

LEGISLATIVE BILL 26

Approved by the Governor April 18, 1983

Introduced by Warner, 25

AN ACT to amend sections 77-1343 to 77-1345, 77-1347, and 77-1348, Reissue Revised Statutes, 1943, relating to agricultural lands; to redefine terms; to restrict uses of land zoned as agricultural; to change an application date; to change provisions relating to disqualification; to provide severability; and to repeal the original sections.

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

Section 1. That section 77-1343, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1343. As used in sections 77-1343 to 77-1348, unless the context otherwise requires:

(1) Agricultural use shall mean the use of land for the purpose of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any nonagricultural commercial or industrial development; and

(2) Agricultural use zone shall mean any land designated predominantly for agricultural use by any political subdivision pursuant to Chapter 14, article 4, Chapter 15, article 9, Chapter 16, article 9, Chapter 17, article 10, Chapter 18, article 13, or Chapter 23, article 1. The primary objective of the agricultural use zone shall be to preserve and protect agricultural activities and the potential for the agricultural or open use of land. Uses to be allowed on such lands shall include primarily agricultural-related uses, and nonagricultural industrial, commercial, or residential uses allowed on such lands shall be restricted so that they do not conflict with or detract from this objective.

Sec. 2. That section 77-1344, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1344. (1) Any land which is located outside the corporate boundaries of any sanitary and improvement district, city, or village, within an agricultural use zone and which is used exclusively for agricultural use, and located within an agricultural use zone shall be assessed at its actual value for agricultural use and not at the actual value it would have if applied to other than agricultural use if application for such special assessment is made pursuant to sections 77-1343 to 77-1348; PROVIDED, that the special assessment provisions shall not be applicable to that portion of lands zoned predominantly for agricultural use if such lands have been subdivided for residential use.

(2) The eligibility of agricultural land for the special assessment provisions of this section shall be determined as of January 1, but ; PROVIDED, if land so qualified becomes disqualified prior to July 1 of the same year, it shall be assessed at its actual value as defined by section 77-112, without regard to this section. If the land becomes disqualified after July 1, its assessment for that year shall continue as provided in this section.

Sec. 3. That section 77-1345, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1345. (1) Any owner of agricultural lands eligible for special assessment under subsection (1) of section 77-1344 shall, to secure such assessment, make application to the county assessor on or before ~~May~~ April 1 of the first year in which such assessment is requested.

(2) (a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include such information as may reasonably be required to determine the eligibility of the applicant.

(b) The application may be signed by any one of the following:

(i) The owner of the farmland who holds an estate in fee simple or for life;

(ii) Any one of tenants in common or joint tenants, holding an estate in the farmland in fee simple or for life;

(iii) Any person of legal age duly authorized in writing to sign an application on behalf of any person described in subdivisions (b) (i) and (ii) of this subsection;

(iv) The guardian or conservator of an owner, or the executor or administrator of an owner's estate; or

(v) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or his or her deputy shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney, or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

(3) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true.

Sec. 4. That section 77-1347, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1347. Upon approval of an application, the county assessor shall assess the land as provided in subsection (1) of section 77-1344, and shall also enter on the assessment the notation and potential additional tax liability until the land becomes disqualified for such assessment by:

(1) Notification by the taxpayer to the assessor to remove such special assessment;

(2) Sale or transfer to a new owner who does not make a new application as to such land within sixty days of the sale or transfer, except as provided in subdivision (3) of this section;

(3) Transfer by reason of death of the former owner to a new owner who does not make application as to such land within one hundred twenty days of the transfer;

(4) Sale or transfer to an ownership making it exempt from ad valorem property taxation; or

(5) The occurrence of any event which would prevent the application of the special assessment to such land under sections 77-1343 to 77-1348. Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as agricultural land; or

(6) Change of zoning to other than agricultural use zone.

Sec. 5. That section 77-1348, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1348. (1) Whenever land which has received special assessment as agricultural use land under subsection (1) of section 77-1344 becomes disqualified for such assessment, the assessor shall notify the owner and there shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as other taxes levied upon real estate, an amount equal to the

sum of the following:

(a) The total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to subsection (1) of section 77-1344 during the last five or lesser number of years in which such agricultural use assessment was in effect for the land; and

(b) Interest upon the amounts of additional tax from each year included in subsection subdivision (1) (a) of this section at the rate of six per cent from the dates at which such additional taxes would have been payable if no special assessment as agricultural use land under subsection (1) of section 77-1344 had been in effect.

(2) In cases where the designation of specially assessed agricultural land is removed as a result of a sale or transfer described in subdivision (2), (3), or (4) of section 77-1347, the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.

(3) Land receiving special assessment as agricultural use land immediately prior to the effective date of this act, which becomes disqualified on the effective date of this act solely because of the amendment of sections 77-1343, 77-1344, and 77-1347 by this legislative bill, shall not be subject to subsection (1) of this section at that time, but shall be subject to subsection (1) of this section if any other event occurs which would disqualify such land if it were still receiving the special assessment as agricultural use land.

Sec. 6. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 7. That original sections 77-1343 to 77-1345, 77-1347, and 77-1348, Reissue Revised Statutes, 1943, are repealed.