

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3115

By: Seikel

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 318, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2817), which relates to valuation and assessment of property; including personal property which may be taken into account for assessment purposes if damaged; amending Section 4, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2817.1), which relates to implementation of constitutional law and increasing fair cash value of locally assessed property; modifying assessed value of improvements; amending 68 O.S. 1991, Section 2892, as amended by Section 3, Chapter 345, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2892), which relates to homestead exemptions; providing for application for homestead exemption throughout year; providing that homestead exemption application received after certain date begins after certain tax year; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2817, as last amended by Section 1, Chapter 318, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2817), is amended to read as follows:

Section 2817. A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in the State of Oklahoma. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Soil Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Oklahoma Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Oklahoma Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Oklahoma Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land

Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the State Board of Equalization's duties, powers and authority of the valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Oklahoma Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the State Board of Equalization's duties, powers and authority as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty

percent (20%) of the value of the facility during its first year of operation, and

- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or

2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property, then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section; when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

G. Where any real property is zoned for a use by a proper zoning authority, and is not being used for any higher or better use classification, the purpose for which the property is zoned shall be considered the highest and best use classification of the property for determining its value for assessment purposes; however, the zoning classification for assessment purposes shall only apply in the event that the rezoning occurs by reason of the application of the landowner or the agent of the landowner. Any reassessment required shall be effective January 1 following the change in use or classification and upon a transfer of ownership of the rezoned property. Taxable real property need not be listed annually with the county assessor.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any improvements or buildings having value are placed upon real estate after January 1 of any year, the value of the improvements shall be added by the county assessor to the assessed valuation for the next ensuing year; however, in case the improvements or buildings are new construction for single family residential purposes only, the improvements or buildings shall be deemed completed and to have a value for assessment purposes when the improvements or buildings shall have been conveyed to a bona fide purchaser or when they have been occupied, whichever shall first occur before January 1 of the

initial assessment year. In the event that the single family residential improvements were not conveyed to a bona fide purchaser, occupied or completed within the year prior to January 1 of the initial assessment year, the county assessor shall assess the improvements based on the fair market value of the materials used therein. The county assessor shall continue to assess the improvements or buildings based upon the fair market value of the materials used therein until the single family residential improvements are conveyed to a bona fide purchaser or occupied. In case the improvements, other than buildings, are made in anticipation of residential or commercial development and the property is not conveyed or leased within the year prior to January 1 of the year that the improvements would initially be assessed, fair cash value of the property shall be deemed to be the lesser of the fair cash value of the property with the improvements or the fair cash value of the property immediately prior to the improvements being made. The county assessor shall continue to assess the property based upon such fair cash value until the property is leased or conveyed.

I. In case improvements on land or personal property located on such land are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other causes.

SECTION 2. AMENDATORY Section 4, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2817.1), is amended to read as follows:

Section 2817.1 A. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution, the fair cash value of locally assessed real property shall not be automatically increased five percent (5%) each year, the five-percent limitation on the increase in the fair cash value shall not be cumulative, and the five-percent limitation shall not be considered as a twenty-percent increase every four (4) years.

B. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution, improvements made to locally assessed real property shall be assessed in accordance with law by the county assessor based on the fair cash value of the entire property including the improvement. ~~The assessed value of the improvement shall then be added to the existing assessed value of the property. The existing property shall continue to be subject to the five-percent limitation on the increase in valuation as set forth in Section 8B of Article X of the Oklahoma Constitution.~~ Except when title to the property is transferred, changed, or conveyed to another person as defined in Section 3 of this act, and in accordance with Legislative intent as set forth in subsection A of this section, under no circumstances shall the fair cash value of ~~the existing~~ locally assessed real property increase by more than five percent (5%) in any taxable year.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2892, as amended by Section 3, Chapter 345, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2892), is amended to read as follows:

Section 2892. A. Each taxpayer who applies for homestead exemption shall file an application ~~on or before the fifteenth day of March~~ in any year following the year of:

1. The purchase of real estate; or

2. The change of use or status of real property, so as to entitle it to homestead exemption.

Any application for a homestead exemption filed after March 15 shall only be applicable in the ensuing tax year and thereafter.

B. Any taxpayer who has been granted a homestead exemption and who continues to occupy such homestead property as a homestead, shall not be required to reapply for such homestead exemption.

C. Once granted, the homestead exemption shall remain in full force and effect for each succeeding year, so long as:

1. The record of actual property ownership is vested in the taxpayer;

2. The instrument of ownership is on record in the county clerk's office;

3. The owner-taxpayer is in all other respects entitled by law to the homestead exemption; and

4. The taxpayer has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office. On October 1st of each year, the county treasurer will provide a copy of the personal property tax lien docket to the county assessor. Based upon the personal property tax lien docket, the county assessor shall act to cancel the homestead exemption of all property owners having delinquent personal property taxes. Such cancellation of the homestead exemption will become effective January 1 of the following year and will remain in effect for at least one (1) calendar year; however, such cancellation will not become effective January 1 of the following year if the taxpayer pays such delinquent personal property taxes prior to January 1. Cancellation of the homestead exemption will require the county assessor to notify each taxpayer no later than January 1 of the next calendar year whose homestead is canceled and will require the taxpayer to refile an application for homestead exemption by those

dates so indicated in this section and the payment of all delinquent personal property taxes before the homestead can be reinstated.

D. Any purchaser or new owner of real property must file an application for homestead exemption as herein provided.

E. The application for homestead exemption shall be filed with the county assessor of the county in which the homestead is located. A taxpayer applying for homestead exemption shall not be required to appear before the county assessor in person to submit such application.

F. The property owner shall sign and swear to the truthfulness and correctness of the application's contents. If the property owner is a minor or incompetent, the legal guardian shall sign and swear to the contents of the application.

G. The county assessor and duly appointed deputies are authorized and empowered to administer the required oaths.

H. The taxpayer shall notify the county assessor the year following any change in the use of property with homestead exemption thereon. The notice of change in homestead exemption status of property shall be in writing and filed with the county assessor on or before the fifteenth day of March of the next following year after which such change occurs. The filing of a deed or other instrument evidencing a change of ownership shall constitute sufficient notice to the county assessor.

I. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under this Code only one homestead exemption in the State of Oklahoma.

J. Any property owner who fails to give notice of change to the county assessor and permits the allowance of homestead exemption for any succeeding year where such homestead exemption is unlawful and improper shall owe the county treasurer:

1. An amount equal to twice the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption; and

2. The interest and penalty on such total sum as provided by statutes on delinquent ad valorem taxes. There shall be a lien on the property while such taxes are unpaid, but not for a period longer than that provided by statute for other ad valorem tax liens.

K. Any person who has intentionally or knowingly permitted the unlawful and improper allowance of homestead exemption shall forfeit the right to a homestead exemption on any property in this state for the two (2) succeeding years.

SECTION 4. This act shall become effective November 1, 1998.

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