

LEGISLATIVE BILL 750

Approved by the Governor April 10, 2012

Introduced by Cornett, 45; Lambert, 2; Pirsch, 4; Price, 3.

FOR AN ACT relating to revenue and taxation; to amend sections 77-1359 and 77-1371, Reissue Revised Statutes of Nebraska; to redefine terms related to assessment of agricultural land and horticultural land; to change provisions relating to comparable sales for assessment of real property; and to repeal the original sections.

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

Section 1. Section 77-1359, Reissue Revised Statutes of Nebraska, is amended to read:

77-1359 The Legislature finds and declares that agricultural land and horticultural land shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

For purposes of ~~sections 77-1359 to~~ this section and section 77-1363:

(1) Agricultural land and horticultural land means a parcel of land, ~~excluding any building or enclosed structure and the land associated with such a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land;~~

(2) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes includes the following uses of land:

(a) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and

(b) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production;

(3) ~~Farm home site means not more than one acre of land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes, and such improvements include utility connections, water and sewer systems, and improved access to a public road; and means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision; and~~

(4) Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site.

Sec. 2. Section 77-1371, Reissue Revised Statutes of Nebraska, is amended to read:

77-1371 Comparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value. When using comparable sales in determining actual value of an individual property under the sales comparison approach provided in section 77-112, the following guidelines shall be considered in determining what constitutes a comparable sale:

(1) Whether the sale was financed by the seller and included any special financing considerations or the value of improvements;

(2) Whether zoning affected the sale price of the property;

(3) For sales of agricultural land or horticultural land as defined in section 77-1359, whether a premium was paid to acquire ~~nearby~~ property. Land within one mile of currently owned property shall be considered nearby property; A premium may be paid when proximity or tax consequences cause the buyer to pay more than actual value for agricultural land or horticultural land;

(4) Whether sales or transfers made in connection with foreclosure,

bankruptcy, or condemnations, in lieu of foreclosure, or in consideration of other legal actions should be excluded from comparable sales analysis as not reflecting current market value;

(5) Whether sales between family members within the third degree of consanguinity include considerations that fail to reflect current market value;

(6) Whether sales to or from federal or state agencies or local political subdivisions reflect current market value;

(7) Whether sales of undivided interests in real property or parcels less than forty acres or sales conveying only a portion of the unit assessed reflect current market value;

(8) Whether sales or transfers of property in exchange for other real estate, stocks, bonds, or other personal property reflect current market value;

(9) Whether deeds recorded for transfers of convenience, transfers of title to cemetery lots, mineral rights, and rights of easement reflect current market value;

(10) Whether sales or transfers of property involving railroads or other public utility corporations reflect current market value;

(11) Whether sales of property substantially improved subsequent to assessment and prior to sale should be adjusted to reflect current market value or eliminated from such analysis; and

(12) For agricultural land or horticultural land as defined in section 77-1359 which is or has been receiving the special valuation pursuant to sections 77-1343 to 77-1347.01, whether the sale price reflects a value which the land has for purposes or uses other than as agricultural land or horticultural land and therefor does not reflect current market value of other agricultural land or horticultural land; and-

(13) Whether sales or transfers of property are in a similar market area and have similar characteristics to the property being assessed.

The Property Tax Administrator may issue guidelines for assessing officials for use in determining what constitutes a comparable sale. Guidelines shall take into account the factors listed in this section and other relevant factors as prescribed by the Property Tax Administrator.

Sec. 3. Original sections 77-1359 and 77-1371, Reissue Revised Statutes of Nebraska, are repealed.