

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT A.B. 433

ASSEMBLY BILL NO. 433—ASSEMBLYMAN NEIGHBORS

MARCH 19, 2001

Referred to Committee on Taxation

SUMMARY—Makes various changes relating to property taxes. (BDR 32-1140)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; providing guidelines for determining the amount of time a person leases or uses certain property for the purpose of determining the amount of tax to be levied on such lease or use; clarifying the exemption from taxation of certain property used for housing and related facilities by persons with low incomes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 361 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 1. *For purposes of NRS 361.157, 361.159 and 361.227, except as*
4 *otherwise provided in subsection 2, property is leased or used by a*
5 *natural person or entity at all times the natural person or entity has*
6 *possession of, claim to or right to the possession of the property that is*
7 *independent, durable and exclusive of rights held by others in the*
8 *property, other than the rights held by the owner.*
9 2. *Property is not leased or used by a natural person or entity who*
10 *possesses or occupies the property solely for the purpose of holding the*
11 *property for another natural person or entity.*
12 3. *As used in this section:*
13 (a) *“Durable” means for a determinable period with a reasonable*
14 *certainty that the use, possession or claim with respect to the property*
15 *will continue for that period.*
16 (b) *“Exclusive” means the enjoyment of a beneficial use of property,*
17 *together with the ability to exclude from occupancy persons or entities*
18 *other than the owner who may interfere with that enjoyment.*
19 (c) *“Independent” means the ability to exercise authority and exert*
20 *control over the management or operation of the property pursuant to the*
21 *terms and provisions of the contract with the owner. A possession or use*
22 *is independent if the possession or use of the property is sufficiently*



1 *autonomous under the terms and provisions of the contract with the*
2 *owner to constitute more than a mere agency.*

3 **Sec. 1.5.** NRS 361.082 is hereby amended to read as follows:

4 361.082 1. ~~Real~~ *That portion of real* property and tangible
5 personal property *which is* used for housing and related facilities for
6 persons with low incomes ~~are~~ *is* exempt from taxation if the *portion of*
7 property *qualifies as a low-income unit and* is part of a qualified low-
8 income housing project that is funded in part by federal money
9 appropriated pursuant to 42 U.S.C. §§ 12701 et seq. *for the year in which*
10 *the exemption applies.*

11 2. The portion of a qualified low-income housing project that is
12 entitled to the property tax exemption *pursuant to subsection 1* must be
13 determined by dividing the total assessed value of the housing project and
14 the land upon which it is situated into the assessed value of the low-income
15 units and related facilities that are occupied or used exclusively by persons
16 with low incomes.

17 3. *The Nevada tax commission shall, by regulation, prescribe a form*
18 *for an application for the exemption described in subsection 1.*

19 4. As used in this section, the terms "low-income unit" and "qualified
20 low-income housing project" have the meanings ascribed to them in
21 26 U.S.C. § 42. ~~as it existed on July 1, 1991.~~

22 **Sec. 2.** NRS 361.157 is hereby amended to read as follows:

23 361.157 1. When any real estate or portion of real estate which for
24 any reason is exempt from taxation is leased, loaned or otherwise made
25 available to and used by a natural person, association, partnership or
26 corporation in connection with a business conducted for profit or as a
27 residence, or both, the leasehold interest, possessory interest, beneficial
28 interest or beneficial use of the lessee or user of the property is subject to
29 taxation to the extent the:

30 (a) Portion of the property leased or used; and
31 (b) Percentage of time during the fiscal year that the property is leased
32 by the lessee or used by the user, *in accordance with section 1 of*
33 *this act,*
34 can be segregated and identified. The taxable value of the interest or use
35 must be determined in the manner provided in subsection 3 of NRS
36 361.227 ~~and in accordance with section 1 of this act.~~

37 2. Subsection 1 does not apply to:

38 (a) Property located upon a public airport, park, market or fairground ,
39 or any property owned by a public airport, unless the property owned by
40 the public airport is not located upon the public airport and the property is
41 leased, loaned or otherwise made available for purposes other than for the
42 purposes of a public airport, including, without limitation, residential,
43 commercial or industrial purposes;

44 (b) Federal property for which payments are made in lieu of taxes in
45 amounts equivalent to taxes which might otherwise be lawfully assessed;

46 (c) Property of any state-supported educational institution;

47 (d) Property leased or otherwise made available to and used by a natural
48 person, private association, private corporation, municipal corporation,
49 quasi-municipal corporation or a political subdivision under the provisions



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1 of the Taylor Grazing Act or by the United States Forest Service or the
2 Bureau of Reclamation of the United States Department of the Interior;
3 (e) Property of any Indian or of any Indian tribe, band or community
4 which is held in trust by the United States or subject to a restriction against
5 alienation by the United States;
6 (f) Vending stand locations and facilities operated by blind persons
7 under the auspices of the bureau of services to the blind and visually
8 impaired of the rehabilitation division of the department of employment,
9 training and rehabilitation, whether or not the property is owned by the
10 federal, state or a local government;
11 (g) Leases held by a natural person, corporation, association, municipal
12 corporation, quasi-municipal corporation or political subdivision for
13 development of geothermal resources, but only for resources which have
14 not been put into commercial production;
15 (h) The use of exempt property that is leased, loaned or made available
16 to a public officer or employee, incident to or in the course of public
17 employment;
18 (i) A parsonage owned by a recognized religious society or corporation
19 when used exclusively as a parsonage;
20 (j) Property owned by a charitable or religious organization all , or a
21 portion of which , is made available to and is used as a residence by a
22 natural person in connection with carrying out the activities of the
23 organization;
24 (k) Property owned by a governmental entity and used to provide
25 shelter at a reduced rate to elderly persons or persons having low incomes;
26 (l) The occasional rental of meeting rooms or similar facilities for
27 periods of less than 30 consecutive days; or
28 (m) The use of exempt property to provide day care for children if the
29 day care is provided by a nonprofit organization.
30 3. Taxes must be assessed to lessees or users of exempt real estate and
31 collected in the same manner as taxes assessed to owners of other real
32 estate, except that taxes due under this section do not become a lien against
33 the property. When due, the taxes constitute a debt due from the lessee or
34 user to the county for which the taxes were assessed and, if unpaid, are
35 recoverable by the county in the proper court of the county.
36 **Sec. 3.** NRS 361.159 is hereby amended to read as follows:
37 361.159 1. Except as otherwise provided in subsection 3, when
38 personal property, or a portion of personal property, which for any reason
39 is exempt from taxation is leased, loaned or otherwise made available to
40 and used by a natural person, association or corporation in connection with
41 a business conducted for profit, the leasehold interest, possessory interest,
42 beneficial interest or beneficial use of any such lessee or user of the
43 property is subject to taxation to the extent the:
44 (a) Portion of the property leased or used; and
45 (b) Percentage of time during the fiscal year that the property is leased
46 to the lessee or used by the user, *in accordance with section 1 of*
47 *this act,*



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1 can be segregated and identified. The taxable value of the interest or use
2 must be determined in the manner provided in subsection 3 of NRS
3 361.227 ~~H~~ *and in accordance with section 1 of this act.*

4 2. Taxes must be assessed to lessees or users of exempt personal
5 property and collected in the same manner as taxes assessed to owners of
6 other personal property, except that taxes due under this section do not
7 become a lien against the personal property. When due, the taxes constitute
8 a debt due from the lessee or user to the county for which the taxes were
9 assessed and, if unpaid, are recoverable by the county in the proper court
10 of the county.

11 3. The provisions of this section do not apply to personal property:

12 (a) Used in vending stands operated by blind persons under the auspices
13 of the bureau of services to the blind and visually impaired of the
14 rehabilitation division of the department of employment, training and
15 rehabilitation.

16 (b) Owned by a public airport.

17 **Sec. 4.** NRS 361.227 is hereby amended to read as follows:

18 361.227 1. Any person determining the taxable value of real property
19 shall appraise:

20 (a) The full cash value of:

21 (1) Vacant land by considering the uses to which it may lawfully be
22 put, any legal or physical restrictions upon those uses, the character of the
23 terrain, and the uses of other land in the vicinity.

24 (2) Improved land consistently with the use to which the
25 improvements are being put.

26 (b) Any improvements made on the land by subtracting from the cost of
27 replacement of the improvements all applicable depreciation and
28 obsolescence. Depreciation of an improvement made on real property must
29 be calculated at 1.5 percent of the cost of replacement for each year of
30 adjusted actual age of the improvement, up to a maximum of 50 years.

31 2. The unit of appraisal must be a single parcel unless:

32 (a) The location of the improvements causes two or more parcels to
33 function as a single parcel;

34 (b) The parcel is one of a group of contiguous parcels which qualifies
35 for valuation as a subdivision pursuant to the regulations of the Nevada tax
36 commission; or

37 (c) In the professional judgment of the person determining the taxable
38 value, the parcel is one of a group of parcels which should be valued as a
39 collective unit.

40 3. The taxable value of a leasehold interest, possessory interest,
41 beneficial interest or beneficial use for the purpose of NRS 361.157 or
42 361.159 must be determined in the same manner as the taxable value of the
43 property would otherwise be determined if the lessee or user of the
44 property was the owner of the property and it was not exempt from
45 taxation, except that the taxable value so determined must be reduced by a
46 percentage of the taxable value that is equal to the:

47 (a) Percentage of the property that is not actually leased by the lessee or
48 used by the user during the fiscal year; and



- 1 (b) Percentage of time that the property is not actually leased by the
2 lessee or used by the user during the fiscal year ~~H~~ , which must be
3 *determined in accordance with section 1 of this act.*
- 4 4. The taxable value of other taxable personal property, except mobile
5 homes, must be determined by subtracting from the cost of replacement of
6 the property all applicable depreciation and obsolescence. Depreciation of
7 a billboard must be calculated at 1.5 percent of the cost of replacement for
8 each year after the year of acquisition of the billboard, up to a maximum of
9 50 years.
- 10 5. The computed taxable value of any property must not exceed its full
11 cash value. Each person determining the taxable value of property shall
12 reduce it if necessary to comply with this requirement. A person
13 determining whether taxable value exceeds full cash value or whether
14 obsolescence is a factor in valuation may consider:
- 15 (a) Comparative sales, based on prices actually paid in market
16 transactions.
- 17 (b) A summation of the estimated full cash value of the land and
18 contributory value of the improvements.
- 19 (c) Capitalization of the fair economic income expectancy or fair
20 economic rent, or an analysis of the discounted cash flow.
- 21 A county assessor is required to make the reduction prescribed in this
22 subsection if the owner calls to his attention the facts warranting it, if he
23 discovers those facts during physical reappraisal of the property or if he is
24 otherwise aware of those facts.
- 25 6. The Nevada tax commission shall , by regulation , establish:
- 26 (a) Standards for determining the cost of replacement of improvements
27 of various kinds.
- 28 (b) Standards for determining the cost of replacement of personal
29 property of various kinds. The standards must include a separate index of
30 factors for application to the acquisition cost of a billboard to determine its
31 replacement cost.
- 32 (c) Schedules of depreciation for personal property based on its
33 estimated life.
- 34 (d) Criteria for the valuation of two or more parcels as a subdivision.
- 35 7. In determining the cost of replacement of personal property for the
36 purpose of computing taxable value, the cost of all improvements of the
37 personal property, including any additions to or renovations of the personal
38 property , but excluding routine maintenance and repairs, must be added to
39 the cost of acquisition of the personal property.
- 40 8. The county assessor shall, upon the request of the owner, furnish
41 within 15 days to the owner a copy of the most recent appraisal of the
42 property.
- 43 9. The provisions of this section do not apply to property which is
44 assessed pursuant to NRS 361.320.
- 45 **Sec. 5.** This act becomes effective upon passage and approval.

