

LEGISLATIVE BILL 283

Approved by the Governor March 9, 2005

Introduced by Raikes, 25

AN ACT relating to revenue and taxation; to amend sections 77-1504, 77-1507, and 77-1613.04, Reissue Revised Statutes of Nebraska, and sections 77-1315.01, 77-1502, 77-1504.01, and 77-1510, Revised Statutes Supplement, 2004; to change provisions relating to property equalization timeframes; and to repeal the original sections.

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

Section 1. Section 77-1315.01, Revised Statutes Supplement, 2004, is amended to read:

77-1315.01. After March 19 and on or before July 25 or on or before August 10 in counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the county assessor shall report to the county board of equalization any overvaluation or undervaluation of any real property. The county board of equalization shall consider the report in accordance with section 77-1504.

The current year's assessed valuation of any real property shall not be changed by the county assessor after March 19 except by action of the agricultural and horticultural land valuation board, the Tax Equalization and Review Commission, or the county board of equalization.

Sec. 2. Section 77-1502, Revised Statutes Supplement, 2004, is amended to read:

77-1502. (1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. Protests regarding tangible personal property shall be filed on or before the last date for filing the return required by section 77-1229. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be filed in triplicate with the county clerk of the county where the property is assessed. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made and a description of the property to which the protest applies. If the property is real property, a description of each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest or the description of the property, the protest shall be dismissed by the county board of equalization.

(3) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description of the property to which the protest applies, (b) any recommendation of the county assessor for action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report shall be given to the county assessor. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the county assessor shall return the same to the

county clerk for proper preparation.

(4) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board's decision. The notice shall contain a statement advising the protestor that a report of the board's decision is available at the county clerk's or county assessor's office, whichever is appropriate, and that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission.

Sec. 3. Section 77-1504, Reissue Revised Statutes of Nebraska, is amended to read:

77-1504. The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502, to consider and correct the current year's assessment of any real property which has been undervalued, overvalued, or omitted. The board shall give notice of the assessed value to the record owner or agent at his or her last-known address.

The county board of equalization in taking action pursuant to this section may consider the reports of the county assessor pursuant to sections 77-1315.01 and 77-1317 or any other documented information known to any member of the board.

Action of the county board of equalization pursuant to this section shall be for the current assessment year only.

The action of the county board of equalization may be protested to the board within thirty days after the mailing of the notice required by this section. If no protest is filed, the action of the board shall be final. If a protest is filed, the county board of equalization shall hear the protest in the manner prescribed in section 77-1502, except that all protests shall be heard and decided on or before September 15 or on or before September 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission on or before October 15 or on or before October 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

Sec. 4. Section 77-1504.01, Revised Statutes Supplement, 2004, is amended to read:

77-1504.01. (1) ~~After~~ Unless the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502, after completion of its actions and based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the commission on or before July 26.

(2) The commission shall hear and take action on a petition filed by a county board of equalization on or before August 10. Hearings held pursuant to this section may be held by means of videoconference. The burden of proof is on the petitioning county to show that failure to make an adjustment would result in values that are not equitable and in accordance with the law. At the hearing the commission may receive testimony from any interested person.

(3) After a hearing the commission shall, within the powers granted in section 77-5023, enter its order based on evidence presented to it at such hearing and the hearings held pursuant to section 77-5022 for that year. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be made to the class or subclass of real property affected. When issuing an order to adjust a class or subclass of real property, the commission may exclude individual properties from that order whose value has already been adjusted by a county board of equalization in the same manner as the commission directs in its order. On or before August 10 of each year, the commission shall send its order by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board.

(4) The county assessor shall make the specified changes to each item of property in the county as directed by the order of the commission. In implementing such order, the county assessor shall adjust the values of the class or subclass that is the subject of the order. For properties that have already received an adjustment from the county board of equalization, no additional adjustment shall be made applying the commission's order, but such an exclusion from the commission's order shall not preclude adjustments to those properties for corrections or omissions. The county assessor of the county adjusted by an order of the commission shall recertify the abstract of

assessment to the Property Tax Administrator on or before August 20.

Sec. 5. Section 77-1507, Reissue Revised Statutes of Nebraska, is amended to read:

77-1507. (1) The county board of equalization may meet at any time for the purpose of assessing any omitted real property which was not reported to the county assessor pursuant to section 77-1318.01 and for clerical errors as defined in section 77-128 that result in a change of valuation. The county board of equalization shall give notice of the assessed value of the real property to the record owner or agent at his or her last-known address. For real property which has been omitted in the current year, the county board of equalization shall not send notice pursuant to this section on or before June 1.

Protests for omitted real property pursuant to this section and clerical errors shall be filed with the county board of equalization within thirty days after the mailing of the notice. The procedures for filing a protest under this section shall be the same as those in section 77-1502 except for date restrictions.

(2) The county clerk shall, within seven days after the board's final decision, send:

(a) For protested action, a notification to the protester of the board's final action; and

(b) For protested and nonprotested action, a report to the Property Tax Administrator which shall state the description of the property, the reason such property was not assessed pursuant to section 77-1301, and a statement of the board's justification for its action. A copy of the report shall be available for public inspection in the office of the county clerk.

(3) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

(4) No omitted real property which was properly reported to the county assessor pursuant to section 77-1318.01 shall be added to the assessment roll after July 25 of the year or years in which the property was omitted. In counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the deadline of July 25 shall be extended to August 10.

Sec. 6. Section 77-1510, Revised Statutes Supplement, 2004, is amended to read:

77-1510. Any action of the county board of equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

Sec. 7. Section 77-1613.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-1613.04. The county assessor after July 25, or after August 10 in counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, and with approval of the county board of equalization shall correct the assessment roll and the tax list, if necessary, in the case of a clerical error as defined in section 77-128 that results in a change in the value of the real property. Clerical errors that do not result in a change of value on the assessment roll may be corrected at any time by the county assessor. All corrections to the tax list shall be made as provided in section 77-1613.02.

Sec. 8. Original sections 77-1504, 77-1507, and 77-1613.04, Reissue Revised Statutes of Nebraska, and sections 77-1315.01, 77-1502, 77-1504.01, and 77-1510, Revised Statutes Supplement, 2004, are repealed.