

LEGISLATIVE BILL 114

Approved by the Governor June 2, 1973

Introduced by Executive Board, Carpenter, 48, Chmn.

AN ACT to amend sections 77-202.12, 77-202.13, 77-202.15, 77-202.16, and 77-202.18, Revised Statutes Supplement, 1972, and section 77-202.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 530, Eighty-third Legislature, First Session, 1973, relating to homestead exemptions; to correct a faulty internal reference; to provide for review of exemptions; to eliminate a requirement for annual claims of exemption; to change exemptions; to change an evidence requirement; to change the filing date; to provide for transition; to provide and change procedures; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 77-202.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 530, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

77-202.03. (1) When real or tangible personal property, including motor vehicles, has been exempted from taxation as provided by sections 77-202.01 to 77-202.07, it shall continue to be exempt for a period of four years from January 1 of the year following adoption of sections 77-202.01 to 77-202.07; Provided, that each owner of real or tangible personal property, including motor vehicles, so exempt shall file an affidavit with the county assessor by January 1 of each intervening year certifying that the use of each exempted real or tangible personal property, including motor vehicles, has not changed during the year. On or before the expiration of such exemption, a new application shall be filed on which the procedure shall be the same as provided for other applications under the provisions of sections 77-202.01 to 77-202.07. If any person, corporation, or organization shall seek tax exemption for any real or tangible personal property, including motor vehicles, in any intervening year, he or it shall apply on or before September 1 of any such intervening year as provided in section 77-202.01 and procedure thereon shall be the same as provided for other applications under the provisions of sections 77-202.01 to 77-202.07, except that for the

intervening year the exempt use shall be determined as of the date of levy, and the exemption shall continue for the same period and under the same conditions as if it had been granted on an application which had been filed before January 1, 1964, if such application is filed before January 1, 1968, or as if it had been granted on an application which had been filed in accordance with the second sentence of this section, on or before the expiration of an exemption previously granted, if such application is filed on or after January 1, 1968; Provided, that the county assessor and the county board may cause such exemption to be reviewed in any year to determine whether the exemption should be continued and may do so even if the use of the property has not changed from when a previous exemption may have been granted, which review shall proceed as on an application under section 77-202.02.

(2) During the month of September of each year, the county board shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation in that year pursuant to sections 77-202 to 77-202.07, except real estate owned by the state or its governmental subdivisions. Such list shall be grouped into categories as provided by the Tax Commissioner, which categories shall identify the type of ownership and such list shall identify the organization, the municipality, if any, in which the property is located, and the number of parcels of real estate exempted.

Sec. 2. That section 77-202.12, Revised Statutes Supplement, 1972, be amended to read as follows:

77-202.12. As used in sections 77-202.12 to 77-202.22, unless the context otherwise requires:

(1) Homestead shall mean a residence, 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 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;

(2) Owner shall mean the owner of record or surviving spouse, the vendee in possession under a land contract or surviving spouse, or one of the joint tenants or tenants in common or surviving spouse;

(3) 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; and

(4) A qualified claimant for the exemption provided under subdivision ~~(4)~~ (4) of section 77-202.13 shall mean an owner of a homestead who was sixty-five years of age or over during the calendar year for which the claim is made and whose household income does not exceed (a) for a single claimant, two thousand eight hundred dollars, (b) for a married claimant with one spouse sixty-five years of age or over, three thousand five hundred fifty dollars, or (c) for a married claimant with both spouses sixty-five years of age or over, four thousand three hundred dollars.

Sec. 3. That section 77-202.13, Revised Statutes Supplement, 1972, be amended to read as follows:

77-202.13. All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation (1) the first twenty-five per cent of the actual value of any homestead having an actual value of fifteen hundred dollars or less, (2) 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, (3) 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 the provisions of sections 77-202.08 to 77-202.10, or the unremarried widow of any such veteran or of any veteran who died because of a service-connected disability, or the unremarried widow of a serviceman who died while on active duty during the dates described in section 80-401.01, and (4) in 1973, the first twenty-five per cent, and in 1974 and each year thereafter, the first fifty per cent of the tax on the homestead of persons qualifying under subdivision (4) of section 77-202.12, but not to exceed a maximum exemption of one hundred twenty-five dollars in 1973 and two hundred fifty dollars in 1974 and each year thereafter. ninety per cent of the first seventy-five hundred dollars of the actual value of any homestead, and in 1974 and each year thereafter the first ninety per cent of the first fifteen thousand dollars of the actual value of any homestead of persons qualifying under subdivision (4) of section 77-202.12. This exemption shall also apply to veterans who are totally disabled by a nonmilitary accident or illness. Application for the exemption shall include the sworn statements of three doctors statement of a qualified medical physician or certification from a

Veterans Administration Hospital affirming that the homeowner is totally disabled. The percentages in subdivisions (1) and (2) 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, for the year in which he 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. 4. That section 77-202.15, Revised Statutes Supplement, 1972, be amended to read as follows:

77-202.15. (1) 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 duly appointed deputies, and notaries public are authorized to administer such oaths.

(2) (a) It shall be the duty of each owner who applies for the homestead exemption provided in subdivisions (1) to ~~(3)~~ (4) of section 77-202.13, to file an application therefor with the county assessor of the county in which the real estate is located on or before ~~June~~ April 1, and failure to do so shall constitute a waiver of the exemption for that year.

If an owner is granted a homestead exemption as provided in subdivisions (1) to (3) of section 77-202.13, the homestead exemption as to such property shall remain in full force and effect for each succeeding year without reapplication; Provided, the owner is in all respects entitled to the exemption granted under the provisions of sections 77-202.12 to 77-202.22. It shall be the duty of each owner who wants the homestead exemption provided in subdivision (4) of section 77-202.13 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.

(b) The owner of a homestead which has been granted an exemption under subdivisions (1) to (3) of section 77-202.13 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 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 property shall, as an additional penalty, also forfeit his right to a homestead exemption on any other property in this state for the two succeeding years.

~~(3) It shall be the duty of each owner who applies for the homestead exemption provided in subdivision (4) of section 77-202.13 to file the application therefor with the Tax Commissioner on or before June 1 of each year, and failure to do so shall constitute a waiver of the exemption for such year.~~

(4). (3) Any purchaser or new owner of property must claim a homestead exemption as provided in this section before the allowance thereof to him on such property shall be lawful.

Sec. 5. That section 77-202.16, Revised Statutes Supplement, 1972, be amended to read as follows:

77-202.16. (1) The county assessor shall examine each application for homestead exemption filed with him for an exemption pursuant to subdivisions (1) to (3) of section 77-202.13 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, he shall mark the same approved and show thereon the amount of exemption allowed and make the proper deduction upon his assessment rolls. In case he finds that the exemption should not be allowed by reason of not being in conformity to law, he shall mark the application rejected and state thereon the reason for such rejection. In any case where the county assessor disallows or reduces an application for exemption, he shall notify the applicant of his action by mailing written notice to him 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.

(2) The county assessor shall examine all applications for an exemption pursuant to subdivision (4)

of section 77-202.13 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 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 subsection (1) of this section. 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 subsection (1) of this section.

~~(2) The Tax Commissioner shall examine each application for homestead exemption filed with him and shall determine whether or not such claim for exemption should be approved or rejected. If the claim for exemption is approved, he shall mark the same approved and show thereon the amount of exemption allowed. The Tax Commissioner shall on or before September 1 of each year file a certified statement with the county assessor of each county listing those qualified claimants and homesteads entitled to the exemption for that year. No homestead or qualified claimant shall be allowed more than one exemption under the provisions of sections 77-202.12 to 77-202.22 per year. The county assessor shall make the proper deduction on his assessment rolls.~~

Sec. 6. That section 77-202.18, Revised Statutes Supplement, 1972, be amended to read as follows:

77-202.18. (1) 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 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 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 his 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.

(2) 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, (a) the amount in controversy, (b) the issues involved, (c) the name and address of the applicant, and (d) a demand for relief. The hearing shall be conducted in accordance with sections 84-901 to 84-917.

Sec. 7. During 1973, and 1973 only, if an application for exemption pursuant to sections 77-202.12 to 77-202.22 is filed after April 1 but prior to June 1, the jurisdiction of all offices and officers to act thereon shall be extended by two months except for the certification requirements imposed upon the Tax Commissioner pursuant to section 77-202.16(2).

Sec. 8. If any application for exemption pursuant to sections 77-202.08 to 77-202.17 is denied and the applicant would be qualified for any other exemption pursuant to 77-202.08 to 77-202.17 then such denied application shall be treated as an application for the highest exemption for which qualified.

Sec. 9. This act shall apply to all taxable years beginning on or after January 1, 1973.

Sec. 10. That original sections 77-202.12, 77-202.13, 77-202.15, 77-202.16, and 77-202.18, Revised Statutes Supplement, 1972, and section 77-202.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 530, Eighty-third Legislature, First Session, 1973, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after

its passage and approval, according to law.