

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1109

Introduced by Brasch, 16.

Read first time January 19, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-1363, Revised Statutes Cumulative Supplement, 2010; to
3 create the classification of inundated agricultural land;
4 to provide an application procedure; and to repeal the
5 original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-1363, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 77-1363 Agricultural land and horticultural land shall be
4 divided into classes and subclasses of real property under section
5 77-103.01, including, but not limited to, irrigated cropland, dryland
6 cropland, grassland, inundated land, wasteland, nurseries, feedlots,
7 and orchards, so that the categories reflect uses appropriate for the
8 valuation of such land according to law. Classes shall be inventoried
9 by subclasses of real property based on soil classification standards
10 developed by the Natural Resources Conservation Service of the United
11 States Department of Agriculture as converted into land capability
12 groups by the Property Tax Administrator. County assessors shall
13 utilize soil surveys from the Natural Resources Conservation Service
14 of the United States Department of Agriculture as directed by the
15 Property Tax Administrator. Nothing in this section shall be
16 construed to limit the classes and subclasses of real property that
17 may be used by county assessors or the Tax Equalization and Review
18 Commission to achieve more uniform and proportionate valuations.

19 Sec. 2. For purposes of sections 2 to 8 of this act:

20 (1) Agricultural or horticultural land means that land as
21 defined in section 77-1359;

22 (2) Applicant means an owner or lessee;

23 (3) Lessee means a person leasing agricultural or
24 horticultural land from a state or governmental subdivision which is
25 an owner that is subject to taxation under section 77-202.11; and

1 (4) Owner means an owner of record of agricultural or
2 horticultural land or the purchaser of agricultural or horticultural
3 land under a contract for sale.

4 Sec. 3. (1) Agricultural or horticultural land which has
5 been inundated by floods making it unsuitable for growing crops or
6 grazing farm animals for two consecutive growing seasons or more and
7 which produced revenue per acre from any source in the most recent
8 prior year which, for land which was used for growing crops the year
9 immediately prior to the flood, is less than the county average
10 revenue per acre for the lowest dryland cropland land capability
11 group and, for land which was used for grazing animals the year
12 immediately prior to the flood, is less than the county average
13 revenue per acre for lowest grassland land capability group shall be
14 valued as inundated land if an application for such valuation is
15 filed and approved pursuant to sections 4 and 5 of this act.

16 (2) The eligibility of land for the valuation provisions
17 of this section shall be determined each year as of January 1. If the
18 land so qualified becomes disqualified on or before December 31 of
19 that year, it shall continue to receive the valuation until January 1
20 of the year following.

21 (3) The valuation placed on such land by the county
22 assessor under this section shall be subject to equalization by the
23 county board of equalization and the Tax Equalization and Review
24 Commission.

25 Sec. 4. (1) An applicant seeking valuation as inundated

1 land under section 3 of this act shall make application to the county
2 assessor on or before June 30 of the first year in which such
3 valuation is requested.

4 (2)(a) The application shall be made upon forms
5 prescribed by the Tax Commissioner and available from the county
6 assessor and shall include such information as may reasonably be
7 required to determine the eligibility of the applicant and the land.

8 (b) The application shall be signed by any one of the
9 following:

10 (i) The applicant;

11 (ii) Any person of legal age duly authorized in writing
12 to sign an application on behalf of the applicant; or

13 (iii) The guardian or conservator of the applicant or the
14 executor or administrator of the applicant's estate.

15 (c) The assessor shall not approve an application signed
16 by a person whose authority to sign is not a matter of public record
17 in the county unless there is filed with the assessor a true copy of
18 the deed, contract of sale, power of attorney, lease, or other
19 appropriate instrument evidencing the signer's qualification pursuant
20 to subdivision (2)(b) of this section.

21 (3) If the county board of equalization takes action
22 pursuant to section 77-1504 or 77-1507, the applicant may file an
23 application for valuation as inundated land within thirty days after
24 the mailing of the valuation notice issued by the county board of
25 equalization pursuant to section 77-1504 or 77-1507.

1 Sec. 5. (1) On or before July 15 in the year of
2 application, the county assessor shall approve or deny the
3 application for valuation as inundated land filed pursuant to section
4 4 of this act. On or before July 22, the county assessor shall issue
5 notice of approval or denial.

6 (2) If the application is approved by the county
7 assessor, the land shall be valued as provided in section 3 of this
8 act and, on or before July 22, the county board of equalization shall
9 send a property valuation notice for valuation as inundated land to
10 the owner and, if not the same, the applicant. Within thirty days
11 after the mailing of the notice, a written protest of the value may
12 be filed.

13 (3)(a) If the application is denied by the assessor, a
14 written protest of the denial of the application may be filed within
15 thirty days after the mailing of the denial.

16 (b) If the denial of an application for valuation as
17 inundated land is reversed on appeal and the application is approved,
18 the land shall be valued as provided in section 3 of this act and the
19 county board of equalization shall send the property valuation notice
20 for valuation as inundated land to the owner and, if not the same,
21 the applicant or his or her successor in interest, within fourteen
22 days after the date of the final order. Within thirty days after the
23 mailing of the notice, a written protest of the value may be filed.

24 (4) If the county board of equalization takes action
25 pursuant to section 77-1504 or 77-1507 and the applicant filed an

1 application for valuation pursuant to subsection (3) of section 4 of
2 this act, the county assessor shall approve or deny the application
3 within fifteen days after the filing of the application and issue
4 notice of the approval or denial as prescribed in subsection (1) of
5 this section. If the application is denied by the county assessor, a
6 written protest of the denial may be filed within thirty days of the
7 mailing of the denial.

8 (5) The assessor shall mail notice of any action taken by
9 him or her on an application to the owner and the applicant if
10 different than the owner.

11 (6) All provisions of section 77-1502 except dates for
12 filing of a protest, the period for hearing protests, and the date
13 for mailing notice of the county board of equalization's decision are
14 applicable to any protest filed pursuant to this section.

15 (7) The county board of equalization shall decide any
16 protest filed pursuant to this section within thirty days after the
17 filing of the protest.

18 (8) The clerk shall mail a copy of any decision made by
19 the county board of equalization on a protest filed pursuant to this
20 section to the owner and the applicant if different than the owner
21 within seven days after the board's decision.

22 (9) Any decision of the county board of equalization may
23 be appealed to the Tax Equalization and Review Commission, in
24 accordance with section 77-5013, within thirty days after the date of
25 the decision.

1 (10) If a failure to give notice as prescribed by this
2 section prevented timely filing of a protest or appeal provided for
3 in this section, any applicant may petition the Tax Equalization and
4 Review Commission in accordance with section 77-5013, on or before
5 December 31 of each year, to determine whether the land will receive
6 valuation as inundated land for that year or to determine value for
7 that year.

8 Sec. 6. The Tax Commissioner shall adopt and promulgate
9 rules and regulations to be used by county assessors in determining
10 eligibility for valuation as inundated land.

11 Sec. 7. Upon approval of an application, the county
12 assessor shall value the land as provided in section 3 of this act
13 until the land becomes disqualified for such valuation by:

14 (1) Written notification by the applicant or his or her
15 successor in interest to the county assessor to remove such
16 valuation; or

17 (2) The land no longer qualifying as inundated land.

18 Sec. 8. At any time, the county assessor may determine
19 that land no longer qualifies for valuation as inundated land. If
20 land is deemed disqualified, the county assessor shall send a written
21 notice of the determination to the applicant or owner within fifteen
22 days after his or her determination, including the reason for the
23 disqualification. A protest of the county assessor's determination
24 may be filed with the county board of equalization within thirty days
25 after the mailing of the notice. The county board of equalization

1 shall decide the protest within thirty days after the filing of the
2 protest. The county clerk shall, within seven days after the county
3 board of equalization's final decision, mail to the protester written
4 notification of the board's decision. The decision of the county
5 board of equalization may be appealed to the Tax Equalization and
6 Review Commission in accordance with section 77-5013 within thirty
7 days after the date of the decision. The valuation notice relating to
8 the land subject to the county assessor's disqualification notice
9 shall be sent in accordance with subsection (2) of section 77-1315
10 and the valuation may be protested pursuant to section 77-1502.

11 Sec. 9. Original section 77-1363, Revised Statutes
12 Cumulative Supplement, 2010, is repealed.