

E AND R AMENDMENTS TO LB 356

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 77-1333, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-1333 (1) For purposes of this section, rent-restricted housing
6 project means a project consisting of five or more houses or residential
7 units that has received an allocation of federal low-income housing tax
8 credits under section 42 of the Internal Revenue Code from the Nebraska
9 Investment Finance Authority or its successor agency and, for the year of
10 assessment, is a project as defined in section 58-219 involving rental
11 housing as defined in section 58-220.

12 (2) The Legislature finds that:

13 (a) The provision of safe, decent, and affordable housing to all
14 residents of the State of Nebraska is a matter of public concern and
15 represents a legitimate and compelling state need, affecting the general
16 welfare of all residents;

17 (b) Rent-restricted housing projects effectively provide safe,
18 decent, and affordable housing for residents of Nebraska;

19 (c) Such projects are restricted by federal law as to the rents paid
20 by the tenants thereof;

21 (d) Of all the professionally accepted mass appraisal methodologies,
22 which include the sales comparison approach, the income approach, and the
23 cost approach, the utilization of the income-approach methodology results
24 in the most accurate determination of the actual value of such projects;
25 and

26 (e) This section is intended to (i) further the provision of safe,
27 decent, and affordable housing to all residents of Nebraska and (ii)

1 comply with Article VIII, section 1, of the Constitution of Nebraska,
2 which empowers the Legislature to prescribe standards and methods for the
3 determination of value of real property at uniform and proportionate
4 values.

5 (3) Except as otherwise provided in this section, the ~~The~~ county
6 assessor shall utilize ~~perform~~ an income-approach calculation to
7 determine the actual value of a ~~for all~~ rent-restricted housing project
8 projects constructed to allow an allocation of low income housing tax
9 credits under section 42 of the Internal Revenue Code and approved by the
10 Nebraska Investment Finance Authority when ~~determining~~ considering the
11 assessed valuation to place on the property for each assessment year. The
12 income-approach calculation shall be consistent with this section and any
13 rules and regulations adopted and promulgated by the Tax Commissioner and
14 shall comply with professionally accepted mass appraisal techniques.

15 (4) The Rent-Restricted Housing Projects Valuation Committee is
16 created. For administrative purposes only, the committee shall be within
17 the Department of Revenue. The committee's purpose shall be to develop a
18 market-derived capitalization rate to be used by county assessors in
19 determining the assessed valuation for rent-restricted housing projects.
20 The committee shall consist of the following four persons:

21 (a) A representative of county assessors appointed by the Tax
22 Commissioner. Such representative shall be skilled in the valuation of
23 property and shall hold a certificate issued under section 77-422;

24 (b) A representative of the low-income housing industry appointed by
25 the Tax Commissioner. The appointment shall be based on a recommendation
26 made by the Nebraska Commission on Housing and Homelessness;

27 (c) The Property Tax Administrator or a designee of the Property Tax
28 Administrator who holds a certificate issued under section 77-422. Such
29 person shall serve as the chairperson of the committee; and

30 (d) An appraiser from the private sector appointed by the Tax
31 Commissioner. Such appraiser must hold either a valid credential as a

1 certified general real property appraiser under the Real Property
2 Appraiser Act or an MAI designation from the Appraisal Institute.

3 (5) The owner of a rent-restricted housing project shall file a
4 statement with the Rent-Restricted Housing Projects Valuation Committee
5 and the county assessor on or before October 1 of each year that details
6 actual income and actual expense data for the prior year, a description
7 of any land-use restrictions, a description of the terms of any mortgage
8 loans, including loan amount, interest rate, and amortization period, and
9 such other information as the committee or the county assessor may
10 require for purposes of this section.

11 (6) The Rent-Restricted Housing Projects Valuation Committee shall
12 meet annually in November to examine the information on rent-restricted
13 housing projects that was provided pursuant to subsection (5) of this
14 section. The Department of Revenue shall electronically publish notice of
15 such meeting no less than thirty days in advance. The committee shall
16 also solicit information on the sale of any such rent-restricted housing
17 projects and information on the yields generated to investors in rent-
18 restricted housing projects. The committee shall, after reviewing all
19 such information, calculate a market-derived capitalization rate on an
20 annual basis using the band-of-investment technique or other generally
21 accepted technique used to derive capitalization rates depending upon the
22 data available. The capitalization rate shall be a composite rate
23 weighted by the proportions of total property investment represented by
24 equity and debt, with equity weighted at eighty percent and debt weighted
25 at twenty percent unless a substantially different market capital
26 structure can be verified to the county assessor. The yield for equity
27 shall be calculated using the data on investor returns gathered by the
28 committee. The yield for debt shall be calculated using the data provided
29 to the committee pursuant to subsection (5) of this section. If the
30 committee determines that a particular county or group of counties
31 requires a different capitalization rate than that calculated for the

1 rest of the state pursuant to this subsection, then the committee may
2 calculate an additional capitalization rate that will apply only to such
3 county or group of counties.

4 (7) After the Rent-Restricted Housing Projects Valuation Committee
5 has calculated the capitalization rate or rates under subsection (6) of
6 this section, the committee shall provide such rate or rates and the
7 information reviewed by the committee in calculating such rate or rates
8 in an annual report. Such report shall be forwarded by the Property Tax
9 Administrator to each county assessor in Nebraska no later than December
10 1 of each year for his or her use in determining the valuation of rent-
11 restricted housing projects. The Department of Revenue shall publish the
12 annual report electronically but may charge a fee for paper copies. The
13 Tax Commissioner shall set the fee based on the reasonable cost of
14 producing the report.

15 (8) Except as provided in subsections (9) through (11) of this
16 section, each county assessor shall use the capitalization rate or rates
17 contained in the report received under subsection (7) of this section and
18 the actual income and actual expense data filed by owners of rent-
19 restricted housing projects under subsection (5) of this section in the
20 county assessor's income-approach calculation. Any low-income housing tax
21 credits authorized under section 42 of the Internal Revenue Code that
22 were granted to owners of the project shall not be considered income for
23 purposes of the calculation.

24 (9) If the actual income and actual expense data required to be
25 filed for a rent-restricted housing project under subsection (5) of this
26 section is not filed in a timely manner, the county assessor may use any
27 method for determining actual value for such rent-restricted housing
28 project that is consistent with professionally accepted mass appraisal
29 methods described in section 77-112 but may be considered in determining
30 the capitalization rate to be used when capitalizing the income stream.
31 The county assessor, in determining the actual value of any specific

1 ~~property, may consider other methods of determining value that are~~
2 ~~consistent with professionally accepted mass appraisal methods described~~
3 ~~in section 77-112.~~

4 (10) If a county assessor, based on the facts and circumstances,
5 believes that the income-approach calculation does not result in a
6 valuation of a rent-restricted housing project at actual value, then the
7 county assessor shall present such facts and circumstances to the county
8 board of equalization. If the county board of equalization, based on such
9 facts and circumstances, concurs with the county assessor, then the
10 county board of equalization shall petition the Tax Equalization and
11 Review Commission to consider the county assessor's utilization of
12 another professionally accepted mass appraisal technique that, based on
13 the facts and circumstances presented by a county board of equalization,
14 would result in a substantially different determination of actual value
15 of the rent-restricted housing project. Petitions must be filed within
16 thirty days after the property's valuation date. The burden of proof is
17 on the petitioning county board of equalization to show that failure to
18 make a determination that a different methodology should be used would
19 result in a value that is not equitable and in accordance with the law.
20 At the hearing, the commission may receive testimony from any interested
21 person. After a hearing, the commission shall, within the powers granted
22 in section 77-5007, enter its order based on evidence presented to it at
23 such hearing.

24 (11) If the Tax Commissioner, based on the facts and circumstances,
25 believes that the applicable capitalization rate set by the Rent-
26 Restricted Housing Projects Valuation Committee to value a rent-
27 restricted housing project does not result in a valuation at actual value
28 for such rent-restricted housing project, then the Tax Commissioner shall
29 petition the Tax Equalization and Review Commission to consider an
30 adjustment to the capitalization rate of such rent-restricted housing
31 project. Petitions must be filed within thirty days after the property's

1 valuation date. The burden of proof is on the Tax Commissioner to show
2 that failure to make an adjustment to the capitalization rate employed
3 would result in a value that is not equal to the rent-restricted housing
4 project's actual value. At the hearing, the commission may receive
5 testimony from any interested person. After a hearing, the commission
6 shall, within the powers granted in section 77-5007, enter its order
7 based on evidence presented to it at such hearing.

8 ~~(2) The owner of a rent-restricted housing project shall file a~~
9 ~~statement with the county assessor on or before October 1 of each year~~
10 ~~that details income and expense data for the prior year, a description of~~
11 ~~any land-use restrictions, and such other information as the county~~
12 ~~assessor may require.~~

13 Sec. 2. Section 77-5007, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 77-5007 The commission has the power and duty to hear and determine
16 appeals of:

17 (1) Decisions of any county board of equalization equalizing the
18 value of individual tracts, lots, or parcels of real property so that all
19 real property is assessed uniformly and proportionately;

20 (2) Decisions of any county board of equalization granting or
21 denying tax-exempt status for real or personal property or an exemption
22 from motor vehicle taxes and fees;

23 (3) Decisions of the Tax Commissioner determining the taxable
24 property of a railroad company, car company, public service entity, or
25 air carrier within the state;

26 (4) Decisions of the Tax Commissioner determining adjusted valuation
27 pursuant to section 79-1016;

28 (5) Decisions of any county board of equalization on the valuation
29 of personal property or any penalties imposed under sections 77-1233.04
30 and 77-1233.06;

31 (6) Decisions of any county board of equalization on claims that a

1 levy is or is not for an unlawful or unnecessary purpose or in excess of
2 the requirements of the county;

3 (7) Decisions of any county board of equalization granting or
4 rejecting an application for a homestead exemption;

5 (8) Decisions of the Department of Motor Vehicles determining the
6 taxable value of motor vehicles pursuant to section 60-3,188;

7 (9) Decisions of the Tax Commissioner made under section 77-1330;

8 (10) Any other decision of any county board of equalization;

9 (11) Any other decision of the Tax Commissioner regarding property
10 valuation, exemption, or taxation;

11 (12) Decisions of the Tax Commissioner pursuant to section 77-3520;

12 (13) Final decisions of a county board of equalization appealed by
13 the Tax Commissioner or Property Tax Administrator pursuant to section
14 77-701;

15 (14) Determinations of the Rent-Restricted Housing Projects
16 Valuation Committee regarding the capitalization rate to be used to value
17 rent-restricted housing projects pursuant to section 77-1333 or the
18 requirement under such section that an income-approach calculation be
19 used by county assessors to value rent-restricted housing projects;

20 (15 14) The requirement under section 77-1314 that the income
21 approach, including the use of a discounted cash-flow analysis, be used
22 by county assessors; and

23 (16 15) Any other decision, determination, action, or order from
24 which an appeal to the commission is authorized.

25 The commission has the power and duty to hear and grant or deny
26 relief on petitions.

27 Sec. 3. Original section 77-1333, Reissue Revised Statutes of
28 Nebraska, and section 77-5007, Revised Statutes Cumulative Supplement,
29 2014, are repealed.