

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 523

Introduced by Linehan, 39.

Read first time January 22, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to taxation; to amend sections 76-902, 77-123,
2 77-202, 77-202.01, 77-202.03, and 77-202.09, Reissue Revised
3 Statutes of Nebraska, and section 60-3,185, Revised Statutes
4 Cumulative Supplement, 2018; to provide a documentary stamp tax
5 exemption for certain deeds and a property tax exemption to
6 educational, religious, charitable, or cemetery limited liability
7 companies; to harmonize provisions; to provide an operative date;
8 and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-3,185, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 60-3,185 A motor vehicle tax is imposed on motor vehicles registered
4 for operation upon the highways of this state, except:

5 (1) Motor vehicles exempt from the registration fee in section
6 60-3,160;

7 (2) One motor vehicle owned and used for his or her personal
8 transportation by a disabled or blind veteran of the United States Armed
9 Forces as defined in section 77-202.23 whose disability or blindness is
10 recognized by the United States Department of Veterans Affairs and who
11 was discharged or otherwise separated with a characterization of
12 honorable if an application for the exemption has been approved under
13 subsection (1) of section 60-3,189;

14 (3) Motor vehicles owned by Indians who are members of an Indian
15 tribe;

16 (4) Motor vehicles owned by a member of the United States Armed
17 Forces serving in this state in compliance with military or naval orders
18 or his or her spouse if such servicemember or spouse is a resident of a
19 state other than Nebraska;

20 (5) Motor vehicles owned by the state and its governmental
21 subdivisions and exempt as provided in subdivision (1)(a) or (b) of
22 section 77-202;

23 (6) Motor vehicles owned and used exclusively by an organization or
24 society qualified for a tax exemption provided in subdivision (1)(c), ~~or~~
25 (d), or (f) of section 77-202 if an application for the exemption
26 provided in this subdivision has been approved under subsection (2) of
27 section 60-3,189; and

28 (7) Trucks, trailers, or combinations thereof registered under
29 section 60-3,198.

30 Sec. 2. Section 76-902, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 76-902 The tax imposed by section 76-901 shall not apply to:

2 (1) Deeds recorded prior to November 18, 1965;

3 (2) Deeds to property transferred by or to the United States of
4 America, the State of Nebraska, or any of their agencies or political
5 subdivisions;

6 (3) Deeds which secure or release a debt or other obligation;

7 (4) Deeds which, without additional consideration, confirm, correct,
8 modify, or supplement a deed previously recorded but which do not extend
9 or limit existing title or interest;

10 (5)(a) Deeds between spouses, between ex-spouses for the purpose of
11 conveying any rights to property acquired or held during the marriage, or
12 between parent and child, without actual consideration therefor, and (b)
13 deeds to or from a family corporation, partnership, or limited liability
14 company when all the shares of stock of the corporation or interest in
15 the partnership or limited liability company are owned by members of a
16 family, or a trust created for the benefit of a member of that family,
17 related to one another within the fourth degree of kindred according to
18 the rules of civil law, and their spouses, for no consideration other
19 than the issuance of stock of the corporation or interest in the
20 partnership or limited liability company to such family members or the
21 return of the stock to the corporation in partial or complete liquidation
22 of the corporation or deeds in dissolution of the interest in the
23 partnership or limited liability company. In order to qualify for the
24 exemption for family corporations, partnerships, or limited liability
25 companies, the property shall be transferred in the name of the
26 corporation or partnership and not in the name of the individual
27 shareholders, partners, or members;

28 (6) Tax deeds;

29 (7) Deeds of partition;

30 (8) Deeds made pursuant to mergers, consolidations, sales, or
31 transfers of the assets of corporations pursuant to plans of merger or

1 consolidation filed with the office of Secretary of State. A copy of such
2 plan filed with the Secretary of State shall be presented to the register
3 of deeds before such exemption is granted;

4 (9) Deeds made by a subsidiary corporation to its parent corporation
5 for no consideration other than the cancellation or surrender of the
6 subsidiary's stock;

7 (10) Cemetery deeds;

8 (11) Mineral deeds;

9 (12) Deeds executed pursuant to court decrees;

10 (13) Land contracts;

11 (14) Deeds which release a reversionary interest, a condition
12 subsequent or precedent, a restriction, or any other contingent interest;

13 (15) Deeds of distribution executed by a personal representative
14 conveying to devisees or heirs property passing by testate or intestate
15 succession;

16 (16) Transfer on death deeds or revocations of transfer on death
17 deeds;

18 (17) Certified or authenticated death certificates;

19 (18) Deeds transferring property located within the boundaries of an
20 Indian reservation if the grantor or grantee is a reservation Indian;

21 (19) Deeds transferring property into a trust if the transfer of the
22 same property would be exempt if the transfer was made directly from the
23 grantor to the beneficiary or beneficiaries under the trust. No such
24 exemption shall be granted unless the register of deeds is presented with
25 a signed statement certifying that the transfer of the property is made
26 under such circumstances as to come within one of the exemptions
27 specified in this section and that evidence supporting the exemption is
28 maintained by the person signing the statement and is available for
29 inspection by the Department of Revenue;

30 (20) Deeds transferring property from a trustee to a beneficiary of
31 a trust;

1 (21) Deeds which convey property held in the name of any partnership
2 or limited liability company not subject to subdivision (5) of this
3 section to any partner in the partnership or member of the limited
4 liability company or to his or her spouse;

5 (22) Leases;

6 (23) Easements;

7 (24) Deeds which transfer title from a trustee to a beneficiary
8 pursuant to a power of sale exercised by a trustee under a trust deed; ~~or~~

9 (25) Deeds transferring property, without actual consideration
10 therefor, to a nonprofit organization that is exempt from federal income
11 tax under section 501(c)(3) of the Internal Revenue Code and is not a
12 private foundation as defined in section 509(a) of the Internal Revenue
13 Code; ~~or~~

14 (26) Deeds transferring real property to or from a nonprofit
15 organization operated for educational, religious, charitable, or cemetery
16 purposes, provided such transfers are for nominal consideration.

17 Sec. 3. Section 77-123, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 77-123 Omitted property means, for the current tax year, (1) any
20 taxable real property that was not assessed on March 19, except beginning
21 January 1, 2014, in any county with a population of at least one hundred
22 fifty thousand inhabitants according to the most recent federal decennial
23 census, any taxable real property that was not assessed on March 25, and
24 (2) any taxable tangible personal property that was not assessed on May
25 1. Omitted property also means any taxable real or tangible personal
26 property that was not assessed for any prior tax year. Omitted property
27 does not include property exempt under subdivisions (1)(a) through (d)
28 and (f) of section 77-202, listing errors of an item of property on the
29 assessment roll of the county assessor, or clerical errors as defined in
30 section 77-128.

31 Sec. 4. Section 77-202, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-202 (1) The following property shall be exempt from property
3 taxes:

4 (a) Property of the state and its governmental subdivisions to the
5 extent used or being developed for use by the state or governmental
6 subdivision for a public purpose. For purposes of this subdivision:

7 (i) Property of the state and its governmental subdivisions means

8 (A) property held in fee title by the state or a governmental subdivision
9 or (B) property beneficially owned by the state or a governmental
10 subdivision in that it is used for a public purpose and is being acquired
11 under a lease-purchase agreement, financing lease, or other instrument
12 which provides for transfer of legal title to the property to the state
13 or a governmental subdivision upon payment of all amounts due thereunder.
14 If the property to be beneficially owned by a governmental subdivision
15 has a total acquisition cost that exceeds the threshold amount or will be
16 used as the site of a public building with a total estimated construction
17 cost that exceeds the threshold amount, then such property shall qualify
18 for an exemption under this section only if the question of acquiring
19 such property or constructing such public building has been submitted at
20 a primary, general, or special election held within the governmental
21 subdivision and has been approved by the voters of the governmental
22 subdivision. For purposes of this subdivision, threshold amount means the
23 greater of fifty thousand dollars or six-tenths of one percent of the
24 total actual value of real and personal property of the governmental
25 subdivision that will beneficially own the property as of the end of the
26 governmental subdivision's prior fiscal year; and

27 (ii) Public purpose means use of the property (A) to provide public
28 services with or without cost to the recipient, including the general
29 operation of government, public education, public safety, transportation,
30 public works, civil and criminal justice, public health and welfare,
31 developments by a public housing authority, parks, culture, recreation,

1 community development, and cemetery purposes, or (B) to carry out the
2 duties and responsibilities conferred by law with or without
3 consideration. Public purpose does not include leasing of property to a
4 private party unless the lease of the property is at fair market value
5 for a public purpose. Leases of property by a public housing authority to
6 low-income individuals as a place of residence are for the authority's
7 public purpose;

8 (b) Unleased property of the state or its governmental subdivisions
9 which is not being used or developed for use for a public purpose but
10 upon which a payment in lieu of taxes is paid for public safety, rescue,
11 and emergency services and road or street construction or maintenance
12 services to all governmental units providing such services to the
13 property. Except as provided in Article VIII, section 11, of the
14 Constitution of Nebraska, the payment in lieu of taxes shall be based on
15 the proportionate share of the cost of providing public safety, rescue,
16 or emergency services and road or street construction or maintenance
17 services unless a general policy is adopted by the governing body of the
18 governmental subdivision providing such services which provides for a
19 different method of determining the amount of the payment in lieu of
20 taxes. The governing body may adopt a general policy by ordinance or
21 resolution for determining the amount of payment in lieu of taxes by
22 majority vote after a hearing on the ordinance or resolution. Such
23 ordinance or resolution shall nevertheless result in an equitable
24 contribution for the cost of providing such services to the exempt
25 property;

26 (c) Property owned by and used exclusively for agricultural and
27 horticultural societies;

28 (d) Property owned by educational, religious, charitable, or
29 cemetery organizations, or any organization for the exclusive benefit of
30 any such educational, religious, charitable, or cemetery organization,
31 and used exclusively for educational, religious, charitable, or cemetery

1 purposes, when such property is not (i) owned or used for financial gain
2 or profit to either the owner or user, (ii) used for the sale of
3 alcoholic liquors for more than twenty hours per week, or (iii) owned or
4 used by an organization which discriminates in membership or employment
5 based on race, color, or national origin. For purposes of this
6 subdivision, educational organization means (A) an institution operated
7 exclusively for the purpose of offering regular courses with systematic
8 instruction in academic, vocational, or technical subjects or assisting
9 students through services relating to the origination, processing, or
10 guarantying of federally reinsured student loans for higher education or
11 (B) a museum or historical society operated exclusively for the benefit
12 and education of the public. For purposes of this subdivision, charitable
13 organization includes an organization operated exclusively for the
14 purpose of the mental, social, or physical benefit of the public or an
15 indefinite number of persons and a fraternal benefit society organized
16 and licensed under sections 44-1072 to 44-10,109; ~~and~~

17 (e) Household goods and personal effects not owned or used for
18 financial gain or profit to either the owner or user; and -

19 (f) Property owned by a limited liability company if such company is
20 wholly owned by an organization whose property qualifies for exemption
21 pursuant to subdivision (1)(d) of this section and if such company
22 satisfies specific organizational requirements. These organizational
23 requirements may be satisfied if the certificate of organization or the
24 equivalent legally recognized formative document under the laws of the
25 jurisdiction where the company is formed contains all of the following:

26 (i) Organizational language specifying that the company is organized
27 and operated exclusively to benefit and further the purposes of an
28 organization whose property qualifies for exemption pursuant to
29 subdivision (1)(d) of this section;

30 (ii) Organizational language requiring that the company be wholly
31 owned by an organization whose property qualifies for exemption pursuant

1 to subdivision (1)(d) of this section;

2 (iii) Organizational language prohibiting discrimination in
3 membership or employment based on race, color, or national origin;

4 (iv) Organizational language prohibiting use of the property of the
5 company for financial gain or profit to the owner or user and prohibiting
6 use of the property for the sale of alcoholic liquors for more than
7 twenty hours per week; and

8 (v) Organizational language specifying that upon dissolution, all
9 assets of the company shall be distributed to an organization whose
10 property qualifies for exemption pursuant to subdivision (1)(d) of this
11 section.

12 (2) The increased value of land by reason of shade and ornamental
13 trees planted along the highway shall not be taken into account in the
14 valuation of land.

15 (3) Tangible personal property which is not depreciable tangible
16 personal property as defined in section 77-119 shall be exempt from
17 property tax.

18 (4) Motor vehicles, trailers, and semitrailers required to be
19 registered for operation on the highways of this state shall be exempt
20 from payment of property taxes.

21 (5) Business and agricultural inventory shall be exempt from the
22 personal property tax. For purposes of this subsection, business
23 inventory includes personal property owned for purposes of leasing or
24 renting such property to others for financial gain only if the personal
25 property is of a type which in the ordinary course of business is leased
26 or rented thirty days or less and may be returned at the option of the
27 lessee or renter at any time and the personal property is of a type which
28 would be considered household goods or personal effects if owned by an
29 individual. All other personal property owned for purposes of leasing or
30 renting such property to others for financial gain shall not be
31 considered business inventory.

1 (6) Any personal property exempt pursuant to subsection (2) of
2 section 77-4105 or section 77-5209.02 shall be exempt from the personal
3 property tax.

4 (7) Livestock shall be exempt from the personal property tax.

5 (8) Any personal property exempt pursuant to the Nebraska Advantage
6 Act shall be exempt from the personal property tax.

7 (9) Any depreciable tangible personal property used directly in the
8 generation of electricity using wind as the fuel source shall be exempt
9 from the property tax levied on depreciable tangible personal property.
10 Any depreciable tangible personal property used directly in the
11 generation of electricity using solar, biomass, or landfill gas as the
12 fuel source shall be exempt from the property tax levied on depreciable
13 tangible personal property if such depreciable tangible personal property
14 was installed on or after January 1, 2016, and has a nameplate capacity
15 of one hundred kilowatts or more. Depreciable tangible personal property
16 used directly in the generation of electricity using wind, solar,
17 biomass, or landfill gas as the fuel source includes, but is not limited
18 to, wind turbines, rotors and blades, towers, solar panels, trackers,
19 generating equipment, transmission components, substations, supporting
20 structures or racks, inverters, and other system components such as
21 wiring, control systems, switchgears, and generator step-up transformers.

22 (10) Any tangible personal property that is acquired by a person
23 operating a data center located in this state, that is assembled,
24 engineered, processed, fabricated, manufactured into, attached to, or
25 incorporated into other tangible personal property, both in component
26 form or that of an assembled product, for the purpose of subsequent use
27 at a physical location outside this state by the person operating a data
28 center shall be exempt from the personal property tax. Such exemption
29 extends to keeping, retaining, or exercising any right or power over
30 tangible personal property in this state for the purpose of subsequently
31 transporting it outside this state for use thereafter outside this state.

1 For purposes of this subsection, data center means computers, supporting
2 equipment, and other organized assembly of hardware or software that are
3 designed to centralize the storage, management, or dissemination of data
4 and information, environmentally controlled structures or facilities or
5 interrelated structures or facilities that provide the infrastructure for
6 housing the equipment, such as raised flooring, electricity supply,
7 communication and data lines, Internet access, cooling, security, and
8 fire suppression, and any building housing the foregoing.

9 (11) For each person who owns property required to be reported to
10 the county assessor under section 77-1201, there shall be allowed an
11 exemption amount as provided in the Personal Property Tax Relief Act. For
12 each person who owns property required to be valued by the state as
13 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
14 allowed a compensating exemption factor as provided in the Personal
15 Property Tax Relief Act.

16 Sec. 5. Section 77-202.01, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-202.01 (1) Any organization or society seeking a tax exemption
19 provided in subdivisions (1)(c), ~~and (d)~~, and (f) of section 77-202 for
20 any real or tangible personal property, except real property used for
21 cemetery purposes, shall apply for exemption to the county assessor on or
22 before December 31 of the year preceding the year for which the exemption
23 is sought on forms prescribed by the Tax Commissioner. The county
24 assessor shall examine the application and recommend either taxable or
25 exempt for the real property or tangible personal property to the county
26 board of equalization on or before February 1 following. Notice that a
27 list of the applications from organizations seeking tax exemption,
28 descriptions of the property, and recommendations of the county assessor
29 are available in the county assessor's office shall be published in a
30 newspaper of general circulation in the county at least ten days prior to
31 consideration of any application by the county board of equalization.

1 (2) Any organization or society which fails to file an exemption
2 application on or before December 31 may apply on or before June 30 to
3 the county assessor. The organization or society shall also file in
4 writing a request with the county board of equalization for a waiver so
5 that the county assessor may consider the application for exemption. The
6 county board of equalization shall grant the waiver upon a finding that
7 good cause exists for the failure to make application on or before
8 December 31. When the waiver is granted, the county assessor shall
9 examine the application and recommend either taxable or exempt for the
10 real property or tangible personal property to the county board of
11 equalization and shall assess a penalty against the property of ten
12 percent of the tax that would have been assessed had the waiver been
13 denied or one hundred dollars, whichever is less, for each calendar month
14 or fraction thereof for which the filing of the exemption application
15 missed the December 31 deadline. The penalty shall be collected and
16 distributed in the same manner as a tax on the property and interest
17 shall be assessed at the rate specified in section 45-104.01, as such
18 rate may from time to time be adjusted by the Legislature, from the date
19 the tax would have been delinquent until paid. The penalty shall also
20 become a lien in the same manner as a tax pursuant to section 77-203.

21 Sec. 6. Section 77-202.03, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-202.03 (1) A properly granted exemption of real or tangible
24 personal property, except real property used for cemetery purposes,
25 provided for in subdivisions (1)(c), ~~and (d)~~, and (f) of section 77-202
26 shall continue for a period of four years if the statement of
27 reaffirmation of exemption required by subsection (2) of this section is
28 filed when due. The four-year period shall begin with years evenly
29 divisible by four.

30 (2) In each intervening year occurring between application years,
31 the organization or society which filed the granted exemption application

1 for the real or tangible personal property, except real property used for
2 cemetery purposes, shall file a statement of reaffirmation of exemption
3 with the county assessor on or before December 31 of the year preceding
4 the year for which the exemption is sought, on forms prescribed by the
5 Tax Commissioner, certifying that the ownership and use of the exempted
6 property has not changed during the year. Any organization or society
7 which misses the December 31 deadline for filing the statement of
8 reaffirmation of exemption may file the statement of reaffirmation of
9 exemption by June 30. Such filing shall maintain the tax-exempt status of
10 the property without further action by the county and regardless of any
11 previous action by the county board of equalization to deny the exemption
12 due to late filing of the statement of reaffirmation of exemption. Upon
13 any such late filing, the county assessor shall assess a penalty against
14 the property of ten percent of the tax that would have been assessed had
15 the statement of reaffirmation of exemption not been filed or one hundred
16 dollars, whichever is less, for each calendar month or fraction thereof
17 for which the filing of the statement of reaffirmation of exemption is
18 late. The penalty shall be collected and distributed in the same manner
19 as a tax on the property and interest shall be assessed at the rate
20 specified in section 45-104.01, as such rate may from time to time be
21 adjusted by the Legislature, from the date the tax would have been
22 delinquent until paid. The penalty shall also become a lien in the same
23 manner as a tax pursuant to section 77-203.

24 (3)(a) If any organization or society seeks a tax exemption for any
25 real or tangible personal property acquired on or after January 1 of any
26 year or converted to exempt use on or after January 1 of any year, the
27 organization or society shall make application for exemption on or before
28 July 1 of that year as provided in subsection (1) of section 77-202.01.
29 The procedure for reviewing the application shall be as in sections
30 77-202.01 to 77-202.05, except that the exempt use shall be determined as
31 of the date of application and the review by the county board of

1 equalization shall be completed by August 15.

2 (b) If an organization as described in subdivision (1)(c) or (d) of
3 section 77-202 purchases, between July 1 and the levy date, property that
4 has been granted tax exemption and the property continues to be qualified
5 for a property tax exemption, the purchaser shall on or before November
6 15 make application for exemption as provided in section 77-202.01. The
7 procedure for reviewing the application shall be as in sections 77-202.01
8 to 77-202.05, and the review by the county board of equalization shall be
9 completed by December 15.

10 (4) In any year, the county assessor or the county board of
11 equalization may cause a review of any exemption to determine whether the
12 exemption is proper. Such a review may be taken even if the ownership or
13 use of the property has not changed from the date of the allowance of the
14 exemption. If it is determined that a change in an exemption is
15 warranted, the procedure for hearing set out in section 77-202.02 shall
16 be followed, except that the published notice shall state that the list
17 provided in the county assessor's office only includes those properties
18 being reviewed. If an exemption is denied, the county board of
19 equalization shall place the property on the tax rolls retroactive to
20 January 1 of that year if on the date of the decision of the county board
21 of equalization the property no longer qualifies for an exemption.

22 The county board of equalization shall give notice of the assessed
23 value of the real property in the same manner as outlined in section
24 77-1507, and the procedures for filing a protest shall be the same as
25 those in section 77-1502.

26 When personal property which was exempt becomes taxable because of
27 lost exemption status, the owner or his or her agent has thirty days
28 after the date of denial to file a personal property return with the
29 county assessor. Upon the expiration of the thirty days for filing a
30 personal property return pursuant to this subsection, the county assessor
31 shall proceed to list and value the personal property and apply the

1 penalty pursuant to section 77-1233.04.

2 (5) During the month of September of each year, the county board of
3 equalization shall cause to be published in a paper of general
4 circulation in the county a list of all real estate in the county exempt
5 from taxation for that year pursuant to subdivisions (1)(c), ~~and (d)~~, and
6 (f) of section 77-202. Such list shall be grouped into categories as
7 provided by the Property Tax Administrator. A copy of the list and proof
8 of publication shall be forwarded to the Property Tax Administrator.

9 Sec. 7. Section 77-202.09, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 77-202.09 Any cemetery organization seeking a tax exemption for any
12 real property used to maintain areas set apart for the interment of human
13 dead shall apply for exemption to the county assessor on forms prescribed
14 by the Tax Commissioner. An application for a tax exemption shall be made
15 on or before December 31 of the year preceding the year for which the
16 exemption is sought. The county assessor shall examine the application
17 and recommend either taxable or exempt to the county board of
18 equalization on or before February 1 following. If a cemetery
19 organization seeks a tax exemption for any real or tangible personal
20 property acquired for or converted to exempt use on or after January 1,
21 the organization shall make application for exemption on or before July
22 1. The procedure for reviewing the application shall be the same as for
23 other exemptions pursuant to subdivisions (1)(c), ~~and (d)~~, and (f) of
24 section 77-202. Any cemetery organization which fails to file on or
25 before December 31 for exemption may apply on or before June 30 pursuant
26 to subsection (2) of section 77-202.01, and the penalty and procedures
27 specified in section 77-202.01 shall apply.

28 Sec. 8. This act becomes operative on January 1, 2020.

29 Sec. 9. Original sections 76-902, 77-123, 77-202, 77-202.01,
30 77-202.03, and 77-202.09, Reissue Revised Statutes of Nebraska, and
31 section 60-3,185, Revised Statutes Cumulative Supplement, 2018, are

1 repealed.