

Homestead Exemption Applications Following a Natural Disaster

Purpose

This directive advises county assessors reviewing homestead exemption applications for homesteads that have been destroyed or damaged by a disaster.

Statutory Authority

Neb. Rev. Stat. § 77-3502 (R.S. Supp. 2009) provides:

Homestead shall mean either (1) a residence or mobile home, and the land surrounding it, not exceeding one acre, in this state **actually occupied** as such by a natural person who is the owner of record thereof from January 1 through August 15 in each year, (2) a residence or mobile home located on land leased by the owner of the residence or mobile home, which is located within this state, and is **actually occupied** by the person who is the owner of record from January 1 through August 15 in each year, or so occupied by the surviving spouse and minor children, if any, of such owner of record during the year of the owner's death, or so much thereof as shall be so occupied, or (3) a residential unit in a dwelling complex, the record title owner of which is a not-for-profit corporation, when the purchase for fair market value of a life tenancy in a taxable unit of the dwelling complex entitles the purchaser to exclusive occupancy of that unit for life, **actually occupied** by a natural person who has a life tenancy therein from January 1 through August 15 in each year. For purposes of this section, mobile home shall include every transportable or relocatable device of any description without motive power and designed for living quarters, whether or not permanently attached to real estate, but shall not include a cabin trailer registered for operation upon the highways of this state.

(emphasis added)

Definition

A disaster means any occurrence of fire, flood, storm, or earthquake caused by an act of nature that results in substantial damage or destruction to property within this state, without the interference of any human action or agency, and prevents occupancy of the homestead.

Procedure

When a disaster occurs, owners are often displaced from their property. In many cases, it may be physically impossible for such an owner to reside in the homestead. If the owner of a homestead has been displaced from his or her homestead due to a disaster applies for a homestead exemption,

the owner of the homestead may still be considered to be “actually occupying” the homestead and qualify for a homestead exemption even though he or she is not physically living in the homestead.

An owner/applicant who has been displaced from the homestead by a disaster may be considered to be actually occupying the homestead if he or she has manifested intent to return to the homestead. The county assessor must make the following determinations:

1. That the homestead was uninhabitable due to a disaster at any point between January 1 and August 15 of the year of application; and
2. That the applicant intends to rebuild or repair the homestead.

If the county assessor determines that both conditions have been satisfied, the county assessor should approve the homestead exemption application for the current tax year in which the disaster occurred. If both conditions have not been met the owner/applicant does not qualify for the homestead exemption and should apply again the next tax year.

APPROVED:

/s

Ruth A. Sorensen
Property Tax Administrator
June 5, 2015

APPROVED:

/s

Leonard J. Sloup
Acting Tax Commissioner
June 5, 2015

This Directive is promulgated under the authority of Neb. Rev. Stat. § 77-1330. It will be designated for inclusion in Title 350, Neb. Admin. Code, Chapter 45 upon the next revision of that regulation.