

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 173

Introduced By: Engel, 17; Avery, 28; Hudkins, 21; Janssen, 15;
Langemeier, 23; Nantkes, 46; Pedersen, 39

Read first time: January 8, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-3509.01, 77-3509.03, 77-3510, 77-3517, and 77-3523,
3 Reissue Revised Statutes of Nebraska, and section 77-3514,
4 Revised Statutes Cumulative Supplement, 2006; to change
5 provisions relating to homestead exemptions; to provide an
6 operative date; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3509.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-3509.01. The owner of a homestead which has been granted
4 an exemption provided in sections 77-3507 to 77-3509, who transfers
5 the ownership of such homestead and becomes the owner of another
6 homestead prior to August 15 during the year for which the exemption
7 was granted, may file an application with the county assessor of the
8 county where the new homestead is located, on or before August 15 of
9 such year, for a transfer of the exemption to the new homestead. The
10 county assessor shall examine each application and determine whether
11 or not the new homestead, except for the January 1 through August 15
12 ownership and occupancy requirement and the income requirements, is
13 eligible for exemption under sections 77-3507 to 77-3509. If the
14 application is approved by the county assessor, he or she shall make a
15 deduction upon the assessment rolls using the same criteria as
16 previously applied to the original homestead. The county assessor may
17 allow the application for transfer to also be considered an
18 application for a homestead exemption for the subsequent year. Upon
19 transfer of a homestead exemption, the obligation of the owner to
20 repay the state for the taxes lost as a result of the homestead
21 exemption, pursuant to section 7 of this act, shall not become due
22 upon transfer of the original homestead, but shall be transferred to
23 the new homestead.

24 Sec. 2. Section 77-3509.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-3509.03. All property tax statements for homesteads
27 granted an exemption in sections 77-3507 to 77-3509 shall show the

1 amount of the exemption, the tax that would otherwise be due, ~~and~~ a
2 statement that the tax loss shall be reimbursed by the state as a
3 homestead exemption, and a statement that the tax loss reimbursed by
4 the state is an obligation of the owner that will become due upon the
5 termination of the homestead exemption

6 Sec. 3. Section 77-3510, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-3510. On or before February 1 of each year, the Tax
9 Commissioner shall prescribe forms to be used by all claimants for
10 homestead exemption or for transfer of homestead exemption. Such forms
11 shall contain provisions for the showing of all information which the
12 Tax Commissioner may deem necessary to (1) enable the county officials
13 and the Tax Commissioner to determine whether each claim for exemption
14 under sections 77-3507 to 77-3509 should be allowed and (2) enable the
15 county assessor to determine whether each claim for transfer of
16 homestead exemption pursuant to section 77-3509.01 should be allowed.
17 It shall be the duty of the county assessor of each county in this
18 state to furnish such forms, upon request, to each person desiring to
19 make application for homestead exemption, affidavits for continuing a
20 homestead exemption, or for transfer of homestead exemption. The
21 forms so prescribed shall be used uniformly throughout the state, and
22 no application for exemption, affidavits for continuing a homestead
23 exemption, or for transfer of homestead exemption shall be allowed
24 unless the applicant uses the prescribed form in making an
25 application. The forms shall require a statement that the amount
26 reimbursed by the state for the taxes lost shall be an obligation of
27 the owner or his or her successor that will become due to the state

1 upon termination of the homestead exemption. The forms shall require
2 the attachment of an income statement as prescribed by the Tax
3 Commissioner fully accounting for all household income. The
4 application and information contained on any attachments to the
5 application shall be confidential and available to tax officials only.

6 Sec. 4. Section 77-3514, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 77-3514. A claimant who is the owner of a homestead which
9 has been granted an exemption under sections 77-3507 to 77-3509,
10 except subdivision (1)(b)(i) of section 77-3508, shall certify to the
11 county assessor on or before June 30 of each year that a change in the
12 homestead exemption status has occurred or that no change in the
13 homestead exemption status has occurred. The county board of the
14 county in which the homestead is located may, by majority vote, extend
15 the deadline to on or before July 20 of each year. An extension shall
16 not be granted to an applicant who received an extension in the
17 immediately preceding year. For purposes of this section, change in
18 the homestead exemption status shall include any change in the name of
19 the owner, ownership, residence, occupancy, marital status, veteran
20 status, or rating by the United States Department of Veterans Affairs
21 or any other change that would affect the qualification for or type of
22 exemption granted, except income checked by the Tax Commissioner under
23 section 77-3517. The certificate shall require the attachment of an
24 income statement as prescribed by the Tax Commissioner fully
25 accounting for all household income. The certification and the
26 information contained on any attachments to the certification shall be
27 confidential and available to tax officials only. In addition, a

1 claimant who is the owner of a homestead which has been granted an
2 exemption under sections 77-3507 to 77-3509 may notify the county
3 assessor by August 15 of each year of any change in the homestead
4 exemption status occurring in the preceding portion of the calendar
5 year as a result of a transfer of the homestead exemption pursuant to
6 sections 77-3509.01 and 77-3509.02. If by his or her failure to give
7 such notice any property owner permits the allowance of the homestead
8 exemption for any year, or in the year of application in the case of
9 transfers pursuant to sections 77-3509.01 and 77-3509.02, after the
10 homestead exemption status of such property has changed, an amount
11 equal to the amount of the taxes lawfully due but not paid by reason
12 of such unlawful and improper allowance of homestead exemption and
13 the amount of any repayment to the state for taxes lost as a result of
14 the homestead exemption that become due under section 7 of this act,
15 together with penalty and interest on such total sum as provided by
16 statute on delinquent ad valorem taxes, shall be due and shall upon
17 entry of the amount thereof on the books of the county treasurer be a
18 lien on such property while unpaid. Such lien may be enforced in the
19 manner provided for liens for other delinquent taxes. The lien under
20 this subsection shall not be a first and prior lien, but shall take
21 its priority from the time of the attachment. Any person who has
22 permitted the improper and unlawful allowance of such homestead
23 exemption on his or her property shall, as an additional penalty, also
24 forfeit his or her right to a homestead exemption on any property in
25 this state for the two succeeding years.

26 Sec. 5. Section 77-3517, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-3517. (1) On or before August 1 of each year, the county
2 assessor shall forward approved applications for homestead exemptions
3 and a copy of the certification of disability status to the Tax
4 Commissioner who shall determine if the applicant meets the income
5 requirements and, on or before November 1, certify his or her
6 determinations to the county assessor. If the application is approved,
7 the county assessor shall make the proper deduction on the assessment
8 rolls. If the application is denied or approved in part, the Tax
9 Commissioner shall notify the applicant of the denial or partial
10 approval by mailing written notice to the applicant at the address
11 shown on the application. The applicant may appeal the Tax
12 Commissioner's denial or partial approval pursuant to section 77-3520.
13 Late applications authorized by the county board shall be processed in
14 a similar manner after approval by the county assessor.

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

21 (b) If an exemption should have been approved or increased
22 for reasons of the income requirements, the Tax Commissioner shall
23 notify the applicant, spouse, or owner-occupant and the county
24 treasurer and assessor of his or her determination. The applicant,
25 spouse, or owner-occupant shall receive a refund of the tax, if any,
26 that was paid as a result of the exemption being denied, in whole or
27 in part. The county treasurer shall make the refund and shall amend

1 the county's claim for reimbursement from the state and the amount of
2 the owner's obligation for repayment pursuant to section 7 of this
3 act

4 (c) If an exemption should have been denied or reduced for
5 reasons of the income requirements, the Tax Commissioner shall notify
6 the applicant, spouse, or owner-occupant of such denial or reduction.
7 The applicant, the spouse, and any owner-occupant may appeal the Tax
8 Commissioner's denial or reduction pursuant to section 77-3520. Upon
9 the expiration of the appeal period in section 77-3520, the Tax
10 Commissioner shall notify the county assessor of the denial or
11 reduction and the county assessor shall remove or reduce the exemption
12 from the tax rolls of the county. Upon notification by the Tax
13 Commissioner to the county assessor, the amount of tax due as a result
14 of the action of the Tax Commissioner shall become a lien on the
15 homestead until paid. Upon attachment of the lien, the county
16 treasurer shall refund to the Tax Commissioner the amount of tax equal
17 to the denied or reduced exemption for deposit into the General Fund
18 and modify the amount of the owner's obligation for repayment pursuant
19 to section 7 of this act. The lien under this subdivision shall not
20 be a first and prior lien, but shall take its priority from the time
21 of attachment. No lien shall be created if a change in ownership of
22 the homestead or death of the applicant, the spouse, and all other
23 owner-occupants has occurred prior to the Tax Commissioner's notice to
24 the county assessor.

25 Sec. 6. Section 77-3523, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-3523. (1) The county treasurer shall, on or before

1 November 30 of each year, certify to the Tax Commissioner the total
2 tax revenue that will be lost to all taxing agencies within his or her
3 county from taxes levied and assessed in that year because of
4 exemptions allowed under Chapter 77, article 35, ~~multiplied by the~~
5 ~~aggregate assessment sales ratio calculated by the Property Tax~~
6 ~~Administrator for all single family residential real property in the~~
7 ~~county for the current year after adjustments by the Tax Equalization~~
8 ~~and Review Commission, except that any assessment sales ratio greater~~
9 ~~than 100 or any assessment sales ratio that complies with the~~
10 ~~standards of equalization as determined by the commission shall be~~
11 ~~deemed to be 100 for such purpose.~~ and the amount of total tax
12 revenue lost for each homestead exemption granted, listed by property
13 record and owner. The county treasurer may amend the certification
14 to show any change or correction in the total tax that will be lost
15 until May 30 of the next succeeding year. If a homestead exemption is
16 approved, denied, or corrected by the Tax Commissioner under
17 subsection (2) of section 77-3517 after May 1 of the next year, the
18 county treasurer shall prepare and submit amended reports to the Tax
19 Commissioner and the political subdivisions covering any affected year
20 and shall adjust the reimbursement to the county and the other
21 political subdivisions by adjusting the reimbursement due under this
22 section in later years and shall also modify the obligation of the
23 owner for repayment pursuant to section 7 of this act, as
24 appropriate.

25 (2) The Tax Commissioner shall, on or before January 1
26 next following such certification or within thirty days of any
27 amendment to the certification, notify the Director of Administrative

1 Services of the amount so certified to be reimbursed by the state.
2 Reimbursement of the funds lost shall be made to each county according
3 to the certification and shall be distributed in six as nearly as
4 possible equal monthly payments on the last business day of each month
5 beginning in January. The State Treasurer shall, on the business day
6 preceding the last business day of each month, notify the Director of
7 Administrative Services of the amount of funds available in the
8 General Fund for payment purposes. The Director of Administrative
9 Services shall, on the last business day of each month, draw warrants
10 against funds appropriated. Out of the amount so received the county
11 treasurer shall distribute to each of the taxing agencies within his
12 or her county the full amount so lost by such agency, ~~multiplied by~~
13 ~~the aggregate assessment sales ratio calculated by the Property Tax~~
14 ~~Administrator for all single family residential real property in the~~
15 ~~county for the current year after adjustments by the commission,~~
16 ~~except that any assessment sales ratio greater than 100 or any~~
17 ~~assessment sales ratio that complies with the standards of~~
18 ~~equalization as determined by the commission shall be deemed to be~~
19 ~~100 for such purpose,~~ except that one percent of such amount shall
20 be deposited in the county general fund and that the amount due a
21 Class V school district shall be paid to the district and the county
22 shall be compensated pursuant to section 14-554. Each taxing agency
23 shall, in preparing its annual or biennial budget, take into account
24 the amount to be received under this section.

25 Sec. 7. A homestead exemption shall terminate on:
26 (a) The death of the owner;
27 (b) A sale or other transfer of the homestead, except a

1 transfer to a surviving spouse of the owner and except for a transfer
2 of a homestead exemption under sections 77-3509.01 and 77-3509.02;

3 (c) A determination by the Tax Commissioner that the
4 homestead exemption was granted incorrectly; or

5 (d) Voluntary payment to the Department of Revenue of the
6 total amount of lost taxes for all years after 2007 that the owner
7 received the homestead exemption.

8 (2) When a homestead exemption is terminated, the total
9 amount of taxes lost by all taxing agencies and reimbursed by the
10 state for all years for which the owner received a homestead
11 exemption after 2007, not to exceed the total assessed value of the
12 homestead in the year of disqualification, shall immediately become
13 due and payable to the Department of Revenue. Interest shall accrue
14 from the date the lien is filed at the rate provided in section
15 45-104.02.

16 (3) The total amount of taxes lost under the homestead
17 exemption and interest shall constitute a lien on the homestead
18 property on behalf of the Department of Revenue as provided in the
19 Uniform State Tax Lien Registration and Enforcement Act, except that
20 such lien and notice thereof shall not expire until three years after
21 termination of the homestead exemption. The Tax Commissioner shall
22 file with the county in which the homestead is located a notice of
23 lien for lost taxes. Notwithstanding other provisions of Chapter 77,
24 the lien for lost taxes and interest shall not be a first and prior
25 lien, but shall take its priority from the date and time of filing of
26 the notice of lien.

27 (4) Money collected under this section shall be remitted to

1 the State Treasurer for credit to the General Fund.

2 Sec. 8. This act becomes operative on January 1, 2008.

3 Sec. 9. Original sections 77-3509.01, 77-3509.03, 77-3510,
4 77-3517, and 77-3523, Reissue Revised Statutes of Nebraska, and
5 section 77-3514, Revised Statutes Cumulative Supplement, 2006, are
6 repealed.