

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 105

Introduced by Brown, 6; Jones, 43

Read first time January 7, 1999

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to housing; to adopt the Nebraska Housing
2 Agency Act; to eliminate the Housing Cooperation Law and
3 the Nebraska Housing Authorities Law; to provide
4 severability; and to outright repeal sections 71-1501 to
5 71-1512, 71-1518 to 71-1535, and 71-1537 to 71-1554,
6 Reissue Revised Statutes of Nebraska, and section
7 71-1536, Revised Statutes Supplement, 1998.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 102 of this act shall be known
2 and may be cited as the Nebraska Housing Agency Act.

3 Sec. 2. The Legislature declares that:

4 (1) There exists within this state a shortage of
5 residential housing that is decent, safe, and sanitary, situated in
6 safe, livable neighborhoods, and affordable to persons of low and
7 moderate income;

8 (2) Many persons and families throughout this state
9 occupy inadequate, overcrowded, unsafe, or unsanitary residential
10 housing because they are unable to locate and secure suitable
11 housing at a price that they can reasonably afford. This
12 circumstance has resulted in undue concentrations of impoverished
13 populations in certain areas, increased rates of crime,
14 deterioration in human health, and other family and social
15 dysfunction, thereby seriously and adversely affecting the public
16 health, safety, and welfare of persons residing in this state;

17 (3) In addition to the lack of suitable, affordable
18 housing, there persists in numerous areas of this state conditions
19 of economic distress accompanied by physical deterioration of
20 public facilities and commercial and residential infrastructure;

21 (4) It is the goal and policy of this state that all its
22 residents shall have access to decent, safe, sanitary, and
23 affordable housing in safe and livable neighborhoods and it is the
24 policy of this state to assure the availability, for rental or
25 sale, of decent, safe, and sanitary housing that is affordable to
26 all persons residing in this state;

27 (5) It is further the goal and policy of this state that,
28 to the maximum extent feasible, persons and families benefitting

1 from activities authorized under the Nebraska Housing Agency Act be
2 encouraged to become economically self-sufficient;

3 (6) Achieving permanent improvement in the living
4 standards of persons of low and moderate income may require, in
5 addition to providing enhanced housing opportunities, the delivery
6 of social, educational, and other supportive services and the
7 operation of programs to develop self-sufficiency and to provide
8 economic and employment opportunities and other benefits for
9 persons assisted under the act;

10 (7) Persons of low and moderate income possess inadequate
11 access to sources of equity and financing for the purchase and
12 ownership of housing at rates and upon terms reasonably affordable
13 to such persons;

14 (8) The adverse conditions described in this section
15 cannot be remedied, nor can the goals and policies of this section
16 be successfully carried out, through the ordinary functioning of
17 private enterprise alone. These objectives may be attainable by
18 diligent efforts of public agencies acting both alone and
19 cooperatively with private sector entities and enterprises. The
20 actions of public agencies so taken are, therefor, not competitive
21 with private enterprise;

22 (9) The clearance, replanning, and reconstruction of
23 areas in which housing is unsafe or unsanitary or in which
24 neighborhoods are unsafe or unlivable; the provision of decent,
25 safe, and sanitary housing that is affordable to persons of low and
26 moderate income, including the development, leasing, or sale
27 thereof; and the provision of supportive services and programs
28 benefiting persons and families receiving housing assistance under

1 the act are public uses and purposes and essential governmental
2 functions for which public funds may be spent and private property
3 acquired. The character of any expenditures of public funds
4 contemplated under the act as necessary and proper public
5 expenditures for essential government functions is not altered
6 because such expenditures may be made to, or in connection with,
7 the activities of private sector entities or enterprises, whether
8 nonprofit or for-profit in nature;

9 (10) The amount of funding for decent, safe, and sanitary
10 housing that is affordable to persons of low and moderate income
11 and for associated services to benefit such persons has not kept
12 pace either with the growing demand for such housing and services
13 or with the needs of local housing agencies to operate and maintain
14 their facilities and programs. Since local housing agencies do not
15 possess the power to tax, it is necessary to ensure other adequate
16 funding sources for their activities. Accordingly, this state must
17 provide to its local housing agencies sufficient power to
18 adequately address the housing needs of persons of low and moderate
19 income within this state and to operate related programs with
20 funding derived from public and private sources as well as the
21 federal government. In this regard it is further found that:

22 (a) Carrying out the purposes of the act may necessitate
23 agreements with private sector entities and with other public
24 entities. It is the policy of this state to encourage such
25 public-private and intergovernmental cooperation;

26 (b) The purposes of the act will best be carried out by
27 affording to local housing agencies of this state the maximum
28 amount of flexibility, responsibility, and discretion. Therefor,

1 in carrying out the purposes of the act, such agencies shall be
2 presumed to possess broad powers and legal prerogatives which will
3 enable them to carry out their purposes in any manner not
4 prohibited by law;

5 (c) Adequately serving persons who are eligible for
6 assistance under the act may be possible only if the income of
7 local housing agencies is supplemented by income derived from
8 providing housing and other services to persons who are not
9 eligible for such assistance or services or from operating certain
10 commercial enterprises or mixed-use developments as permitted under
11 the act. Such commercial enterprises and developments and the
12 provision of housing or services to persons not eligible for
13 assistance, subject to the limitations provided in the act, are
14 hereby deemed to facilitate the provision of housing and other
15 assistance to eligible persons; and

16 (d) Improved sources of financing must be made available
17 to local housing agencies and by local housing agencies to the
18 private sector of the economy to enable such agencies and private
19 enterprise to increase the production of new housing and to
20 conserve and preserve the supply of existing housing that is
21 affordable for rental or sale to persons of low and moderate
22 income;

23 (11) This state and its public agencies should be
24 involved to a significant degree in the provision of decent, safe,
25 sanitary, and affordable housing within safe, livable neighborhoods
26 for its residents. It is the policy of this state to cooperate and
27 to encourage all of its public agencies to cooperate with local
28 housing agencies in order to facilitate, to the maximum extent

1 feasible, the planning, development, and operation of decent, safe,
2 and sanitary housing that is affordable to persons of low and
3 moderate income;

4 (12) Adverse social conditions and crime problems,
5 including drug-related crime problems, exist within this state and
6 in some local housing agency developments. All practicable steps
7 should be taken to mitigate adverse social conditions and to lessen
8 the effects of drug and crime problems on residents of local
9 housing agency developments. Local housing agencies should possess
10 the maximum power and authority to establish and implement policies
11 and to take all actions they deem appropriate to mitigate adverse
12 social conditions and to eliminate drug and crime problems in their
13 developments; and

14 (13) While it is the goal of this state to provide access
15 to decent, safe, sanitary, and affordable housing to all of its
16 residents, the benefits of the act are not a matter of right but of
17 privilege, and persons accepting assistance under the act shall, by
18 such acceptance thereof, recognize their responsibilities to the
19 local housing agencies providing such assistance and to other
20 persons living in their vicinity. Persons accepting benefits
21 shall, in this respect, be responsible not only for their own
22 actions but also for the actions of other members of their
23 households and of their guests. Accordingly, local housing
24 agencies should be permitted to impose and enforce occupancy
25 standards and requirements that are typical of those applicable in
26 private dwellings.

27 Sec. 3. The purposes of the Nebraska Housing Agency Act
28 are:

1 (1) To remedy the shortage of decent, safe, and sanitary
2 housing affordable to persons of low and moderate income, to
3 provide opportunities to secure such housing to all such persons,
4 to preserve existing supplies of such housing, and to create,
5 administer, and operate programs to increase and maintain access to
6 decent, safe, and sanitary rental housing and home ownership upon
7 terms affordable to such persons;

8 (2) To encourage the development, redevelopment,
9 rehabilitation, and preservation of safe, livable neighborhoods
10 containing housing that is affordable to persons of low and
11 moderate income, including mixed-use and mixed-income developments,
12 and to reduce where feasible high residential concentrations of
13 impoverished persons;

14 (3) In connection with the provision of affordable
15 housing and related activities authorized under the act, to
16 eliminate or ameliorate conditions of blight and physical
17 deterioration in public facilities and the commercial and
18 residential infrastructure;

19 (4) To provide housing, rental, and other assistance to
20 persons of low and moderate income and assistance to properties and
21 entities in accordance with the provisions of the act and, subject
22 to standards and procedures adopted by the local housing agency, to
23 authorize the provision by local housing agencies of supportive
24 services and programs of every kind and description to advance the
25 social, educational, and economic well-being and the economic and
26 social self-sufficiency of persons receiving housing assistance
27 under the act so as to create wholesome living environments,
28 eliminate long-term poverty, encourage gainful employment, develop

1 social and economic self-sufficiency, including living
2 independently of housing assistance, and enhance personal
3 responsibility on the part of such persons;

4 (5) To increase intergovernmental cooperation and the use
5 of consortia and intergovernmental partnerships for the development
6 of affordable housing and suitable neighborhoods;

7 (6) To encourage the use of entrepreneurial methods and
8 approaches and to stimulate and increase private sector initiatives
9 and joint public-private sector initiatives by local housing
10 agencies in carrying out the purposes and provisions of the act;

11 (7) To increase the availability, from both public and
12 private sector sources, of financing for the purchase of dwellings
13 and the financing for home improvements, repairs, and
14 rehabilitation at rates and upon terms that are affordable to
15 persons of low or moderate income and to increase the availability
16 of sources of equity and other financing for the development and
17 operation by local housing agencies and private sector entities of
18 decent, safe, and sanitary rental housing that is affordable to
19 persons of low and moderate income; and

20 (8) In carrying out the purposes described in this
21 section, to vest in local housing agencies the maximum feasible
22 responsibility, authority, and discretion, and, except when clearly
23 prohibited by applicable law, such agencies shall also possess the
24 powers and legal prerogatives of private sector entities.

25 Sec. 4. For purposes of the Nebraska Housing Agency Act:

26 (1) Affiliate means any corporation, entity, partnership,
27 venture, syndicate, or arrangement in which a local housing agency
28 participates by holding an ownership interest or participating in

1 its governance, including both controlled and noncontrolled
2 affiliates;

3 (2) Affordable housing means dwelling units that may be
4 rented or purchased, as the case may be, by persons of eligible
5 income, as defined in subdivision (23)(c) of this section, with or
6 without government assistance;

7 (3) Agreement means a contract or other legal relations
8 with another party, whether public or private;

9 (4) Area of operation means the geographical area within
10 which a local housing agency may own or operate housing
11 developments as described in section 18 of this act;

12 (5) City means and includes any political subdivision of
13 this state known as a city or village which is an incorporated unit
14 of general local government;

15 (6) Commissioner means a person serving on the governing
16 board of a local housing agency, including any person identified
17 under prior law as a member of a housing authority;

18 (7) Community facilities means real and personal property
19 suitable for recreational, educational, health, or welfare
20 purposes, including, but not limited to, buildings, equipment, and
21 parks and other spaces or structures;

22 (8) Controlled affiliate means any affiliate of a local
23 housing agency (a) in which commissioners, officers, employees, and
24 agents of such agency constitute a majority of the governing body
25 of such entity or (b) in which such agency holds a majority of the
26 ownership interests;

27 (9) County means and includes any political subdivision
28 of this state known as a county, which is a unit of general local

1 government;

2 (10) Development or housing development means and
3 includes all dwellings and associated appurtenances, including real
4 and personal property, and all other facilities and improvements of
5 every kind and description which a local housing agency may own or
6 operate or in which it may hold an interest under the provisions of
7 the act; all land upon which such dwellings, appurtenances, and
8 facilities are situated; all work and activities undertaken by a
9 local housing agency or others relating to the creation of such
10 property and all tangible and intangible personal property relating
11 thereto, including all leases, licenses, agreements, and other
12 instruments; and all rights and obligations arising thereunder
13 establishing or confirming ownership, title, or right of use or
14 possession in or to any such property by a local housing agency, as
15 described and authorized in subdivision (15) of section 43 of this
16 act;

17 (11) Establishing a housing agency means taking all
18 actions required under sections 6 to 17 of this act to be taken by
19 the governing body of a city or county or, in the case of a
20 regional housing agency, by the governing bodies of all political
21 subdivisions participating therein, for a housing agency to conduct
22 business and to exercise its powers. In the case of a housing
23 agency or housing authority existing on the effective date of this
24 act, established means that such agency has been authorized to
25 conduct business and exercise its powers in accordance with prior
26 law;

27 (12) Family means a single person or a number of persons
28 that may, but need not, include children, that a local housing

1 agency accepts for occupancy of a dwelling, or to which such agency
2 offers or provides other assistance, as particularly defined in the
3 eligibility and occupancy standards adopted by the agency;

4 (13) Guest means any person, not a resident of such
5 development, who is present within a development, or any person,
6 not a resident in such dwelling, who is present within a dwelling
7 in a development, as an invitee of or otherwise with the
8 acquiescence or consent of a resident of such development or
9 dwelling, as the case may be;

10 (14) Hold an interest means ownership, control of, or
11 participation in an arrangement with respect to a development by a
12 local housing agency or any affiliate thereof;

13 (15) Household means a family as defined in subdivision
14 (12) of this section;

15 (16) Housing agency or agency means and includes both a
16 local housing agency established pursuant to sections 6 to 10 of
17 this act and a regional housing agency established pursuant to
18 sections 11 to 17 of this act. Reference in any prior or other law
19 to housing authority is deemed to refer to housing agency.
20 Wherever the context requires or permits, housing agency or agency
21 includes controlled affiliates of a housing agency;

22 (17) Local housing agency or agency means a public body,
23 corporate and politic, previously established or to be established
24 by a city or a county pursuant to the authority provided in the
25 act, exercising necessary and essential governmental functions for
26 the purposes stated in the act in matters of statewide concern,
27 although its operations are local in nature. A local housing
28 agency shall be a political subdivision of this state, independent

1 from the city or county which established or establishes it or
2 which may appoint some or all of its commissioners. Any reference
3 in the act to a local housing agency includes a housing agency or a
4 regional housing agency, unless the context clearly otherwise
5 requires. The term local housing agency also includes any housing
6 authority established under prior law;

7 (18) Mixed-finance development means a development that
8 is financed both by funding derived from the private sector and
9 funding provided by the government that is permitted to be used for
10 the development of affordable housing;

11 (19) Mixed-income development means a housing development
12 intended to be, and which in fact is, occupied both by persons of
13 eligible income and by persons other than those of eligible income;

14 (20) Mixed-use development means a development that
15 includes both residential and nonresidential uses;

16 (21) Noncontrolled affiliate means an affiliate in which
17 a local housing agency participates that is not a controlled
18 affiliate;

19 (22) Person includes a family;

20 (23) Persons of eligible income means:

21 (a) With respect to state or federally funded activities
22 or developments, individuals or families who meet the applicable
23 income requirements of the state or federal program involved, if
24 any such state or federal income requirements are applicable, and,
25 if none are so applicable, then individuals or families who meet
26 the requirements of subdivision (b) of this subdivision;

27 (b) With respect to activities and developments other
28 than those to which subdivision (a) of this subdivision is

1 applicable, individuals or families who, in the determination of
2 the local housing agency, lack sufficient income or assets, taking
3 into account all resources available to such individuals or
4 families from whatever source derived or reasonably derivable, to
5 enable them, without undue hardship or governmental financial
6 assistance, to purchase or rent, as the case may be, decent, safe,
7 and sanitary dwellings of adequate size, except that the income of
8 such families shall not exceed the area median income for families
9 of like size; and

10 (c) Whenever any provision of the act refers to persons
11 of eligible income with specific reference to this subdivision,
12 persons of eligible income includes not only the persons described
13 in subdivision (b) of this subdivision but also individuals and
14 families whose income does not exceed one hundred forty percent of
15 the maximum income standard applicable under subdivision (b) of
16 this subdivision;

17 (24) Public agency means and includes any: (a) County,
18 city, village, or township; school, drainage, tax, improvement, or
19 other district; local housing agency; department, division, or
20 political subdivision of this state or another state; housing
21 agency, housing finance agency, or housing trust of this state or
22 another state; and other agency, bureau, office, authority, or
23 instrumentality of this state or another state; (b) board, agency,
24 commission, division, or other instrumentality of a city or county;
25 and (c) board, commission, agency, department, or other
26 instrumentality of the United States, or any political subdivision
27 or governmental unit thereof;

28 (25) Regional housing agency means a public body,

1 corporate and politic, and a governmental subdivision of this
2 state, formed by two or more cities or counties of this state
3 pursuant to the authority provided in sections 11 to 17 of this
4 act, exercising necessary and essential governmental functions for
5 the purposes stated in the act in matters of statewide concern,
6 although its operations are local or regional in nature. It is a
7 political subdivision of this state, independent from political
8 subdivisions of this state which established it or which may
9 appoint some or all of its commissioners;

10 (26) Representative means a commissioner, officer,
11 employee, or agent of a local housing agency;

12 (27) Resident means a person residing in a development of
13 a housing agency, with the consent of such agency, according to its
14 policies, rules, and procedures; and

15 (28) State means the State of Nebraska and its duly
16 constituted government.

17 Sec. 5. No person shall have any claim or entitlement to
18 enjoyment of any benefit conferred by the Nebraska Housing Agency
19 Act, including, but not limited to, any tenancy in any development
20 as a matter of right. All benefits conferred shall be pursuant to
21 the conditions and qualifications established by the act and by the
22 rules and regulations of the local housing agency administering it.
23 Further, the benefits of the act are necessarily limited by the
24 resources available to each local housing agency of this state.
25 Consequently, all persons who might otherwise be eligible may not
26 receive a benefit. Further, those receiving benefits may receive
27 the same only on a temporary basis or for a limited period of time.

28 Sec. 6. Any local housing agency established under any

1 prior law relating to housing authorities or local housing agencies
2 and in existence on the effective date of this act shall have
3 continued existence under the Nebraska Housing Agency Act, shall
4 have all the powers conferred by the act and existing under law
5 immediately prior to such date, and shall continue to own its
6 property and conduct its operations consistent with the act. All
7 commissioners of such agency and all officers, legal counsel,
8 technical experts, directors, and other appointees or employees of
9 such agency holding office or employment by virtue of any such
10 prior law on the effective date of this act shall be deemed to have
11 been appointed or employed under the act. All obligations, debts,
12 commitments, and liabilities of any local housing agency
13 established under any prior law shall continue to be the
14 obligations, debts, commitments, and liabilities of such agency
15 notwithstanding the adoption of the act.

16 Sec. 7. In each city and county of this state which has
17 not previously established a housing agency, there is hereby
18 created a local housing agency. Such agency shall not be deemed to
19 be established under the Nebraska Housing Agency Act, nor shall it
20 be authorized to conduct any business or exercise any of its
21 powers, unless and until the governing body of the city or county
22 declares by resolution or ordinance that a need exists for such a
23 local housing agency to function in such city or county and finds
24 that there exists a shortage of decent, safe, and sanitary housing
25 in such city or county that is available and affordable to all
26 residents regardless of income.

27 Sec. 8. In order for a city or county to establish a
28 local housing agency which may conduct business and exercise its

1 powers, the governing body of such city or county desiring to
2 establish such agency shall adopt a resolution or ordinance
3 declaring that there is a need for a local housing agency in such
4 city or county because there exists a shortage of decent, safe, and
5 sanitary housing in such city or county that is affordable to all
6 residents thereof, regardless of income. No further action or
7 findings shall be necessary. Upon the adoption of such resolution
8 or ordinance the local housing agency shall be established and
9 shall have perpetual existence, unless dissolved in accordance with
10 law.

11 Sec. 9. Each local housing agency established pursuant
12 to the Nebraska Housing Agency Act, within or together with the
13 resolution or ordinance required under section 8 of this act, shall
14 adopt a name for all legal and operating purposes. The name so
15 adopted shall include a reference to the geographic locus of the
16 agency and such other name or identifier as the governing body
17 establishing the agency shall determine. A local housing agency
18 established under prior law may adopt a name consistent with this
19 section by resolution or ordinance adopted by at least two-thirds
20 of such agency's entire board of commissioners and approved by the
21 governing body of the city or county establishing such agency.

22 Sec. 10. A copy of the resolution or ordinance
23 establishing a local housing agency, duly certified, shall, in any
24 circumstance in which such evidence may be required, serve as
25 conclusive evidence that such agency has been properly established
26 and is authorized to transact business and exercise its powers
27 under the Nebraska Housing Agency Act.

28 Sec. 11. Any two or more cities or counties or any

1 combination of one or more cities and one or more counties may, by
2 resolution or ordinance of their separate governing bodies,
3 establish a regional housing agency by adopting a joint resolution
4 or ordinance declaring that there is a need for a regional housing
5 agency to provide decent, safe, and sanitary housing that is
6 affordable to persons of low and moderate income residing in a
7 multijurisdictional area and that this need would be more
8 efficiently served by the establishment of a regional housing
9 agency.

10 Sec. 12. Upon the adoption of a resolution or ordinance,
11 as provided in section 11 of this act, by two or more cities or
12 counties, a regional housing agency shall be established and,
13 except as otherwise provided in the Nebraska Housing Agency Act,
14 such regional housing agency shall have perpetual existence, unless
15 dissolved in accordance with law.

16 Sec. 13. Each regional housing agency established
17 pursuant to the Nebraska Housing Agency Act, within or together
18 with the resolution or ordinance required under section 11 of this
19 act, shall adopt a name for all legal and operating purposes. The
20 name so adopted shall include a reference to the geographic locus
21 of the agency and such other name or identifier as the governing
22 bodies establishing the agency shall determine. A regional housing
23 agency established under prior law may adopt a name consistent with
24 this section by resolution or ordinance adopted by at least
25 two-thirds of such agency's entire board of commissioners and
26 approved by the governing bodies of all political subdivisions
27 establishing such agency.

28 Sec. 14. A copy of the resolution or ordinance

1 establishing a regional housing agency, duly certified, shall, in
2 any circumstance in which such evidence may be required, serve as
3 conclusive evidence that such agency has been properly established
4 and is authorized to transact business and exercise its powers
5 under the Nebraska Housing Agency Act.

6 Sec. 15. After a regional housing agency has been
7 established, any additional city or county may elect to participate
8 as a member of such regional housing agency upon adoption of a
9 resolution or ordinance to such effect containing, in substance,
10 the findings provided in section 11 of this act, if a majority of
11 the existing commissioners of such regional housing agency and all
12 participating political subdivisions, by action of their respective
13 governing bodies, consent to such additional member or members.

14 Sec. 16. Any participating city or county may withdraw
15 from participation in the regional housing agency by resolution or
16 ordinance of its governing body. Any withdrawal from participation
17 shall be subject to, and may occur only pursuant to, the following
18 conditions:

19 (1) The regional housing agency has no bonds, notes, or
20 other obligations outstanding or adequate provision for payment of
21 such bonds, notes, or other obligations, by escrow or otherwise,
22 has been made. Past performance without breach or default of an
23 obligation secured only by one or more developments or the income
24 thereof shall be deemed to be adequate provision;

25 (2) The withdrawing city or county has made adequate
26 provision for the performance of all of its outstanding obligations
27 and responsibilities as a participant in the regional housing
28 agency;

1 (3) The withdrawing city or county has given six months'
2 written notice to the regional housing agency and all other cities
3 and counties participating therein; and

4 (4) The commissioner or commissioners appointed by the
5 withdrawing city or county shall be deemed to have resigned as of
6 the date upon which the withdrawal is effective. Vacancies on the
7 board of commissioners created by withdrawal of a city or county
8 shall be filled in such manner as the cities and counties remaining
9 as participants shall agree.

10 Notwithstanding the withdrawal of any participating city
11 or county, the legal title to and operating responsibility for any
12 development located outside the area of operation of the regional
13 housing agency remaining after such withdrawal has occurred shall
14 continue to be vested in the regional housing agency, unless a
15 different arrangement is made.

16 Sec. 17. If only one city or county remains as a
17 participant in any regional housing agency, such regional housing
18 agency shall become the local housing agency of the remaining city
19 or county at the discretion of its governing body, or such regional
20 housing agency shall be dissolved and its assets and liabilities
21 transferred to another existing housing agency or to a city or
22 county or other public agency in the manner provided for
23 dissolution of a local housing agency under sections 38 to 41 of
24 this act.

25 Sec. 18. (1) The area of operation of a local housing
26 agency shall be, depending upon the classification of the political
27 subdivision establishing the agency, one of the following:

28 (a) In the case of a local housing agency established by

1 a city, the agency's area of operation shall be the city and the
2 area within ten miles from the territorial boundaries thereof. For
3 purposes of this subdivision, home county means the county in which
4 the city establishing the local housing agency is situated.
5 Depending upon the geographical location of the city, an area of
6 operation may include portions of one or more counties. It may
7 also include areas lying within the territorial boundaries of
8 cities outside the city establishing the local housing agency. In
9 order to resolve territorial conflicts, the following rules shall
10 apply:

11 (i) In the case of the local housing agency's home
12 county, it may operate outside of the area described in subdivision
13 (a) of this subsection in the unincorporated areas of the home
14 county without the need for the county's consent unless the home
15 county has established its own local housing agency. If the home
16 county has established a local housing agency, then the city's
17 local housing agency may so operate outside the area described in
18 this subdivision only with the consent of the county board;

19 (ii) In the case of incorporated areas of the home
20 county, the local housing agency may only operate within the
21 territorial boundaries thereof by consent of the other city and its
22 local housing agency, if any;

23 (iii) In the case of unincorporated portions of counties
24 other than the local housing agency's home county, it may operate
25 only with the consent of the county board, regardless of whether
26 the other county has established a local housing agency;

27 (iv) In the case of incorporated areas within other
28 counties, it may operate only with the consent of the governing

1 body of any city incorporating such areas, and, if the other city
2 has also established its own local housing agency, also with the
3 consent of the other local housing agency; and

4 (v) Notwithstanding any other provision of this section,
5 a local housing agency may, subject to the limitations stated in
6 subdivision (28) of section 43 of this act, provide rental
7 assistance to persons residing outside the agency's area of
8 operation as defined in this section;

9 (b) In the case of a local housing agency established by
10 a county, the agency's area of operation shall be all of the county
11 except that portion which lies within the territorial boundaries of
12 any city in which a local housing agency has been established;

13 (c) In the case of a regional housing agency, the
14 agency's area of operation shall be an area equivalent to the total
15 areas of operation which the local housing agencies, if created
16 separately by political subdivisions establishing the regional
17 housing agency, would have when aggregated. The area of operation
18 of a regional housing agency shall not include any area which lies
19 within the territorial boundaries of any city or county in which a
20 local housing agency has been established and which city or county
21 is not a participant in the regional housing agency. The local
22 housing agency of the city or county and the governing body of the
23 city or county may consent to the operation of one or more
24 developments by the regional housing agency within the city's or
25 county's territorial boundaries; and

26 (d) Whether due to changes in the boundaries of cities or
27 counties which have established local housing agencies, or the
28 establishment of new local housing agencies, or for any other

1 reason, territories may exist that include the area of operation of
2 two or more local housing agencies. Such areas shall be areas of
3 concurrent jurisdiction. No local housing agency whose area of
4 operation includes an area of concurrent jurisdiction shall
5 construct, acquire, or develop any new housing development within
6 the area of concurrent jurisdiction except upon sixty days' prior
7 written notice to all other local housing agencies existing within
8 such area of concurrent jurisdiction. The notice shall specify the
9 location, size, and general nature of the proposed new development.
10 Any local housing agency receiving the notice shall have thirty
11 days to send written objections thereto to the local housing agency
12 sending the notice and proposing the new development. If written
13 objections are timely made, the local housing agency proposing the
14 new development shall not proceed unless and until both agencies
15 have made a good faith effort to resolve their differences and,
16 failing such resolution, the proposing local housing agency shall
17 submit the matter to the governing body of the city or county in
18 which the proposed new development is planned to be located. The
19 governing body, after allowing both local housing agencies to be
20 heard, shall decide whether the new development shall be
21 constructed, acquired, or developed by the local housing agency
22 proposing such action.

23 (2) Any housing development established by a housing
24 agency pursuant to law shall continue to be maintained and operated
25 by the housing agency so establishing the development or its
26 designee, unless the development is conveyed to another housing
27 agency or to a city, county, or other public agency or is otherwise
28 disposed of in accordance with law.

1 (3) Notwithstanding the area of operation as provided in
2 this section, all local housing agencies shall have the
3 jurisdiction and authority to cooperate and contract with all other
4 local housing agencies and other public agencies within this state
5 and any public agencies of any other state, with the federal
6 government, and with any person or entity, public or private, and
7 wherever located, in order to carry out the purposes of the
8 Nebraska Housing Agency Act. Such cooperation may include, but
9 shall not be limited to, activities and operations conducted with
10 the agreement of any public agency. The area of operation of a
11 local housing agency shall be deemed to include any other area or
12 areas within any city or county, regardless of location, with
13 respect to which the city or county within whose boundaries such
14 area or areas lie agrees to allow the local housing agency to
15 operate.

16 Sec. 19. Except to the extent such city or county or
17 this state may expressly elect to undertake such liability, neither
18 any city or county with respect to which a local housing agency is
19 established, nor any city or county participating in a regional
20 housing agency, nor the state, nor any other public agency of this
21 state shall be responsible for the debts or liabilities of any
22 local housing agency or regional housing agency.

23 Sec. 20. (1) The real and personal property of a local
24 housing agency and any controlled affiliate thereof, and their use
25 of any property, shall be exempt from all taxes and special
26 assessments of any city, county, the state, or any public agency
27 thereof, including without limitation any special taxing district
28 or similar political subdivision. Property owned jointly by a

1 housing agency or its controlled affiliates with other
2 nongovernmental persons or entities shall be exempt from such taxes
3 and assessments to the extent of the ownership interest which the
4 housing agency and its controlled affiliates hold in the property.
5 Nothing in this section shall be deemed to preclude the enactment
6 of legislation extending an exemption from such taxation or
7 assessment of property owned by nongovernmental persons and
8 entities as an inducement to form, operate, or otherwise
9 participate as affiliates pursuant to subdivision (10) of section
10 43 of this act.

11 (2) A housing agency and any controlled affiliate thereof
12 shall further be exempt from all sales and use taxes and other
13 levies relating to the transfer, sale, or use of goods and services
14 and all transfer and excise taxes imposed by any city, county, the
15 state, or any public agency thereof.

16 (3) A housing agency and its controlled affiliates may
17 agree to make payments in lieu of all taxes or special assessments
18 to the city or county, as the case may be, within whose territorial
19 jurisdiction any development of such housing agency or its
20 controlled affiliates is located, for improvements, services, and
21 facilities furnished by the city, county, or other public agencies,
22 for the benefit of such development. Nothing contained in this
23 section shall be deemed to require such agreement by a local
24 housing agency and in no event shall the amounts payable by the
25 housing agency and its controlled affiliates exceed the amounts
26 which, except for the exemption provided in this section, would
27 otherwise be payable under regular taxes and special assessments
28 for similar properties referred to in subsection (1) of this

1 section. All payments made by any such housing agency for any
2 development to such city or county, as the case may be, and whether
3 such payments are contractually stipulated or gratuitous voluntary
4 payments, shall be distributed by the city or county, as the case
5 may be, to all public agencies furnishing improvements, services,
6 and facilities for the development in such proportion that the
7 state and each public agency shall receive from the total payment
8 the same proportion as its property tax rate bears to the total
9 property tax which would be levied by the state and each public
10 agency against property of the housing agency, if the same were not
11 exempt from taxation.

12 Sec. 21. Except to the extent a local housing agency or
13 its controlled affiliates may otherwise expressly agree, all real
14 and personal property of a local housing agency and its controlled
15 affiliates shall be exempt from execution, levy, and sale for the
16 payment of debt or otherwise pursuant to any judicial or other
17 process.

18 Sec. 22. All representatives of a local housing agency,
19 acting within the scope of carrying out the business and conducting
20 the affairs of a local housing agency, shall be exempt from all
21 licensing requirements imposed by any law with respect to the sale,
22 rental, or management of real property or the improvement or
23 development thereof, including requirements imposing any fee or
24 charge.

25 Sec. 23. The following provisions of law, and any
26 regulations relating thereto, shall not apply to a local housing
27 agency unless the legislation imposing such requirements is
28 expressly and specifically applicable to local housing agencies or

1 the local housing agency expressly elects to be governed by such
2 legislation or regulations:

3 (1) The Administrative Procedure Act;

4 (2) The state personnel system and other laws,
5 resolutions, ordinances, and regulations governing the employment
6 of persons by public agencies; and

7 (3) Any law, resolution, ordinance, or regulation
8 governing or otherwise applicable to the procurement of goods and
9 services, or to the acquisition, operation, or disposition of
10 property by public agencies of this state, including any
11 requirements for delivery of payment or performance bonds by
12 contractors.

13 Sec. 24. When the governing body of any city or county,
14 as the case may be, has determined by resolution or ordinance as
15 set forth in section 8 of this act that it is expedient to
16 establish a local housing agency: (1) In the case of cities, the
17 chief elected official of such city shall appoint at least five and
18 not more than seven adult persons of integrity; and (2) in the case
19 of counties, the county board shall appoint at least five and not
20 more than seven adult persons of integrity, and all such persons
21 shall be residents of the area of operation of the agency.
22 Notwithstanding the foregoing, if the selection of a resident
23 commissioner is required under section 34 of this act, then at
24 least one such person shall be a resident commissioner selected as
25 provided in such section. Such persons so appointed shall
26 constitute the governing body of the local housing agency and shall
27 be called commissioners.

28 Sec. 25. (1) The powers of each local housing agency

1 shall be vested in its commissioners in office. A majority of the
2 commissioners shall constitute a quorum of the agency for the
3 purpose of conducting its business and exercising its powers and
4 for all other purposes. Except for any matter with respect to
5 which the resolution or ordinance creating the agency or its bylaws
6 requires a higher number or proportion of votes, action may be
7 taken by the agency upon the vote of a majority of the
8 commissioners present and voting.

9 (2) Housing agencies that have twelve or more
10 commissioners may, by resolution or bylaw, establish an executive
11 committee of at least five commissioners. The committee shall have
12 such powers over the management or operation of such housing agency
13 as the commissioners of such agency shall specify and declare in
14 the resolution establishing the executive committee.

15 Sec. 26. When commissioners are appointed or reappointed
16 by the chief elected official of a city or county, such
17 appointments or reappointments shall be referred to the governing
18 body of such city or county for confirmation or denial by such
19 governing body, and such governing body shall have thirty days
20 after such referral to confirm or deny any such appointment or
21 reappointment. In the event of the failure of such governing body
22 to act on the appointment or reappointment within thirty days, the
23 appointment or reappointment shall be deemed to have been
24 confirmed.

25 Sec. 27. When the governing bodies of two or more
26 political subdivisions have determined by resolution or ordinance
27 pursuant to section 11 of this act to establish and participate in
28 a regional housing agency, the chief elected officials of such

1 political subdivisions or, if no such official exists for a
2 participating political subdivision, then the governing body
3 thereof, shall appoint adult persons of integrity who shall be
4 residents of the area of operation of the regional housing agency.
5 Such persons so appointed shall constitute the governing body of
6 the regional housing agency and shall be called commissioners. The
7 number of commissioners who shall be appointed by each
8 participating political subdivision shall be as agreed upon by the
9 participating political subdivisions.

10 Sec. 28. In the case of local housing agencies, the
11 commissioners who are first appointed shall be designated to serve
12 for terms of one, two, three, four, and five years, respectively,
13 from the date of their appointment, but thereafter commissioners
14 shall be appointed for terms of five years. In the case of housing
15 agencies when the appointing authority has elected to have more
16 than five commissioners as provided in section 24 of this act, or
17 has elected to add one or two commissioners to a presently existing
18 housing agency, the sixth commissioner who is first appointed shall
19 be designated to serve for a term of four years, and the seventh
20 commissioner who is first appointed shall be designated to serve
21 for a term of five years, from the date of his or her appointment,
22 but thereafter, the commissioners shall be appointed for terms of
23 five years.

24 Sec. 29. All vacancies shall be filled for the unexpired
25 terms. Vacancies shall be filled by the same authority and in the
26 same manner as the previous commissioner whose position has become
27 vacant was appointed.

28 Sec. 30. A certificate of the appointment or

1 reappointment of any commissioner shall be filed with the secretary
2 or clerk of the governing body making or confirming the appointment
3 or reappointment, and such certificate shall be conclusive evidence
4 of the proper appointment of such commissioner.

5 Sec. 31. Every commissioner shall be a resident of the
6 area of operation of the housing agency which he or she has been
7 appointed to serve. However, if after appointment a commissioner
8 ceases to reside in the local housing agency's area of operation,
9 his or her term of office shall automatically terminate and a
10 successor shall be appointed to fill such vacancy in the manner
11 provided in sections 24 to 35 of this act. Any commissioner who
12 ceases to reside within the area of operation of the local housing
13 agency in which such commissioner serves shall immediately so
14 inform the board of commissioners of the agency and the appointing
15 authority of his or her change in residence. Commissioners shall
16 be adult persons of integrity. No person who has been convicted of
17 a felony shall be eligible for appointment or service as a
18 commissioner.

19 Sec. 32. (1) In the case of a city of the metropolitan
20 class, at least one commissioner shall be a member of a racial
21 minority.

22 (2) In the case of a county, not more than three members
23 of a housing agency shall be residents of the same incorporated
24 community within the county.

25 Sec. 33. The governing body of any city in which a
26 housing agency has been or may be created may appoint one of its
27 members to serve as one of the five commissioners of such housing
28 agency for such term as the governing body may determine.

1 Notwithstanding any other provision of the Nebraska Housing Agency
2 Act, it shall not be considered a conflict of interest if such
3 person so appointed as a commissioner votes on any matter involving
4 the city. In the event that the governing body of the city intends
5 that a commissioner's appointment is made with the intention that
6 such commissioner represents the city, then his or her certificate
7 of appointment shall so state. In the event that any such
8 commissioner so appointed and designated shall cease to serve as a
9 member of the governing body of a city, then his or her term of
10 office shall automatically terminate and a successor shall be
11 appointed to fill the vacancy in the manner provided in sections 24
12 to 35 of this act.

13 Sec. 34. (1) Each new housing agency created under the
14 Nebraska Housing Agency Act, and within one hundred twenty days
15 after the enactment of the act, each existing housing agency, shall
16 include among the commissioners constituting the governing body of
17 each local housing agency, at least one commissioner who shall be
18 known as a resident commissioner. For purposes of this section,
19 resident commissioner means a member of the governing board of a
20 local housing agency whose eligibility for membership is based upon
21 such person's status as a recipient of direct assistance from the
22 agency, except as otherwise provided in this section.

23 (2) Within sixty days after the enactment of the act, or
24 within thirty days after any vacancy in the office of a resident
25 commissioner, every local housing agency shall notify any resident
26 advisory board or other resident organization and all adult persons
27 directly assisted by such agency to the effect that the position of
28 resident commissioner is open, and if any such person is interested

1 in being considered a candidate for the position, such person
2 should notify the local housing agency, in writing, within thirty
3 days of the person's willingness to be considered and to serve in
4 the position.

5 (3) The resident commissioner shall be selected, either
6 by an election or by appointment, as follows:

7 (a) The housing authority agency may hold an election,
8 allowing each adult direct recipient of its assistance to vote by
9 secret written ballot, at such time and place, or through the mail,
10 as such agency may choose, all to be conducted within thirty days
11 after the receipt of names of candidates as provided in subsection
12 (2) of this section. The candidate receiving the most votes shall
13 serve as resident commissioner.

14 (b) In the event that the housing agency decides not to
15 hold an election, the names of all persons interested who have
16 notified the housing agency of their interest in so serving shall
17 be forwarded to the mayor or to the county board, as the case may
18 be, and the resident commissioner shall be appointed from the list
19 of names, as provided in section 24 of this act, subject to
20 confirmation as provided in section 26 of this act. In the case of
21 a regional housing agency, the regional board of commissioners
22 shall make such an appointment from among the persons interested in
23 such position.

24 (c) In the event that no qualified person shall have
25 submitted to the local housing agency his or her name as being
26 interested as a candidate for the position, then the mayor, county
27 board, or regional agency, as the case may be, shall fill the
28 position from among all adult persons receiving direct assistance

1 from the local agency subject to confirmation, in the case of
2 cities and counties, pursuant to section 26 of this act.
3 Notwithstanding the foregoing, in the event that a local agency
4 owns less than three hundred low-income housing units (which, for
5 purposes of this subdivision, does not include units of housing
6 occupied by persons assisted under any rental assistance program)
7 and the housing agency has received no notification of interest in
8 serving as a resident commissioner as provided in this section,
9 then, in such event, no resident commissioner shall be required to
10 be selected.

11 Sec. 35. (1) A commissioner of a local housing agency
12 may be removed for neglect of duty, misconduct in office, or
13 conviction of any felony by the chief elected official of the city
14 or county appointing the commissioner, or if no chief elected
15 official exists, then by the governing body. A commissioner of a
16 regional housing agency may be removed for any of such grounds by
17 the governing body of the city or county that originally appointed
18 the commissioner.

19 (2) The chief elected official or the governing body, as
20 the case may be, which seeks to remove a commissioner shall send a
21 notice of removal to such commissioner, which notice shall set
22 forth the charges against him or her. Unless within ten days from
23 the receipt of such notice the commissioner files with the clerk or
24 secretary of the city's or county's governing body a request for a
25 hearing before the governing body, the commissioner shall be deemed
26 removed from office. If a request for hearing is so filed, the
27 governing body of the city or county, as the case may be, shall
28 hold a hearing not sooner than ten days after the date a hearing is

1 requested, at which hearing the commissioner shall have the right
2 to appear in person or by counsel and the governing body shall
3 determine whether the removal shall be upheld. If the removal is
4 not upheld by the governing body, the commissioner shall continue
5 to hold his or her office.

6 (3) No action taken by the commissioners of an agency
7 shall be invalid because of the ineligibility of any commissioner
8 to serve in such capacity. All actions taken by a board of
9 commissioners shall be presumed valid unless otherwise shown by
10 clear and convincing evidence.

11 Sec. 36. The commissioners of each housing agency shall
12 elect a chairperson and vice-chairperson from among the
13 commissioners and shall have power to employ an executive director
14 who shall serve as ex officio secretary of the local housing
15 agency. The agency may also employ legal counsel or engage the
16 attorney of the city or county served by the agency for such legal
17 services as it may require. It may employ accountants, appraisers,
18 technical experts, and such other officers, agents, and employees
19 as it may require and shall determine their qualifications, duties,
20 compensation, and terms of office. A local housing agency may
21 delegate to one or more of its agents or employees such powers and
22 duties as it may deem proper. With respect to the employment of
23 its staff, a local housing agency shall enjoy the exemptions
24 contained in section 23 of this act.

25 Sec. 37. A commissioner shall receive no compensation
26 for his or her services but shall be entitled to reimbursement for
27 necessary expenses, including travel expenses, incurred in
28 connection with the discharge of his or her duties on the same

1 basis as provided in sections 81-1174 to 81-1177.

2 Sec. 38. Any local housing agency may by written
3 resolution elect to dissolve, except that no such dissolution or
4 any transfer of property pursuant to dissolution shall occur unless
5 the following conditions are met:

6 (1) The governing body of the city or county which
7 established the local housing agency so dissolving has consented
8 thereto;

9 (2) The dissolving agency has designated another local
10 housing agency or another city, county, or public agency of this
11 state, which may be the city or county for which the agency was
12 formed, as the transferee of its assets and liabilities in
13 dissolution;

14 (3) The local housing agency, city, county, or other
15 public agency receiving such property or assets and the political
16 subdivision which established it consent thereto by resolution or
17 ordinance; and

18 (4) All obligees of bonds or other evidences of
19 indebtedness of such transferring or dissolving agency or the
20 trustees for such obligees or the federal government if the bonds
21 or other obligations are secured by any contract right pursuant to
22 a contract between the transferring agency and the federal
23 government have consented thereto in writing or as otherwise
24 provided in the contracts. No such transfer shall in any way
25 diminish or impair the obligations of any transferring agency.

26 Sec. 39. Within a reasonable time subsequent to approval
27 by all necessary parties of a local housing agency's resolution to
28 dissolve, the agency shall transfer its assets and liabilities to

1 the transferee designated in the resolution. Upon the transfer of
2 any of the agency's property, the receiving local housing agency,
3 city, county, or other public agency shall have all right, title,
4 and interest in and to such property and all duties and obligations
5 arising out of the transfer of such property as the transferring
6 agency had. Upon dissolution and transfer, all rights, contracts,
7 agreements, obligations, and property, real and personal, of such
8 transferring agency, shall be in the name of, and vest in, such
9 receiving local housing agency, city, county, or other public
10 agency, and all obligations of such transferring local housing
11 agency shall be the obligations of such receiving local housing
12 agency, city, county, or other public agency. All rights and
13 remedies of any person against such transferring local housing
14 agency may be asserted, enforced, and prosecuted against such
15 receiving local housing agency, city, county, or other public
16 agency to the same extent as they might have been asserted,
17 enforced, and prosecuted against such transferring local housing
18 agency.

19 Sec. 40. After any dissolution and transfer,
20 notwithstanding anything contained in section 18 of this act, the
21 area of operation of the receiving local housing agency shall
22 include, nonexclusively, the area of operation of the transferring
23 local housing agency.

24 Sec. 41. A regional housing agency desiring to dissolve
25 may do so in the same manner as provided in sections 38 and 39 of
26 this act, except that consent of all participating cities and
27 counties shall be required and the transfer of property and assets
28 of the regional housing agency upon dissolution may be effected

1 either to a single transferee or to multiple transferees, as the
2 agency shall determine, subject to approval by the participating
3 political subdivisions.

4 Sec. 42. (1) A local housing agency shall possess all
5 powers necessary, convenient, or desirable in carrying out the
6 purposes of the Nebraska Housing Agency Act, exercising any power
7 provided in the act, and engaging in any activity related to
8 furthering the purposes of the act. Such powers shall include, but
9 shall expressly not be limited to, the powers enumerated in this
10 section and section 43 of this act or stated elsewhere in the act
11 or in other applicable law.

12 (2) The powers enumerated in the act may be exercised
13 singly or in any combination. The enumeration of any power shall
14 not require, expressly or by implication, that any local housing
15 agency is required to exercise such power.

16 Sec. 43. In addition to any other express, constructive,
17 or implied powers existing under applicable law, a local housing
18 agency shall have the following powers, which may be exercised
19 singly or in any combination, the enumeration of which shall not be
20 construed to limit the powers of any local housing agency to the
21 powers so enumerated:

22 (1) To have perpetual existence unless terminated by
23 proper authority as provided by law;

24 (2) To sue and, subject to the limitations, privileges,
25 and immunities provided by applicable law, be sued;

26 (3) To adopt a seal and to alter such seal from time to
27 time;

28 (4) To adopt, amend, repeal, and restate bylaws;

1 (5) To adopt, promulgate, and enforce rules and
2 regulations related to carrying out the purposes of the local
3 housing agency and exercising its powers and to amend or repeal
4 such rules and regulations from time to time;

5 (6) To enter into, execute, and perform contracts,
6 instruments, and agreements of every kind and description within or
7 without its area of operation except where otherwise expressly
8 provided in furtherance of the purposes of the Nebraska Housing
9 Agency Act and in connection with the exercise of any of its
10 powers;

11 (7) To issue bonds and other debt instruments as provided
12 in sections 44 to 51 of this act and to secure the repayment of
13 such bonds and debt instruments as provided in subdivision (24) of
14 this section;

15 (8) Subject to the limitations elsewhere provided in the
16 act, to guarantee any indebtedness or performance of any controlled
17 affiliates or other public bodies of this state. The housing
18 agency shall not guarantee the indebtedness or performance of any
19 other party, except that the housing agency may create a special
20 limited fund for the purposes provided in section 61 of this act;

21 (9) To enter into and perform interagency and
22 intergovernmental agreements of every kind and description; to act
23 in consortium with, as agent or manager for, or pursuant to
24 agreement or contract with other local housing agencies and any and
25 all state, federal, and local public agencies to carry out the
26 purposes of the act and to exercise any of its powers;

27 (10) To form and operate nonprofit corporations and other
28 affiliates of every kind and description, which may be wholly or

1 partially owned or controlled, for carrying out the purposes of the
2 act and in connection with the exercise of any of the powers of a
3 local housing agency;

4 (11) To enter into agreements of every kind and
5 description in furtherance of the purposes of the act and in
6 connection with the exercise of any of the powers of a local
7 housing agency. Consistent with the limitations upon their powers
8 set forth in sections 52 to 59 of this act, local housing agencies
9 may participate in agreements with persons and for-profit entities
10 whose purpose is solely that of pecuniary gain, as well as with
11 nonprofit entities and persons who seek no pecuniary gain. The
12 participation of a local housing agency in any arrangement with
13 other persons or entities, including for-profit persons and
14 entities, shall not cause any activity engaged in by the agency to
15 be characterized as proprietary nor deprive the agency of any
16 privilege or immunity otherwise existing under law;

17 (12) Pursuant to approval of the local housing agency's
18 board of commissioners, acting through one or more of its
19 commissioners or other designees, to conduct examinations and
20 investigations with respect to any matter relating to the purposes
21 of the act, and to make available to public agencies and officials
22 and the public all findings, conclusions, and recommendations
23 resulting from such examinations and investigations; to subpoena
24 and compel the attendance of witnesses and the production of
25 documents, books, records, papers, electronic and other data, and
26 things; to issue commissions for the examination of witnesses who
27 are outside this state, are unable to attend a hearing, or are
28 excused from such attendance, and to issue commissions for the

1 examination of documents, books, records, papers, electronic and
2 other data, and things outside this state; and to administer oaths
3 and receive sworn or unsworn testimony or other proofs at public or
4 nonpublic hearings;

5 (13) To invest or cause to be invested any funds held as
6 reserves or sinking funds and any sums not required for immediate
7 disbursement in connection with the operations of the agency, its
8 developments, and its programs in property or securities in any
9 manner allowable by law with respect to funds of this state or any
10 public agency of this state, except that if any funds are pledged
11 as security for a debt and the debt or security instrument
12 specifies the permitted investments, such debt or security
13 instrument provision shall control the permitted investments of
14 such funds; to cooperate with this state or any public agency of
15 this state with respect to investing the housing agency's funds; to
16 enter into agreements and contracts with respect to the investment
17 of its funds upon such terms and conditions as the agency deems
18 reasonable and appropriate; and to purchase the agency's own bonds
19 or other securities at such price as the agency shall in its
20 discretion determine to be acceptable, except that no funds of an
21 agency shall be placed in investments which the agency believes at
22 the time of investment are highly speculative or involve a high
23 degree of foreseeable risk;

24 (14) To conduct studies, assessments, and analyses of
25 living conditions and affordable housing and community development
26 and redevelopment needs and the means and methods through which
27 unsatisfactory living conditions may be improved and affordable
28 housing and community development and redevelopment needs may be

1 met; to participate in the planning processes conducted by units of
2 local government having jurisdiction over the agency's area of
3 operation and to make recommendations with respect to the provision
4 of decent, safe, and sanitary dwelling accommodations to persons of
5 eligible income and the improvement of the social and economic
6 conditions affecting such persons, to evaluate the supply and
7 adequacy of financing available for the development and rental of
8 affordable housing and for the purchase of decent, safe, and
9 sanitary dwelling accommodations by persons of eligible income, and
10 to identify the means and methods through which adequate sources of
11 financing for such purposes may be developed and maintained;

12 (15) To plan, prepare, carry out, develop, construct,
13 acquire, improve, reconstruct, renovate, rehabilitate, enlarge,
14 reduce, alter, manage, own, lease, and operate housing, housing
15 projects or developments, or any portions of housing projects or
16 developments, and nonresidential and mixed-use developments. For
17 purposes of this section, the term development or housing
18 development includes, without limitation:

19 (a) Any and all site work, construction of improvements,
20 and other work or responsibility undertaken by a local housing
21 agency, any affiliate thereof, or any other person or entity,
22 whether public or private, in cooperation or pursuant to agreement
23 with such local housing agency:

24 (i) To carry out the activities described in this
25 subdivision;

26 (ii) To demolish, clear, or remove buildings and other
27 improvements from land situated in blighted areas or slums; or

28 (iii) To create, provide, and finance affordable, decent,

1 safe, and sanitary living accommodations and other facilities and
2 improvements described in this subdivision and otherwise authorized
3 in the act;

4 (b) All facilities and improvements created by the work
5 or undertakings described in this subdivision, including, without
6 limitation, (i) all living accommodations operated primarily for
7 residential purposes, (ii) the buildings containing such living
8 accommodations and all appurtenances thereto, (iii) partially or
9 wholly manufactured housing, mobile homes, modular structures, the
10 sites upon which they are situated, and all utilities, streets and
11 roads, and other improvements and appurtenances relating thereto,
12 (iv) all land, leasehold rights, easements, licenses, and other
13 rights to the use or occupancy of the land upon which the
14 improvements of a development are situated, (v) all common areas,
15 roads, streets, sidewalks and pedestrian ways, bicycle routes and
16 paths, drainage facilities, parking facilities, street lighting and
17 lighting of buildings and pedestrian ways, landscaping, site
18 improvements and other improvements to land, (vi) all facilities
19 and improvements for the supply of utilities and services,
20 including electrical, gas, sewer, water, telephone and other
21 communications systems, television or other electronic reception or
22 transmission, internet and other computer networking services,
23 waste collection and disposal, and all other utilities and
24 services, (vii) playgrounds, parks, and other facilities intended
25 for sports or recreational purposes benefitting residents, (viii)
26 all facilities and improvements used in providing security to
27 residents and employees of an agency and the property of both, (ix)
28 all community facilities and other facilities and improvements used

1 for providing educational, vocational, or other training programs,
2 for supportive services to residents, or for other programs and
3 activities to carry out the purposes of the act, (x) all facilities
4 and improvements used for commercial or other nonresidential
5 purposes as permitted by the act, (xi) all fixtures and equipment
6 and personal property incorporated, owned, or used in connection
7 with any development as elsewhere defined in the act, and (xii) all
8 other real property, tangible and intangible personal property, and
9 other assets owned, used, or held in connection with any
10 development, as elsewhere defined in this section;

11 (c) The planning, replanning, and design of any
12 residential or nonresidential project or development, the obtaining
13 of permits and approvals necessary therefor, and all architectural
14 and engineering work, surveying, platting, dedication, and other
15 activities requisite to construction of any buildings, facilities,
16 or improvements, property acquisition, demolition, construction,
17 alteration, repair, rehabilitation, or reconstruction of existing
18 buildings, facilities, or improvements, and activities and work
19 undertaken in connection therewith; and

20 (d) All agreements, contracts, leases, and other legal
21 means through which the right to use or operate any property that
22 is otherwise defined as a development under this section is
23 acquired, held, or used. A local housing agency's developments
24 may, as permitted under and subject to the limitations imposed by
25 sections 52 to 59 of this act, include dwelling units or other
26 living accommodations occupied by persons and families other than
27 persons of eligible income and buildings, facilities, or
28 improvements used for nonresidential purposes and mixed-use

1 developments;

2 (16) To finance an agency's developments, operations, and
3 other activities in such manner, utilizing such public or private
4 source or sources of revenue, and employing such financing methods
5 or techniques as the agency deems appropriate; to combine revenue
6 derived from different sources, including equity investments and
7 borrowings, in any combination and proportion as the agency deems
8 appropriate; to create and to enter into arrangements concerning
9 mixed-finance developments; and to provide financing for affordable
10 housing owned in whole or in part by others;

11 (17) To maintain, repair, and replace all housing
12 developments, any portions thereof, and any facilities and
13 improvements contained therein or associated therewith;

14 (18) Subject only to the limitations contained in
15 sections 52 to 59 of this act, to lease or rent any dwellings,
16 facilities, or other real or personal property owned, controlled,
17 or possessed by the agency, or with respect to which the agency has
18 contractual rights permitting such lease or rental, for such terms,
19 upon such conditions and lease terms, and in exchange for such
20 rentals as the agency may from time to time in its discretion
21 determine; to establish rents in such manner and in such amounts as
22 the agency may deem appropriate, including, but not limited to,
23 rents based upon family income, determined with such adjustments
24 and exclusions as the agency deems appropriate, minimum rents, flat
25 rents, graduated rents, rent ranges, and maximum rents, any of
26 which may vary among the agency's developments, and to establish
27 any other standards and conditions relating to rentals that the
28 agency may deem appropriate;

1 (19) To acquire title, long-term and short-term leasehold
2 interests, possessory rights, options upon, cooperative interests
3 in, or any other interest in or relating to land, dwellings,
4 facilities, or any other real or personal property by purchase,
5 gift, grant, bequest, devise, lease, contract, or any other manner
6 or arrangement; to acquire any such property or any interest
7 therein through the exercise of the power of eminent domain as
8 provided in subdivision (40) of this section; to take over or lease
9 and manage any housing development or undertaking in which a local
10 government or the state or federal government has an interest; and
11 to transfer, donate, sell, lease, exchange, convey, assign, or
12 otherwise dispose of any of its property or any interest therein to
13 any person, organization, or entity, either public or private,
14 nonprofit or for-profit; and in such regard:

15 (a) A local housing agency may sell or lease any real or
16 personal property, or any interest therein, with or without public
17 bidding, as the agency in its sole discretion may deem appropriate.
18 Any acquisition or disposition of property or any interest therein
19 may occur upon such terms and conditions and in exchange for such
20 prices, or without consideration, as the agency shall deem
21 appropriate, if such actions are taken in furtherance of the
22 purposes of the act and subject to the limitations contained in
23 sections 52 to 59 of this act; and

24 (b) At and subsequent to an acquisition of occupied
25 property, a local housing agency may permit existing tenants
26 therein to remain in occupancy upon such terms and conditions and
27 for such periods as the agency shall deem appropriate,
28 notwithstanding that such tenants do not qualify as persons of

1 eligible income;

2 (20) To develop, acquire, own, lease, and operate
3 properties and facilities that are nonresidential in character
4 which are used (a) for the agency's office, administrative,
5 management, or maintenance purposes, (b) for educational,
6 governmental, or other public purposes by the agency or others, (c)
7 for commercial activities carried on by the agency pursuant to
8 subdivision (38) of this section, or (d) for commercial, business,
9 or other private purposes by others in combination with another use
10 by the agency permitted in this subdivision; and to acquire, own,
11 lease, and operate properties and facilities that are both
12 residential and nonresidential in character;

13 (21) To develop, acquire, own, or lease community
14 facilities and to provide such facilities to any public agency or
15 to any person, agency, institution, or organization, public or
16 private, for recreational, educational, health, or welfare purposes
17 for the benefit and use of the local housing agency, for occupants
18 of its dwelling accommodations, persons of eligible income, elderly
19 or handicapped persons, or for any combination of the persons
20 listed in this subdivision, and which facilities may also serve the
21 general public and the provision of such community facilities may
22 be with or without charge therefor as in the local housing agency's
23 discretion shall be deemed advisable to promote the public purposes
24 of the act; to operate or manage community facilities itself, or as
25 agent for any public agency, or for any person, institution, or
26 organization, public or private, and to receive compensation
27 therefor, if any, as the parties may agree;

28 (22) To carry out plans, programs, contracts, and

1 agreements of every kind and description and to provide grants,
2 loans, guarantees, and other financial assistance to public or
3 private persons or entities, whether nonprofit or for-profit, in
4 order to rehabilitate, maintain, procure, and preserve existing
5 affordable housing stocks in safe, decent, and sanitary condition
6 and to ensure that they remain affordable to persons of eligible
7 income; in connection therewith, to impose or agree to such terms
8 and conditions concerning the term of affordability and other
9 matters as the local housing agency shall deem appropriate;

10 (23) Subject to the limitations contained in sections 52
11 to 59 of this act, to establish and apply such criteria and
12 requirements relating to eligibility for any assistance
13 administered or provided by the agency as the agency shall from
14 time to time determine to be necessary, appropriate, or desirable,
15 including, without limitation, criteria and requirements relating
16 to income, work, or employment, child care, education, job
17 training, and personal or family self-sufficiency; in addition to
18 establishing eligibility, to utilize such criteria and requirements
19 for determining the amount and duration of any assistance to be
20 provided to a beneficiary of such assistance; to establish such
21 exclusions from income for purposes of determining eligibility as
22 the agency shall deem appropriate; and to adopt and administer
23 lawful preferences which may include preferences for working
24 persons and families;

25 (24) To mortgage, encumber, pledge, convey by trust deed
26 or deed to secure debt, assign, or otherwise grant or consent to a
27 lien or other security interest in, any real or personal property,
28 or any interest therein, owned or held by the agency or in which

1 the agency may hold an interest. Any and all such actions may be
2 taken to provide security for the repayment of borrowed funds, or
3 to secure any guarantee of such repayment or any other performance
4 by the agency, or to secure any payment, guarantee, or performance
5 of any controlled affiliate of the agency in furtherance of the
6 purposes of the act. Any such action shall be upon such terms and
7 conditions as the agency shall in its discretion from time to time
8 determine. The terms and conditions of any mortgage or other
9 instrument granting or consenting to a security interest in
10 property of a local housing agency may include any and all
11 provisions that are deemed necessary by the agency. Such terms and
12 conditions may, among other things, contain a power of sale or
13 right of foreclosure in the event of nonpayment or other default
14 thereunder. All actions taken by a local housing agency authorized
15 in this section shall be consistent with the requirements of
16 section 60 of this act and shall comply with the requirements of
17 section 59 of this act, where such requirements are applicable;

18 (25) Subject to the limitations contained in section 60
19 of this act:

20 (a) With respect to persons of eligible income as defined
21 in subdivision (23)(c) of section 4 of this act:

22 (i) To make loans, grants, or subsidy payments to such
23 persons;

24 (ii) To act as a lender, guarantor, borrower, fiduciary,
25 or partner in programs which provide financing to such persons;

26 (iii) To purchase loans made in connection with or
27 encumbering housing for such persons; and

28 (iv) To engage in mortgage rate buy-downs and other

1 actions of every kind and description to enhance the availability
2 of mortgage financing that is affordable to persons of eligible
3 income as defined in subdivision (23)(c) of section 4 of this act;

4 (b) To operate any program to provide mortgage or other
5 financing available for the production and operation or the
6 purchase of affordable housing through the use of federal or state
7 tax credits or other tax-related inducements;

8 (c) To make loans, including acquisition, development,
9 construction, and rehabilitation loans, long-term mortgage loans,
10 and guarantees, to or for the benefit of persons, firms,
11 partnerships, associations, joint ventures, or corporations, public
12 or private, whether nonprofit or for-profit, for purposes of
13 developing and constructing housing for persons of eligible income,
14 and for mixed-income housing developments;

15 (d) For the benefit of persons of eligible income as
16 defined in subdivision (23)(c) of section 4 of this act, to enter
17 into and perform contracts, agreements, and arrangements of every
18 kind and description with banks, thrift institutions, credit
19 unions, mortgage bankers and other lenders to enhance the supply
20 of:

21 (i) Mortgage financing affordable to such persons; and

22 (ii) Financing for the production of rental and
23 fee-ownership housing for occupancy for such persons;

24 (e) To enter into commitments relating to any action
25 authorized under this subdivision;

26 (f) To charge such fees and impose such repayment terms
27 and other terms and conditions concerning loans, mortgages,
28 guarantees, mortgage subsidies and other forms of loan and mortgage

1 assistance provided by the agency as the agency shall from time to
2 time determine to be necessary or appropriate; and

3 (g) To not lend its credit or otherwise act as a
4 guarantor or surety for the indebtedness or performance of any
5 other person or entity, other than its own controlled affiliates
6 and any other public body of this state, unless the housing agency
7 creates a special limited fund for such purpose as provided in
8 section 61 of this act;

9 (26) To forgive, compromise, or forebear from collecting
10 or enforcing, wholly, partially, temporarily, or permanently, any
11 debt or obligation owed to the local housing agency;

12 (27) To develop, acquire, own, hold, lease, rent, and
13 operate mixed-income developments, subject to the limitations
14 contained in section 54 of this act;

15 (28) To administer rental and relocation assistance
16 programs of every kind and description on its own behalf or for
17 others within its area of operation and, to the extent such agency
18 determines such administration to be feasible, in any area
19 elsewhere in this state (a) with respect to which a local housing
20 agency has not been established or (b) with the consent of any
21 local housing agency established to serve the area in which such
22 assistance would be administered. In connection with the
23 administration of such assistance, to make payments relating to
24 relocations and rent subsidy payments to persons of eligible income
25 or to others, including landlords, on behalf of persons of eligible
26 income. Rental assistance programs administered by a local housing
27 agency may be tenant-based, in which event the assistance is
28 provided to or for the benefit of the tenant, or such programs may

1 be development-based, in which event the assistance is connected to
2 particular real property;

3 (29) To purchase and maintain in force bonds and
4 insurance of such types and for such purposes as the agency deems
5 appropriate; to pay premiums and charges for all bonds and policies
6 of insurance purchased by the agency, which bonds and policies of
7 insurance benefiting or insuring the agency shall be in such
8 amounts, contain such terms and conditions, provide for such
9 deductibles, be in such form, and be issued by such companies as
10 the agency shall deem appropriate; and to self insure and to form
11 and participate in consortia, insurance pools, and other
12 organizations owned or operated by housing agencies for the purpose
13 of insuring such agencies, which consortia, pools, or organizations
14 may include units of government or public agencies other than
15 housing agencies. An agency may purchase and maintain insurance
16 covering the liability of any commissioner, officer, employee, or
17 agent of the agency arising in connection with the agency's
18 business or affairs;

19 (30) To indemnify any commissioner, officer, or employee
20 of the agency as provided in sections 77 and 78 of this act;

21 (31) To provide directly or to contract for, arrange, or
22 cooperate with any person or entity, public or private, including
23 any other public agency, and to utilize its property to provide
24 services or make financial or other contributions of every kind and
25 description to enhance the social and economic well-being of
26 residents of the agency's housing developments and other persons of
27 eligible income; to create and operate accounts for the benefit of
28 persons and families participating in activities and programs for

1 the enhancement of individual and family economic self-sufficiency;
2 and to award scholarships and to conduct or make provision for
3 educational and training programs of every kind and description.
4 Except as otherwise provided in the act, the agency may establish
5 and collect fees or seek reimbursement of costs in connection with
6 the delivery of programs and services;

7 (32) To borrow money or accept grants and other forms of
8 assistance, financial and otherwise, from the local, state, or
9 federal government in connection with any activity or program
10 furthering the purposes of the act; to take all actions necessary
11 to agree to and fully comply with all requirements and conditions
12 of any state or federal program, grant, loan, or program providing
13 services or assistance to the agency, its programs, its properties
14 and housing developments, and the residents of such housing
15 developments; and to perform all responsibilities and obligations
16 of the agency under any contract or agreement with state or federal
17 authorities and imposed by applicable state or federal law and
18 regulation with respect to such state or federal assistance.
19 Without limiting such provisions, a housing agency may:

20 (a) Take over, lease, or manage any development or
21 undertaking constructed or owned by the state, or any public agency
22 thereof, or the federal government;

23 (b) Participate in any plan or program of the state or
24 any public agency thereof, or the federal government, which
25 provides revenue that may be used for carrying out the purposes of
26 the act, including without limitation any program involving the
27 issuance of bonds, special fees or taxes, or tax credits;

28 (c) Operate and administer any program providing rental

1 assistance for itself or on behalf of others; and

2 (d) Comply with such conditions and enter into such
3 mortgages, trust indentures, leases, agreements, or arrangements as
4 may be necessary, convenient, or desirable for the purposes of this
5 subdivision.

6 It is the purpose and intent of the act to authorize
7 every housing agency to do all things necessary or desirable to
8 secure the financial aid or cooperation of the state and federal
9 governments and their public agencies in the development,
10 maintenance, operation, or disposition of any housing development
11 or other activity undertaken by such housing agency to carry out
12 the purposes of the act;

13 (33) To borrow money and accept grants and other forms of
14 assistance, financial and otherwise, from private persons or
15 entities in furtherance of the purposes of the act; except as
16 otherwise provided under the act, to agree to and comply with all
17 otherwise lawful requirements and conditions attached to the
18 provision of such assistance; to enter into contracts and
19 agreements of every kind and description with private persons and
20 entities, nonprofit or for-profit, to acquire, create, manage, or
21 operate housing developments including, without limitation,
22 mixed-income developments and housing developments benefiting
23 persons of eligible income as defined in subdivision (23)(c) of
24 section 4 of this act, to supply services to the residents of such
25 developments, and otherwise to engage in activities furthering the
26 purposes of the act; and to undertake and perform all
27 responsibilities and obligations of the agency under such
28 arrangements as the agency determines to be necessary or desirable

1 in connection therewith, if the same is not expressly prohibited by
2 the provisions of the act;

3 (34) To operate and manage housing developments owned or
4 controlled by other housing agencies or public agencies, or other
5 persons or entities, whether private or public and whether
6 nonprofit or for-profit, if the agency determines that such action
7 will further the purposes of the act; to permit and provide for the
8 operation or management of any development in which the agency
9 holds an interest by a person or entity other than the agency,
10 whether public or private and whether nonprofit or for-profit; to
11 administer any program of, or provide services or assistance on
12 behalf of, another housing agency or other public agency; to permit
13 and provide for the management or administration of any of the
14 agency's programs, assistance, or services by another housing
15 agency or other public agency, or by any other person or entity,
16 whether public or private and whether nonprofit or for-profit; and
17 to enter into and perform contracts and agreements relating to any
18 such management or administration upon such terms and conditions
19 and in exchange for such compensation, if any, as the agency deems
20 appropriate;

21 (35) To construct and operate facilities and programs and
22 to provide services of every kind and description, directly or by
23 contract or agreement with others, for the maintenance of safety
24 and security and the protection of persons and property at or near
25 the agency's developments; to make, impose, and enforce rules and
26 regulations for such purposes; to eject from such developments or
27 other agency property persons engaging in criminal activity and
28 other unauthorized persons; and to obtain injunctions, sanctions,

1 and other legal relief for the temporary or permanent exclusion of
2 such persons as authorized in sections 72 to 75 of this act;

3 (36) To assist in the formation and operation of resident
4 organizations, including resident councils, resident management
5 corporations, and other nonprofit entities controlled and operated
6 by residents of the agency's developments; to donate or loan money
7 to such resident organizations in such amounts and upon such terms
8 and conditions as the agency deems appropriate; to enter into and
9 perform contracts, agreements, and arrangements with resident
10 organizations for the management of housing developments and other
11 facilities and properties and for the administration of programs,
12 assistance, or services, and for other activities, all with respect
13 to such matters and upon such terms and conditions as the agency
14 may from time to time deem appropriate; and to enter into
15 partnerships, joint ventures, associations, or other arrangements
16 with resident organizations in furtherance of the purposes of the
17 act. Such activities may include the formation and operation of
18 business enterprises that provide employment and other benefits to
19 residents of the agency's housing developments and others as
20 elsewhere permitted under the act;

21 (37) To develop, acquire, own, renovate, lease, and
22 operate facilities specifically intended to house and otherwise
23 assist homeless persons, including, without limitation, shelters
24 and transitional housing; and to provide other assistance and
25 services to homeless persons. Such housing and other assistance
26 may be provided in such manner, upon such conditions, and for such
27 duration as the local housing agency shall deem appropriate;

28 (38) To engage in and carry on commercial activities of

1 every kind and description, including, without limitation, those
2 involving retail sales of goods or services, manufacturing, and
3 provision of child or elder care and other services within or
4 outside the local housing agency's developments, either by
5 themselves or in agreements with others. Any such commercial
6 activity must be intended, wholly or partly, to employ, be
7 patronized by, provide job training for, or otherwise benefit
8 residents of the agency's developments, other persons receiving
9 assistance from the agency, or other persons of eligible income.
10 For purposes of this subdivision, commercial activity does not
11 include the acquisition, ownership, leasing, or operation of real
12 property used by others for commercial purposes which shall be
13 governed by subdivision (20) of this section;

14 (39) By itself or in cooperation with others, including
15 participation in a group or groups, to form, administer, operate,
16 and purchase funds or plans, including, but not limited to, health
17 care, health insurance, retirement or pension, and other plans for
18 the benefit of employees of the local housing agency and their
19 families;

20 (40) To acquire real property through the exercise of the
21 power of eminent domain in accordance with Chapter 76, article 7.
22 Such power shall only be exercised by the public housing agency and
23 not any affiliate thereof. Public property may be so acquired only
24 with the consent of the public agency which owns such property. An
25 agency may acquire property through the exercise of the power of
26 eminent domain notwithstanding that, subsequent to such
27 acquisition, the agency may, if it determines such action to be in
28 furtherance of the purposes of the act, convey the property so

1 acquired, or any interest therein, to others, including private
2 nonprofit or for-profit entities;

3 (41) To expend public funds in any manner related to the
4 exercise of the powers granted to a housing agency under the act
5 and otherwise existing under other applicable law;

6 (42) To join and participate in organizations and
7 associations and to pay the costs, fees, and dues necessary to
8 initiate and maintain such memberships and to participate in the
9 activities of such organizations or associations;

10 (43) To grant, donate, or contribute funds, property, or
11 services to others and to enter into arrangements involving the
12 same in such manner and amount as the agency may deem appropriate
13 if the agency determines that such action will benefit residents or
14 other persons of eligible income or will otherwise further the
15 purposes of the act. A housing agency may not make any grant,
16 donation, or contribution to any candidate for political office,
17 any campaign committee or other organization advocating the
18 election of a political candidate, or any political action
19 committee or other organization whose principal activity involves
20 political action or advocacy;

21 (44) To take all actions necessary or desirable to
22 eliminate or ameliorate slums and conditions of blight within a
23 local housing agency's area of operation;

24 (45) To have and exercise any power not enumerated in the
25 act which a housing agency, including any housing authority,
26 possessed immediately prior to the enactment of the act; and

27 (46) To establish special or limited funds or reserves as
28 security for or to facilitate or implement any of the powers

1 specified in the act.

2 Sec. 44. (1) A housing agency may borrow money, incur
3 indebtedness, and issue bonds, notes, or other instruments from
4 time to time in its discretion upon such terms and conditions as it
5 shall deem necessary or desirable for any purpose permitted under
6 the Nebraska Housing Agency Act, including paying or retiring debt
7 previously incurred by it. This section, without reference to
8 other statutes of the state, shall constitute full and complete
9 authority for the authorization, issuance, delivery, and sale of
10 bonds, notes, or other instruments under the act, and such
11 authorization, issuance, delivery, and sale by the housing agency
12 shall not be subject to any conditions, restrictions, or
13 limitations imposed by any other law. For purposes of the act,
14 obligations of a housing agency shall include all bonds, notes, or
15 other instruments that are evidences of indebtedness. Such
16 obligations may also include, but not be limited to, borrowings in
17 anticipation of the receipt of proceeds from the sale of bonds,
18 notes, or other instruments.

19 (2) Neither the commissioners of a housing agency nor any
20 person executing the bonds shall be liable personally on any bonds,
21 notes, or other instruments by reason of the issuance thereof.

22 (3) The obligations of a housing agency, including any
23 bonds, notes, or other evidence of indebtedness, shall not be a
24 debt of the city, the county, the state, or any public agency
25 thereof, and the obligations shall so state on their face. Except
26 as the state, a city, a county, or any other public agency shall
27 otherwise expressly agree, and further except as the obligations of
28 a housing agency, duly authorized by such agreement, shall

1 specifically and directly otherwise provide, neither the state nor
2 any city, county, or public agency other than the housing agency
3 issuing the bonds shall be liable thereon, nor shall such bonds or
4 obligations be payable out of any funds or properties other than
5 those of such issuing housing agency pledged to the payment thereof
6 or any guarantor or insurer thereof.

7 (4) The obligations of a housing agency shall not
8 constitute an indebtedness within the meaning of any constitutional
9 or statutory debt limitation or restriction.

10 Sec. 45. (1) Obligations of a housing agency shall be
11 authorized by a resolution adopted by a vote of a majority of the
12 board of commissioners.

13 (2) The obligations of an agency, including bonds, notes,
14 and other evidences of indebtedness, may be issued in one or more
15 series and shall bear such dates, mature at such times, bear
16 interest at such fixed or variable rate or rates, be in such
17 denominations, be in such form, carry such conversion or
18 registration privileges, have such rank or priority, be executed in
19 such manner, be payable in such medium of payments and at such
20 places, and be subject to such terms of redemption, with or without
21 premium, as such resolution, its trust indenture, or mortgage may
22 provide.

23 (3) The obligations of an agency, including bonds, notes,
24 and other evidences of indebtedness, may be sold at public or
25 private negotiated sale, without any public advertisement, at par,
26 or at any discount or premium, as the resolution authorizing them
27 provides. A housing agency issuing obligations may enter into such
28 agreements and arrangements with third parties for the marketing of

1 its obligations as it shall deem appropriate.

2 Sec. 46. (1) In case any of the representatives of the
3 housing agency whose signatures appear on any obligations cease to
4 be commissioners, officers, or agents of the issuing agency before
5 the delivery of such obligations, the signatures shall nevertheless
6 be valid and sufficient for all purposes, the same as if the
7 representatives had remained in office until delivery. Any law to
8 the contrary notwithstanding, obligations issued pursuant to the
9 Nebraska Housing Agency Act are fully negotiable, unless otherwise
10 provided in the resolution authorizing the same.

11 (2) No suit, action, or proceeding involving the validity
12 or enforceability of any obligation of a housing agency may be
13 commenced after delivery of the obligation. In any suit, action,
14 or proceeding involving the validity or enforceability of any
15 obligation of a housing agency or the security therefor, any such
16 obligation reciting in substance that it has been issued by the
17 housing agency to aid in financing a development or activity
18 furthering the purposes of the act is conclusively deemed to have
19 been issued in accordance with the act, and any development
20 financed thereby and with respect to which such recitation is made
21 shall be conclusively deemed to have been planned, located, and
22 constructed in accordance with the act.

23 Sec. 47. In connection with the issuance of obligations
24 or the incurring of debt and in order to secure the payment of such
25 obligations or debt, a housing agency may:

26 (1) Pledge all or any part of its gross or net rents,
27 fees, or revenue to which its right then exists or thereafter comes
28 into existence;

1 (2) Mortgage its real or personal property, then owned or
2 thereafter acquired;

3 (3) Covenant and agree against pledging all or any part
4 of its returns, fees, and revenue, or against mortgaging all or any
5 part of its real or personal property to which its right or title
6 then exists or may thereafter come into existence, or against
7 permitting or suffering any lien on such revenue or property;

8 (4) Covenant and agree with respect to limitations on its
9 right to sell, lease, or otherwise dispose of any development or
10 any part thereof;

11 (5) Covenant and agree as to what other or additional
12 debts or obligations may be incurred by it;

13 (6) Covenant and agree as to the obligations to be issued
14 and as to the issuance of such obligations and as to the use and
15 disposition of the proceeds thereof;

16 (7) Provide for the replacement of lost, destroyed, or
17 mutilated obligations;

18 (8) Covenant and agree against extending the time for the
19 payment of its obligations or interest thereon;

20 (9) Redeem the obligations and covenant for their
21 redemption and provide the terms and conditions thereof;

22 (10) Covenant and agree, subject to the limitations of
23 the Nebraska Housing Agency Act, as to the rents and fees to be
24 charged in the operation of a development or developments, the
25 amount to be raised each year or other period of time by rents,
26 fees, and other revenue, and as to the use and disposition to be
27 made thereof;

28 (11) Create or authorize the creation of special funds

1 for money held for construction or operating costs, debt service,
2 reserves, or other purposes, and covenant as to the use and
3 disposition of the money held in such funds;

4 (12) Prescribe the procedure, if any, by which the terms
5 of any contract with holders of obligations may be amended or
6 abrogated, the minimum required amount of obligations that must be
7 held by holders consenting to an amendment or abrogation in order
8 to authorize the same, and the manner in which such consent may be
9 given;

10 (13) Covenant and agree as to the use, maintenance, and
11 replacement of its real and personal property, the insurance to be
12 carried thereon, and the use and disposition of insurance money;

13 (14) Covenant and agree as to the rights, liabilities,
14 powers, and duties arising upon the breach by it of any covenant,
15 condition, or obligation;

16 (15) Covenant, agree, and prescribe as to events of
17 default and terms and conditions upon which any or all of its
18 obligations become or may be declared due before maturity, and as
19 to the terms and conditions upon which such declaration and its
20 consequences may be waived;

21 (16) Vest in a trustee or trustees or the holders of
22 obligations or any proportion of them the right to enforce the
23 payment of the obligations or any covenants securing or relating to
24 the obligations;

25 (17) Vest in a trustee or trustees the right, in the
26 event of a default by the agency, to take possession and use,
27 operate, and manage any housing development or part thereof, to
28 collect the rents and revenue arising therefrom, and to dispose of

1 such money in accordance with the agreement of the housing agency
2 with the trustees;

3 (18) Provide for the powers and duties of a trustee or
4 trustees and to limit their liabilities;

5 (19) Provide the terms and conditions upon which the
6 trustee or trustees or the holders of obligations or any proportion
7 of them may enforce any covenant or rights securing or relating to
8 the obligations;

9 (20) Purchase letters of credit, bond insurance, or any
10 other credit enhancement device that would establish or increase
11 marketability of its obligations;

12 (21) Pay its obligations with income, revenue, or loan
13 repayments of the development financed with the proceeds of such
14 obligations, or with such proceeds together with a grant from the
15 federal government, the state, or any public agency thereof, in aid
16 of such development;

17 (22) Exercise all or any part or combination of the
18 powers granted in this section;

19 (23) Make covenants and agreements other than and in
20 addition to the covenants expressly authorized in this section, of
21 like or different character; and

22 (24) Make any covenants and agreements and do any acts
23 and things necessary or convenient or desirable in order to secure
24 its obligations, or, in the absolute discretion of the agency, to
25 assure the marketability of its obligations, although the
26 covenants, acts, or things are not enumerated in this section.

27 Sec. 48. An obligee of a housing agency, in addition to
28 all other rights conferred on the obligee, subject only to any

1 contractual restrictions binding upon the obligee, may:

2 (1) By mandamus or other action or proceeding for legal
3 or equitable remedies, compel the housing agency and its
4 representatives to perform each and every term, provision, and
5 covenant contained in any contract of the housing agency with or
6 for the benefit of such obligee, and require the carrying out of
7 all covenants and agreements of the housing agency and the
8 fulfillment of all duties imposed upon the housing agency by the
9 the Nebraska Housing Agency Act; and

10 (2) By action or proceeding, enjoin any acts or things
11 which may be unlawful or which violate any rights of the obligee.

12 Sec. 49. A housing agency, by its resolution, trust
13 indenture, mortgage, lease, or other contract, may in its
14 discretion elect to confer upon any obligee holding or representing
15 a specified amount in bonds or other instruments or holding a lease
16 such rights as the housing agency determines are necessary or
17 desirable in order to generate revenue or which it otherwise deems
18 to be in its best interests and in furtherance of its purposes.
19 Such rights, which shall be exercisable upon the happening of an
20 event of default as defined in such resolution or instrument, are
21 cumulative of all rights otherwise conferred and may, in the
22 agency's discretion, include any one or more of the following
23 rights, which shall be enforceable by suit, action, or proceeding
24 in any court of competent jurisdiction:

25 (1) The right to cause possession of any housing
26 development or any part thereof to be surrendered to an obligee;

27 (2) The right to obtain the appointment of a receiver for
28 any housing development or part thereof and of the rents and

1 profits therefrom. If a receiver is appointed, the receiver may
2 enter and take possession of the housing development or any part
3 thereof and operate and maintain it and collect and receive all
4 fees, rents, revenue, or other charges thereafter arising
5 therefrom, and shall keep such money in separate accounts and apply
6 them in accordance with the obligations of the housing agency as
7 the court directs; and

8 (3) The right to require the housing agency to account as
9 if it were the trustee of an express trust.

10 Sec. 50. The state and all public agencies therein, all
11 banks, bankers, trust companies, savings banks and institutions,
12 investment companies, insurance companies, insurance associations,
13 and other persons carrying on a banking or insurance business, and
14 all executors, administrators, guardians, trustees, and other
15 fiduciaries may legally invest any money or funds belonging to them
16 or within their control in any obligations issued by a housing
17 agency, and such obligations shall be authorized security for all
18 public deposits. It is the purpose of the Nebraska Housing Agency
19 Act to authorize any of such persons to use any funds owned or
20 controlled by them, including, but not limited to, sinking,
21 insurance, investment, retirement, compensation, pension, and trust
22 funds, and funds held on deposit for the purchase of any such
23 obligations. Nothing contained in the act shall be construed as
24 relieving any person, firm, or corporation from any duty or
25 exercising reasonable care in selecting securities. The provisions
26 of the act shall apply notwithstanding any restrictions on
27 investments contained in other laws.

28 Sec. 51. (1) All bonds, notes, certificates, and other

1 instruments evidencing indebtedness of a housing agency or any
2 controlled affiliate thereof are deemed to be issued for an
3 essential public and governmental purpose and shall be free of
4 taxation of any kind by this state and its public agencies, unless
5 the agency issuing such bonds, notes, certificates, or other
6 instruments shall elect that they be taxable. Any such election
7 shall apply only to the specific issue of bonds, notes,
8 certificates, or other instruments with respect to which such
9 election is expressly made.

10 (2) All bonds, notes, certificates, and other instruments
11 evidencing indebtedness or conveying equity participations issued
12 by a local housing agency or any controlled affiliate thereof are
13 deemed to be issued for an essential governmental purpose.

14 (3) A local housing agency may issue bonds, notes,
15 certificates, or other instruments evidencing indebtedness on
16 behalf of others to carry out any purpose authorized by the
17 Nebraska Housing Agency Act.

18 Sec. 52. The operation of housing developments and the
19 other activities permitted to be undertaken by a local housing
20 agency under the Nebraska Housing Agency Act, and all income, fees,
21 or revenue derived or generated therefrom and belonging to such
22 local housing agency, are for public uses and purposes, are not
23 used or held for profit, and are governmental functions of state
24 concern. No income, fees, or revenue received by a local housing
25 agency, from whatever source, shall be used as a source of revenue
26 for any city or county establishing the local housing agency or for
27 any other public agency, nor shall any net income, fees, or net
28 revenue be considered profit, but all of the same shall be utilized

1 in the furtherance of the maintenance and enhancement of an
2 adequate supply of decent, safe, and sanitary housing that is
3 affordable to persons of eligible income and for other purposes
4 contemplated by the act.

5 Sec. 53. A local housing agency shall conduct its
6 affairs in accordance with sound financial and business practices,
7 taking into account the nature of its activities and intended
8 purpose. The agency shall operate its housing developments in a
9 manner calculated to enable the agency to fix rentals for dwelling
10 accommodations for persons of eligible income at low rates
11 consistent with its acting in a fiscally responsible manner and
12 providing affordable, decent, safe, and sanitary dwelling
13 accommodations for such persons. In this regard, a local housing
14 agency may, in connection with establishing rents charged to
15 persons of eligible income, take into account the sums necessary:

- 16 (1) To pay when due all indebtedness of the agency;
- 17 (2) To pay all administrative and other costs of
18 operating the agency's developments and programs of assistance;
- 19 (3) To pay the administrative and other costs of the
20 maintenance, rehabilitation, renovation, repair, and replacement of
21 the agency's developments and other property;
- 22 (4) To otherwise carry out its purposes under the
23 Nebraska Housing Agency Act, including acquiring or creating
24 additional housing developments and acquiring or improving property
25 for other purposes authorized under the act, including community
26 facilities, commercial facilities, mixed-income and mixed-use
27 developments, and all other facilities and developments authorized
28 under the act;

1 (5) To pay the costs of insurance, including the costs of
2 claims, liabilities, losses, and other expenses incurred in
3 connection with any self-insurance program;

4 (6) To provide funds for all required payments in lieu of
5 taxes;

6 (7) To make all payments required under and otherwise
7 fully perform the agency's obligations under any contract,
8 agreement, or arrangement entered into by the agency, including
9 without limitation those required in connection with any
10 partnership or joint venture entered into by the agency;

11 (8) To perform the terms of any commitment or guarantee
12 issued or given by the agency;

13 (9) To provide a reasonable return on the value of the
14 property so as to enable the housing agency to continue to fulfill
15 its duties, including, but not limited to, the acquisition of
16 additional housing developments, land acquisition, and the
17 acquisition or construction of buildings, equipment, facilities, or
18 other real or personal property for public purposes, including
19 parks or other recreational, educational, welfare, or community
20 facilities within its area of operation;

21 (10) To accommodate economic factors which affect the
22 financial stability and solvency of the agency's developments and
23 programs;

24 (11) To pay the cost of actions occasioned by natural
25 disasters and other emergencies; and

26 (12) To create and maintain operating and capital
27 reserves that are reasonable and adequate to ensure the agency's
28 ability to make all payments referred to in this section and any

1 other matter with respect to which the agency, in its discretion
2 reasonably exercised, determines that the creation and maintenance
3 of a reserve is appropriate. Nothing in this section shall be
4 construed to limit the amount which a housing agency may charge for
5 nondwelling facilities or for dwelling facilities that are not
6 rented to persons of eligible income.

7 Sec. 54. (1) With respect to any mixed-income
8 development that is solely financed or owned by a local housing
9 agency, not more than sixty percent of the dwelling units in such
10 development may be occupied by persons who are not persons of
11 eligible income as long as the agency has made a determination that
12 such housing is an appropriate component for providing safe and
13 sanitary housing for persons of eligible income.

14 (2) With respect to any mixed-income development that is
15 not solely owned or financed by a local housing agency, the
16 proportion of the development that is intended to be affordable to
17 persons of eligible income shall be equal to or greater than the
18 proportion of financial resources for the development which are
19 provided by the local housing agency. The proportion shall be
20 determined in accordance with such reasonable method as shall be
21 adopted by the agency. The proportion may be based upon a
22 proportion of dwelling units, bedrooms, square footage, or any
23 other criteria deemed reasonable and appropriate by the local
24 housing agency. The determination of such proportion shall take
25 into account any special benefits accruing to an agency by virtue
26 of its status as such, including, among other things: (a) The
27 capital value of all subsidies and other assistance provided by the
28 agency or by other public sources on behalf of the agency, (b) tax

1 exemptions available because of the agency's participation, and (c)
2 interest savings attributable to tax exempt financing or to below
3 market interest rates that are available because of the
4 participation of the local housing agency or the presence in the
5 development of dwelling units to be occupied by persons of eligible
6 income.

7 (3) A local housing agency may determine the period
8 during which any unit shall be designated for occupancy only by
9 persons of eligible income. Dwelling units in a mixed-income
10 development that are designated for occupancy by persons of
11 eligible income need not be particular units that are permanently
12 so designated, and the physical location of the units so designated
13 may change from time to time.

14 Sec. 55. All income, surplus, and payments received by a
15 local housing agency, or to which such agency shall become
16 entitled, shall be used for carrying out the purposes of the
17 Nebraska Housing Agency Act.

18 Sec. 56. A local housing agency shall not apply its
19 policies, rules, procedures, criteria, requirements, and exclusions
20 with respect to eligibility of applicants, granting assistance, or
21 enforcing standards relating to occupancy or continuance of
22 assistance in an arbitrary or capricious manner.

23 Sec. 57. Nothing contained in the Nebraska Housing
24 Agency Act shall create, expressly or by implication, any right,
25 claim, or cause of action in favor of anyone in connection with any
26 failure of a housing agency to exercise any one or more of its
27 discretionary powers.

28 Sec. 58. Noncontrolled affiliates of housing agencies

1 shall not, by virtue of their affiliation with such local housing
2 agencies, become subject to the laws of this state applicable to
3 public agencies and their governing bodies, including, but not
4 limited to, laws pertaining to public disclosure of records, open
5 meetings, minimum wage rates applicable to government contracts and
6 employees, procurements of goods and services, and laws relating to
7 public employees.

8 Sec. 59. No guaranty, other recourse obligation,
9 mortgage, or security instrument, or other recourse instrument
10 given or entered into by a housing agency in connection with
11 financing the acquisition, creation, modernization, rehabilitation,
12 or replacement of a development which exposes to foreclosure, loss,
13 or levy any property of the housing agency other than the
14 development being acquired, created, modernized, rehabilitated, or
15 replaced with the proceeds of such financing, shall be given or
16 entered into unless the agency's board of commissioners has
17 specifically approved such action by resolution which finds that
18 such action:

19 (1) Is necessary and essential to acquiring the financing
20 with respect to which such recourse instrument is given or entered
21 into;

22 (2) Will not unreasonably expose to loss or foreclosure
23 property of the agency other than the development for which such
24 financing will be used;

25 (3) Is prudent and sound as required under section 60 of
26 this act; and

27 (4) Is commercially reasonable, taking into account the
28 characteristics of the transaction in which such recourse

1 instrument would be given and its relative benefits and potential
2 costs to the agency.

3 Sec. 60. Local housing agencies shall conduct their
4 financial affairs in a prudent and sound manner.

5 Sec. 61. Neither the housing agency nor any controlled
6 affiliate shall lend its credit to or guarantee or be a surety for
7 the indebtedness or performance of any noncontrolled affiliate or
8 third party, or any other individual or entity other than another
9 public agency of the state, except as provided in this section.
10 The housing agency or any controlled affiliate may establish a
11 special limited fund which shall be segregated from all other
12 funds, assets, and properties of the housing agency or any
13 controlled affiliate and shall be deposited separately from all
14 other deposits of the housing agency or any controlled affiliate.
15 The special limited fund may be funded only from the rents and
16 revenue of the housing agency, or any controlled affiliate, or from
17 contributions, grants, or donations from other public or private
18 sources which have been designated for such purpose. Any loan of
19 credit, guarantee, or suretyship to any individual or entity other
20 than other public body of this state shall be limited to the amount
21 of the special limited fund, and neither the general credit nor any
22 other asset or property of the housing agency, any controlled
23 affiliate, the state, or any other public agency of the state shall
24 be liable whatsoever for any such loan of credit, guarantee, or
25 suretyship. Any such loan of credit, guarantee, or suretyship
26 shall only be used for the purposes of expanding the availability
27 of affordable housing to persons of eligible income in accordance
28 with the provisions of the Nebraska Housing Agency Act. No such

1 loan of credit, guarantee, or suretyship shall be valid unless in
2 writing, which writing shall state on its face the limitations
3 contained in this section, including the nonliability of the state
4 and all other public agencies, and the loan of credit, guarantee,
5 or suretyship shall be also subject to such other rules and
6 regulations as the housing agency shall prescribe.

7 Sec. 62. Except as otherwise provided in the Nebraska
8 Housing Agency Act with respect to mixed-income developments or
9 except as otherwise permitted by law, dwelling units in a local
10 housing agency's developments shall be rented only to households
11 consisting of persons of eligible income at the time of their
12 initial occupancy of such units. Notwithstanding any other
13 provision of law, a local housing agency may allow police officers
14 and maintenance and management employees not otherwise eligible for
15 residence to reside in dwelling units in a local housing agency's
16 developments.

17 Sec. 63. Each housing agency shall adopt and promulgate
18 policies establishing a plan for selection of applicants. The plan
19 shall include standards for eligibility, procedures for prompt
20 notification of eligibility or disqualification, and procedures for
21 maintaining a waiting list of eligible applicants for whom
22 vacancies are not immediately available. Eligible applicants shall
23 be offered available vacancies as provided in such policies. Such
24 policies and plans may, but shall not be required to, include the
25 following:

26 (1) A local housing agency may deny a lease, right of
27 occupancy, or any other assistance to any person, including the
28 family or household of such person, if it determines that such

1 person or any member of such person's household: (a) Has committed
2 any fraud or made any misrepresentation or omission deemed material
3 by the local housing agency in connection with any application for
4 assistance, (b) has committed any fraud or made any
5 misrepresentation or omission deemed material by the local housing
6 agency in connection with any previous application for any public
7 assistance or in connection with any determination or
8 redetermination of eligibility, (c) possesses a personal history
9 which exhibits violent, disruptive, antisocial, or criminal
10 behavior, with or without criminal convictions, which, in the
11 determination of the agency, renders such person unsuitable for
12 occupancy or receipt of assistance, or (d) because of a history of
13 poor credit or housekeeping or other deficient behavior, is
14 otherwise likely to fail in meeting all lease terms, agency rules
15 and regulations, or other requirements of occupancy or of the
16 agency's program of assistance;

17 (2) Preferences to give priority to persons displaced by
18 public or private action, to families of veterans and servicemen
19 and servicewomen, to families whose members are gainfully employed,
20 to citizens of the United States or the state, to disabled persons
21 or elderly persons, and such other preferences, as well as
22 priorities within each preference category, as the local housing
23 agency deems appropriate;

24 (3) Occupancy standards that provide for offering
25 available units only to families of appropriate size and such other
26 standards relating to occupancy and tenant conduct as the local
27 housing agency deems appropriate; and

28 (4) Without limiting subdivisions (1) through (3) of this

1 section, the local housing agency may further limit the offering of
2 available units to families of appropriate qualifications in order
3 to comply with state or federal law or regulations or contractual
4 agreements with governmental agencies pursuant to such law or
5 regulations.

6 Nothing contained in this section shall prevent a housing
7 agency from suspending processing of applications of persons of
8 eligible income unlikely to be offered units within a reasonable
9 time after initial application as determined by the agency or from
10 requiring annual renewal of applications.

11 Sec. 64. Nothing contained in the Nebraska Housing
12 Agency Act shall limit the ability of any local housing agency to
13 establish and apply different criteria or requirements with respect
14 to admissions and occupancy, to utilize different methods of
15 establishing and charging rents, or to impose different occupancy
16 standards (1) for different developments or portions thereof or (2)
17 with respect to recipients of assistance in any program designed or
18 intended to differentiate between individual recipients on the
19 basis of their circumstances, actions, or characteristics.

20 Sec. 65. Households who are already in occupancy or are
21 receiving assistance but who become ineligible for occupancy or
22 other assistance by reason of income may continue their occupancy
23 or receipt of other assistance at the discretion of the local
24 housing agency for such period, upon such terms and conditions,
25 and, in the case of continued occupancy, in exchange for such rent,
26 but not less than any applicable minimum rent, as the agency shall
27 determine to be appropriate.

28 Sec. 66. The local housing agency may require that each

1 household occupying a dwelling unit enter into a lease containing
2 such terms and conditions and for such duration as the agency
3 reasonably deems appropriate. No tenant or lessee of, or recipient
4 of assistance from, a local housing agency shall have any right to
5 the renewal of any lease, tenancy, right of occupancy, or
6 assistance, except as expressly agreed by the agency. All members
7 of the household who are permitted to reside in a dwelling unit
8 must be identified in any lease of a dwelling.

9 Sec. 67. In the event of a change in the composition of
10 a tenant household, the local housing agency shall have the
11 authority to determine which member or members of the household are
12 entitled to continued occupancy for the unexpired lease term or
13 periodic tenancy. A local housing agency may adopt such rules and
14 procedures governing such determinations as it deems appropriate.

15 Sec. 68. Except as provided in the Nebraska Housing
16 Agency Act, the landlord-tenant relationship, and the termination
17 thereof, is governed by state law applicable to privately owned,
18 residential property. Without limiting such provision, a local
19 housing agency may terminate the tenancy of a household or a
20 resident or terminate any other assistance provided by such agency
21 for:

22 (1) Any unlawful drug-related activity or other criminal
23 activity on the part of a recipient or head of household or any
24 member of the household, including any child who is a member
25 thereof, wherever the activity occurs, or on the part of any guest
26 or invitee of a member of the household on the premises,
27 notwithstanding that the head of household, or any other member of
28 the household, (a) was unaware of the misconduct constituting the

1 ground for termination of tenancy, (b) did not approve or
2 participate in such misconduct, or (c) was not personally at fault
3 in connection with such misconduct;

4 (2) The commission of any fraud or any misrepresentation
5 or omission on the part of any recipient of assistance or member of
6 a resident household in connection with any application for
7 assistance or any determination or redetermination of eligibility
8 therefor, or in connection with any investigation or determination
9 of the local housing agency regarding compliance by the household
10 with the terms of any lease or the agency's rules and regulations;
11 or

12 (3) Any other violation of one or more provisions of any
13 lease or agreement with the local housing agency to which a
14 recipient of assistance or a resident is a party or any of the
15 agency's rules or regulations duly promulgated.

16 Criminal conviction shall not be a requirement or
17 prerequisite to any termination of lease, tenancy, or other
18 assistance that is based upon criminal misconduct, nor shall any
19 standard of proof greater than a preponderance of the evidence be
20 applicable in any proceeding involving such termination of lease,
21 tenancy, or other assistance.

22 Sec. 69. (1) A housing agency may adopt and promulgate
23 rules and regulations consistent with federal and state laws,
24 rules, and regulations and the purposes of the Nebraska Housing
25 Agency Act concerning the termination of tenancy. Any resident so
26 terminated shall be sent a written notice of termination setting
27 out the reasons for such termination, and any resident served with
28 a notice shall be given the opportunity to contest the termination

1 in an appropriate hearing by the housing agency if required by
2 federal law. A resident may contest the termination in any suit
3 filed by the housing agency in any court for recovery of possession
4 of the premises.

5 (2) Such notice may provide that if the resident fails to
6 (a) pay his or her rent or comply with any covenant or condition of
7 his or her lease or the rules and regulations of such housing
8 agency, (b) cure a violation or default thereof as specified in
9 such notice, or (c) follow the procedure for a hearing as set forth
10 in the notice, all within the time or times set forth in such
11 notice, the tenancy shall then be automatically terminated and no
12 other notice or notices need be given of such termination or the
13 intent to terminate the tenancy, and upon such termination, and
14 without any notice other than as provided for in this section, a
15 housing agency may file suit against any resident for recovery of
16 possession of the premises and may recover the same as provided by
17 law.

18 (3) A housing agency may, after three days' written
19 notice of termination and without a hearing, file suit and have
20 judgment against any resident for recovery of possession of the
21 premises if the resident, any member of the resident's household,
22 any guest, or any other person who is under the resident's control
23 or who is present upon the premises with the resident's consent,
24 engages in any drug-related or violent criminal activity on or off
25 the premises, or engages in any activity that threatens the health,
26 safety, or peaceful enjoyment of other residents or housing agency
27 employees, notwithstanding that the resident head of household had
28 no knowledge of, did not approve of or participate in, or was not

1 otherwise personally at fault with respect to such activity. Such
2 activity shall include, but not be limited to, any of the following
3 activities of the resident wherever such activities shall occur, or
4 the activities of any other person on the premises with the consent
5 of the resident: (a) Physical assault or the threat of physical
6 assault, (b) illegal use of a firearm or other weapon or the threat
7 to use an illegal firearm or other weapon, or (c) possession of a
8 controlled substance by the resident or any other person on the
9 premises with the consent of the resident if the resident knew or
10 should have known of the possession by such other person of a
11 controlled substance, unless such controlled substance was obtained
12 directly from or pursuant to a valid prescription or order by a
13 practitioner as defined in subdivision (20) of section 28-401 while
14 acting in the course of his or her professional practice. A
15 resident head of household shall be presumed to possess knowledge
16 of possession of an illegal controlled substance by any other
17 person on the premises unless such resident establishes, by a
18 preponderance of evidence, circumstances proving the absence of
19 such knowledge.

20 Sec. 70. A housing agency may adopt and promulgate rules
21 and regulations consistent with the purposes of the Nebraska
22 Housing Agency Act concerning personal property of residents and
23 other persons located in a development of the agency, and if such
24 personal property is not removed from a dwelling unit at the time
25 of the termination of the lease, at the time of vacation or
26 abandonment of the dwelling unit, or at the time of the death of
27 any resident, an agency may remove the same and store such property
28 at the resident's risk and expense. In the event that possession

1 of such personal property is not taken by the resident or other
2 person authorized by law to take possession within forty-five days
3 after such termination, vacation, or abandonment, and any storage
4 removal charges remain unpaid, then the housing agency may, at its
5 option, dispose of the personal property in any manner which the
6 authority deems fit. No resident or other person shall have any
7 cause of action against the housing agency for such removal or
8 disposition of such personal property.

9 Sec. 71. (1) A local housing agency may require, as a
10 condition to granting or continuing any assistance, that residents
11 and other recipients of such assistance participate in activities
12 for community and neighborhood betterment. Such conditions of
13 assistance may require the performance of work in and around the
14 agency's developments for the maintenance or improvement thereof,
15 the performance of services to benefit residents or others, or work
16 performed elsewhere in the community. Such requirements may vary
17 among individual residents or other recipients of assistance.

18 (2) In establishing conditions of assistance and
19 determining the requirements applicable to individual recipients
20 thereof, local housing agencies shall take into account such
21 individual circumstances as the agency deems appropriate in order
22 to assure that, in the agency's judgment, the requirements are
23 reasonably applied. Individual circumstances so taken into account
24 may include, without limitation, age, disability, and employment
25 status.

26 (3) A local housing agency may require, as a prerequisite
27 to granting assistance, including any lease or right of occupancy
28 of a dwelling unit, that the resident or recipient enter into a

1 tenant participation plan or other similar agreement which sets
2 forth the conditions of assistance and provides for the
3 discontinuance of tenancy or other assistance in the event of the
4 failure of the resident or recipient to satisfy such conditions.

5 Sec. 72. In order to protect the safety and security of
6 its property and to protect the right of its residents and other
7 tenants to the quiet enjoyment of their property and the safety and
8 security of their persons and property, a local housing agency may,
9 in addition to any other power or authority contained in
10 subdivision (35) of section 43 of this act or other provision of
11 the Nebraska Housing Agency Act, limit access to any development or
12 other agency property by persons who are not residents, their
13 permitted invitees, employees of the local housing agency or its
14 invitees, law enforcement officers, or other persons conducting
15 official business.

16 Sec. 73. A local housing agency may establish and
17 implement such rules, procedures, and systems as it deems
18 appropriate for the identification of persons and vehicles present
19 on its developments or other property. Such rules, procedures, and
20 systems may include, but shall not be limited to, requirements for
21 personal identification cards, guest registration and
22 identification, registration of vehicles, restricted pedestrian and
23 vehicular access, and other measures for verification that persons
24 present upon the agency's developments or property are entitled to
25 be so present.

26 Sec. 74. Persons who are present on the developments or
27 other property of a local housing agency and who are not residents,
28 their invitees, employees of the local housing agency or its

1 invitees, law enforcement officers, or others conducting official
2 business may be excluded from such premises by the local housing
3 agency, and, if such persons refuse to leave after first being
4 requested to do so, such persons shall be considered trespassers
5 who shall be subject to immediate removal, civil suit, and criminal
6 prosecution. Additionally, and without limiting the provisions of
7 this section, the local housing agency may obtain injunctions for
8 the temporary or permanent exclusion of such persons from agency
9 property.

10 Sec. 75. Notwithstanding any other provision of the
11 Nebraska Housing Agency Act to the contrary, the provisions of
12 sections 72 to 75 of this act shall be cumulative of any other laws
13 of this state relating to civil or criminal trespass, unauthorized
14 entry upon property, or the exclusion or rejection of unauthorized
15 persons from public or private property, all of which laws shall,
16 in addition to the provisions of sections 72 to 75 of this act,
17 remain applicable to local housing agencies and their developments
18 and property. A local housing agency may elect to exercise its
19 rights under this section without waiver of its rights or remedies
20 under any other applicable provision of law.

21 Sec. 76. (1) Within a reasonable time after the end of
22 each fiscal year, each local housing agency shall prepare a report
23 generally describing such agency's activities for the year then
24 ended. The report shall contain financial statements fairly
25 depicting the financial condition of the agency, its assets and
26 liabilities, including contingent liabilities, and the results of
27 its operations for the year then ended. The report shall be
28 approved by the local agency's board of commissioners and signed by

1 its chairperson.

2 (2) The annual report of a local housing agency shall be
3 a public record that is available for inspection and copying by
4 members of the general public at the offices of the local housing
5 agency. A local housing agency shall also file its annual report
6 with the city or county clerk promptly upon completion thereof.
7 Regional housing agencies shall file annual reports with the
8 appropriate officials of all participating political subdivisions.

9 (3) Any representative of a local housing agency who
10 knowingly approves, signs, or files an annual report of an agency
11 which is materially false or misleading shall be guilty of
12 misconduct in office.

13 (4) The financial statements contained in annual reports
14 of local housing agencies with gross revenue of two hundred fifty
15 thousand dollars or more shall be audited annually. The financial
16 statements of agencies with gross revenue of less than two hundred
17 fifty thousand dollars shall be audited at least biennially.

18 Sec. 77. No representative of a local housing agency
19 shall personally be civilly or criminally liable with respect to
20 any matter or act not directly committed or authorized by such
21 person and for any action, including a direct action or
22 authorization, taken in good faith:

23 (1) Pursuant to any rule, procedure, or system
24 implemented by an agency to deny access to the agency's
25 developments or property by unauthorized persons, including, but
26 not limited to, any action to identify any person or to verify such
27 person's authority to be present upon agency property, or to
28 exclude or eject any person determined in good faith to be an

1 unauthorized person; or

2 (2) With respect to disclosure or nondisclosure of
3 information under sections 80 to 82 of this act or any other law
4 pertaining to the confidentiality or disclosure of information or
5 records.

6 Sec. 78. If any legal action is brought against any
7 representative of any housing agency, whether such person is a
8 volunteer or partly paid or fully paid, based upon the negligent
9 error or omission of such person while in the performance of his or
10 her lawful duties, the housing agency shall defend him or her
11 against such action, and if final judgment is rendered against such
12 person, the housing agency shall pay the judgment in his or her
13 behalf and shall have no right to restitution from such person. A
14 housing agency shall have the right to purchase insurance to
15 indemnify itself in advance against the possibility of such loss
16 under this section, and the insurance company shall have no right
17 of subrogation against the person. This section shall not be
18 construed to permit a housing agency to pay a judgment obtained
19 against the person as a result of illegal acts committed by such
20 person.

21 Sec. 79. (1) Except as otherwise provided in this
22 section, all developments are subject to the planning, zoning,
23 sanitary, and building laws applicable to the locality in which the
24 development is located.

25 (2) In order to facilitate development, redevelopment,
26 and other activities in furtherance of the purposes of the Nebraska
27 Housing Agency Act by local housing agencies and their affiliates,
28 a city or county may grant exceptions to the requirements of (a)

1 zoning ordinances and other laws, resolutions, ordinances, and
2 regulations regulating the use, development, and improvement of
3 land or buildings, (b) laws, resolutions, ordinances, and
4 regulations pertaining to historic buildings and structures, and
5 (c) redevelopment plans, comprehensive plans, and other plans
6 governing city or county land use. Any such exceptions shall not
7 compromise essential health and safety standards. The provisions
8 of this section shall be cumulative of, and not in limitation of,
9 any existing laws, resolutions, ordinances, and regulations that
10 permit variances, special exceptions, and other relief from
11 applicable requirements relating to development and improvement of
12 real property.

13 (3) With respect to matters relating to the purposes of
14 the act, each city or county or regional planning body of the state
15 may, in its planning processes, take into account the
16 recommendations of local housing agencies formed by such city or
17 county, or by the cities and counties affected by the actions of
18 such regional planning body.

19 Sec. 80. Notwithstanding the provision of any other law
20 with respect to the availability of public records for inspection,
21 the following records of a housing agency are exempt from
22 disclosure:

23 (1) All records in the individual file of a resident,
24 former resident, or applicant for public housing;

25 (2) All records in the individual file of a resident,
26 former resident, or applicant for public housing in the possession
27 of any landlord or individual providing a dwelling that is in any
28 manner administered by a housing agency;

1 (3) All lists that identify residents, former residents,
2 and applicants, except that statistical compilations are not exempt
3 unless, by identification of location, family size, employment, or
4 similar information, a resident, former resident, or applicant may
5 be identified;

6 (4) The addresses of any dwellings that are assisted,
7 either directly by the action of the housing agency or as a result
8 of the resident's selection, except that statistical compilations
9 are not exempt unless some or all of them may be specifically
10 identified by address as a result of such compilation;

11 (5) The home address or personal telephone number of any
12 resident, former resident, or applicant;

13 (6) Communications within a housing agency or between a
14 housing agency and other public agencies of an advisory nature to
15 the extent that they cover other than purely factual materials and
16 are preliminary to any final agency determination of policy or
17 action;

18 (7) Any information in the possession of the agency
19 concerning the criminal history or other background information
20 pertaining to any tenant or applicant for assistance;

21 (8) Information submitted to a housing agency in
22 confidence and not otherwise required by law to be submitted, if
23 such information should reasonably be considered confidential, and
24 the housing agency has obligated itself in good faith not to
25 disclose the information; and

26 (9) Any other material or information that is otherwise
27 exempt from disclosure under applicable law.

28 Sec. 81. A housing agency may provide any of the records

1 described in section 80 of this act to:

2 (1) Any recipient to whom disclosure is authorized
3 pursuant to consent by all adult individuals identified in the
4 record which is to be so disclosed;

5 (2) Such parties as the housing agency deems necessary
6 when the agency determines that the disclosure is essential to the
7 preservation of life, health, or safety;

8 (3) Anyone as required by a court order;

9 (4) A law enforcement agency without order of court, to
10 the extent the agency deems such disclosure to be appropriate and
11 in the public interest;

12 (5) A landlord or prospective landlord for purposes of
13 enabling the landlord to determine an applicant's suitability for
14 initial tenancy or to determine the suitability for continued
15 tenancy of a person receiving assistance from the agency who is
16 already in occupancy;

17 (6) Any applicant, tenant, or recipient of assistance to
18 whom such information relates, or to such person's designee or
19 legal representative; or

20 (7) Any city, county, state, or federal public agency as
21 required by law or agreement.

22 Sec. 82. Any applicant or recipient of assistance from a
23 housing agency may examine his or her individual file or files at
24 reasonable times and intervals, except that a local housing agency
25 shall have no obligation to disclose to any resident or recipient
26 of assistance any information pertaining to any investigation or
27 confidential law enforcement activity relating to possible criminal
28 misconduct on the part of such person.

1 Sec. 83. (1) For purposes of sections 83 to 91 of this
2 act:

3 (a) Housing agency official means any representative of a
4 housing agency or any director, officer, or employee of a resident
5 management corporation or other resident organization who exercises
6 authority or carries out responsibilities in connection with the
7 housing agency's developments or any local government official who
8 exercises authority or carries out responsibilities in connection
9 with the housing agency's developments, including any member of
10 such person's immediate family, any business entity or organization
11 in which such person holds an interest, and any business partner of
12 such person; and

13 (b) Immediate family includes spouses, children,
14 siblings, and parents and includes stepparents or stepchildren,
15 inlaws, and half sisters or half brothers.

16 Sec. 84. (1) Except as otherwise permitted under the
17 provisions of this section, no housing agency official shall own or
18 hold an interest in any contract or property or engage in any
19 business, transaction, or professional or personal activity that
20 would:

21 (a) Be or appear to be in conflict with such official's
22 duties relating to the housing agency served by or subject to the
23 authority of such official;

24 (b) Secure or appear to secure unwarranted privileges or
25 advantages for such official or others; or

26 (c) Prejudice or appear to prejudice such official's
27 independence of judgment in the exercise of his or her official
28 duties relating to the housing agency served by or subject to the

1 authority of such official.

2 (2) No housing agency official shall act in an official
3 capacity in any matter in which such official has a direct or
4 indirect financial or personal involvement. The ownership of less
5 than five percent of the outstanding shares of a corporation shall
6 not constitute an interest within the meaning of this section. No
7 housing agency official shall use his or her public office or
8 employment to secure financial gain to such official.

9 (3) Except as otherwise permitted by the provisions of
10 this section, a housing agency shall not, with respect to any
11 housing agency official, during his or her tenure or for a period
12 of one year thereafter, either:

13 (a) Award or agree to award any contract to such housing
14 agency official or other local government official;

15 (b) Purchase or agree to purchase any real property from
16 such housing agency official or other local government official, or
17 sell or agree to sell any real property to such housing agency
18 official or other local government official;

19 (c) Permit any housing agency official to represent,
20 appear, or negotiate on behalf of any other party before the
21 housing agency's board of commissioners or with its other officials
22 or employees;

23 (d) Employ any commissioner for compensation or
24 otherwise;

25 (e) Employ any local government official, or any member
26 of such official's immediate family, if such official's duties
27 involve the exercise of authority relating to the housing agency;
28 or

1 (f) Employ for compensation any member of the immediate
2 family of a housing agency official, if such employment creates the
3 relationship of direct supervisor or subordinate between family
4 members or otherwise creates a real or apparent conflict of
5 interest.

6 Sec. 85. If (1) a housing agency official becomes
7 involved in an activity or, through inheritance or other
8 involuntary cause or circumstance, acquires an interest that
9 violates any provision of this section or (2) a local government
10 official, after becoming employed by the agency, is requested to
11 act in an official capacity with respect to a matter affecting his
12 or her duties as an employee of the local housing agency, such
13 housing agency or local government official shall immediately and
14 fully disclose in writing to the housing agency's board of
15 commissioners the circumstances giving rise to the conflict of
16 interest. In the case of a local government official, such
17 disclosure shall also be made to the local government served by
18 such official. Upon receipt of any disclosure of actual or
19 potential conflict of interest, a housing agency shall promptly
20 cause such disclosure to be entered in the minutes of the housing
21 agency.

22 Sec. 86. A housing agency official shall recuse himself
23 or herself from any vote, decision, or other action and shall not
24 directly or indirectly participate in any action or proceeding
25 which involves an actual or potential conflict of interest as
26 described in sections 83 to 91 of this act, including, but not
27 limited to, any matter:

28 (1) With respect to which disclosure is required under

1 section 85 of this act;

2 (2) Involving assistance to, the employment of, or
3 otherwise relating to the personal status of a member of such
4 housing agency official's immediate family;

5 (3) In which the agency seeks to confer or bestow a
6 special privilege or benefit upon such housing agency official;

7 (4) Involving an action by the board of commissioners
8 concerning a waiver of any provision of sections 83 to 91 of this
9 act, which waiver would affect such housing agency official; or

10 (5) Involving any other action or circumstance prohibited
11 under sections 83 to 91 of this act or which otherwise gives rise
12 to a real or apparent conflict of interest.

13 Sec. 87. A housing agency official shall not solicit or
14 accept any gift, gratuity, favor, loan, contribution, service,
15 employment, promise of future employment, or any other thing of
16 value from any present or prospective employee of the housing
17 agency, any present or prospective contractor, subcontractor,
18 developer, broker, real estate agent, or any other person or
19 organization in connection with the programs, benefits, or business
20 of the housing agency. This section shall not prohibit the
21 acceptance of gifts from relatives or gifts of nominal value which
22 are not given with the intent to influence a housing agency
23 official in the conduct of his or her official duties. Housing
24 agencies may establish standards for determining whether or not a
25 gift is of nominal value.

26 Sec. 88. No housing agency official shall use any
27 information not generally available to the public which he or she
28 acquires in the course of his or her public service for the purpose

1 of securing financial gain for such official or others.

2 Sec. 89. Material violation of any provision of sections
3 83 to 91 of this act by a housing agency official shall, unless as
4 otherwise provided in section 91 of this act, constitute misconduct
5 in office.

6 Sec. 90. A local housing agency may adopt rules
7 implementing sections 83 to 91 of this act. Such rules may include
8 the provision for such disciplinary actions in the event of
9 violation of sections 83 to 91 of this act as the housing agency's
10 board of commissioners may deem appropriate.

11 Sec. 91. Nothing contained in sections 83 to 91 of this
12 act shall prohibit a housing agency of a city of the second class
13 or of a village from purchasing or otherwise acquiring any goods or
14 services from a provider of such goods or services owned in whole
15 or in part by a housing agency official, if (a) the provider is the
16 sole source for the goods or services within the area of operation
17 of the housing agency, (b) the cost of the goods or services does
18 not exceed five hundred dollars in any one instance, and (c) the
19 provider has not received more than two thousand five hundred
20 dollars from the housing agency in any one calendar year.

21 (2) Nothing contained in this section shall prohibit a
22 housing agency from entering into and performing contracts,
23 agreements, and arrangements with any nonprofit entity or any
24 affiliate, whether for-profit or nonprofit in character,
25 notwithstanding that some or all of the housing agency's
26 representatives or public officials or legislators who exercise
27 functions or responsibilities with respect to a housing agency's
28 developments also serve as directors or in other policymaking

1 positions in such nonprofit entity or affiliate. Such service by
2 housing agency representatives, public officials, or legislators is
3 expressly permitted under the Nebraska Housing Agency Act.

4 (3) The provisions of this section shall not apply to any
5 general depository agreement entered into with a bank or other
6 financial institution regulated by the federal government or to
7 utility service for which rates are fixed by a state or local
8 agency. The provisions of this section shall not apply to prohibit
9 any present or former tenant commissioner from acting upon housing
10 agency business affecting residents, unless such business directly
11 involves a resident organization with respect to which such
12 commissioner occupies a policymaking position or serves as a member
13 of the governing board.

14 (4) Nothing contained in this section shall prohibit
15 service as a commissioner by the chief elected official or any
16 member of the governing body of any city, county, or other public
17 agency which is served by a housing agency.

18 Sec. 92. Local housing agencies shall adopt policies,
19 rules, and procedures governing the procurement of goods or
20 services, the sale or disposition of agency property, and the
21 management of agency personnel. Such policies, rules, and
22 procedures shall apply to all controlled affiliates of a local
23 housing agency unless the agency, by resolution of its board of
24 commissioners, elects otherwise.

25 Sec. 93. In addition to the cooperative action by public
26 agencies through the formation and operation of regional housing
27 agencies authorized under sections 11 to 17 of this act, any power,
28 privilege, or authority exercised or capable of being exercised by

1 a local housing agency of this state may be exercised and enjoyed
2 jointly with any other housing agency or other public agency of
3 this state having such power, privilege, or authority and jointly
4 with any public agency of any other state or of the United States
5 to the extent that the laws of such other state or of the United
6 States permit such joint exercise or enjoyment.

7 Sec. 94. (1) Any two or more local housing agencies may
8 join or cooperate with one another in the exercise, either jointly
9 or otherwise, of any or all of their powers for the purpose of
10 financing, including the issuance of bonds, notes, or other
11 obligations, and giving security therefor, or for planning,
12 undertaking, owning, constructing, operating, or contracting with
13 respect to a housing development or developments located within the
14 area of operation of any one or more of the cooperating agencies.
15 For such purpose an agency may, by resolution, authorize any other
16 local housing agency or agencies so joining and cooperating with it
17 to act on its behalf with respect to any or all of its powers as
18 its agent or otherwise in the name of the agency or agency so
19 joining and cooperating or in its own name. Any such cooperation
20 which involves fiscal matters, ownership of any real property, or
21 the assumption of the functions of one local housing agency by
22 another local housing agency shall be by written contract,
23 agreement, or arrangement entered into by such cooperating
24 agencies.

25 (2) Any local housing agency may, by resolution,
26 authorize another local housing agency to exercise its powers
27 within the authorizing agency's area of operation at the same time
28 that the authorizing agency is exercising the same powers.

1 (3) Any local housing agency may by agreement sell,
2 lease, or otherwise provide any other local housing agency with any
3 goods, supplies, materials, services, equipment, or property upon
4 such terms and for such compensation as the parties shall determine
5 and the same may be purchased, leased, or otherwise acquired
6 without advertisement, appraisal, or public bidding.

7 (4) Local housing agencies may form, join, and
8 participate in associations, cooperatives, or other entities for
9 the purpose of purchasing goods, supplies, materials, equipment,
10 and services, including, but not limited to, insurance, at prices
11 or rates that may not otherwise be available to individual local
12 housing agencies, and all such purchases and sales may be done
13 without advertisement, appraisal, or public bidding.

14 Sec. 95. For the purpose of aiding and cooperating with
15 local housing agencies in the planning, undertaking, construction,
16 or operation of developments providing decent, safe, and sanitary
17 housing that is affordable to persons of eligible income, and
18 otherwise to assist local housing agencies in carrying out any
19 other activities that are authorized under or in furtherance of the
20 purposes of the Nebraska Housing Agency Act, any public agency may,
21 with or without consideration:

22 (1) Dedicate, sell, convey, or lease any of its property
23 to a local housing agency;

24 (2) Cause parks, playgrounds, recreational, community,
25 educational, water, sewer, or drainage facilities, or any other
26 works which it is otherwise empowered to undertake to be furnished
27 adjacent to or in connection with housing developments;

28 (3) Furnish, dedicate, close, pave, install, grade,

1 regrade, plan, or replan streets, roads, roadways, alleys,
2 sidewalks, parking lots, or other places which it is otherwise
3 empowered to undertake;

4 (4) Plan, replan, zone, or rezone any property over which
5 it has such authority and make exemptions from building
6 regulations, standards, resolutions, and ordinances;

7 (5) Enter into contracts, agreements, or arrangements
8 which may extend over any period, notwithstanding any provision or
9 rule of law to the contrary, with a local housing agency or the
10 federal government respecting action to be taken by such public
11 agency pursuant to any of the powers granted by the act;

12 (6) Do any and all things necessary or convenient to aid
13 and cooperate in the planning, undertaking, construction, or
14 operation of such housing developments;

15 (7) Purchase or legally invest in any of the bonds,
16 notes, obligations, or other securities of a local housing agency
17 and exercise all of the rights of any holder of such bonds or other
18 instruments;

19 (8) In connection with any public improvements made by a
20 public agency in exercising the powers granted in this section,
21 incur the entire expense thereof. Any sale, conveyance, lease,
22 agreement, or arrangement provided for in this section may be made
23 by a public agency without appraisal, public notice, advertisement,
24 or public bidding;

25 (9) Make donations, grants, or loans to such local
26 housing agency as it shall deem necessary or desirable to promote
27 decent, safe, and sanitary housing that is affordable to persons of
28 eligible income, in this state;

1 (10) Enter into agreements with a local housing agency
2 for payments to it in lieu of taxes as authorized in subsection (3)
3 of section 20 this act;

4 (11) Agree or arrange that a local housing agency shall
5 manage, operate, administer, or assist in any of the activities
6 authorized in subdivisions (1) through (10) of this section, any
7 program of the public agency or for which the state public agency
8 receives funds, from either a federal or state governmental source,
9 or from any other source, whether public or private, for the
10 purpose of providing decent, safe, and sanitary housing affordable
11 to persons of eligible income, to provide shelter, with or without
12 other services, to homeless persons, to remove or rehabilitate
13 unsafe or unsound dwelling structures, or for carrying out any
14 other purpose of the act. Such agreements and arrangements may
15 provide such compensation to a local housing agency for its
16 services as the parties shall determine;

17 (12) Purchase or lease any goods, services, materials,
18 equipment, or property from a local housing agency for any
19 governmental or proprietary purpose for which the public agency is
20 authorized by law to so acquire, on such terms and for such
21 consideration as the parties shall determine, without
22 advertisement, appraisal, or public bidding;

23 (13) Allow local housing agencies to purchase or acquire
24 goods, services, materials, equipment, or property through its
25 purchasing agency; and

26 (14) Upon its own initiative and without the approval of
27 any other public agency or governing body, waive or reduce any
28 charge or fee, including, but not limited to, any charge or fee

1 relating to any permit, license, approval, any environmental or
2 other impact fee, any contribution for capital improvements, and
3 any charge or fee for any service or benefit provided by the public
4 agency.

5 Sec. 96. The state and all public agencies of this state
6 are authorized to appropriate, lend money, and make donations to
7 local housing agencies, and to agree to make such appropriations,
8 loans, or donations, upon such lawful terms and conditions as they
9 shall from time to time deem appropriate.

10 Sec. 97. (1) Notwithstanding any other provision of law,
11 all public agencies of this state, including state, city, and
12 county law enforcement agencies, shall cooperate with local housing
13 agencies by providing, promptly upon request, information
14 concerning the general background, including, but not limited to,
15 the criminal history, of applicants for assistance or recipients of
16 assistance from local housing agencies. Any such information shall
17 be used by local agencies solely for the purpose of screening
18 applicants for suitability for tenancy or for determining continued
19 suitability for assistance or tenancy and shall not be disclosed
20 except as permitted under section 81 of this act or in a proceeding
21 challenging a decision by an agency to deny or terminate benefits.

22 (2) Any person who applies for or accepts assistance
23 provided by a local housing agency shall, by virtue of such
24 application for or acceptance of such assistance, be deemed to have
25 consented to the disclosure of information by public agencies as
26 required by this section.

27 Sec. 98. (1) All rights of local housing agencies
28 existing under law or under any contract, agreement, or arrangement

1 with any party, including this state or any public agency thereof,
2 shall be enforceable by action brought in the courts of this state.

3 (2) In connection with enforcement of any right referred
4 to in this section, a local housing agency shall be entitled to
5 relief which may include, without limitation, the award of monetary
6 damages, specific performance, and mandamus and other injunctive
7 relief.

8 Sec. 99. Except with respect to enforcing any right to
9 indemnification under sections 77 and 78 of this act or any right
10 of an obligee under sections 48 and 49 of this act, and
11 notwithstanding any other provision of law to the contrary, the
12 provisions of the Nebraska Housing Agency Act shall not confer upon
13 any person or organization a right of action in any court to
14 enforce any provision or provisions of the act. Except as
15 otherwise stated in the act, (1) any and all rights to enforce the
16 provisions of the act are vested exclusively in housing agencies
17 and the cities and counties of this state that establish housing
18 agencies and (2) without limiting the provisions of subdivision (1)
19 of this section, no person or entity not expressly named as a party
20 to a contract entered into by a housing agency shall have any right
21 of action, by virtue of the status of such person or entity as a
22 third-party beneficiary of such contract, or otherwise based upon
23 such contract. Any claim or action in violation of this section
24 shall be absolutely null and void.

25 Sec. 100. The Nebraska Housing Agency Act shall be
26 construed liberally to effect the charitable and public purposes
27 thereof. The enumeration of specific powers, authorities, or
28 activities in the act shall not operate to restrict the meaning of

1 any general grant of power or authority or any description of
2 activities contained in the act or to exclude other powers,
3 authorities, or activities comprehended in such general grant. In
4 determining the existence or nonexistence of any power of a local
5 housing agency, the agency shall be presumed to possess the power
6 in question unless a contrary intent is clearly expressed in the
7 provisions of the act or other applicable statutory law, or the
8 power in question is clearly unrelated to carrying out any of the
9 purposes of the act and cannot be reasonably implied by any other
10 power conferred under the act.

11 It is the purpose and intent of the act that the powers
12 of local housing agencies be construed to afford to every agency
13 the maximum responsibility, authority, and flexibility in carrying
14 out the provisions of the act and to maximize the involvement of
15 private sector entities, in cooperation with local housing
16 agencies, in the production and operation of affordable housing.
17 Whenever language may be interpreted to be either restrictive or
18 expansive with respect to the existence or scope of a power, the
19 more expansive interpretation shall be followed. The use of the
20 disjunctive word "or" shall be construed to mean "and" and the
21 conjunctive word "and" shall be construed to mean "or" where such
22 construction will result in a broader interpretation of a power.
23 Limitations upon the powers, authorities, and activities of local
24 agencies contained in the act shall be strictly construed.

25 Sec. 101. To the extent that any provision of the
26 Nebraska Housing Agency Act shall conflict with any provision of
27 law not contained in the act, the act shall prevail with respect to
28 local housing agencies. It is the intention of the Legislature

1 that, with respect to any subject matter covered by the act, the
2 provisions of the act shall preempt all other laws of this state
3 with respect to the formation, powers, and operation of local
4 housing agencies and the requirements of law applicable thereto.

5 Sec. 102. (1) Every person who shall have any claim
6 against a housing agency shall file the same, in writing, with the
7 executive director or other person who may be acting as the
8 secretary of such agency. If the claim is in contract, the claim
9 shall state the services provided or articles furnished, as the
10 case may be, and shall show the amount charged and claimed due and
11 unpaid, allowing all just credits. If the claim is in tort, it
12 shall set forth the time and place of the occurrence giving rise to
13 the claim and such other facts pertinent to the claim as are known
14 to the claimant. The procedures set forth in this section shall
15 not be applicable to any claim against any agency, if the agency
16 shall advise the claimant in writing that the liability of the
17 agency for such claim, if any, is covered by insurance in whole or
18 in part.

19 (2) If the claimant is dissatisfied with the disposition
20 of his or her claim, or in the event that such claim is not paid or
21 otherwise satisfied within ninety days after such claim has been
22 filed as provided in this section, the claimant shall request, in
23 writing, a hearing on his or her claim before the board of
24 commissioners of the agency. Such request shall be filed with the
25 chairperson of the agency and shall be made within six months after
26 the filing of the claim as provided by this section. The claimant
27 shall be notified of the time and place of the hearing, and he or
28 she shall have the opportunity to present evidence concerning his

1 or her claim to the board of commissioners. The board of
2 commissioners shall hold such hearing and shall allow, disallow, or
3 otherwise dispose of the claim, as the case may be, with written
4 notice to the claimant, all within six months after the filing of a
5 written request for hearing as provided in this subsection.

6 (3) This section shall not apply to claims, actions, or
7 proceedings by obligees on bonds or covenants of an agency.

8 (4) The representatives of a housing agency shall not be
9 personally liable as such on its contracts or for torts not
10 committed or directly authorized by them.

11 Sec. 103. If any section in this act or any part of any
12 section is declared invalid or unconstitutional, the declaration
13 shall not affect the validity or constitutionality of the remaining
14 portions.

15 Sec. 104. The following sections are outright repealed:
16 Sections 71-1501 to 71-1512, 71-1518 to 71-1535, and 71-1537 to
17 71-1554, Reissue Revised Statutes of Nebraska, and section 71-1536,
18 Revised Statutes Supplement, 1998.