

LEGISLATIVE BILL 65

Approved by the Governor May 1, 1979

Introduced by Revenue, Carsten, 2, Chmn.; Newell, 13; Hefner, 19; Keyes, 3; Kelly, 35; Burrows, 30; Sieck, 24; Johnson, 8

AN ACT relating to revenue and taxation; to recodify provisions relating to the homestead exemption; to amend section 14-554, Reissue Revised Statutes of Nebraska, 1943, and section 77-1240.05, Revised Statutes Supplement, 1978, as amended by section 8, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979; to provide operative dates; to repeal the original sections, and also sections 77-202.08 to 77-202.10, 77-202.17 to 77-202.19, 77-202.21, 77-202.22, 77-202.34, and 77-202.35, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.13, 77-202.20, and 77-202.45, Revised Statutes Supplement, 1978, sections 77-202.14, 77-202.15, and 77-202.16, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 5, 6, and 7, respectively, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, section 77-202.12, Revised Statutes Supplement, 1978, as amended by section 4, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, and section 77-202.44, Revised Statutes Supplement, 1978, as amended by section 35, Legislative Bill 322, Eighty-sixth Legislature, First Session, 1979; and to declare an emergency.

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

Section 1. For the purposes of sections 1 to 25 of this act, unless the context otherwise requires, the definitions found in sections 2 to 5 of this act shall be used.

Sec. 2. Homestead shall mean either (1) a residence or mobile home, and the land surrounding it, not exceeding one acre, in this state actually occupied as such by a natural person who is the owner of record thereof as of January 1 in each year, or (2) a residence or mobile home located on land leased by the owner of the residence or mobile home, which is located within this state, and is actually occupied by the person who is the owner of record as of January 1 in each year, or so occupied by the surviving spouse and minor children, if

any, of such owner of record, or so much thereof as shall be so occupied. For purposes of this section, mobile home shall include a cabin trailer or mobile home which has become attached to real estate and a mobile home or cabin trailer whose owner is required to obtain a permit pursuant to section 60-1602, Revised Statutes Supplement, 1978, for such cabin trailer or mobile home.

Sec. 3. Owner shall mean the owner of record or surviving spouse, the vendee in possession under a land contract or surviving spouse, one of the joint tenants or tenants in common or surviving spouse, or the beneficiary of a trust of which the trustee is the record title owner and the beneficiary-occupant (1) has a specific right to occupy the premises as stated in the trust instrument, (2) has the right to amend or revoke the trust to obtain such power of occupancy or of title, or (3) has the power to withdraw the homestead premises from the trust and place the record title in such occupant's name.

Sec. 4. Household income shall mean the total federal adjusted gross income of any claimant and spouse as defined in the Internal Revenue Code of the United States for the taxable year of the claimant immediately prior to the year for which the claim for exemption is made.

Sec. 5. A qualified claimant shall mean an owner of a homestead during the calendar year for which the claim is made who shall be entitled to relief pursuant to section 7 of this act.

Sec. 6. (1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation (a) the first twenty-five per cent of the actual value of any homestead having an actual value of fifteen hundred dollars or less and (b) the first twenty per cent of the first four thousand dollars of the actual value of any homestead having an actual value in excess of fifteen hundred dollars.

(2) The percentages in subdivisions (a) and (b) of subsection 1 of this section shall be increased to fifty and forty-five, respectively, in the case of any veteran as defined in section 80-401.01, Revised Statutes Supplement, 1978, for the year in which such veteran reaches seventy years of age and for each subsequent year, or the unremarried widow or widower of any such veteran or the husband or wife of any such veteran when the veteran is not the owner of record.

Sec. 7. (1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation a percentage of the first twenty-five thousand dollars of the actual value of the homestead of qualified claimants based on income and status as a claimant pursuant to subsections (2) to (4) of this section.

(2) For a single qualified claimant sixty-five years of age or older, the percentage of the exemption for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's income in Column A in the table found in this subsection.

<u>Column A</u>	<u>Column B</u>
<u>Household Income</u>	<u>Percentage</u>
<u>In Dollars</u>	<u>of Relief</u>
<u>0 through 3,700</u>	<u>100</u>
<u>3,701 through 4,200</u>	<u>80</u>
<u>4,201 through 4,700</u>	<u>60</u>
<u>4,701 through 5,200</u>	<u>40</u>

(3) For a married qualified claimant with one spouse sixty-five years of age or older, the percentage of the exemption for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's income in Column A in the table found in this subsection.

<u>Column A</u>	<u>Column B</u>
<u>Household Income</u>	<u>Percentage</u>
<u>In Dollars</u>	<u>of Relief</u>
<u>0 through 5,450</u>	<u>100</u>
<u>5,451 through 5,950</u>	<u>80</u>
<u>5,951 through 6,450</u>	<u>60</u>
<u>6,451 through 6,950</u>	<u>40</u>

(4) For a married qualified claimant with both spouses sixty-five years of age or older, the percentage of the exemption for which the claimant shall be eligible

shall be the percentage in Column B which corresponds with the claimant's income in Column A in the table found in this subsection.

<u>Column A</u>	<u>Column B</u>
<u>Household Income</u>	<u>Percentage</u>
<u>In Dollars</u>	<u>of Relief</u>
<u>0 through 6,200</u>	<u>100</u>
<u>6,201 through 6,700</u>	<u>80</u>
<u>6,701 through 7,200</u>	<u>60</u>
<u>7,201 through 7,700</u>	<u>40</u>

Sec. 8. All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation the first twenty-five thousand dollars of the actual value of any homestead of (1) veterans who are totally disabled by a nonmilitary accident or illness, (2) individuals who are paralyzed in both legs such as to preclude locomotion without the aid of braces, crutches, canes, or wheelchairs, (3) individuals who have undergone multiple amputation of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, wheelchairs, or artificial limbs, and (4) individuals with progressive neuromuscular or neurological disease such as to preclude locomotion without the aid of braces, crutches, canes, wheelchairs, or artificial limbs. Application for such exemption shall include the sworn statement of a qualified medical physician or certification from a Veterans Administration Hospital affirming that the homeowner is totally disabled.

Sec. 9. All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation the first ninety per cent of the actual value of any homestead of any veteran, as defined in section 80-401.01, drawing compensation from the Veterans Administration of the United States because of one hundred per cent disability and not eligible for total exemption under sections 26 to 28 of this act, or the unremarried widow or widower of any such veteran or of any veteran who died because of a service-connected disability, or the unremarried widow or widower of a serviceman who died while on active duty during the dates described in section 80-401.01, Revised Statutes Supplement, 1978.

Sec. 10. 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. 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 to determine whether each claim for exemption under sections 6, 8, and 9 of this act should be allowed, and (2) enable the Tax Commissioner to determine whether each claim for exemption under section 7 of this act 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 on property located within that county. The forms so prescribed shall be used uniformly throughout the state and no application for exemption shall be allowed unless the applicant uses the regularly prescribed form in making an application.

Sec. 11. The application for homestead exemption shall be signed and sworn to by the owner of record of the property unless the owner is an incompetent, in which case it shall be signed and sworn to by the guardian. The county assessor, his or her duly appointed deputies, and notaries public are authorized to administer such oaths.

Sec. 12. It shall be the duty of each owner who applies for the homestead exemption provided in sections 6 to 9 of this act, to file an application therefor with the county assessor of the county in which the real estate is located on or before April 1, and failure to do so shall constitute a waiver of the exemption for that year.

Sec. 13. (1) If an owner is granted a homestead exemption as provided in section 6 or 9 or subdivision (2), (3), or (4) of section 8 of this act, the homestead exemption as to such property shall remain in full force and effect for each succeeding year without reapplication, if the owner is in all respects entitled to the exemption granted under the provisions of sections 1 to 23 of this act. Once a qualified claimant has filed an application for homestead exemption and the exemption has been granted for that year, no reapplication need be filed for succeeding years, in which case the county assessor and Tax Commissioner shall determine whether the claimant shall qualify for the homestead exemption in such succeeding years as otherwise provided in sections 1 to 23 of this act as though a claim were made.

(2) It shall be the duty of each claimant who wants the homestead exemption provided in subdivision (1)

of section 8 of this act to file an application therefor with the county assessor on or before April 1 of each year, and failure to do so shall constitute a waiver of the exemption for such year.

Sec. 14. The owner of a homestead which has been granted an exemption under sections 6 to 9 of this act shall notify the county assessor by March 15 of each year of any change in the homestead exemption status occurring in the preceding year. If, by his or her failure to give such notice, any such property owner permits the allowance of the homestead exemption for any succeeding year after the homestead exemption status of such property has changed, an amount equal to the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption, together with penalty and interest on such total sum as provided by statute on delinquent ad valorem taxes, shall be due and shall, upon entry of the amount thereof on the books of the county treasurer, be a lien on such property while unpaid. Such lien may be enforced in the manner provided for liens for other delinquent taxes. Any person who has permitted the improper and unlawful allowance of such homestead exemption on his or her property shall, as an additional penalty, also forfeit his or her right to a homestead exemption on any other property in this state for the two succeeding years.

Sec. 15. Any purchaser or new owner of property must claim a homestead exemption as provided in section 12 of this act before the allowance to the owner on such property shall be lawful.

Sec. 16. The county assessor shall examine each application for homestead exemption filed with him or her for an exemption pursuant to section 6, 8, or 9 of this act and shall determine whether or not such application should be approved or rejected and, if approved, determine the amount of the exemption. If the application is approved, the county assessor shall mark the same approved and show thereon the amount of exemption allowed and make the proper deduction upon 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. In any case when the county assessor disallows or reduces 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 and shall be on forms prescribed by the Tax Commissioner. All applications for

exemption, showing thereon the action of the county assessor, shall be delivered to the county board of equalization on or before the fourth Monday of April of each year.

Sec. 17. The county assessor shall examine all applications for an exemption pursuant to section 7 of this act to determine, except for the income test, if the application should be approved or rejected. On or before the third Monday in April the county assessor shall forward the application 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. The Tax Commissioner shall, on or before August 1, certify his or her determinations to the county assessor. If the county assessor's and Tax Commissioner's determination is that the application should be accepted, then the county assessor shall process the application in the same manner as an approved application under section 16 of this act. If the Tax Commissioner's determination is that the application does not meet the required income test or if the county assessor finds that the exemption should not be allowed or should be reduced, the county assessor shall proceed as in the case of a rejected or reduced application under section 16 of this act.

Sec. 18. The county board of equalization shall review any and all applications for homestead exemption which may have been filed with the county assessor and make whatever order is necessary in order to grant homestead exemption to all applicants who are legally entitled to such exemption and prevent unlawful exemption on any property. When the board disallows any exemption which has theretofore been allowed by the county assessor, or changes the amount of exemption as allowed by the county assessor, such disallowance or change shall not be final until ten days' notice in writing of such change shall have been given the applicant and an opportunity for a hearing afforded on such disallowance or change.

Sec. 19. In any case when the county assessor or county board of equalization disallows or rejects an application for homestead exemption or changes the amount of exemption from that claimed by the applicant, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk within ten days from receipt of the notice from the county assessor or county board of equalization showing such rejection or change in amount. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and

concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. If the appeal involves a determination made by the Tax Commissioner, the board shall notify the Tax Commissioner of the hearing and the Tax Commissioner or his or her representatives shall attend to present evidence regarding such determination. The taxpayer shall have the right to appeal from the finding of the board with reference to the application for homestead exemption, as provided by law for appeals from the county board of equalization on questions of valuation of property, and the appeal shall be taken in the same manner and subject to the same requirements.

Sec. 20. In any case when the Tax Commissioner disallows or rejects a claim for exemption, the applicant may obtain a hearing before the Tax Commissioner by filing a written petition with the Tax Commissioner within ten days from the receipt of the notice of disallowance or rejection. The petition shall state, in clear and concise language, (1) the amount in controversy, (2) the issues involved, (3) the name and address of the applicant, and (4) a demand for relief. The hearing shall be conducted in accordance with sections 84-901 to 84-917, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 21. It shall be the duty of the Tax Commissioner to issue 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 1 to 23 of this act, affecting the application, hearing, assessment, or equalization of property which is claimed to be entitled to the exemption granted by sections 1 to 23 of this act.

Sec. 22. (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 sections 1 to 23 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 date of conviction. Any person who shall make oath 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 7 of this act 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. 23. The county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner the total tax revenue that will be lost to all taxing agencies within his or her county from taxes levied and assessed in that year because of exemptions allowed under the provisions of sections 1 to 23 of this act. The county treasurer may amend the certification to show any change or correction in the total tax that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following such certification or within thirty days of any amendment to the certification, notify the Director of Administrative Services of the amount so certified. Each county certification shall be distributed in six as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning January, 1977, and each January thereafter. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification, draw warrants against funds appropriated. Out of the amount so received the county treasurer shall distribute to each of the taxing agencies within his or her county the amount so lost by such agency, except (1) that one per cent of such amount shall be deposited in the county general fund and (2) that the full amount due a Class V school district shall be paid to the district and the county shall be compensated pursuant to section 14-554, Reissue Revised Statutes of Nebraska, 1943. Each taxing agency shall, in preparing its annual budget, take into account the amount to be received under this section.

Sec. 24. The Department of Revenue shall maintain statistics to demonstrate the number of

claimants and the amount of relief granted for each category of homestead exemption. The categories shall include, but not be limited to, single claimants over sixty-five years of age, married claimant with one spouse over sixty-five years of age, married claimant with both spouses over sixty-five years of age for conventional homes and for mobile homes and homes on leased land, claimants under sixty-five years of age for conventional homes and mobile homes, and claimants eligible due to disabilities. The department shall provide such statistics to the Clerk of the Legislature annually. Each member of the Legislature shall receive a copy of such report by making a request for it to the Tax Commissioner.

Sec. 25. All revenue which shall be lost to taxing agencies as a result of the provisions of sections 1 to 9 of this act shall be considered an express obligation of the state for the purpose of setting the sales and income tax rates under section 77-2715.01, Revised Statutes Supplement, 1978.

Sec. 26. As used in sections 26 to 28, unless the context otherwise requires:

(1) Paraplegic shall mean a veteran who is paralyzed in both legs such as to preclude locomotion without the aid of braces, crutches, canes, or wheel chair;

(2) Multiple amputee shall mean a veteran who has undergone multiple amputation of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, wheel chair, or artificial limbs;

(3) Home shall mean one housing unit and necessary land therefor not to exceed one acre occupied by the veteran or his widow as long as she remains unmarried; and

(4) Substantially contributed by the Veterans Administration of the United States shall mean any amount received by a veteran from the Veterans Administration of the United States under Public Law 85-357 adopted September 2, 1958, as amended and in effect on January 1, 1979.

Sec. 27. The value of a home substantially contributed by the Veterans Administration of the United States for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death of his widow or her remarriage. If such veteran or his unmarried widow disposes of such

home, and within one year uses the proceeds therefrom, or part of such proceeds, to acquire another home for occupancy by such veteran or his widow, such home shall be deemed to be one substantially contributed to by the Veterans Administration, and the exemption provided for in this section shall apply to such substituted home during the life of such veteran or until the death of his widow or her remarriage.

Sec. 28. Any veteran claiming the exemption as provided by section 27 of this act shall make application to the county assessor upon forms prescribed and furnished by the Tax Commissioner. Such application shall be made on or before April 1 of each year. Exemptions claimed before April 1 of each year shall apply for the year such exemption is claimed.

Sec. 29. If any application for exemption pursuant to sections 1 to 18 and 26 to 28 of this act is denied and the applicant would be qualified for any other exemption pursuant to sections 1 to 18 and 26 to 28 of this act, then such denied application shall be treated as an application for the highest exemption for which qualified.

Sec. 30. That section 77-1240.05, Revised Statutes Supplement, 1978, as amended by section 8, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, be amended to read as follows:

77-1240.05. (1) Except as provided by section 77-1240.06, one half of the taxes due under section 77-1240 for cabin trailers and mobile homes as defined in sections 60-1601 and 60-1601.01 shall become delinquent on May 1 and shall be paid prior to the registration of the cabin trailer or mobile home for the following registration period unless an application by a qualified claimant for the homestead exemption under subdivision (4) of section 77-202.12, is on file with the assessor of the county in which the mobile home or cabin trailer is located.

(2) The second half or remaining unpaid portion of such taxes shall become delinquent on October 1.

(3) If the second half or remaining unpaid portion of such taxes are not paid by October 1, the delinquent taxes shall be collected in accordance with the provisions of section 77-1241.

(4) Any person who pays mobile home taxes prior to the approval of a homestead exemption may file a claim for refund in writing with the county treasurer where the

taxes were paid no later than ninety days after the approval of the homestead exemption. The county treasurer may refund any mobile home tax or portion thereof which was paid prior to the determination of the homestead exemption allowance upon verification by the county assessor.

Sec. 31. That section 14-554, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-554. The county in which any metropolitan city is located shall receive as full compensation for collection and disbursement of all funds of such city, an amount equal to one per cent of all money collected from taxation. Such fee shall be paid monthly out of the general funds of the city. Such county shall receive as full compensation for the collection and disbursement of all money from taxation and pursuant to section 77-292-22 23 of this act coming to the board of education an amount equal to one per cent thereof, to be paid out of the general fund, less the sum of one thousand dollars per annum, said sum to be payable in equal monthly installments to the county treasurer as salary for services as ex officio treasurer of the board of education. Such county shall receive as full compensation for the collection and disbursement of the funds of the metropolitan water district an amount equal to one per cent of all money collected by the county treasurer. The county treasurer, as ex officio city treasurer, shall receive as additional salary and compensation for the performance of his duty as such officer the sum of one thousand dollars per annum from the city, the same to be payable quarterly from the funds of the city.

Sec. 32. Sections 30 and 34 of this act shall become operative for all taxable years commencing on or after January 1, 1979. The other sections of this act shall become operative for all taxable years commencing on or after January 1, 1980.

Sec. 33. That original section 14-554, Reissue Revised Statutes of Nebraska, 1943, and also sections 77-202.08 to 77-202.10, 77-202.17 to 77-202.19, 77-202.21, 77-202.22, 77-202.34, and 77-202.35, Reissue Revised Statutes of Nebraska, 1943, sections 77-202.13, 77-202.20, and 77-202.45, Revised Statutes Supplement, 1978, sections 77-202.14, 77-202.15, and 77-202.16, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 5, 6, and 7, respectively, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, section 77-202.12, Revised Statutes Supplement, 1978, as amended

by section 4, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, and section 77-202.44, Revised Statutes Supplement, 1978, as amended by section 35, Legislative Bill 322, Eighty-sixth Legislature, First Session, 1979, are repealed.

Sec. 34. That section 77-1240.05, Revised Statutes Supplement, 1978, as amended by section 8, Legislative Bill 76, Eighty-sixth Legislature, First Session, 1979, is repealed.

Sec. 35. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.