

LEGISLATIVE BILL 9

Approved by the Governor February 15, 1991

Introduced by Executive Board: Labedz, 5, Chairperson

AN ACT relating to revenue and taxation; to amend sections 77-2106.01, 77-3437, 77-3509.03, 77-3510, 77-3512, 77-3516, and 77-3517, Reissue Revised Statutes of Nebraska, 1943; to correct internal references; to eliminate the Property Tax Relief Act; to eliminate the 1989 homestead exemption for certain homesteads; to eliminate a section relating to refunds of certain estate tax; to harmonize provisions; and to repeal the original sections, and also sections 77-2106.03, 77-3509.04, and 77-4201 to 77-4207, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 77-2106.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2106.01. When any amount of estate tax, in excess of that legally due, ~~shall have~~ has been paid to the State Treasurer, the party making such overpayment or his or her successors or assigns shall be entitled to refund of such overpayment. All claims for refund on account of the overpayment of estate taxes shall be filed with the Tax Commissioner, in accordance with Chapter 84, article 3, as amended. The claims must ~~shall~~ be filed with the Tax Commissioner within four years after the date of such overpayment or within one year of a change in the amount of federal estate tax due, whichever is later. If the Tax Commissioner ~~shall~~ have rejected or disallowed ~~rejects or disallows~~ any such claim in whole or in part, action in the district courts shall be permitted in accordance with the provisions of Chapter 24, article 3 sections 25-21.201 to 25-21.218.

Sec. 2. That section 77-3437, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3437. For purposes of sections 77-3437 to 77-3440:

(1) Adopted budget statement shall have the definition found in section 13-503;

(2) Base year shall mean fiscal year 1989-90;
 (3) Fiscal year shall have the definition found in section 13-503;

(4) Governing body shall have the definition found in section 13-503, except that governing body shall not include a school board or board of education of a school district;

(5) Growth shall mean any property tax revenue received as the result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any personal property not listed for taxation in the previous year but shall not include any increased property tax revenue received due to a change in valuation of a class or subclass of property or to revaluations of individual properties; and

(6) Property taxes shall mean all revenue received from the levy of taxes on real and personal property, including receipts from reimbursements under ~~sections~~ section 77-3523, and 77-4205, but shall not include property taxes collected for retirement of bonded indebtedness or for projects and practices in accordance with section 2-3229 and necessary works incident to such projects and practices or, for all fiscal years after fiscal year 1990-91, revenue received as a result of growth.

Sec. 3. 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 77-3509-04~~ 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. 4. That section 77-3510, Reissue Revised Statutes of Nebraska, 1943, 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 77-3509-04~~ 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. 5. 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 77-3509.04 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. 6. That section 77-3516, Reissue Revised Statutes of Nebraska, 1943, 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 77-3509.04~~ 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 77-3509.04, 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 77-3509-04,~~ the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner.

Sec. 7. That section 77-3517, Reissue Revised Statutes of Nebraska, 1943, 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 77-3509-04,~~ 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. 8. That original sections 77-2106.01, 77-3437, 77-3509.03, 77-3510, 77-3512, 77-3516, and 77-3517, Reissue Revised Statutes of Nebraska, 1943, and also sections 77-2106.03, 77-3509.04, and 77-4201 to 77-4207, Reissue Revised Statutes of Nebraska, 1943, are repealed.