

## LEGISLATIVE BILL 66

Approved by the Governor May 31, 2005

Introduced by D. Pederson, 42; Engel, 17; Kruse, 13; Smith, 48; Howard, 9

AN ACT relating to revenue and taxation; to amend section 77-201, Revised Statutes Supplement, 2004; to provide for special valuation of historically significant real property; to harmonize provisions; and to repeal the original section.

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

Section 1. The following real property shall qualify as historically significant real property for purposes of the historic rehabilitation valuation authorized by section 7 of this act pursuant to the authority granted to the Legislature under subdivision (12) of Article VIII, section 2, of the Constitution of Nebraska:

(1) Real property individually listed in the National Register of Historic Places;

(2) Real property within a district listed in the National Register of Historic Places that is historically significant as determined by the State Historic Preservation Officer and approved under section 3 of this act;

(3) Real property individually designated pursuant to a landmark ordinance or resolution that has been approved by the State Historic Preservation Officer pursuant to section 2 of this act; and

(4) Real property within a district designated pursuant to a landmark ordinance or resolution that has been approved by the State Historic Preservation Officer pursuant to section 2 of this act that is historically significant as determined by the State Historic Preservation Officer and approved under section 3 of this act.

Sec. 2. (1) A city, village, or county shall request the State Historic Preservation Officer's approval of any landmark ordinance or resolution which designates individual properties or districts before any such individual properties or historically significant properties within such districts receive historic rehabilitation valuation authorized by section 7 of this act. The following documentation shall accompany the request:

(a) A copy of the ordinance or resolution for which approval is requested;

(b) A list, including the common addresses and common written boundary descriptions of all individual properties and historic districts designated or proposed to be designated under the ordinance or resolution;

(c) A description and statement of historical significance for all designated individual properties and historic districts, which includes representative photographic views; and

(d) A map indicating the location of individual landmarks and historic districts.

(2) Within forty-five days after receipt of the request and documentation, the State Historic Preservation Officer shall approve the ordinance or resolution if the documentation indicates compliance with the criteria for designation of landmarks and historic districts established by the United States Department of the Interior for the inclusion of properties in the National Register of Historic Places, 36 C.F.R. 60, as such regulation existed on January 1, 2005, and if the ordinance or resolution contains provisions for the following:

(a) Authorization for historic preservation under section 19-903;

(b) A statement of purpose;

(c) Establishment of a historic review commission which:

(i) Has no fewer than five members;

(ii) Has demonstrated expertise in the disciplines of history, architectural history, historic architecture, architecture, community planning, real estate, neighborhood conservation, historic preservation, or related fields;

(iii) Has staggered terms of office for members; and

(iv) Holds meetings at regular intervals at least four times a year;

(d) A process and criteria for designation of landmarks and historic districts that are consistent with those established by the United States Department of the Interior for the inclusion of properties in the National Register of Historic Places, 36 C.F.R. 60, as such regulation existed on January 1, 2005;

(e) A definition of actions that merit review by the historic review commission, which shall include demolitions and major alterations;

(f) Standards and criteria for review of actions within the jurisdiction of the historic review commission; and

(g) Procedural due process, such as notification, a hearing, and an appeal procedure.

Sec. 3. (1) A property owner or the legally designated representative of the property owner may submit an application to the State Historic Preservation Officer for a determination of whether the property owner's real property is qualified to receive historic rehabilitation valuation authorized by section 7 of this act on a form prescribed by the State Historic Preservation Officer. The application shall contain at least the following information:

(a) The address and location of the property;

(b) A map showing the location of the property;

(c) Clear, current black and white or color photographs showing principal views of the property;

(d) Designation authority, whether under the National Register of Historic Places or a landmark ordinance or resolution; and

(e) If it is historically significant and located within a district listed in the National Register of Historic Places or designated under an ordinance or resolution that has been approved by the State Historic Preservation Officer under section 2 of this act, the name of the district and a statement describing the contribution of the property to the significance of the district.

(2) Within thirty days after the receipt of an application, the State Historic Preservation Officer shall determine whether an individual property is eligible to be listed in the National Register of Historic Places and is therefor eligible for historic rehabilitation valuation. The State Historic Preservation Officer may extend the deadline up to an additional forty-five days if he or she determines that a site inspection is necessary.

(3) Within thirty days after the receipt of an application, the State Historic Preservation Officer shall determine whether a property located within a district on the National Register of Historic Places or designated under an ordinance or resolution that has been approved by the State Historic Preservation Officer under section 2 of this act is of historic significance to the district pursuant to the criteria in 36 C.F.R. 67.5, as such regulation existed on January 1, 2005, and inform the applicant of the decision in writing. The State Historic Preservation Officer may extend the deadline up to an additional forty-five days if he or she determines that a site inspection is necessary.

(4) Property shall not be eligible for historic rehabilitation valuation if the property has received a final certificate of rehabilitation within the twelve years prior to application.

Sec. 4. (1) The owner of historically significant real property described in section 1 of this act may apply for a preliminary certificate of rehabilitation on a form prescribed by the State Historic Preservation Officer. The application shall be filed with the State Historic Preservation Officer prior to beginning rehabilitation. The application shall contain at least the following information:

(a) The address or location of the historically significant real property;

(b) Documentation of the cost of the rehabilitation, including estimated cost of architectural fees if applicable;

(c) A certification from the county assessor stating the assessed valuation of the historically significant real property that was last certified by the county assessor pursuant to section 13-509 or as finally determined if appealed;

(d) A description of the historic condition of the historically significant real property, when possible, and condition of the historically significant real property immediately prior to the rehabilitation; and

(e) A detailed description of the proposed rehabilitation work, including plans and specifications, if applicable.

(2) Within thirty days after receipt of an application for a preliminary certificate of rehabilitation, the State Historic Preservation Officer shall issue a preliminary certificate of rehabilitation to the applicant and transmit a copy to the county assessor if he or she determines that:

(a) The proposed work meets the Standards for Rehabilitation as described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005; and

(b) The work is a substantial rehabilitation.

(3) The State Historic Preservation Officer may extend the deadline up to an additional forty-five days if he or she determines that a site

inspection is necessary. The State Historic Preservation Officer shall determine the length of the rehabilitation period, which shall not exceed two years unless the State Historic Preservation Officer finds (a) it is economically infeasible to complete the rehabilitation in two years or (b) the magnitude of the project is such that a good faith attempt to complete the rehabilitation in two years would not succeed. The certificate shall identify the rehabilitation period.

(4) The State Historic Preservation Officer shall issue a preliminary certificate of rehabilitation to the owner if (a) the property was determined to be qualified for historic preservation valuation pursuant to subsection (2) of section 3 of this act, (b) the proposed rehabilitation meets the Standards for Rehabilitation as described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005, and (c) the proposed rehabilitation is a substantial rehabilitation. The State Historic Preservation Officer shall transmit a copy of the preliminary certificate of rehabilitation to the county assessor within seven days after issuance of the certificate to the owner.

(5) For purposes of this section, substantial rehabilitation means interior or exterior rehabilitation work that preserves the historically significant real property in a manner that significantly improves its condition and that costs an amount equal to or greater than twenty-five percent of the assessed valuation certified by the county assessor and contained in the application.

Sec. 5. (1) A city, village, or county may receive and recommend approval of applications for preliminary certificates of rehabilitation within its corporate boundaries pursuant to subsection (4) of this section.

(2) Prior to exercising authority under subsection (1) of this section, a city, village, or county shall request the approval of the State Historic Preservation Officer. The request shall be accompanied by assurances that the city, village, or county:

(a) Enforces laws for the designation of historically significant real property;

(b) Has a landmark ordinance or resolution that has been approved under section 2 of this act;

(c) Maintains a historic review commission which has been approved by the State Historic Preservation Officer;

(d) Maintains a system for the survey and inventory of historically significant real property; and

(e) Maintains a system for reviewing applications for certifications of rehabilitations substantially the same as that provided in section 4 of this act.

(3) Within forty-five days after the receipt of the request and the assurances, the State Historic Preservation Officer shall approve the city, village, or county to exercise authority under subsection (1) of this section.

(4) (a) The owner of historically significant real property described in section 1 of this act may apply for a preliminary certificate of rehabilitation on a form prescribed by the State Historic Preservation Officer. The application shall be filed with the city, village, or county prior to beginning rehabilitation, and the city, village, or county shall forward the application to the State Historic Preservation Officer with the following information:

(i) Certification that the real property is designated pursuant to a landmark ordinance or resolution or is in a district so designated; and

(ii) Any comments or recommendations on the application.

(b) The State Historic Preservation Officer shall process the application in accordance with subsection (4) of section 4 of this act.

Sec. 6. Upon completion of the rehabilitation the owner shall provide the following information to the State Historic Preservation Officer to obtain a final certificate of rehabilitation:

(1) Documentation of the dates on which construction commenced and was completed;

(2) Clear, current black and white or color photographs showing the completed rehabilitation work, the appearance of the structure immediately prior to the rehabilitation, and, if possible, the historic appearance of the historically significant real property;

(3) A written description of the original condition of the historically significant real property;

(4) A written description of the present condition of the historically significant real property; and

(5) A written description and, if applicable, final plans and specifications of the rehabilitation.

The State Historic Preservation Officer shall issue a final certificate of rehabilitation to the owner if the rehabilitation meets the

Standards for Rehabilitation as described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005, and transmit a copy to the county assessor within seven days after issuance of the certificate to the owner.

Sec. 7. (1) Commencing January 1, 2006, for all real property for which a final certificate of rehabilitation has been issued, the valuation for purposes of assessment shall be no more than the base-year valuation for eight years following issuance of the final certificate of rehabilitation.

(2) For the four years following the expiration of the eight-year period specified in subsection (1) of this section, the valuation for purposes of the assessment shall be as follows:

(a) For the first year, the base-year valuation plus twenty-five percent of the difference in the base-year valuation and the current year actual value;

(b) For the second year, the base-year valuation plus fifty percent of the difference in the base-year valuation and the current year actual value;

(c) For the third year, the base-year valuation plus seventy-five percent of the difference in the base-year valuation and the current year actual value; and

(d) For the fourth year, the current year actual value.

(3) For purposes of sections 1 to 10 of this act, base-year valuation means the assessed valuation of the historically significant real property in the assessment year the preliminary certificate of rehabilitation was issued as certified in subdivision (1)(c) of section 4 of this act or as finally determined if appealed.

(4) If, during the eight-year period and the four-year period specified in subsections (1) and (2) of this section, the State Historic Preservation Officer determines that historically significant real property for which a final certificate of rehabilitation has been issued (a) has been the subject of repair, renovation, remodeling, or improvement but not in accordance with the Standards for Rehabilitation as described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005, (b) is no longer of historical significance to a qualified historic district, or (c) no longer possesses the qualifications for listing in the National Register of Historic Places, he or she shall revoke the final certificate of rehabilitation by written notice to the owner and transmit a copy of the revocation to the county assessor.

(5) Upon disqualification of any real property receiving base-year valuation under sections 1 to 10 of this act, the county assessor shall change the value of such property to its actual value in the assessment year following the revocation of the final certificate of rehabilitation.

Sec. 8. The Property Tax Administrator may adopt and promulgate rules and regulations regarding the base-year valuation of historically significant real property.

Sec. 9. The State Historic Preservation Officer may adopt and promulgate rules and regulations to carry out sections 1 to 10 of this act, including, but not limited to, provisions that:

(1) Preclude the issuance of a conditional, preliminary, or final certificate of rehabilitation for any owner-occupied single family residence if thirty percent or more of the dwelling space is new construction outside the existing structure;

(2) Specify what costs are eligible to meet the twenty-five percent minimum specified costs and make ineligible those costs attributable to new construction outside the existing structure; and

(3) Allow the issuance of a certificate of rehabilitation for a condominium.

Sec. 10. (1) Any decision of the State Historic Preservation Officer under sections 1 to 10 of this act may be protested to the State Historic Preservation Officer within thirty days after the mailing of the written notice. If a protest is not filed, the action of the State Historic Preservation Officer shall be final. If a protest is filed, the State Historic Preservation Officer shall hear the protest within fourteen days after receipt of the protest.

(2) The State Historic Preservation Officer, within seven days after his or her final decision, shall mail written notice of his or her final decision to the owner and the county assessor of the county in which the real property is located.

(3) Any owner aggrieved by a final decision of the State Historic Preservation Officer may appeal the final decision to the district court within thirty days after mailing of the final decision by the State Historic Preservation Officer. The county assessor may appeal a final decision of the State Historic Preservation Officer to the district court within thirty days

after mailing of the final decision by the State Historic Preservation Officer. The thirty-day period for filing such an appeal commences to run from the date of the mailing of the final decision. Upon receiving a copy of the final order on an appeal filed with the district court, the State Historic Preservation Officer shall mail a copy of the final order to the county assessor of the county in which the real property is located.

Sec. 11. Section 77-201, Revised Statutes Supplement, 2004, is amended to read:

77-201. (1) Except as provided in subsections (2) ~~and (3)~~ through (4) of this section, all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value.

(2) Agricultural land and horticultural land as defined in section 77-1359 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at eighty percent of its actual value.

(3) Agricultural land and horticultural land actively devoted to agricultural or horticultural purposes which has value for purposes other than agricultural or horticultural uses and which meets the qualifications for special valuation under section 77-1344 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, and shall be valued for taxation at eighty percent of its special value as defined in section 77-1343 and at eighty percent of its recapture value as defined in section 77-1343 when the land is disqualified for special valuation under section 77-1347.

(4) Commencing January 1, 2006, historically significant real property which meet the qualifications for historic rehabilitation valuation under sections 1 to 10 of this act shall be valued for taxation as provided in such sections.

(5) Tangible personal property, not including motor vehicles registered for operation on the highways of this state, shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at its net book value. Tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be subject to taxation based upon the date the property was acquired by the previous owner and at the previous owner's Nebraska adjusted basis. Tangible personal property acquired as replacement property for converted property shall be subject to taxation based upon the date the converted property was acquired and at the Nebraska adjusted basis of the converted property unless insurance proceeds are payable by reason of the conversion. For purposes of this subsection, (a) converted property means tangible personal property which is compulsorily or involuntarily converted as a result of its destruction in whole or in part, theft, seizure, requisition, or condemnation, or the threat or imminence thereof, and no gain or loss is recognized for federal or state income tax purposes by the holder of the property as a result of the conversion and (b) replacement property means tangible personal property acquired within two years after the close of the calendar year in which tangible personal property was converted and which is, except for date of construction or manufacture, substantially the same as the converted property.

Sec. 12. Original section 77-201, Revised Statutes Supplement, 2004, is repealed.