

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 857

By: Herbert of the Senate

and

Seikel of the House

(revenue and taxation - illegality of tax - county

treasurer -

effective date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2886, which relates to payment of ad valorem taxes where the illegality of the tax is alleged; modifying requirements for taxpayers alleging illegality of tax in certain cases; specifying certain duty of county treasurer; creating the Task Force on Budgetary Process of Political Subdivisions; providing for appointment of members; requiring election of chairperson; requiring meetings to be conducted in accordance with Oklahoma Open Meeting Act; authorizing travel reimbursement; authorizing staff; setting forth duties; requiring report; terminating task force on certain date; amending 68 O.S. 1991, Sections 2888, as amended by Section 1, Chapter 138, O.S.L. 1997 and 2892, as last amended by Section 11, Chapter 405, O.S.L. 1998 (68 O.S. Supp. 1999, Sections 2888 and 2892), which relate to homestead exemption; adding requirements for record ownership by a certain date; providing for applicability of requirements; modifying date that application for homestead exemption may be filed under certain circumstances; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2886, is amended to read as follows:

Section 2886. ~~A. In all cases where the illegality of the tax is alleged to arise by reason of some action from which the laws provide no appeal, the aggrieved person shall pay the full amount of the taxes at the time and in the manner provided by law, and shall give notice to the officer collecting the taxes showing the grounds of complaint and that suit will be brought against the officer for recovery of them. It shall be the duty of such collecting officer to hold such taxes separate and apart from all other taxes collected by him, for a period of thirty (30) days, and if within such time summons shall be served upon such officer in a suit for recovery of such taxes, the officer shall further hold such taxes until the final determination of such suit. The treasurer shall invest such protested taxes in the same manner as he invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of such protested taxes upon expiration of the thirty-day period after notice or upon final determination of the suit.~~

~~B. All such suits shall be brought in the court having jurisdiction thereof, and they shall have precedence therein. If, upon final determination of any such suit, the court shall determine that the taxes were illegally collected, as not being due and owing, the court shall render judgment showing the correct and legal amount of taxes due by such person, and shall issue such order in accordance with the court's findings, and if such order shows that the taxes so paid are in excess the legal and correct amount due, the collecting officer shall pay to such person the excess, together with all accrued interest on the excess amount, and shall take his receipt therefor and give notice of any lawsuit by such person at the time and in the manner provided by Section 2884 of this title. It shall be the duty of the county treasurer to hold, invest and disburse such taxes only in the manner provided for by Section 2884 of this title.~~

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There shall be created the Task Force on Budgetary Process of Political Subdivisions.

B. The Task Force shall consist of thirteen (13) persons to be appointed as follows:

1. The Speaker of the House of Representatives shall appoint the following individuals:

- a. one county assessor,
- b. one person representing the Oklahoma Municipal League,
- c. one county clerk,
- d. one person representing the State School Board Association, and
- e. one person representing the Office of the State Auditor;

2. The President Pro Tempore of the Senate shall appoint the following individuals:

- a. one person representing the Oklahoma Tax Commission,
- b. one county treasurer,
- c. one county clerk, and
- d. one person representing the public utilities; and

3. The Governor shall appoint the following individuals:

- a. one county assessor,
- b. one county treasurer,
- c. one person representing the Cooperative Council for Oklahoma School Administrators, and
- d. one person representing the state vo-tech association.

All appointments pursuant to this subsection shall be made no later than August 1, 2000.

C. The Task Force shall elect from among its members a chairperson. The Task Force shall meet at such times and places as it deems necessary to perform its duties as specified in this

section. Meetings shall be held at the call of the chair and shall be conducted in accordance with the Oklahoma Open Meeting Act.

D. Members of the Task Force shall be reimbursed by their appointing authorities for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. The Oklahoma Tax Commission shall provide such staff support as is required by the Task Force.

F. The duties of the Task Force shall be as follows:

1. To study and review the budgetary process as it relates to political subdivisions; and

2. To determine what constitutional and statutory changes are necessary to implement the findings and recommendations of the Task Force.

G. The Task Force shall set forth its findings or recommendations in a report to the Governor and the Legislature no later than December 1, 2000. The Task Force shall be terminated as of December 1, 2000.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2888, as amended by Section 1, Chapter 138, O.S.L. 1997 (68 O.S. Supp. 1999, Section 2888), is amended to read as follows:

Section 2888. A. 1. The term homestead, as used in the provisions of the Ad Valorem Tax Code governing homestead exemptions, shall mean and include the actual residence of a natural person who is a citizen of the State of Oklahoma, provided the record actual ownership of such residence be vested in such natural person residing and domiciled thereon. 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 this state. No person or the family of such person shall be required to be domiciled thereon if such person

is in the armed service of the United States in time of war or during a state of national emergency as declared by the Congress or the President of the United States, and such person shall not be required to be domiciled thereon in order to assert or claim the exemption provided in Section 2889 of this title, and such exemption may be claimed by any agent of, or member of the family of, such person. The surviving spouse and/or minor children of a deceased person shall be considered record owners of the homestead where the title of record in the office of the county clerk on January 1 is in the name of the deceased, but in all other cases the deed or other evidence of ownership must be of record in the office of the county clerk on January 1 in order for any person to be qualified as the record owner. However, a natural person actually owning, residing and domiciled in the residence on January 1 shall be deemed to be the record owner of the residence on January 1, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before January 1, be of record in the office of the county clerk on or before February 1 immediately following. Despite any provision to the contrary in this section, if a parent or parents residing and domiciled in the residence own the residence jointly with one or more of their children, whether residing together or separated, and where the record joint ownership of the property is recorded in the office of the county clerk in accordance with the provisions of this section, the parent or parents residing and domiciled in the residence shall be entitled to the entire homestead exemption. A rural homestead shall not include more than one hundred sixty (160) acres of land and the improvements thereon. An urban homestead shall not include any land except the lot or lots, or the unplatted tract, upon which are located the dwelling, garage, barn and/or other outbuildings necessary or convenient for family use.

2. Despite any provision to the contrary in this section, the person actually owning, residing and domiciled in the residence on May 15, 2000, shall be deemed to be the record owner of the residence on May 15, 2000, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before May 15, 2000, be of record in the office of the county clerk on or before such date. However, the provisions of this paragraph shall only apply to any person who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title, or to any person whose primary residence was damaged or destroyed in the May 3, 1999, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence.

B. The term rural homestead as used herein shall mean and include any homestead located outside a city or town or outside any platted subdivision or addition.

C. The term urban homestead as used herein shall mean and include any homestead located within any city or town whether incorporated or unincorporated, or located within a platted subdivision or addition, whether such subdivision or addition be a part of a city or town. In no case shall an urban homestead exceed in area one (1) acre.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2892, as last amended by Section 11, Chapter 405, O.S.L. 1998 (68 O.S. Supp. 1999, Section 2892), is amended to read as follows:

Section 2892. A. To receive a homestead exemption, a taxpayer shall be required to file an application with the county assessor. Such application may be filed at any time; ~~provided.~~ However, the county assessor shall, if such applicant otherwise qualifies, grant a homestead exemption for a tax year only if the application is filed on or before March 15 of such year. ~~If~~ Except as provided in this subsection, if an application for a homestead exemption is

filed after March 15, the county assessor shall, if such applicant otherwise qualifies, grant the homestead exemption beginning with the following tax year. For any owner of real property who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title, or for any owner of real property whose primary residence was damaged or destroyed in the May 3, 1999, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence, the application for a homestead exemption may be filed after March 15, 2000, but no later than June 1, 2000, and the homestead exemption shall be granted for such year.

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 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 may be filed with the county assessor at any time on or before March 15 of the next following year after which such change occurs. The filing of a deed or other instrument evidencing a change of ownership or use 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 5. This act shall become effective July 1, 2000.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 13th day of April, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate