NEBRASKA ADMINISTRATIVE CODE

Title ~~312~~ 350 - Nebraska Department of Revenue, Property Assessment Division

Chapter 45 - Homestead Exemption Regulations

Effective Date

Alphabetic Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Claim for Homestead Exemption	77-3509.01 through 77-3512, 77-3515, 77-3517, 77-3522 and 77-3527, R.R.S. 2003, 77-3508, 77-3509, 77-3519, 77-3520, 77-3526 and 77-3527, R.S. Supp., 2006 and 77-3504, 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.	004
County Assessor Procedure	77-1315 and 77-3521, R.R.S. 2003.	010
Definitions	77-3502, 77-3503, 77-3505, 77-3506~~,~~ and 77-3507, R.R.S. 2003, 77-3508, 77-3509, 77-3526, 77-3527 and 80-401.01, R.S. Supp., 2006 and 77-3504 and 77-3514, R.S. Supp., 2007.	002
Extent of Homestead Exemption	77-3502, 77-3506.03 and 77-3507, R.R.S. 2003, 77-3505.02, 77-3508~~,~~ and 77-3509 R.S. Supp., 2006 and 77-3504, R.S. Supp., 2007.	003
Forms Prescribed and Authorized	77-3521, R.R.S. 2003 and 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.	012
Homestead Exemption Summary Certificate	77-3523, R.R.S. 2003.	008
Homestead Exemption Transfer	77-3509.02, 77-3509.03, and 77-3521, 77-3509.01, R.R.S. 2003, 77-3509, R.S. Supp., 2006 and 77-3510 and 77-3514, R.S. Supp., 2007.	013
Nature of the Homestead Exemption	77-3507 and 77-3523, R.R.S. 2003 and 77-3508, 77-3509 and 77-3527, R.S. Supp., 2006.	001
Processing of Homestead Exemption Application	77-3516, 77-3517, 77-3521, 77-3529, R.R.S. 2003, 77-3519 and 77-3526, R.S. Supp., 2006, and 77-3514, R.S. Supp., 2007.	005

Numeric Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Nature of the Homestead Exemption	77-3507 and 77-3523, R.R.S. 2003 and 77-3508, 77-3509 and 77-3527, R.S. Supp., 2006.	001
Definitions	77-3502, 77-3503, 77-3505, 77-3506, and 77-3507, R.R.S. 2003, 77-3508, 77-3509, 77-3526, 77-3527 and 80-401.01, R.S. Supp., 2006 and 77-3504 and 77-3514, R.S. Supp., 2007.	002
Extent of Homestead Exemption	77-3502, 77-3506.03 and 77-3507, R.R.S. 2003, 77-3505.02, 77-3508, and 77-3509 R.S. Supp., 2006 and 77-3504, R.S. Supp., 2007.	003
Claim for Homestead Exemption	77-3509.01 through 77-3512, 77-3515, 77-3517, 77-3522 and 77-3527, R.R.S. 2003, 77-3508, 77-3509, 77-3519, 77-3520, 77-3526 and 77-3527, R.S. Supp., 2006 and 77-3504, 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.	004
Processing of Homestead Exemption Application	77-3516, 77-3517, 77-3521, 77-3529, R.R.S. 2003, 77-3519 and 77-3526, R.S. Supp., 2006, and 77-3514, R.S. Supp., 2007.	005
Homestead Exemption Summary Certificate	77-3523, R.R.S. 2003.	008
County Assessor Procedure	77-1315 and 77-3521, R.R.S. 2003.	010
Forms Prescribed and Authorized	77-3521, R.R.S. 2003 and 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.	012
Homestead Exemption Transfer	77-3509.02, 77-3509.03, and 77-3521, 77-3509.01, R.R.S. 2003, 77-3509, R.S. Supp., 2006 and 77-3510 and 77-3514, R.S. Supp., 2007.	013

Title ~~312~~ 350 – Nebraska Department of Revenue, Property Assessment Division

Chapter 52 – Homestead Exemption Regulations

REG-45-001 NATURE OF THE HOMESTEAD EXEMPTION

001.01 The homestead exemption provides qualified homeowners with a measure of property tax relief. Revenue lost from this exemption is reimbursed to local taxing subdivisions by the state with funds appropriated by the Legislature from the General Fund.

(Sections 77-3507 and 77-3523, R.R.S. 2003 and sections 77-3508, 77-3509 and 77-3527, R.S. Supp., 2006.)

REG-45-002 DEFINITIONS

002.01 Average assessed value of single-family residential property means the average assessed value for all single-family residential properties in the county for the year for which the exemption is requested.

Comment: Reg. 45-002.01 This is a new definition pursuant to 1994 Legislative Bill 902 § 32, creating Neb. Rev. Stat.§ 77-3506.02. Statutory amendments were made in 1995 and 2004.

002.02 Change in status means a change in: the name of the owner-occupant of the homestead; place of residence; marital status; veteran status; rating by the United States Department of Veterans Affairs; disability status; or any other change that would affect the qualification for or type of exemption granted, except the income status determined by the State Tax Commissioner.

Comment: Per Mark Rosenberg's suggestion

002.03 Closely related means the relationship of a brother, sister, child, or parent to another owner-occupant of a homestead.

Comment: Reg. 45-002.03 This is a new definition pursuant to 1997 Legislative Bill 182, § 2, creating Neb. Rev. Stat.§ 77-3501.02.

002.04 Exempt amount is the amount of the property value that may be exempt from the property tax. The exempt amount depends upon the basis of the exemption and the county of residence. The exempt amount shall be the lesser of the taxable value of the homestead or the following amount:

Comment: Reg. 45-002.04 This is a new definition pursuant to 1994 Legislative Bill 902, § 27, creating Neb. Rev. Stat. § 77-3501.01.

002.04A For a qualified claimant, the larger of one hundred percent of the average assessed value of a single-family residential property in the claimant's county, or forty thousand dollars.

Comment: Reg. 45-002.04A This text was updated by 2006 Legislative Bill 968, §13, Neb. Rev. Stat. § 77-3501.01, to increase percent of average assessed value from 80% to 100% and $35,000 to $40,000

002.04B For a qualified disabled claimant, qualified veteran claimant, or qualified veteran's surviving spouse claimant, the larger of one hundred twenty percent of the average assessed value of a single-family residential property in the claimant's county, or fifty thousand dollars.

Comment: Reg. 45-002.04B This text was updated by 2006 Legislative Bill 968, § 13, Neb. Rev. Stat. § 77-3501.01, to increase percent of average assessed value from 100% to 120% and $35,000 to $50,000

~~002.01~~ 002.05 Homestead shall mean the following residences, if actually occupied by a natural person who is the owner of record from January 1 through August 15 of each year, or is occupied by the surviving spouse and minor children, if any, during the year of the owner‘s death:

002.05A ~~002.01A~~ A residence, and the contiguous land surrounding it, not exceeding one acre. A residence may include a detached garage and one out-building, e.g., a tool shed;

002.05B ~~002.01B~~ A residence located on leased land;

002.05C ~~002.01C~~ A residential unit in a dwelling complex, not including common areas, if the record title owner of the complex is a not-for-profit corporation, and if the purchaser, for fair market value, has a life tenancy in a taxable unit of the dwelling complex, and is entitled to exclusive right of occupancy of that unit for life; or,

002.05D ~~002.01D~~ A mobile home, which includes every transportable or relocatable device whether or not it is permanently attached to real estate, but shall not include any cabin trailer ~~mobile residence~~ registered for highway use.

~~002.02 Residence shall mean all of, or any portion of, a building, mobile home, or unlicensed cabin trailer occupied by the owner as his or her primary home~~.

~~002.02A An applicant residing in a nursing home may qualify for a homestead exemption if he or she intends to return to the residence, the household furnishings have not been removed, and the home has not been rented or leased.~~

~~002.03~~ 002.06 Household income shall mean the total federal adjusted gross income, as defined in the Internal Revenue Code of the United States, plus (1) any Nebraska adjustments increasing the total federal adjusted gross income, (2) any interest and dividends received by the owner regarding obligations of the State of Nebraska or any political subdivision, authority, commission, or instrumentality thereof to the extent excluded in the computation of gross income for federal income tax purposes, and (3) any retirement benefits paid by the Social Security Administration or the Railroad Retirement Board ~~of the claimant, spouse, and any additional owners who occupy the homestead,~~ for the taxable year immediately prior to the year for which the claim for exemption is made.

002.06A If the claimant was married ~~and/or there were additional owner/occupants during any part of the taxable year immediately prior to the year the exemption is claimed,~~ then the household income shall include the income of that spouse ~~and/or additional owner/occupants~~.

002.06B Household income includes the income of any additional owner-occupants who occupied the homestead during any part of the taxable year immediately prior to the year the exemption is claimed. The holder of a remainder interest under a life estate is not an owner.

002.06C Household income may be reduced by medical expenses actually paid by the claimant, spouse, or additional owners that are in excess of four percent of the household income prior to the deduction for medical expenses. In general, medical expenses means expenses that would be eligible as medical expenses for itemized deductions for federal income tax purposes. Medical expenses include the costs of health insurance premiums, goods and services purchased from a person licensed under Chapter 71, article 1 or 47, or a health care facility or health care service licensed under the Health Care Facility Licensure Act for purposes of restoring or maintaining health, insulin, and prescription medicines. Medical expenses shall not include nonprescription medicines, whether or not prescribed.

002.06C(1) Prescription medicines means any drug or medicine requiring a prescription under 21 U.S.C.A. 353 (b)(1)(1972).

002.07 Marital status shall be the claimant's status in the year immediately prior to the year the exemption is claimed:

002.07A Single means a person who would file a federal income tax return as single or head-of-household if required to file a return.

002.07B Married means a person who would file a federal income tax return as married filing jointly or married filing separately if required to file a return.

002.08 Maximum value is the highest value of the homestead at which the full exempt amount is possible before the consideration of the income of the claimant.

002.08A For a qualified claimant, the maximum value is two hundred percent of the average assessed value of a single-family residential property in the claimant's county, or ninety-five thousand dollars, whichever is greater.

Comment: Reg. 45-002.06C This new definition is based upon an amendment made pursuant to 1996 Legislative Bill 1039 § 3 and 2000 Legislative Bill 819 § 152 to Neb. Rev. Stat. §77- 3504

Comment: Reg. 45-002.06C (1) This new definition is based upon an amendment made pursuant to 1996 Legislative Bill 1039 § 3 to Neb. Rev. Stat. §77- 3504.

Comment: Reg. 45-002.07 This new definition was created pursuant to 1994 Legislative Bill 902, §§ 28 and 30, creating Neb. Rev. Stat. §§ 77-3505.01 and 77-3505.03.

Comment: Reg. 45-002.07A This new definition was created pursuant to 1994 Legislative Bill 902, § 30, creating Neb. Rev. Stat. § 77-3505.03.

Comment: Reg. 45-002.07B This new definition was created pursuant to 1994 Legislative Bill 902, § 28, creating Neb. Rev. Stat. § 77-3505.01.

Comment: Reg. 45-002.08 This new definition was created pursuant to 1994 Legislative Bill 902, § 29, creating Neb. Rev. Stat. § 77-3505.02.

Comment: Reg. 45-002.08A This new definition was created pursuant to 1994 Legislative Bill 902, § 29, creating Neb. Rev. Stat. § 77-3505.02 and amended last with 2006 Legislative Bill 968 § 14.

002.08B For a qualified disabled claimant, qualified veteran claimant, or qualified veteran's surviving spouse claimant, the maximum value is two hundred twenty-five percent of the average assessed value of a single-family residential property in the claimant's county, or one hundred ten thousand dollars, whichever is greater.

Comment: Reg. 45-002.08B This new definition was created pursuant to 1994 Legislative Bill 902, § 29, creating Neb. Rev. Stat. § 77-3505.02 and amended last with 2006 Legislative Bill 968 § 14.

~~002.04~~ 002.09 Owner shall mean a natural person, or surviving spouse, who:

~~002.02A~~ 002.09A Holds the recorded fee simple title to the homestead;

~~002.04B~~ 002.09B Is in possession of and resides in a homestead under a bona fide contract to purchase or a deed of conveyance;

~~002.04C~~ 002.09C Resides in a homestead and holds ~~holding~~ a life estate, which is an estate limited in time by deed, will, or settlement;

~~002.04D~~ 002.09D Is one of the joint tenants or tenants in common of a homestead;

~~002.04E~~ 002.09E Is a beneficiary of a trust of which the trustee is the record title owner and the beneficiary-occupant:

~~002.04E(1)~~ 002.09E(1) Has a specific right to occupy the premises as stated in the trust agreement; or

~~002.04E(2)~~ 002.09E(2) Has the right to amend or revoke the trust to obtain such power of occupancy or of title; or~~,~~

~~002.04E(3)~~ 002.09E(3) Has the power to withdraw the homestead premises from the trust and place the record title in such occupant's name; or,

~~002.04F~~ 002.09F Is a resident of a dwelling complex, the record title owner of which is a not-for-profit corporation, who has by purchase for fair market value secured a life tenancy in a taxable unit of the complex. The resident shall provide a copy of the contract as proof of life tenancy;

002.09G Resides in a mobile home and holds a title or bill of sale: or

002.09H Is a resident of any of the homesteads listed in sections 002.09B through 002.09G, however, ~~If~~ the deed, trust instrument, contract or memorandum showing proof of ownership has not been recorded as a matter of public record as of January 1 of the year for which the homestead exemption application is made. A ~~a~~ copy of the instrument dated prior to January 1 of the year for which the homestead exemption application is made shall be attached to the application.

002.10 Prosthetic device shall mean a device that permanently or temporarily replaces a missing part or a nonfunctioning part of the human body.

Comment: Added definition since there is some confusion regarding what a prosthetic device is.

~~002.05~~ 002.11 Qualified claimant shall mean an owner of a homestead who was 65 years of age or older ~~over~~ before January 1 of the year for which the claim is made and whose household income, as determined by the Tax Commissioner, is less than the maximum amount.

~~002.06~~ 002.12 Qualified disabled individual shall mean an owner of a homestead who was disabled on or before January 1 of the year for which the claim is made and whose household income, as determined by the Tax Commissioner, is less than the maximum income amount, and~~:~~

Comment: Reg. 45-002.11B This text was updated pursuant to amendment of 77-3508 by 1999 Legislative Bill 179 § 2.

~~002.06A Who is paralyzed in both legs so as to preclude locomotion without the regular aid of braces, crutches, canes, or wheelchairs;~~

~~002.06B Who has undergone amputation of both lower extremities so as to preclude locomotion without the regular aid of braces, crutches, canes, wheelchairs, or artificial limbs;~~

~~002.06C Who has a progressive neuromuscular or neurological disease such as to preclude locomotion without the regular aid of braces, crutches, canes, wheelchairs, or artificial limbs; or,~~

~~002.06D Who has undergone amputation of both arms above the elbow or has permanently lost the use or control of both arms.~~

002.12A Who has a permanent physical disability and has lost all mobility such as to preclude locomotion without the regular use of a mechanical aid or prosthetic device. (A cane used for blindness does not qualify); or,

002.12B Who has a permanent partial disability of both arms in excess of seventy-five percent; or,

002.12C Who has undergone amputation of both arms above the elbow.

002.13 Qualified veteran claimant means an owner of a homestead who, on or before January 1 of the year for which the claim is made:

Comment: Reg. 45-002.12 This text was moved from 45-002.07B and updated for amendments to Neb. Rev. Stat. §77-3509 by 2005 Legislative Bill 54, §18.

002.13A Is certified as drawing compensation from the United States Department of Veterans Affairs because of one hundred percent disability and whose household income is less than the maximum income amount determined by the Tax Commissioner.

002.13B Is certified as totally disabled due to a non-service-connected accident or illness and whose household income is less than the maximum income amount determined by the State Tax Commissioner. Disability based on age alone does not qualify for this exemption.

002.13C Occupies a home which was substantially contributed by the United States Department of Veterans Affairs.

Comment: Reg. 45-002.12C This text was updated for amendments to Neb. Rev. Stat. §77-3509 by Legislative Bill 54, §18.

002.13C(1) Substantially contributed means the grant of any amount of money received from the United States Department of Veterans Affairs under Public Law 85-857 adopted September 2, 1958, as amended, and in effect on January 1, 1979, by a veteran for the acquisition or construction of a specially adapted home, or the adaptation of an existing home. If such veteran disposes of the home and uses the proceeds of the sale, or part thereof, to purchase another home, within one year, it shall be deemed to be substantially contributed by the United States Department of Veterans Affairs.

Comment: Reg. 45-002.12C(1) Added definition of "substantially contributed" to clarify Reg. 45-002.12C. The definition is pursuant to Neb. Rev. Stat. § 77-3526(4).

002.14 Qualified veteran's surviving spouse claimant means an owner of a homestead who, on or before January 1 of the year for which the claim is made:

Comment: Reg. 45-002.13 This new regulation splits qualified surviving spouse of a veteran from veteran.

002.14A Is the unremarried widow of a serviceman or widower of a servicewoman who died while on active duty during the dates listed in Regulation 45-002.16A and whose household income is less than the maximum income amount determined by the Tax Commissioner;

002.14B Is the unremarried widow of a serviceman or widower of a servicewoman, including those who served during dates not listed in Regulation 45-002.16A, whose death while on active duty was

service-connected and whose household income is less than the maximum income amount determined by the Tax Commissioner;

002.14C Is the unremarried widow or widower of any veteran, including those who served during dates not listed in Regulation 45-002.16A, who died because of a service-connected disability and whose household income is less than the maximum income amount determined by the Tax Commissioner; or

002.14D Is the unremarried widow or widower of a veteran whose home was substantially contributed by the United States Department of Veterans Affairs;

Comment: Reg. 45-002.13D This text was updated for amendments to Neb. Rev. Stat. §77-3509 by Legislative Bill 54, §18.

002.14E Is the unremarried widow or widower of a veteran certified as drawing compensation because of one hundred percent disability from the United States Department of Veterans Affairs and whose household income is less than the maximum income amount determined by the Tax Commissioner.

Comment: Reg. 45-002.13E This text updated for amendments to Neb. Rev. Stat. §77-3509 by Legislative Bill 54, §18.

002.14F If a widow or widower subsequently remarries and the subsequent marriage terminates, the widow or widower does not return to their status as unremarried.

Comment: Clarification.

002.15 Residence means all, or any portion, of a building, mobile home, or unlicensed cabin trailer occupied by the owner as his or her primary home.

002.15A An applicant residing in a nursing home may qualify for a homestead exemption if he or she intends to return to the residence, the household furnishings have not been removed, and the home has not been rented or leased. Placing the homestead property on the real estate market does not disqualify the applicant until the property is sold.

Comment: Reg. 45-002.14A The last sentence relating to pending sell of the property is clarifying that the homestead is still titled to the owner and remains such until sold.

002.16 Single-family residential property means all real property with dwellings designed for occupancy by one family or duplexes designed for occupancy by two families.

Comment: Reg. 45-002.15 This new definition was created pursuant to 1994 Legislative Bill 902, § 29, creating Neb. Rev. Stat. § 77-3505.04.

~~002.07~~ 002.17 Veteran shall mean a person who has been on active duty, for other than training purposes, in the armed forces of the U.S., or a citizen of the U.S. who served with the military forces of a government allied with the U.S. and, who has received an honorable or general (under honorable conditions) discharge or the equivalent. Unless otherwise specified, a veteran must also have served during the dates listed: ~~during the following years:~~

Comment: Reg. 45-002.16 This text was updated for an amendment to §§ 80-401.01 for service dates (referenced in §§77-3508 & 77-3509) pursuant to Legislative Bill 54 § 29.

002.17A April 21, 1898 to July 4, 1902 (Spanish-American War); April 6, 1917 to November 11, 1918 (World War I); December 7, 1941 to December 31, 1946 (World War II); June 25, 1950 to January 31, 1955 (Korean War); August 5, 1964 to May 7, 1975 (Vietnam War) or in the Republic of Vietnam between February 28, 1961 and May 7, 1975; August 25, 1982 to February 26, 1984 (Lebanon); October 23, 1983 to November 23, 1983 (Grenada); December 20, 1989 to January 31, 1990 (Panama);or, the Persian Gulf War beginning August 2, 1990.~~; and, who has received an honorable discharge or the equivalent, and:~~ Service dates may be certified by the county veteran service officer or by discharge documents.

~~002.07A Who is certified as totally disabled due to a non-service-connected accident or illness on January 1 of the year for which the claim is made;~~

~~002.07B Who, on January 1 of the year for which the claim is made, is certified as drawing compensation from the United States Department of Veterans Affairs because of one hundred percent disability; or, the unremarried widow or widower of such veteran,~~

~~002.07C The unremarried widow or widower of any veteran, including those not listed in Reg 45-002.07, who died because of a service-connected disability;~~

~~002.07D The unremarried widow or widower of a serviceman or servicewoman who died while on active duty during the dates described in Reg 45-002.07;~~

~~002.07E The unremarried widow or widower of a serviceman or servicewoman, including those not listed on Reg 45-002.07, whose death while on active duty was service-connected; or,~~

~~002.07F A veteran who occupies a home which was substantially contributed by the United States Department of Veterans' Affairs, and the unremarried spouse of such veteran. Substantially contributed shall mean the grant of any amount of money received from the United States Department of Veterans' Affairs under Public Law 85-857 adopted September 2, 1958, as amended and in effect on January 1, 1979, by a veteran for the acquisition or construction of a specially adapted home, or the adaptation of an existing home. If such veteran disposes of the home and uses the proceeds of the sale, or a part thereof to purchase another home, within one year, it shall be deemed to be substantially contributed to by the United States Department of Veterans' Affairs.~~

~~002.08 Change in status shall mean a change in: the name of the owner-occupant of the homestead; residence; marital status; veteran status; rating by the United States Department of Veterans' Affairs; or, any change that would affect the qualification for or type of exemption granted, except the income status determined by the State Tax Commissioner.~~

(Sections 77-3502, 77-3503, 77-3505, 77-3506~~,~~ and 77-3507, R.R.S. 2003, sections 77-3508, 77-3509, 77-3526, 77-3527 and 80-401.01, R.S. Supp., 2006 and sections 77-3504 and 77-3514, R.S. Supp., 2007.)

REG-45-003 EXTENT OF HOMESTEAD EXEMPTION

003.01 A homestead exemption may be granted not to exceed the exempt amount determined for the county, as adjusted by the following provisions:

003.01A The percentage of the exempt amount allowed for a homestead exemption, after any reductions required because of the maximum value of the homestead, shall be determined based on the amount of household income. The Tax Commissioner shall publish tables showing the percentage of the exempt amount allowed for each level of income. The Tax Commissioner shall annually adjust the income amounts for inflation according to the method described in Internal Revenue Code section 151. ~~A qualified claimant; qualified disabled individual; or qualified disabled veteran defined in Reg-45-002.07A, for 100 percent of the first $35,000 of the actual value of the homestead provided household income is $10,400 or less; or,~~

003.01B The exempt amount allowed for a homestead exemption shall be reduced when the assessed value of the homestead exceeds the maximum value. The exempt amount shall be reduced by ten percent for each two thousand five hundred dollars of assessed value of the homestead above the maximum value. Any homestead valued twenty thousand dollars or more above the maximum value is not eligible for any homestead exemption. ~~A qualified disabled veteran or unremarried widow or widower, as defined in Reg-45-002.07B through Reg-45-002.07E, for a percentage of the first $35,000 of the actual value of the homestead based on the following income table:~~

Comment: Reg. 45-003.01B This new regulatory calculation method was created pursuant to 1999 Legislative Bill 179 §§ 1, 2, and 3, which amended Neb. Rev. Stat. §§ 77-3507, 77-3508, and 77-3509 respectively. Rather than put the chart which would change the next year due to inflation in the regulations, we chose to insert the statutory method by which the chart is made.

~~Household Income in Dollars~~	~~Percentage of Relief~~
~~0 through 15,000~~	~~100~~
~~15,001 through 16,000~~	~~80~~
~~16,001 through 17,000~~	~~60~~

~~17,001 through 18,000~~	~~40~~
~~18,001 through 19,000~~	~~20~~

003.02 The county assessor shall determine and certify to the Department of Revenue the average assessed value of a single-family residential property in the county not later than September 1 each year. The county assessor shall also report to the Department of Revenue the computed exempt amount per Reg. 45-002.04A and B. ~~003.02 A qualified disabled veteran or unremarried widow or widower as defined in Reg 45-002.07F for 100 percent of the actual value of the home.~~

Comment: Reg. 45-003.02 This added pursuant to 1994 Legislative Bill 904 § 32, which created Neb. Rev. Stat. 77-3506.02 requiring the county assessor to determine the average assessed value of single-family residential property in the county for the preceding years for purposes of Neb. Rev. Stat. §§ 77-3507 - 77-3509. 1995 Legislative Bill 499, § 1, amended the due date to September 1 of each year and 2004 Legislative Bill 973, § 43, required the county certify to the Department of Revenue the average assessed value of single-family residential property in the county, and report the computed exempt amounts pursuant to Neb. Rev. Stat. § 77-3501.01.

(Section 77-3502, 77-3506.03 and 77-3507, R.R.S. 2003, sections 77-3505.02, 77-3508~~,~~ and 77-3509 R.S. Supp., 2006 and section 77-3504, R.S. Supp., 2007.)

REG-45-004 CLAIM FOR HOMESTEAD EXEMPTION

004.01 To claim a homestead exemption, the claimant must file the Nebraska Homestead Exemption Application or Certification of Status, Form 458, with any required schedules and attachments, after ~~January~~ February 1 and on or before ~~April 1~~ June 30 with the county assessor of the county wherein the homestead is located. The Form 458, with any required schedules and attachments, must be filed each year. Failure to timely file the properly completed application shall constitute a waiver of the exemption for that year. ~~The county board of equalization may grant an extension for filing from April 1 to April 20, upon written appeal. (See Reg 45-005.01.)~~

004.01A The county board of equalization may grant an extension for filing from June 30 up to, but not beyond, July 20, upon written request of a claimant. The request for extension may not be granted if a request for extension for the same claimant was granted for the prior year.

Comment: Reg. 45-004.01A This paragraph has been updated pursuant to an amendment to Neb. Rev. Stat. § 77-3513 by 1991 Legislative Bill 773, § 22.

004.02 The application shall be signed by the person claiming the exemption who is owner-occupant of the homestead. ~~More than one qualified owner-occupant of the same residence may file an application.~~ However, if the claimant is incompetent, a guardian or conservator may sign the application; or, if the claimant is unable to apply for a homestead exemption and has given a written power of attorney for that purpose, the attorney-in-fact may sign the application if a copy of the power of attorney is attached to the application.

004.03 If an owner-occupant who is qualified for a homestead exemption dies after January 1 and before ~~April 1~~ June 30, the personal representative may sign and file the application on or before ~~April 1~~ June 30 of that

year if the surviving spouse of the owner as of January 1 continues to occupy the homestead. This application will be effective for that year only.

004.03A If a change in ownership, other than that caused by the death of the owner, or a change in the residency occurs between January 1 and August ~~15,~~ 16 ,the exemption will be rejected for that year, unless the ~~claimant~~ new owner-claimant qualifies for a transfer under Reg-45-013. If such change occurs after August 15, the exemption will continue for that year only.

004.04 A Nebraska Schedule I—Income Statement must be filed with the Form 458 each year except for claimants described in 004.06B.

004.04A If the claimant was married, the income of the spouse may be included jointly with the income of the claimant, or reported on a separate Income Statement. The income of the spouse must be included whether or not the spouse was an owner or an occupant of the homestead.

004.04B A separate Income Statement must be filed for the income of any additional individuals who were owners of the homestead on January 1 and who occupied the homestead during any part of the taxable year immediately prior to the year the exemption is claimed.

~~004.02~~ 004.05 Additional information must be submitted with the ~~Exemption Application~~ Form 458, for the following categories of exemption the first year an exemption is requested or if the exemption was not approved in either of the two prior years:

~~004.02A~~ 004.05A For purposes of an exemption claimed as a qualified disabled individual, ~~or a veteran totally disabled due to a non-service-connected accident or illness,~~ the applicant shall file with the application a certification from a qualified medical physician, physician's assistant, or advanced practitioner registered nurse, on a form prescribed by the Nebraska Department of Revenue affirming the status of the claimant. ~~A disabled veteran may substitute a certification from the United States Department of Veterans' Affairs affirming total disability.~~

Comment: Reg. 45-004.05A Includes changes to Form 458 allowed under Neb. Rev. Stat. § 77-3510. Physician's assistant or advanced practitioner registered nurse have been added pursuant to 2005 Legislative Bill 17 § 1, which amended Neb. Rev. Stat. 77-3508.

~~004.02B~~ 004.05B For purposes of all ~~other~~ military related exemptions, other than those described in 004.06, the applicant shall file with the exemption application a certification from the United States Department of Veterans ~~Veterans'~~ Affairs affirming the status of the claimant.

004.06 The following additional information must be submitted with the Form 458, each year an exemption is requested for the following categories of exemption:

004.06A A qualified veteran totally disabled due to a non-service-connected accident or illness shall file a certification from a qualified medical physician, physician's assistant, or advanced practitioner registered nurse, on a form prescribed by the Nebraska Department of Revenue affirming the status of the claimant. A disabled veteran may substitute a certification from the United States Department of Veterans Affairs affirming total disability.

Comment: Reg. 45-004.06A Veterans disabled due to non-service-connected illness or accident and veterans whose home was contributed to by the United States Department of Veterans' Affairs have been separated for regulatory purposes to clarify the different certification needs created pursuant to 2005 Legislative Bill 54 § 17 which amended Neb. Rev. Stat. § 77-3508.

004.06B ~~004.02C~~ For purposes of an exemption claimed on a home substantially contributed to by the United States Department of Veterans ~~Veterans'~~ Affairs, the applicant shall file with the exemption application a certification from the United States Department of Veterans' Affairs affirming the contribution to the homestead property. Once this certification is submitted and the application approved, it is not necessary to renew the certification with subsequent annual filings. A copy of the original certification shall be attached to subsequent annual applications, Forms 458. An income statement is not required to be submitted with Form 458.

Comment: Reg. 45-004.06B This text was updated pursuant to 2005 Legislative Bill 54 § 17 which amended Neb. Rev. Stat. § 77-3508.

~~004.03 An Exemption Application, Form 458, must be filed each year by:~~

~~004.03A A qualified veteran totally disabled due to a non-service-connected accident or illness and a veteran whose home was contributed to by the United States Department of Veterans' Affairs.~~

~~004.04 The claimant of a previously filed, approved homestead exemption who is not required to file an annual application shall file a Certification of Status, Form 458A, with the county assessor of the county where the homestead is located. The certification shall be filed after January 1 and on or before April 1 of each year. Failure to timely file the certification shall be a waiver of the exemption for that year. The county board of equalization may grant an extension for filing from April 1 to April 20, upon written appeal. (See Reg 45-005.01.)~~

004.07 More than one qualified owner-occupant of the same residence may file an application for a homestead exemption. Failure of the other qualified owner-occupants to file will result in a loss of the exemption if the primary single claimant dies, transfers his or her ownership, or moves prior to August 16. A married couple may apply for two homestead exemptions provided each spouse meets the ownership criteria and each occupies a separate residence. The household income of each spouse must be added together to determine qualification.

Comment: Reg. 45-004.07 The first two sentences of this regulation is a policy decision based on Neb. Rev. Stat. § 77-3516, which requires the county assessor to send notice of rejected applications. Only one claimant can be qualified for a homestead exemption, however, more than one person at the residence could have qualified. This regulation allows for the timely filing of all qualified owner-claimants in the case of death of the first qualified clamant. The last two sentences, regarding a married couple, is based upon three basic requirements that must be met to qualify for a homestead exemption: the homestead (pursuant to Neb. Rev. Stat. § 77-3502), the owner (pursuant to Neb. Rev. Stat. § 77-3503), and income (pursuant to Neb. Rev. Stat. § 77-3504). Although legally married, if, in fact, each spouse meets the ownership requirements, and each occupies a separate residence, the qualifications for two separate homestead exemptions have been met.

004.08 If the claimant~~, when filing a certification,~~ provides incorrect information or fails to notify the county assessor of a change in status and this results in an unlawful granting or continuation of a homestead exemption, the tax that would have been due, together with penalty and interest, shall become a lien on the property when entered upon the books of the county treasurer. Any person who has permitted an unlawful allowance of a homestead exemption shall forfeit his or her right to a homestead exemption on any other property located in this state for the two succeeding years.

~~004.06~~ 004.09 When an application is disapproved, it shall be the duty of the applicant to refile a new timely application and a new disability certification ~~if pertinent~~ (except for qualified claimants as defined in REG-45-002.10), for any subsequent year. For audit purposes, the county assessor shall retain a copy of all applications and certifications.

(Section 77-3509.01 through 77-3512, 77-3515, 77-3517, 77-3522 and 77-3527, R.R.S. 2003, sections 77-3508, 77-3509, 77-3519, 77-3520, 77-3526 and 77-3527, R.S. Supp., 2006 and sections 77-3504, 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.)

REG-45-005 PROCESSING OF HOMESTEAD EXEMPTION APPLICATION

005.01 The county assessor shall examine all homestead exemption applications and shall determine if all qualifications for exemption have been met, except for the income standard. If all qualifications for exemption have been met, except the income standard, the county assessor shall approve, sign the form, and forward the appropriate copy ~~with a copy~~ of the ~~certification of disability status~~ Form 458 with all ~~as~~ required attachments to the Tax Commissioner by ~~May~~ August 1.

Comment: Reg. 45-005.01 Changes made pursuant to changes to Form 458 allowed under Neb. Rev. Stat. § 77-3510. May 1 was changed to August 1 by 1997 Legislative Bill 397 § 31, amending Neb. Rev. Stat. § 77-3517.

005.02 If the assessor finds that any application should be disapproved by reason of its failure to conform to law, including the failure to timely file as set out in Reg-45-004.01 and Reg-45-004.04, he or she shall mark it disapproved and state thereon the reason for such disapproval. Disapproved applications shall not be forwarded to the Tax Commissioner. When the county assessor disapproves any exemption for any reason~~, either in the year of application or in any subsequent year,~~ written notice of the action shall be mailed to the applicant at the address shown on the exemption application or certification of status. The notice shall be mailed no later than ~~the fourth Monday in April~~ July 31, except in cases of a change in ownership or occupancy from January 1 through August 15, or other cases when the homestead exemption should not be granted, in which case the notice shall be sent within a reasonable time. The notice shall be on forms prescribed by the Tax Commissioner.

Comment: Reg. 45-005.02 This text was changed pursuant to 1997 Legislative Bill 397 § 30, amending Neb. Rev. Stat. § 77-3516. This changed the mailing date of the notice to July 31 and removed subsequent year language

005.02A If the date on a deed shows a transfer from the claimant to another person prior to August 16, the assessor shall disapprove the application. If the claimant has information to show the transfer did not occur on the date shown on the deed, the claimant may present the information to the county board upon appeal.

Comment: Reg. 45-005.02A This is new regulatory language based on Neb. Rev. Stat. §§ 77-3509.02, 77-3516, and 77-3519 and the Nebraska Supreme Court case of Brown v. Westerfield, 47 Neb. 399. The assessor would reject the claimant's application for exemption, then the claimant's only basis for appeal would be proof of a later date of transfer of the property.

005.03 Within thirty days from receipt of such rejection notice, the applicant may file a written complaint with the county clerk to obtain a hearing before the county board of equalization. The complaint shall specify the grievances and the pertinent facts in ordinary language. The applicant may appeal the finding of the board in the same manner as appeals on questions of valuation of property. ~~For more information, see Real Property Regulation, Chapter 40.~~

005.03A If a homestead exemption is denied because of the value of the homestead, the claimant cannot protest the value of the homestead through an appeal of rejection of homestead exemption. All appeals of the valuation of the homestead must be appealed through the valuation appeals process (see the Property Assessment and Taxation regulations for appealing property valuations).

Comment: Reg. 45-005.03A This is new regulatory language based on Neb. Rev. Stat. §§ 77-3505.02 and 77-1502, which indicate a claimant cannot protest the assessed value of the homestead property through the appeal of the denial or partial denial of a homestead exemption due to the calculated maximum value of the homestead property.

~~005.02~~ 005.04 The Tax Commissioner shall examine the exemption applications received from the county assessor for the purpose of determining if the applicants meet the required income standards. The Tax Commissioner shall certify to the county assessor of each county those claimants who qualify or fail to qualify for that year by ~~August 15~~ November 1.

Comment: Reg. 45-005.04 Change of date from August 15 to November 1 is pursuant to 1995 Legislative Bill 133 § 5, amending Neb. Rev. Stat. §§ 77-3517.

005.04A The Tax Commissioner may review, or the claimant may request a review of, the income information of the claimant. The review is limited to the income information of the claimant. The result of the review may be to increase or decrease the amount of the homestead exemption allowed, allow a homestead exemption previously denied, or deny a homestead exemption previously granted.

Comment: Reg. 45-005.04A This is new regulatory language pursuant to1995 Legislative Bill 499 § 2, Neb. Rev. Stat. §§ 77-3517.

005.04B Any review of income information and any action taken by the Tax Commissioner shall be completed within three years after December 31 of the year the exemption was claimed.

Comment: Reg. 45-005.04B This is new regulatory language pursuant to1995 Legislative Bill 499 § 2, Neb. Rev. Stat. §§ 77-3517.

005.05 In any case where the Tax Commissioner disapproves or reduces an exemption application, written notice of the action shall be mailed to the applicant. ~~The Tax Commissioner may, at any time, review all other information in order to determine whether the application should be accepted.~~ An applicant whose exemption is disapproved or reduced by the Tax Commissioner may obtain a hearing before the Tax Commissioner by filing a written protest with the Tax Commissioner within thirty days of receipt of the notice of disapproval or reduction.

The petition shall state the amount in controversy, issues involved, name and address of the applicant, and the relief demanded. The hearing shall be conducted in accordance with the Administrative Procedures Act.

Comment: Reg. 45-005.05 Removal of second sentence is pursuant to 1995 Legislative Bill 499 § 2, amending Neb. Rev. Stat. §§ 77-3517, limiting the review to only the income information.

~~005.03~~ 005.06 No claimant shall be allowed more than one homestead exemption per year. The homestead exemption to be allowed is that homestead exemption which gives the highest exemption. If an application for homestead exemption is disapproved and the applicant would qualify for any other exemption, the disapproved application shall be treated as an application for the next highest homestead exemption for which the applicant is qualified.

005.07 For purposes of this regulation, a reduction in the amount of homestead exemption shall be considered a disapproval.

005.08 When a disapproved application is treated as an application for the next highest homestead exemption for which the applicant is qualified, the county assessor shall notify the applicant of any additional statements or information needed to complete the application. The county assessor shall accept such additional statements or information for a reasonable time after such notification.

005.09 The homestead exemption application, the income statement, and any other attachments to the application are confidential and available only to tax officials. Unauthorized disclosure of information may result in civil or criminal penalties.

Comment: Reg. 45-005.09 This is new regulatory language pursuant to1995 Legislative Bill 135 § 1, Neb. Rev. Stat. §§ 77-3510 making the filed homestead exemption application and all attachments confidential.

(Sections 77-3516, 77-3517, 77-3521, 77-3529, R.R.S. 2003, sections 77-3519 and 77-3526, R.S. Supp., 2006, and sections 77-3514, R.S. Supp., 2007.)

REG-45-008 HOMESTEAD EXEMPTION SUMMARY CERTIFICATE

008.01 ~~When adjustments or reductions in the actual values of real property by reason of approved homestead exemptions have been made by the county assessor, the official who has the responsibility for computing real estate taxes and preparing the tax list or unit ledgers shall compute the amount of tax which would have been due on the legally exempted percentages of the actual values of the several homesteads within each tax district within each county. Upon completion of the tax list or unit ledger and at the time of certification of the tax list to the county treasurer for collection, the official responsible for preparation of the tax list or unit ledger shall:~~ The county assessor shall summarize taxes as specified in section 77-3523 that would have been collected on the exempt portions of the qualifying homesteads; sign the certificate; and, forward the certificate to the county treasurer, who

shall forward the certificate to the Department of Revenue on or before November 30 of each year. Until May 30 of the next succeeding year, the county assessor and county treasurer may amend the current certificate to show any change in the tax that was lost due to allowed homestead exemptions for the preceding year. The county treasurer shall amend the certificate after May 1 of the next succeeding year if the Tax Commissioner has amended the homestead exemption allowed to any claimant because of the income requirements pursuant to Regulations 45-005.04A and 45-005.04B. All corrections decreasing the tax loss shall be reported to the Tax Commissioner for reconciliation. Corrections increasing the tax loss for any reason other than the income criteria will not be allowed after the May 30 deadline; however, reimbursement may be sought from the State Claims Board.

Comment: Reg. 45-008.01 The language stricken from this regulation results in the deletion of Regulations 45-006 and 45-007. The new language for the county treasurer to prepare and submit amended reports to the Tax Commissioner after May 1 is pursuant to 1995 Legislative Bill 499 § 3, which amends Neb. Rev. Stat. § 77-3523.

(Section 77-3523, R.R.S. 2003.)

REG-45-010 COUNTY ASSESSOR PROCEDURE

010.01 The real property assessment rolls, revised and completed by the county assessor by April 1 of each year, shall reflect the actual value of all property in the county without any reduction by reason of any approved homestead exemption.

(Section 77-1315 and 77-3521, R.R.S. 2003.)

REG-45-012 FORMS PRESCRIBED AND AUTHORIZED

012.01 The Tax Commissioner shall prescribe all forms necessary for the administration of the homestead exemption program. The forms so prescribed shall be the only forms used by the county. No changes or alterations shall be made to any form used in this program without the express written consent of the Tax Commissioner, to include obsolete or superseded forms.

Comment: This incorporates Directive 86-8.

012.02 The Tax Commissioner shall provide each county assessor printed claim forms and address lists of applicants from the prior year.

Comment: Reg. 45-012.02 This new regulatory language is pursuant to 2007 Legislative Bill 145 § 1, amending Neb. Rev. Stat. § 77-3510.

012.03 The county assessor shall mail a notice on or before April 1 to claimants who are the owners of a homestead which has been granted a homestead exemption in the preceding year unless the claimant has already filed the certification or application for the current year or the county assessor has reason to believe there has been a change of circumstances so that the claimant no longer qualifies. The notice shall include the claimant's name, the

certification or application deadlines for the current year, a list of documents that must be filed with the certification or application, and the county assessor's office address and telephone number.

Comment: Reg. 45-012.03 This new regulatory language is pursuant to 2007 Legislative Bill 145 §§ 2 and 3, amending Neb. Rev. Stat. §§ 77-3513 & 77-3514.

(Section, 77-3521, R.R.S. 2003 and sections 77-3510, 77-3513 and 77-3514, R.S. Supp., 2007.)

REG-45-013 HOMESTEAD EXEMPTION TRANSFER

013.01 The owner of a homestead which has been granted an exemption provided in sections 77-3507 to 77-3509 may transfer the exemption to a newly acquired homestead within the ~~county~~ state, if the new homestead was acquired between January 1 and August ~~15~~ 16 of the year for which the exemption was claimed; and,

Comment: Reg. 45-013.01 The change from county to state is a result of 1996 Legislative Bill 921 § 2, amending Neb. Rev. Stat. § 77-3509.02 to include any county the homestead exemption is transferred to. The change of date from August 15 to August 16 is for clarification purposes.

013.01A The claimant transfers ownership of the original homestead during the same time period; and,

013.01B The claimant occupies the new homestead on or before ~~prior to~~ August 15 of that year.

013.02 The claimant must file a timely application on the original homestead and then must file an application for transfer with the county assessor of the county where the new homestead is located, on or before August 15 of that year. The transfer must be approved by the county assessor using the same criteria as previously applied to the original homestead, except the January through August 15 occupancy requirement. If the transfer is approved, the exemption, as applied to the original homestead, shall be disallowed for such year.

013.03 For intercounty transfers, a copy of the approved request for transfer shall be sent to the county assessor of the county where the former homestead was located and another copy shall be sent to the Department of Revenue.

Comment: Reg. 45-013.03 This new regulatory language is added pursuant to 1996 Legislative Bill 921 § 2, amending Neb. Rev. Stat. § 77-3509.02 requires notification of the other county and the Department of Revenue in cases of transfers involving more than one county

~~013.03~~ 013.04 ~~The~~ For intracounty transfers, the Department of Revenue will process all applications received ~~in April on or before May 1~~ without regard to the transfer provisions. For the year during which the transfer occurred, the approved roster certified by the Tax Commissioner will contain the legal description of the original homestead as provided on the application.

Comment: Reg. 45-013.04 This text was moved from Reg. 45-013.03 and changes were made to make this regulation specific to inter-county transfers and to eliminate the need to restate application dates which are under Reg. 45-004.

013.05 The time of transfer is determined by the date the seller signs the deed or land contract. Upon appeal, a claimant may prove through documentation that title did not pass until after August 15 rather than the date stated on the deed.

Comment: Reg. 45-013.05 This is new regulatory language based on Neb. Rev. Stat. §§ 77-3509.02, 77-3516, and 77-3519 and the Nebraska Supreme Court case of Brown v. Westerfield, 47 Neb. 399. The assessor would reject the claimant's application for exemption, then the claimant's only basis for appeal would be proof of a later date of transfer of the property.

013.06 A claimant who has transferred ownership of the homestead and mistakenly or inadvertently failed to retain a life estate or other interest in the property may execute a corrective deed correcting the original transfer. If the county assessor has sent a disapproval notice, the claimant may appeal within 30 days, and upon filing the corrective deed, the claim for exemption shall be allowed.

Comment: Reg. 45-013.06 This is new regulatory language based on Neb. Rev. Stat. §§ 77-3509.02, 77-3516, and 77-3519 and the Nebraska Supreme Court case of Brown v. Westerfield, 47 Neb. 399. The assessor would reject the claimant's application for exemption, then the claimant's only basis for appeal would be proof of a later date of transfer of the property.

013.07 When a mobile home transfers from one county to another county the claimant must timely file an application in the original county. The claimant then must file an application for transfer with the county assessor of the county where the mobile home has been moved on or before August 15 of that year.

Comment: Reg. 45-013.07 This is new regulatory language based on Neb. Rev. Stat. §§ 77-3502, 77-3507 through 77-3509, and 77-3509.01 to deal with the situation of the home moving with the claimant.

(Section 77-3509.02, 77-3509.03, and 77-3521, 77-3509.01, R.R.S. 2003, section 77-3509, R.S. Supp., 2006 and sections 77-3510 and 77-3514, R.S. Supp., 2007.)