

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1217**

Introduced by Bostar, 29.

Read first time January 16, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section  
2 77-1333, Reissue Revised Statutes of Nebraska, and sections 77-202,  
3 77-202.01, and 77-202.03, Revised Statutes Cumulative Supplement,  
4 2022; to provide certain property tax exemptions; to change  
5 provisions relating to exemption application procedures and rent-  
6 restricted housing projects; to provide a valuation process for  
7 sales-restricted houses; to harmonize provisions; and to repeal the  
8 original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 77-202 (1) The following property shall be exempt from property  
4 taxes:

5 (a) Property of the state and its governmental subdivisions to the  
6 extent used or being developed for use by the state or governmental  
7 subdivision for a public purpose. For purposes of this subdivision:

8 (i) Property of the state and its governmental subdivisions means  
9 (A) property held in fee title by the state or a governmental subdivision  
10 or (B) property beneficially owned by the state or a governmental  
11 subdivision in that it is used for a public purpose and is being acquired  
12 under a lease-purchase agreement, financing lease, or other instrument  
13 which provides for transfer of legal title to the property to the state  
14 or a governmental subdivision upon payment of all amounts due thereunder.  
15 If the property to be beneficially owned by a governmental subdivision  
16 has a total acquisition cost that exceeds the threshold amount or will be  
17 used as the site of a public building with a total estimated construction  
18 cost that exceeds the threshold amount, then such property shall qualify  
19 for an exemption under this section only if the question of acquiring  
20 such property or constructing such public building has been submitted at  
21 a primary, general, or special election held within the governmental  
22 subdivision and has been approved by the voters of the governmental  
23 subdivision. For purposes of this subdivision, threshold amount means the  
24 greater of fifty thousand dollars or six-tenths of one percent of the  
25 total actual value of real and personal property of the governmental  
26 subdivision that will beneficially own the property as of the end of the  
27 governmental subdivision's prior fiscal year; and

28 (ii) Public purpose means use of the property (A) to provide public  
29 services with or without cost to the recipient, including the general  
30 operation of government, public education, public safety, transportation,  
31 public works, civil and criminal justice, public health and welfare,

1 developments by a public housing authority, parks, culture, recreation,  
2 community development, and cemetery purposes, or (B) to carry out the  
3 duties and responsibilities conferred by law with or without  
4 consideration. Public purpose does not include leasing of property to a  
5 private party unless the lease of the property is at fair market value  
6 for a public purpose. Leases of property by a public housing authority to  
7 low-income individuals as a place of residence are for the authority's  
8 public purpose;

9 (b) Unleased property of the state or its governmental subdivisions  
10 which is not being used or developed for use for a public purpose but  
11 upon which a payment in lieu of taxes is paid for public safety, rescue,  
12 and emergency services and road or street construction or maintenance  
13 services to all governmental units providing such services to the  
14 property. Except as provided in Article VIII, section 11, of the  
15 Constitution of Nebraska, the payment in lieu of taxes shall be based on  
16 the proportionate share of the cost of providing public safety, rescue,  
17 or emergency services and road or street construction or maintenance  
18 services unless a general policy is adopted by the governing body of the  
19 governmental subdivision providing such services which provides for a  
20 different method of determining the amount of the payment in lieu of  
21 taxes. The governing body may adopt a general policy by ordinance or  
22 resolution for determining the amount of payment in lieu of taxes by  
23 majority vote after a hearing on the ordinance or resolution. Such  
24 ordinance or resolution shall nevertheless result in an equitable  
25 contribution for the cost of providing such services to the exempt  
26 property;

27 (c) Property owned by and used exclusively for agricultural and  
28 horticultural societies;

29 (d)(i) ~~(d)~~ Property owned by educational, religious, charitable, or  
30 cemetery organizations, or any organization for the exclusive benefit of  
31 any such educational, religious, charitable, or cemetery organization,

1 and used exclusively for educational, religious, charitable, or cemetery  
2 purposes, when such property is not (A) (i) owned or used for financial  
3 gain or profit to either the owner or user, (B) (ii) used for the sale of  
4 alcoholic liquors for more than twenty hours per week, or (C) (iii) owned  
5 or used by an organization which discriminates in membership or  
6 employment based on race, color, or national origin.

7 (ii) For purposes of subdivision (1)(d) of this section:

8 (A) Educational this subdivision, educational organization means (I)  
9 (A) an institution operated exclusively for the purpose of offering  
10 regular courses with systematic instruction in academic, vocational, or  
11 technical subjects or assisting students through services relating to the  
12 origination, processing, or guarantying of federally reinsured student  
13 loans for higher education or (II) (B) a museum or historical society  
14 operated exclusively for the benefit and education of the public; and -

15 (B) Charitable For purposes of this subdivision, charitable  
16 organization includes (I) an organization operated exclusively for the  
17 purpose of the mental, social, or physical benefit of the public or an  
18 indefinite number of persons and (II) a fraternal benefit society  
19 organized and licensed under sections 44-1072 to 44-10,109. ; and

20 (iii) The property tax exemption authorized in subdivision (1)(d)(i)  
21 of this section shall apply to any skilled nursing facility as defined in  
22 section 71-429, nursing facility as defined in section 71-424, or  
23 assisted-living facility as defined in section 71-5903 that provides  
24 housing for medicaid beneficiaries, except that the exemption amount for  
25 such property shall be a percentage of the property taxes that would  
26 otherwise be due. Such percentage shall be equal to the average  
27 percentage of beds in the facility provided to medicaid beneficiaries  
28 over the most recent three-year period.

29 (iv) The property tax exemption authorized in subdivision (1)(d)(i)  
30 of this section shall apply to a building that (A) is owned by a  
31 charitable organization, (B) is made available to students in attendance

1 at an educational institution, and (C) is recognized by such educational  
2 institution as approved student housing, except that the exemption shall  
3 only apply to the commons area of such building, including any common  
4 rooms and cooking and eating facilities; and

5 (e) Household goods and personal effects not owned or used for  
6 financial gain or profit to either the owner or user.

7 (2) The increased value of land by reason of shade and ornamental  
8 trees planted along the highway shall not be taken into account in the  
9 valuation of land.

10 (3) Tangible personal property which is not depreciable tangible  
11 personal property as defined in section 77-119 shall be exempt from  
12 property tax.

13 (4) Motor vehicles, trailers, and semitrailers required to be  
14 registered for operation on the highways of this state shall be exempt  
15 from payment of property taxes.

16 (5) Business and agricultural inventory shall be exempt from the  
17 personal property tax. For purposes of this subsection, business  
18 inventory includes personal property owned for purposes of leasing or  
19 renting such property to others for financial gain only if the personal  
20 property is of a type which in the ordinary course of business is leased  
21 or rented thirty days or less and may be returned at the option of the  
22 lessee or renter at any time and the personal property is of a type which  
23 would be considered household goods or personal effects if owned by an  
24 individual. All other personal property owned for purposes of leasing or  
25 renting such property to others for financial gain shall not be  
26 considered business inventory.

27 (6) Any personal property exempt pursuant to subsection (2) of  
28 section 77-4105 or section 77-5209.02 shall be exempt from the personal  
29 property tax.

30 (7) Livestock shall be exempt from the personal property tax.

31 (8) Any personal property exempt pursuant to the Nebraska Advantage

1 Act or the Imagine Nebraska Act shall be exempt from the personal  
2 property tax.

3 (9) Any depreciable tangible personal property used directly in the  
4 generation of electricity using wind as the fuel source shall be exempt  
5 from the property tax levied on depreciable tangible personal property.  
6 Any depreciable tangible personal property used directly in the  
7 generation of electricity using solar, biomass, or landfill gas as the  
8 fuel source shall be exempt from the property tax levied on depreciable  
9 tangible personal property if such depreciable tangible personal property  
10 was installed on or after January 1, 2016, and has a nameplate capacity  
11 of one hundred kilowatts or more. Depreciable tangible personal property  
12 used directly in the generation of electricity using wind, solar,  
13 biomass, or landfill gas as the fuel source includes, but is not limited  
14 to, wind turbines, rotors and blades, towers, solar panels, trackers,  
15 generating equipment, transmission components, substations, supporting  
16 structures or racks, inverters, and other system components such as  
17 wiring, control systems, switchgears, and generator step-up transformers.

18 (10) Any tangible personal property that is acquired by a person  
19 operating a data center located in this state, that is assembled,  
20 engineered, processed, fabricated, manufactured into, attached to, or  
21 incorporated into other tangible personal property, both in component  
22 form or that of an assembled product, for the purpose of subsequent use  
23 at a physical location outside this state by the person operating a data  
24 center shall be exempt from the personal property tax. Such exemption  
25 extends to keeping, retaining, or exercising any right or power over  
26 tangible personal property in this state for the purpose of subsequently  
27 transporting it outside this state for use thereafter outside this state.  
28 For purposes of this subsection, data center means computers, supporting  
29 equipment, and other organized assembly of hardware or software that are  
30 designed to centralize the storage, management, or dissemination of data  
31 and information, environmentally controlled structures or facilities or

1 interrelated structures or facilities that provide the infrastructure for  
2 housing the equipment, such as raised flooring, electricity supply,  
3 communication and data lines, Internet access, cooling, security, and  
4 fire suppression, and any building housing the foregoing.

5 (11) For tax years prior to tax year 2020, each person who owns  
6 property required to be reported to the county assessor under section  
7 77-1201 shall be allowed an exemption amount as provided in the Personal  
8 Property Tax Relief Act. For tax years prior to tax year 2020, each  
9 person who owns property required to be valued by the state as provided  
10 in section 77-601, 77-682, 77-801, or 77-1248 shall be allowed a  
11 compensating exemption factor as provided in the Personal Property Tax  
12 Relief Act.

13 Sec. 2. Section 77-202.01, Revised Statutes Cumulative Supplement,  
14 2022, is amended to read:

15 77-202.01 (1) Any organization or society seeking a tax exemption  
16 provided in subdivisions (1)(c) and (d) of section 77-202 for any real or  
17 tangible personal property, except real property used for cemetery  
18 purposes, shall apply for exemption to the county assessor on or before  
19 December 31 of the year preceding the year for which the exemption is  
20 sought on forms prescribed by the Tax Commissioner. Applications that  
21 lack an estimated valuation, or any other required information, shall  
22 result in the denial of the requested exemption. The county assessor  
23 shall examine the application and recommend either taxable or exempt for  
24 the real property or tangible personal property to the county board of  
25 equalization on or before March 1 following. For applications involving  
26 property described in subdivision (1)(d)(iii) or (iv) of section 77-202,  
27 the county assessor shall also calculate the exemption amount for the  
28 property and shall submit such calculation to the county board of  
29 equalization along with his or her recommendations. Notice that a list of  
30 the applications from organizations seeking tax exemption, descriptions  
31 of the property, and recommendations of the county assessor are available

1 in the county assessor's office shall be published in a newspaper of  
2 general circulation in the county at least ten days prior to  
3 consideration of any application by the county board of equalization.

4 (2) Any organization or society which fails to file an exemption  
5 application on or before December 31 may apply on or before June 30 to  
6 the county assessor. The organization or society shall also file in  
7 writing a request with the county board of equalization for a waiver so  
8 that the county assessor may consider the application for exemption. The  
9 county board of equalization shall grant the waiver upon a finding that  
10 good cause exists for the failure to make application on or before  
11 December 31. When the waiver is granted, the county assessor shall  
12 examine the application and recommend either taxable or exempt for the  
13 real property or tangible personal property to the county board of  
14 equalization, shall calculate the exemption amount for any property  
15 described in subdivision (1)(d)(iii) or (iv) of section 77-202, and shall  
16 assess a penalty against the property of ten percent of the tax that  
17 would have been assessed had the waiver been denied or one hundred  
18 dollars, whichever is less, for each calendar month or fraction thereof  
19 for which the filing of the exemption application missed the December 31  
20 deadline. The penalty shall be collected and distributed in the same  
21 manner as a tax on the property and interest shall be assessed at the  
22 rate specified in section 45-104.01, as such rate may from time to time  
23 be adjusted by the Legislature, from the date the tax would have been  
24 delinquent until paid. The penalty shall also become a lien in the same  
25 manner as a tax pursuant to section 77-203.

26 Sec. 3. Section 77-202.03, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

28 77-202.03 (1) Except as provided in section 77-202.10 and subsection  
29 (2) of this section, a A properly granted exemption of real or tangible  
30 personal property, ~~except real property used for cemetery purposes,~~  
31 provided for in subdivisions (1)(c) and (d) of section 77-202 shall



1 continue for a period of four years if the statement of reaffirmation of  
2 exemption required by subsection (3) ~~(2)~~ of this section is filed when  
3 due. The four-year period shall begin with years evenly divisible by  
4 four.

5 (2) An owner of property which has been granted an exemption under  
6 subdivision (1)(d)(iii) or (iv) of section 77-202 shall be required to  
7 reapply for the exemption each year so that the exemption amount for the  
8 year can be recalculated.

9 (3) ~~(2)~~ In each intervening year occurring between application  
10 years, the organization or society which filed the granted exemption  
11 application for the real or tangible personal property, except real  
12 property used for cemetery purposes and real property described in  
13 subdivision (1)(d)(iii) or (iv) of section 77-202, shall file a statement  
14 of reaffirmation of exemption with the county assessor on or before  
15 December 31 of the year preceding the year for which the exemption is  
16 sought, on forms prescribed by the Tax Commissioner, certifying that the  
17 ownership and use of the exempted property has not changed during the  
18 year. Any organization or society which misses the December 31 deadline  
19 for filing the statement of reaffirmation of exemption may file the  
20 statement of reaffirmation of exemption by June 30. Such filing shall  
21 maintain the tax-exempt status of the property without further action by  
22 the county and regardless of any previous action by the county board of  
23 equalization to deny the exemption due to late filing of the statement of  
24 reaffirmation of exemption. Upon any such late filing, the county  
25 assessor shall assess a penalty against the property of ten percent of  
26 the tax that would have been assessed had the statement of reaffirmation  
27 of exemption not been filed or one hundred dollars, whichever is less,  
28 for each calendar month or fraction thereof for which the filing of the  
29 statement of reaffirmation of exemption is late. The penalty shall be  
30 collected and distributed in the same manner as a tax on the property and  
31 interest shall be assessed at the rate specified in section 45-104.01, as

1 such rate may from time to time be adjusted by the Legislature, from the  
2 date the tax would have been delinquent until paid. The penalty shall  
3 also become a lien in the same manner as a tax pursuant to section  
4 77-203.

5 (4)(a) ~~(3)(a)~~ If any organization or society seeks a tax exemption  
6 for any real or tangible personal property acquired on or after January 1  
7 of any year or converted to exempt use on or after January 1 of any year,  
8 the organization or society shall make application for exemption on or  
9 before July 1 of that year as provided in subsection (1) of section  
10 77-202.01. The procedure for reviewing the application shall be as in  
11 sections 77-202.01 to 77-202.05, except that the exempt use shall be  
12 determined as of the date of application and the review by the county  
13 board of equalization shall be completed by August 15.

14 (b) If an organization as described in subdivision (1)(c) or (d) of  
15 section 77-202 purchases, between July 1 and the levy date, property that  
16 has been granted tax exemption and the property continues to be qualified  
17 for a property tax exemption, the purchaser shall on or before November  
18 15 make application for exemption as provided in section 77-202.01. The  
19 procedure for reviewing the application shall be as in sections 77-202.01  
20 to 77-202.05, and the review by the county board of equalization shall be  
21 completed by December 15.

22 (5) ~~(4)~~ In any year, the county assessor or the county board of  
23 equalization may cause a review of any exemption to determine whether the  
24 exemption is proper. Such a review may be taken even if the ownership or  
25 use of the property has not changed from the date of the allowance of the  
26 exemption. If it is determined that a change in an exemption is  
27 warranted, the procedure for hearing set out in section 77-202.02 shall  
28 be followed, except that the published notice shall state that the list  
29 provided in the county assessor's office only includes those properties  
30 being reviewed. If an exemption is denied, the county board of  
31 equalization shall place the property on the tax rolls retroactive to

1 January 1 of that year if on the date of the decision of the county board  
2 of equalization the property no longer qualifies for an exemption.

3 The county board of equalization shall give notice of the assessed  
4 value of the real property in the same manner as outlined in section  
5 77-1507, and the procedures for filing a protest shall be the same as  
6 those in section 77-1502.

7 When personal property which was exempt becomes taxable because of  
8 lost exemption status, the owner or his or her agent has thirty days  
9 after the date of denial to file a personal property return with the  
10 county assessor. Upon the expiration of the thirty days for filing a  
11 personal property return pursuant to this subsection, the county assessor  
12 shall proceed to list and value the personal property and apply the  
13 penalty pursuant to section 77-1233.04.

14 (6) ~~(5)~~ During the month of September of each year, the county board  
15 of equalization shall cause to be published in a paper of general  
16 circulation in the county a list of all real estate in the county exempt  
17 from taxation for that year pursuant to subdivisions (1)(c) and (d) of  
18 section 77-202. Such list shall be grouped into categories as provided by  
19 the Property Tax Administrator. An electronic copy of the list of real  
20 property exemptions and a copy of the proof of publication shall be  
21 forwarded to the Property Tax Administrator on or before November 1 of  
22 each year.

23 Sec. 4. Section 77-1333, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 77-1333 (1) For purposes of this section, rent-restricted housing  
26 project means a project consisting of five or more houses or residential  
27 units that has received an allocation of federal low-income housing tax  
28 credits under section 42 of the Internal Revenue Code from the Nebraska  
29 Investment Finance Authority or its successor agency and, for the year of  
30 assessment, is a project as defined in section 58-219 involving rental  
31 housing as defined in section 58-220.

1 (2) The Legislature finds that:

2 (a) The provision of safe, decent, and affordable housing to all  
3 residents of the State of Nebraska is a matter of public concern and  
4 represents a legitimate and compelling state need, affecting the general  
5 welfare of all residents;

6 (b) Rent-restricted housing projects effectively provide safe,  
7 decent, and affordable housing for residents of Nebraska;

8 (c) Such projects are restricted by federal law as to the rents paid  
9 by the tenants thereof. Such restrictions are set forth in a land use  
10 restriction agreement, which is a restriction applicable to real property  
11 under section 77-112;

12 (d) Of all the professionally accepted mass appraisal methodologies,  
13 which include the sales comparison approach, the income approach, and the  
14 cost approach, the utilization of the income-approach methodology results  
15 in the most accurate determination of the actual value of such projects;  
16 and

17 (e) This section is intended to (i) further the provision of safe,  
18 decent, and affordable housing to all residents of Nebraska and (ii)  
19 comply with Article VIII, section 1, of the Constitution of Nebraska,  
20 which empowers the Legislature to prescribe standards and methods for the  
21 determination of value of real property at uniform and proportionate  
22 values.

23 (3) Except as otherwise provided in this section, the county  
24 assessor shall utilize an income-approach calculation to determine the  
25 actual value of a rent-restricted housing project when determining the  
26 assessed valuation to place on the property for each assessment year. The  
27 income-approach calculation shall be consistent with this section and any  
28 rules and regulations adopted and promulgated by the Tax Commissioner and  
29 shall comply with professionally accepted mass appraisal techniques.

30 (4) The Rent-Restricted Housing Projects Valuation Committee is  
31 created. For administrative purposes only, the committee shall be within

1 the Department of Revenue. The committee's purpose shall be to develop a  
2 market-derived capitalization rate to be used by county assessors in  
3 determining the assessed valuation for rent-restricted housing projects.

4 The committee shall consist of the following four persons:

5 (a) A representative of county assessors appointed by the Tax  
6 Commissioner. Such representative shall be skilled in the valuation of  
7 property and shall hold a certificate issued under section 77-422;

8 (b) A representative of the low-income housing industry appointed by  
9 the Tax Commissioner. The appointment shall be based on a recommendation  
10 made by the Nebraska Commission on Housing and Homelessness;

11 (c) The Property Tax Administrator or a designee of the Property Tax  
12 Administrator who holds a certificate issued under section 77-422. Such  
13 person shall serve as the chairperson of the committee; and

14 (d) An appraiser from the private sector appointed by the Tax  
15 Commissioner. Such appraiser must hold either a valid credential as a  
16 certified general real property appraiser under the Real Property  
17 Appraiser Act or an MAI designation from the Appraisal Institute.

18 (5) The owner of a rent-restricted housing project shall file a  
19 statement electronically on a form prescribed by the Tax Commissioner  
20 with the Rent-Restricted Housing Projects Valuation Committee on or  
21 before July 1 of each year that includes (a) details actual income and  
22 actual expense data for the prior year or, in the case of an initial  
23 statement filed for any project under this subsection, the estimated  
24 income and expenses for the first year of operation taken from the  
25 application for an allocation of tax credits or private activity bonds,  
26 (b) a description of any land-use restrictions, (c) a description of the  
27 terms of any mortgage loans, including loan amount, interest rate, and  
28 amortization period, and (d) such other information as the committee or  
29 the county assessor may require for purposes of this section. The  
30 Department of Revenue, on behalf of the committee, shall forward such  
31 statements on or before August 15 of each year to the county assessor of

1 each county in which a rent-restricted housing project is located.

2 (6) The Rent-Restricted Housing Projects Valuation Committee shall  
3 meet annually in November to examine the information on rent-restricted  
4 housing projects that was provided pursuant to subsection (5) of this  
5 section. The Department of Revenue shall electronically publish notice of  
6 such meeting no less than thirty days in advance. The committee shall  
7 also solicit information on the sale of any such rent-restricted housing  
8 projects and information on the yields generated to investors in rent-  
9 restricted housing projects. The committee shall, after reviewing all  
10 such information, calculate a market-derived capitalization rate on an  
11 annual basis using the band-of-investment technique or other generally  
12 accepted technique used to derive capitalization rates depending upon the  
13 data available. The capitalization rate shall be a composite rate  
14 weighted by the proportions of total property investment represented by  
15 equity and debt, with equity weighted at eighty percent and debt weighted  
16 at twenty percent unless a substantially different market capital  
17 structure can be verified to the county assessor. The yield for equity  
18 shall be calculated using the data on investor returns gathered by the  
19 committee. The yield for debt shall be calculated using the data provided  
20 to the committee pursuant to subsection (5) of this section. If the  
21 committee determines that a particular county or group of counties  
22 requires a different capitalization rate than that calculated for the  
23 rest of the state pursuant to this subsection, then the committee may  
24 calculate an additional capitalization rate that will apply only to such  
25 county or group of counties.

26 (7) After the Rent-Restricted Housing Projects Valuation Committee  
27 has calculated the capitalization rate or rates under subsection (6) of  
28 this section, the committee shall provide such rate or rates and the  
29 information reviewed by the committee in calculating such rate or rates  
30 in an annual report. Such report shall be forwarded by the Property Tax  
31 Administrator to each county assessor in Nebraska no later than December

1 1 of each year for his or her use in determining the valuation of rent-  
2 restricted housing projects. The Department of Revenue shall publish the  
3 annual report electronically but may charge a fee for paper copies. The  
4 Tax Commissioner shall set the fee based on the reasonable cost of  
5 producing the report.

6 (8) Except as provided in subsections (9) through (11) of this  
7 section, each county assessor shall use the capitalization rate or rates  
8 contained in the report received under subsection (7) of this section and  
9 the ~~actual~~ income and ~~actual~~ expense data filed by owners of rent-  
10 restricted housing projects under subdivision (5)(a) ~~subsection (5)~~ of  
11 this section in the county assessor's income-approach calculation for the  
12 year. The county assessor shall then use the calculated amount, along  
13 with the calculated amounts from the prior two years, to determine a  
14 three-year average. Such three-year average shall be the valuation placed  
15 on the rent-restricted housing project for the current year. If only two  
16 calculated amounts are available, the county assessor shall determine a  
17 two-year average, and such two-year average shall be the valuation placed  
18 on the rent-restricted housing project for the current year. If only one  
19 calculated amount is available, such calculated amount shall be the  
20 valuation placed on the rent-restricted housing project for the current  
21 year. Any low-income housing tax credits authorized under section 42 of  
22 the Internal Revenue Code that were granted to owners of the project  
23 shall not be considered income for purposes of the calculation.

24 (9) If the ~~actual~~ income and ~~actual~~ expense data required to be  
25 filed for a rent-restricted housing project under subdivision (5)(a)  
26 ~~subsection (5)~~ of this section is not filed in a timely manner, the  
27 county assessor may use any method for determining actual value for such  
28 rent-restricted housing project that is consistent with professionally  
29 accepted mass appraisal methods described in section 77-112, so long as  
30 such method values the property as a rent-restricted housing project.

31 (10) If a county assessor, based on the facts and circumstances,

1 believes that the income-approach calculation does not result in a  
2 valuation of a specific rent-restricted housing project at its actual  
3 value as a rent-restricted housing project, then the county assessor  
4 shall present such facts and circumstances to the county board of  
5 equalization. If the county board of equalization, based on such facts  
6 and circumstances, concurs with the county assessor, then the county  
7 board of equalization shall petition the Tax Equalization and Review  
8 Commission to consider the county assessor's utilization of another  
9 professionally accepted mass appraisal technique that, based on the facts  
10 and circumstances presented by a county board of equalization, would  
11 result in a substantially different determination of actual value of the  
12 rent-restricted housing project. Petitions must be filed no later than  
13 January 31. The burden of proof is on the petitioning county board of  
14 equalization to show that failure to make a determination that a  
15 different methodology should be used would result in a value for such  
16 rent-restricted housing project that is not equitable and in accordance  
17 with the law. At the hearing, the commission may receive testimony from  
18 any interested person. After a hearing, the commission shall, within the  
19 powers granted in section 77-5007, enter its order based on evidence  
20 presented to it at such hearing.

21 (11) If the Tax Commissioner, based on the facts and circumstances,  
22 believes that the applicable capitalization rate set by the Rent-  
23 Restricted Housing Projects Valuation Committee to value a rent-  
24 restricted housing project does not result in a valuation at actual value  
25 for such rent-restricted housing project, then the Tax Commissioner shall  
26 petition the Tax Equalization and Review Commission to consider an  
27 adjustment to the capitalization rate of such rent-restricted housing  
28 project. Petitions must be filed no later than January 31. The burden of  
29 proof is on the Tax Commissioner to show that failure to make an  
30 adjustment to the capitalization rate employed would result in a value  
31 that is not equal to the rent-restricted housing project's actual value



1 as a rent-restricted housing project. At the hearing, the commission may  
2 receive testimony from any interested person. After a hearing, the  
3 commission shall, within the powers granted in section 77-5007, enter its  
4 order based on evidence presented to it at such hearing.

5       Sec. 5. (1) For purposes of this section, sales-restricted house  
6 means a residential property that is subject to a deed restriction or  
7 land lease agreement that restricts the ability of the owner to sell the  
8 property in an arm's length transaction. Such deed restriction or land  
9 lease agreement must be attached to the property for a minimum of twenty  
10 years.

11       (2) The Legislature finds that:

12       (a) The provision of safe, decent, and affordable housing to all  
13 residents of the State of Nebraska is a matter of public concern and  
14 represents a legitimate and compelling state need, affecting the general  
15 welfare of all residents;

16       (b) Sales-restricted houses effectively provide safe, decent, and  
17 affordable housing for residents of Nebraska;

18       (c) Sales-restricted houses are restricted by tools such as deed  
19 restrictions or land lease agreements that establish an affordability  
20 period; and

21       (d) These restrictions alter the value of the property compared to  
22 unrestricted houses.

23       (3) Any organization or individual that owns a sales-restricted  
24 house may file an application with the county assessor for a valuation  
25 under this section. Application shall be made on a form prescribed by the  
26 Tax Commissioner. The application shall include (a) information  
27 describing the location of the house and (b) details on the sales  
28 restriction.

29       (4) Upon receipt of the application, the county assessor shall  
30 determine:

31       (a) The value of the sales-restricted house at its unrestricted

1 appraised value; and

2 (b) The maximum sales price allowed for the sales-restricted house.

3 (5) The county assessor shall use the lesser of the two values

4 described in subsection (4) of this section as the property's assessed

5 value.

6 Sec. 6. Original section 77-1333, Reissue Revised Statutes of  
7 Nebraska, and sections 77-202, 77-202.01, and 77-202.03, Revised Statutes  
8 Cumulative Supplement, 2022, are repealed.