ASSEMBLY BILL NO. 241–ASSEMBLYMAN HETTRICK

MARCH 21, 2005

Referred to Committee on Growth and Infrastructure

SUMMARY—Provides for abatement of property taxes for certain residences to avoid severe economic hardship. (BDR 32-195)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; authorizing county assessors to grant an abatement of property taxes for certain residences to avoid severe economic hardship; providing for the repayment of all or a portion of the abated taxes upon the sale of the property or other mitigation of the severe economic hardship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Constitution authorizes the Legislature to enact legislation to establish a procedure to abate property taxes on an owner-occupied single-family residence to avoid severe economic hardship. (Nev. Const., Art. 10, § 1)

This bill establishes the procedure for obtaining a property tax abatement and gives the county assessor sole authority to determine whether a severe economic hardship exists. This bill also allows the county assessor to inspect the property and request evidence of use and sources of income. The county assessor may deny the application if the owner refuses the allow the inspection or furnish the evidence. The information must be kept confidential and can be released only if the county assessor defends his denial of an abatement in a civil action.

If an application for an abatement is approved, the assessor determines the amount of the abatement. The abatement continues until the owner no longer qualifies for the abatement. When the owner no longer qualifies for the abatement, this bill requires the assessor to give written notice. This bill also requires the county assessor to add the amount of the deferred tax on the next property tax statement if the owner disposes of the property or becomes unqualified for the abatement.

AB241

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires:***

1. "Deferred tax" means the difference between taxes that would have been paid or payable if the assessed valuation of a single-family residence had not been reduced pursuant to sections 2 to 11, inclusive, of this act and the taxes which would have been paid or payable on the basis of the taxable valuation calculated pursuant to section 5 of this act.

2. "Occupied by the owner" means that a single-family residence and any land appurtenant thereto are held for the exclusive use of the owner, or one or more of the owners, and not rented, leased or otherwise made available for exclusive occupancy by a person other than the owner or owners.

3. "Single-family residence" includes:

(a) A single dwelling unit and all land appurtenant thereto.

(b) An individually owned residential unit that is an integral part of a larger complex and all land included in the assessed valuation of the individually owned unit.

Sec. 3. ***1. Any owner of a single-family residence may file an application with the county assessor of the county in which the residence is located for an abatement of the property taxes that have been or will be assessed against the property pursuant to this chapter if:***

(a) The residence has been occupied by the owner for at least 6 months immediately preceding the date of the application;

(b) The residence will continue to be so occupied for at least the next ensuing fiscal year; and

(c) The value of the land appurtenant to the residence increased as a result of one or more of the last assessments of the property at such a rate as to create a severe economic hardship for one or more owners of the property.

2. In determining whether the value of the appurtenant land increased as a result of one or more of the last assessments of the property at such a rate as to create a severe economic hardship for one or more owners of the property, the county assessor may consider any information the county assessor deems appropriate, including, without limitation, whether property taxes assessed as a result of one or more of the last assessments in which the value of the appurtenant land was significantly increased are so high as to

cause no prospective purchasers to be willing to buy the property from the owner or owners, except governmental or other purchasers who are exempt from the payment of property taxes.

3. Any application for an abatement of property taxes filed pursuant to this section must be filed with the county assessor of the county in which the single-family residence is located on or before June 1 of any year to be effective, if approved, for the next ensuing fiscal year.

4. Except as otherwise provided in this subsection, a new application to continue the abatement must be filed on or before June 1 following any change in ownership of any portion of the property. If the property is divided, an owner who retains a portion of that property and qualifies for an abatement is not required to file a new application to continue the abatement on the portion retained.

5. An application for an abatement of property taxes must:

(a) Be made on a form prepared by the Department and supplied by the county assessor;

(b) Include such information as may be required to determine the entitlement of the applicant to the abatement;

(c) Contain an affidavit or affirmation by the applicant that the statements contained in the application are true; and

(d) Be signed by:

(1) The owner or owners of the property;

(2) Any person, of lawful age, authorized by an executed power of attorney to sign an application on behalf of any person described in subparagraph (1); or

(3) The guardian or conservator of any person described in subparagraph (1) or the executor or administrator of such a person's estate.

6. The county assessor shall not approve an application unless each owner of record or his representative as specified in paragraph (d) of subsection 5 signs the application. The county assessor may require such additional information from the applicant as he deems necessary to evaluate the application.

Sec. 4. *1. Upon receipt of an application filed pursuant to section 3 of this act, the county assessor shall make an independent determination of the owner's eligibility for an abatement of the property taxes on the single-family residence.*

2. The county assessor may inspect the property and request such evidence of use and sources of income as is necessary to make an accurate determination of the owner's eligibility for the abatement. The county assessor may deny the application if the owner or another occupant of the residence refuses to permit the inspection or furnish the evidence.

3. The county assessor shall grant the abatement if he determines that the value of the land appurtenant to the single-family residence has increased at a rate that has created a severe economic hardship for the applicant. Such a decision is in the sole discretion of the county assessor.

4. If the county assessor denies an application, he shall deliver or mail to the applicant a written notice of his determination within 10 days after the determination is made.

Sec. 5. *1. If the owner of a single-family residence is found to be eligible for an abatement of property taxes pursuant to sections 2 to 11, inclusive, of this act, the county assessor:*

(a) Shall determine the amount of increase in the assessed valuation of the property that resulted in the increased property taxes that caused the owner to qualify for the abatement;

(b) Shall reduce the amount of the current assessed valuation of the property by an amount equal to that increase; and

(c) Shall not, after reducing the amount of the current assessed valuation of the property pursuant to paragraph (b), decrease or increase the assessed valuation of the property during the period that the owner continues to qualify for the abatement.

2. A statement of the amount of the abatement must be maintained in the records of the county assessor and must be made available to any person for inspection upon request.

3. The information used by the county assessor to determine whether to grant an abatement, including, without limitation, any financial information relating to the owner or owners of the property, is confidential and must not be released by the county assessor except in defense of his actions in a civil action brought in a court of competent jurisdiction to challenge the denial of an abatement.

4. The owner must be notified of the revised assessed valuation of the property in the manner provided for notification of taxable valuation assessments.

5. The county assessor shall enter on the assessment roll the assessed valuation of the property based on the reduction in its assessed valuation granted pursuant to sections 2 to 11, inclusive, of this act until the owner of the property is disqualified for the abatement.

Sec. 6. *The determination of a county assessor as to whether an owner of a single-family residence is eligible to receive an abatement of property taxes pursuant to sections 2 to 11, inclusive, of this act in each year is final unless appealed in the manner provided in section 8 of this act.*

Sec. 7. *1. Within 30 days after determining that the owner of a single-family residence is no longer qualified for an* *abatement of the property taxes on that residence pursuant to sections 2 to 11, inclusive, of this act, the county assessor shall send a written notice of that determination by certified mail, return receipt requested, to each owner of record. The notice must contain the taxable and assessed valuations for the property for the next tax roll and all prior years for which a deferred tax or penalty is owed pursuant to section 9 or 10 of this act.*

2. When the owner of a single-family residence is no longer qualified for an abatement of the property taxes on the residence pursuant to sections 2 to 11, inclusive, of this act, the county assessor shall determine the assessed valuation of the property by assessing it anew in the same manner that all like property in the county is assessed.

Sec. 8. *1. An owner of a single-family residence who receives a notice pursuant to section 7 of this act that is postmarked on or after July 1 and before December 16 may appeal to the board of equalization of the county in which the property is located:*

(a) The determination that the owner is no longer qualified for an abatement of property taxes on the residence; and

(b) The valuations for the years described in the notice.

2. An owner who receives such a notice which is postmarked on or after December 16 and before July 1 may appeal directly to the State Board of Equalization:

(a) The determination that the owner is no longer qualified for an abatement of the property taxes on the residence; and

(b) The valuations for the years described in the notice.

➥ The appeal must be brought not later than July 15 of the ensuing fiscal year.

3. An appeal brought pursuant to this section must be brought in the manner provided in this chapter for complaints of overvaluation, excessive valuation or undervaluation.

Sec. 9. *If the county assessor is notified or otherwise becomes aware that an owner of a single-family residence who qualified for an abatement of the property taxes on that residence pursuant to sections 2 to 11, inclusive, of this act, transferred ownership of the residence, otherwise disposed of the property or is otherwise no longer qualified for the abatement, the county assessor shall add to the tax extended against that residence on the next property tax statement the deferred tax for each year in which the reduction in the assessed valuation was in effect for the property during the first fiscal year in which the owner was no longer qualified for the abatement of property taxes and the preceding 6 fiscal years or such portion thereof as the owner of the property qualified for an abatement of the taxes. The county*

assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date on which the owner is no longer qualified for the abatement.

Sec. 10. ***1. If the county assessor determines that the deferred tax for any fiscal year or years was not assessed in the year it became due, he may assess it anytime within 5 fiscal years after the end of the fiscal year in which an owner of a single-family residence is no longer qualified for an abatement of the property taxes on that residence pursuant to sections 2 to 11, inclusive, of this act.***

2. If the county assessor determines that a single-family residence was assessed at a reduced rate rather than at full taxable value for any fiscal year in which the owner thereof was not qualified for such an abatement, he may assess the deferred tax for that year anytime within 5 years after the end of that fiscal year.

Sec. 11. ***1. The deferred tax and penalty assessed pursuant to sections 9 and 10 of this act are a perpetual lien against the single-family residence until paid as provided in NRS 361.450.***

2. Each year, the county assessor shall record a list of parcel numbers and owners' names for single-family residences on which a lien exists pursuant to subsection 1.

Sec. 12. This act becomes effective on July 1, 2005.

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