

LEGISLATIVE BILL 705

Approved by the Governor March 24, 1982

Introduced by Nichol, 48

AN ACT to amend section 76-711, Revised Statutes Supplement, 1980, and section 77-2711, Revised Statutes Supplement, 1981, relating to interest; to modify the rate of interest on certain interest and delinquent taxes; 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 76-711, Revised Statutes Supplement, 1980, be amended to read as follows:

76-711. The condemner shall not acquire any interest in or right to possession of the property condemned until he or she has deposited with the county judge for the use of the condemnee the amount of the condemnation award in effect at the time the deposit is made. The condemner shall have sixty days from the date of the award of the appraisers to deposit with the county judge the amount of the award or the proceeding will be considered as abandoned. When the amount of the award is deposited with the county judge by the condemner, the condemner will be deemed to have accepted the award, unless he or she gives notice of appeal from the award of the appraisers pursuant to section 76-715. If the proceeding is abandoned, proceedings may not again be instituted by the condemner to condemn the property within two years from the date of abandonment. If an appeal is taken from the award of the appraisers by the condemnee and the condemnee obtains a greater amount than that allowed by the appraisers, the condemnee shall be entitled to interest from the date of the deposit with the county judge at the rate ~~of nine per cent per annum~~ provided in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, compounded annually, on the amount finally allowed, less interest at the same rate on the amount withdrawn, or on the amount which the condemner offers to stipulate for withdrawal, as provided by the provisions of section 76-719.01. If an appeal is taken from the award of the appraisers by the condemner, the condemnee shall be entitled to interest from the date of deposit with the county judge at the rate ~~of nine per cent per annum~~ provided in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, compounded annually, on the amount finally allowed, less interest at the same rate on the amount withdrawn, or on the amount which the

condemner offers to stipulate for withdrawal as agreed to by the condemnee, as provided by section 76-719.01, which provision shall apply to all appeals by the condemner or condemnee pending on June 6, 1961. Upon deposit of the condemnation award with the county judge, the condemner shall be entitled to a writ of assistance to place him or her in possession of the property condemned.

Sec. 2. That section 77-2711, Revised Statutes Supplement, 1981, be amended to read as follows:

77-2711. (1) (a) The Tax Commissioner shall enforce the provisions of sections 77-2702 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of sections 77-2701 to 77-27,135, and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by sections 77-2701 to 77-2713.

(3) (a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax

Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of tangible personal property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires, and shall set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General or other legal representative of the state of the reports or returns of any taxpayer when information on the reports or returns is considered, by the Attorney General, to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency, (d) the furnishing of any information to the United States government or to states allowing similar privileges to the Tax Commissioner, or (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04.

(8) In all proceedings under the provisions of sections 77-2701 to 77-27,135, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The commissioner in his or her discretion may

waive all or part of any penalties provided by the provisions of sections 77-2701 to 77-27,135, but may not waive the minimum interest on delinquent taxes ~~of one half of one per cent per month~~ specified in section 45-104.01.

Sec. 3. That original section 76-711, Revised Statutes Supplement, 1980, and section 77-2711, Revised Statutes Supplement, 1981, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.