 and 3 of this act, shall be guilty of a Class II misdemeanor and shall be subject to a forfeiture of any such exemption for a period of two years from date of conviction. Any person who shall make oath to any false or fraudulent application for homestead exemption, knowing the same to be false or fraudulent, shall be guilty of a Class I misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, if any person files a claim for exemption as provided in section 77-3507 which is excessive due to misstatements by the owner filing such claim, the claim may be disallowed in full, and, if the claim has been allowed, an amount equal to the amount of taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption shall be due and shall, upon entry of the amount thereof on the books of the county treasurer, be a lien on such property until paid and a penalty equal to the amount of taxes lawfully due but claimed for exemption shall be assessed.

Sec. 14. That section 77-3529, Revised Statutes Supplement, 1983, 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, and sections 2 and 3 of this act is denied and the applicant would be qualified for any other exemption pursuant to such

subdivision or sections, (1) of section 77-202-24 or sections 77-3501 to 77-3518 and 77-3526 to 77-3528, 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. 15. That original sections 77-3501, 77-3521, and 77-3522, Reissue Revised Statutes of Nebraska, 1943, and sections 77-3509.01 to 77-3514, 77-3516, and 77-3529, Revised Statutes Supplement, 1983, are repealed.