

LEGISLATIVE BILL 84

Approved by the Governor May 22, 1989

Introduced by Lamb, 43; Rogers, 41; R. Johnson, 34;
Korshoj, 16; Beck, 8; Haberman, 44;
Hall, 7; Chizek, 31; Moore, 24;
Conway, 17; Barrett, 39, Speaker, for
the Governor; Abboud, 12

AN ACT relating to revenue and taxation; to amend sections 77-3509.03, 77-3512, 77-3521, and 77-3522, Reissue Revised Statutes of Nebraska, 1943, and sections 77-3501, 77-3510, 77-3511, 77-3516, 77-3517, and 77-3529, Revised Statutes Supplement, 1988; to adopt the Property Tax Relief Act; to exempt homesteads from property taxes as prescribed; to harmonize provisions; to provide a termination date for the Property Tax Relief Act; to provide a duty for the Revisor of Statutes; to provide an operative date; to provide inseverability; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 6 of this act shall be known and may be cited as the Property Tax Relief Act.

Sec. 2. The Legislature hereby finds and declares that:

(1) Property taxes account for over forty percent of all taxes collected at the state and local level;

(2) Property taxes are used to fund schools, county governments, municipal governments, and natural resources districts and many more local governmental functions;

(3) The growing demands on local government and the importance of quality education for the state's children has caused the state's real property owners to have one of the highest levies in the country; and

(4) The Property Tax Relief Act will reduce the property tax burden for the citizens of Nebraska and the reduction will be for the public good.

Sec. 3. (1) All property tax valuations, except motor vehicle valuations, shall be reduced by eight and one-half percent for tax year 1989 unless the

owner of a homestead receives an exemption under sections 77-3507 to 77-3509 or subdivision (1) of section 8 of this act.

(2) The county assessor shall adjust the assessment rolls to reflect the amount of the reductions provided in subsection (1) of this section.

(3) The county treasurer shall notify each taxpayer on his or her property tax statement of the total amount of property tax valuation assessed, the reduction in valuation provided by subsection (1) of this section, the net valuation, the total amount of property tax levied, the reduction in tax, and the net tax due.

Sec. 4. The Department of Revenue shall prepare a report summarizing the loss of revenue due to sections 3 and 8 of this act. The report shall summarize the information by county and state totals. A copy of the report shall be submitted to the state budget officer and the Legislative Fiscal Analyst on or before January 1 following the reduction in valuations provided by section 3 of this act.

Sec. 5. The loss of revenue due to the reduction in valuations provided by section 3 of this act shall be reimbursed from the General Fund. The Legislature shall include sufficient funds to provide the reimbursement in its budget. If sufficient funds are not provided, the Department of Revenue shall request a supplemental appropriation.

Sec. 6. (1) The Department of Revenue shall administer the Property Tax Relief Act and shall receive assistance from the political subdivisions of the state.

(2) The department shall administer the reduction in valuations provided by section 3 of this act in a manner that is consistent with the administration of the homestead exemptions under Chapter 77, article 35. Payments required under section 5 of this act as reimbursement for loss of revenue shall be made at the same time as the payments required for the homestead exemptions.

(3) Each taxing agency shall take into account the amount to be received under the act in preparing its annual budget.

Sec. 7. That section 77-3501, Revised Statutes Supplement, 1988, be amended to read as follows:

77-3501. For the purposes of sections 77-3501 to 77-3524 and section 8 of this act, unless the context otherwise requires, the definitions found in sections 77-3502 to 77-3505 shall be used.

Sec. 8. All homesteads in this state shall be

valued for taxation the same as other property except that for tax year 1989 any owner of a homestead shall receive (1) an exemption of the first five thousand four hundred dollars of the actual value of the homestead if the owner files an application for such exemption and is qualified to receive it, (2) an exemption under sections 77-3507 to 77-3509 for which the owner is qualified, or (3) the eight and one-half percent reduction in valuation provided by section 3 of this act.

Sec. 9. That section 77-3509.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3509.03. All property tax statements for homesteads granted an exemption in sections 77-3507 to 77-3509 or section 8 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. 10. That section 77-3510, Revised Statutes Supplement, 1988, 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 to 77-3509 or section 8 of this act 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. 11. That section 77-3511, Revised Statutes Supplement, 1988, 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, sections 77-3501 to 77-3529 and section 8 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 Chapter 77, article 35, such sections dies after January 1 and before April 1 the last day for filing an application for a homestead exemption and before applying for a homestead exemption, his or her personal representative may file the application for exemption on or before April 1 the last day for filing an application for a homestead exemption of that year if the surviving spouse of such owner continues to occupy the homestead. 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. 12. That section 77-3512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3512. (1) 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 1, and failure to do so shall constitute a waiver of the exemption for that year.

(2) It shall be the duty of each owner who applies for the homestead exemption provided in subdivision (1) of section 8 of this act to file an application therefor with the county assessor of the county in which the homestead is located on or before September 1, 1989, for tax year 1989. Failure to comply with this subsection shall constitute a waiver of the exemption.

Sec. 13. That section 77-3516, Revised Statutes Supplement, 1988, 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 sections 77-3507 to 77-3509 or section 8 of this act and shall determine, except for the income test, 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 and, for applications under section 8 of this act, shall also make the proper deduction on 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 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 fourth Monday in April of each year, except that in cases of a change in ownership or occupancy from January 1 through August 15 or an application under section 8 of this act, in which case the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner.

Sec. 14. That section 77-3517, Revised Statutes Supplement, 1988, be amended to read as follows:

77-3517. On or before the third Monday in April of each year, the county assessor shall forward approved applications for homestead exemptions, except for applications under section 8 of this act, 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, 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 make the proper deduction on the assessment rolls. If the Tax Commissioner's determination is that the application does not meet 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. 15. 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 adopt and promulgate rules and regulations 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 77-3529 and section 8 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.

Sec. 16. 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 Chapter 77, article 35, sections 77-3501 to 77-3529 and section 8 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 the date of conviction. Any person who shall make an oath or affirmation 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, 77-3508, or 77-3509 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. 17. That section 77-3529, Revised Statutes Supplement, 1988, be amended to read as follows:

77-3529. If any application for exemption pursuant to Chapter 77, article 35, sections 77-3501 to 77-3529 and section 8 of this act is denied and the applicant would be qualified for any other exemption under Chapter 77, article 35 such sections, 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. 18. The Revisor of Statutes shall assign

section 8 of this act to Chapter 77, article 35, and any reference to Chapter 77, article 35, shall include such section.

Sec. 19. The Property Tax Relief Act shall terminate on July 15, 1990.

Sec. 20. This act shall become operative on January 1, 1989.

Sec. 21. This act shall be considered a complete act and its provisions inseverable. If any provision of this act is declared unconstitutional, the entire act shall be invalid.

Sec. 22. That original sections 77-3509.03, 77-3512, 77-3521, and 77-3522, Reissue Revised Statutes of Nebraska, 1943, and sections 77-3501, 77-3510, 77-3511, 77-3516, 77-3517, and 77-3529, Revised Statutes Supplement, 1988, are repealed.

Sec. 23. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.