



June 12, 2019

## **FAQ: New form, Report of Destroyed Real Property, Form 425**

All real property in this state is subject to taxation and must be assessed as of January 1, 12:01 a.m., and this assessment is used as the basis of taxation until the next assessment year, unless the property is destroyed on or after January 1 and before July 1 of the current assessment year, the value may be adjusted in accordance with this Report of Destroyed Real Property.

### **1. What is the Report of Destroyed Real Property, Form 425?**

Pursuant to 2019 Neb. Law [LB 512](#), the legislature provided for property owners to request an adjustment to the assessed value of real property due to significant property damage as a result of a calamity.

### **2. When does the report become effective?**

Effective immediately, Report of Destroyed Real Property, Form 425.  
Available online at [http://www.revenue.nebraska.gov/PAD/forms/f\\_425.pdf](http://www.revenue.nebraska.gov/PAD/forms/f_425.pdf)

### **3. Who may file the Report of Destroyed Real Property?**

An owner of real property that suffered significant property damage as a result of a calamity occurring **on or after January 1 and before July 1 of the current assessment year.**

### **4. What is a calamity?**

**Calamity** means a disastrous event, including but not limited to, a fire, an earthquake, a flood, a tornado, or other **natural event** which significantly affects the assessed value of the real property.

### **5. What is significant property damage?**

**Significant property damage** means –

1. Damage to an improvement exceeding 20% of the improvement's assessed value in the current tax year as determined by the county assessor;
2. Damage to the land exceeding 20% of a parcel's assessed land value in the current tax year as determined by the county assessor; or

3. Damage exceeding 20% of the property's assessed value in the current tax year as determined by the county assessor if:

a. The property is located in an area that has been declared a disaster area by the Governor and

b. A housing inspector or health inspector has determined the property is uninhabitable or unlivable.

**For example:** Some parcels will only have damage to improvements, other parcels will only have damage to the land, and yet other parcels may be totally destroyed (land and improvements) and may also be located in an area declared a disaster area by the Governor. The county board of equalization (CBOE) must consider whether the damage exceeds 20% of the current assessed value of the building(s) or land or both. The current assessed value as determined by the county assessor means the value as determined by the county assessor in the current year prior to the significant property damage.

**6. What is NOT significant damage as a result of a calamity?**

Destroyed real property does not include property suffering significant property damage that is caused by the owner of the property or an occupant of leased property.

**For example:** owner or owner's home contractor negligently caused a fire and burned the property. This damage is not due to a calamity or natural event.

**7. If there is just some standing water on the ground from rainfall, is that considered damaged?**

Standing water from rainfall does not always impact the use of the parcel. The CBOE will consider the report and the assessment of the property will be made by the CBOE. If the damage does not fit any of the significant property damage tests, there will be no new reassessment value made by the CBOE.

**8. Is the loss of crop and/or livestock due to a calamity considered destroyed real property?**

The loss of crop and/or livestock as a result of a calamity is not considered destroyed real property and is not to be considered by a CBOE in making a determination of destroyed real property.

**9. If there are roads through the county that are impassable, many meadows are covered with water, but no buildings lost. Would this above average rainfall be considered a natural disaster, or natural occurrence?**

This could be a natural disaster/occurrence. The property owner would file a Report of Destroyed Real Property and the CBOE will determine if the damage to the parcel exceeds 20% of the improvement value for that year; exceeds 20% of the land value for that year; or exceeds 20% of the total assessed value for property located in a declared disaster area by the Governor and the property is uninhabitable or unlivable.

**10. When and where to file?**

**On or before July 15**, property owners with destroyed real property must file a copy of the report with the county clerk and county assessor.

**County-Best practice/suggestion:**

County assessor may coordinate receipt of Destroyed Real Property Report and provide a copy of it to the county clerk.

County clerk will coordinate receipt of regular Valuation Protest Forms and provides a copy to the county assessor.

**11. Can the deadline to file a Report of Destroyed Real Property be extended?**

No. The law does not provide for an extension of the deadline to file a Report of Destroyed Real Property. The law does provide for a CBOE to extend the deadline by which they must act on a Report of Destroyed Real Property to August 10 if a resolution to extend the deadline to hear protests has been adopted pursuant to [Neb. Rev. Stat § 77-1502](#).

**12. If a property suffers significant property damage more than once between January 1<sup>st</sup> and July 1<sup>st</sup> of a given year, does a property owner need to file separate Reports of Destroyed Real Property for each calamity?**

No. If the owner of a property suffering significant property damage has not previously filed a Report of Destroyed Real Property before the property suffers significant property damage from a subsequent calamity, only one report needs to be filed. However, if the owner filed a report before the property suffered additional significant property damage from a subsequent calamity, an additional report may be filed.

**13. What does the property owner need to provide with the Report of Destroyed Real Property?**

The owner must complete various items on the report such as, name/address, property parcel identification number, legal description, date of damage, identify whether damage was to land and/or buildings, date of damage, and description of damage. Property owners are encouraged to attach any and all supporting documents, including any photographs, reports, damage estimates, repair estimates, insurance documents, or other documents, they wish to be considered by the CBOE in determining any adjustment to the assessed value for significant property damage. The burden is on the reporting property owner to provide sufficient evidence to allow the CBOE to make an adjustment to the assessed value of a property due to significant property damage.

**14. Does the county assessor enter any information anywhere on the Report of Destroyed Real Property Form?**

The statutory language of the law does not mandate the county assessor to perform any duties in relation to the reassessment of destroyed real property. However, it does require that the property owner file the report with BOTH the county assessor and county clerk of the county in which the property is located on or before July 15 of the current assessment year. **County-Best practice/suggestion:** County assessor may coordinate receipt of Destroyed Real Property Report and provide a copy of it to the clerk. County clerk will coordinate receipt of regular Valuation Protest Forms and provides a copy to the county assessor.

CBOEs must verify the “Current Year Assessed Value” with the county assessor as required on the Report of Destroyed Real Property, Form 425.

**15. What is the role of the county assessor in determining the value of destroyed real property?**

The statutory language of the law does not mandate the county assessor to perform any duties in relation to the reassessment of destroyed real property. However, it does require that the property owner file the report with BOTH the county assessor and county clerk of the county in which the property is located on or before July 15 of the current assessment year. **County-Best practice/suggestion:** County assessor may coordinate receipt of Destroyed Real Property Report and provide a copy of it to the clerk. County clerk will coordinate receipt of regular Valuation Protest Forms and provides a copy to the county assessor.

CBOEs are solely responsible for determining the value of destroyed real property. However, the Department highly encourages CBOEs to work with their county assessors in determining the value of destroyed real property.

Per [Neb. Rev. Stat. § 77-1501](#), county assessors are required to attend any and all meetings of a CBOE when such meetings pertain to the assessment or exemption of real and personal property.

**16. Who considers the Report of Destroyed Real Property?**

The CBOE is responsible for considering the Report of Destroyed Real Property. CBOEs must verify the “Current Year Assessed Value” with the county assessor as required on the Report of Destroyed Real Property, Form 425.

The CBOE is encouraged to seek input and rely on the county assessor for adjustments to value for destroyed real property.

**17. When does the county board of equalization consider this report and is there a hearing scheduled?**

The CBOE must review the Report of Destroyed Real Property **on or after June 1 and on or before July 25**. The dates for considering this report are the same for overvalued/undervalued property and the publication of a specific hearing is not required. Any hearing(s) held to take

action on a Report of Destroyed Real Property should be put on the agenda and a notice that the CBOE will be having hearings is sufficient.

**18. Is a 10 day notice required for a hearing on a Report of Destroyed Real Property?**

No, there is not a 10 day notice requirement for a hearing on a Report of Destroyed Real Property. However, any hearing(s) held to take action on a Report of Destroyed Real Property should be put on the public agenda. As a courtesy, it may be good practice to contact/notify the property owner when the hearing will occur.

**19. Can there be one hearing if both a protest of valuation and a Report of Destroyed Real Property have both been filed?**

Yes. If both a protest of valuation and a Report of Destroyed Real Property have been filed, a CBOE should hold a single hearing.

**20. Can the county board of equalization provide adjustments to all property owners in an area?**

No, the property owner must file the Report of Destroyed Real Property for each real property parcel for consideration by the CBOE.

**21. Can agricultural and horticultural land destroyed by a natural calamity be considered waste?**

Agricultural land and horticultural land includes wasteland so long as the wasteland is lying in or adjacent to and in common ownership or management with other agricultural and horticultural land. See, [Neb. Rev. Stat. § 77-1359\(1\)](#).

**Example:** Parcel A is flooded due to a calamity. The parcels around Parcel A were not significantly destroyed and can still be farmed. The owner of Parcel A does not own or manage the agricultural acres surrounding Parcel A. Since the parcels surrounding Parcel A are not in common ownership or management, Parcel A **cannot be** considered wasteland.

If however, the owner of Parcel A does own or manage the agricultural acres surrounding Parcel A, these parcels are in common ownership or management and Parcel A **can be** considered wasteland.

To ensure that values on significantly destroyed parcels are equalized, the CBOE may need to create an agricultural subclass to extend value to destroyed agricultural parcels.

**22. Does the property owner receive notice of decisions on a destroyed real property report?**

The CBOE will make a decision on or before July 25 and a notice of their decision on reassessment value will be provided to the property owner that filed the report.

**23. What if a property owner disagrees with county board of equalization's reassessment value for destroyed real property?**

If the property owner disagrees with the reassessment value for destroyed real property they must file a valuation protest with the county clerk within 30 days of the notice of the reassessment value for destroyed real property.

**24. Once a county board of equalization has adjusted the value of destroyed real property, is the new assessed value only for the current assessment year?**

Yes. The value of destroyed real property as determined by a CBOE is only effective for the current assessment year. The affected property will be subject to re-evaluation and assessed as of January 1 for the next assessment year. Property values cannot be frozen.

The CBOE must act upon the valuation protest within 30 days after the filing of the protest. Within seven days after the CBOE's final decision, the county clerk must mail a written notice of the decision to the protester.

An appeal of the CBOE's action regarding the valuation protest of the reassessment value for destroyed real property may be made to the Tax Equalization and Review Commission.

**25. What if a county does not have a housing inspector or health inspector to determine if a property is uninhabitable or unlivable?**

If the property is in a disaster area, a determination regarding whether a property is uninhabitable or unlivable would be made by FEMA, NEMA, or other agency authorized to make such determinations.

**26. Is the owner of a mobile home that has suffered significant property damage and that has paid accelerated tax to move it off of a property eligible for a refund?**

Yes. If the owner of a mobile home has paid an accelerated tax to move the mobile home under [Neb. Rev. Stat §§ 77-3708](#) and [77-1725.01](#) and a CBOE has made an adjustment to the assessed value after considering a Report of Destroyed Real Property for the mobile home, upon a written claim for a refund the county treasurer shall refund the portion of the tax paid in excess of the amount due after the adjustment has been made.