

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 300
FINAL READING

Introduced by Chambers, 11

Read first time January 5, 2001

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to money and financing; to amend sections
2 13-203, 13-206, 13-207, 21-2102, 21-2104, and 21-2109,
3 Reissue Revised Statutes of Nebraska, and section 58-239,
4 Revised Statutes Supplement, 2000; to provide for the
5 dissolution of the Research and Development Authority; to
6 provide and change powers and duties; to harmonize
7 provisions; to repeal the original sections; and to
8 outright repeal sections 58-401 to 58-442 and 77-2704.18,
9 Reissue Revised Statutes of Nebraska.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Research and Development Authority,
2 created pursuant to section 58-403, as such section existed prior
3 to the effective date of this act, is hereby dissolved. Any assets
4 of the authority remaining upon such dissolution which are pledged
5 to outstanding indebtedness of the authority shall, upon the
6 consent of the holders of the respective indebtedness, be
7 immediately transferred, free and clear, to the holder of such
8 indebtedness in satisfaction of such indebtedness.

9 (2) The business development corporation formed pursuant
10 to section 58-440 shall no longer be required to include
11 representatives of the authority. All interest of the authority in
12 such business development corporation shall be transferred to the
13 North Omaha Business Development Corporation, the business
14 development corporation formed pursuant to section 58-440, as such
15 section existed prior to the effective date of this act.

16 Sec. 2. Section 13-203, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 13-203. For purposes of the Community Development
19 Assistance Act, unless the context otherwise requires:

20 (1) Business firm shall mean any business entity,
21 including a corporation, a fiduciary, a sole proprietorship, a
22 partnership, a limited liability company, a corporation having an
23 election in effect under Chapter 1, subchapter S of the Internal
24 Revenue Code, as defined in section 49-801.01, subject to the state
25 income tax imposed by section 77-2715 or 77-2734.02, an insurance
26 company paying premium or related retaliatory taxes in this state
27 pursuant to section 44-150 or 77-908, or a financial institution
28 paying the tax imposed pursuant to sections 77-3801 to 77-3807;

1 (2) Community services shall mean any type of the
2 following in a community development area: (a) Employment
3 training; (b) human services; (c) medical services; (d) physical
4 facility and neighborhood development services; (e) recreational
5 services or activities; (f) educational services; or (g) crime
6 prevention activities, including, but not limited to, (i) the
7 instruction of any individual in the community development area
8 that enables him or her to acquire vocational skills, (ii)
9 counseling and advice, (iii) emergency services, (iv) community,
10 youth, day care, and senior citizen centers, (v) in-home services,
11 (vi) home improvement services and programs, and (vii) any legal
12 enterprise which aids in the prevention or reduction of crime; ~~or~~
13 ~~(h) purchasing shares in a business development corporation formed~~
14 ~~to carry out section 58-440;~~

15 (3) Department shall mean the Department of Economic
16 Development;

17 (4) Director shall mean the Director of Economic
18 Development;

19 (5) Community development area shall mean any village,
20 city, county, or part thereof which has been designated by the
21 department as an area of chronic economic distress;

22 (6) Community assistance shall mean furnishing financial
23 assistance, labor, material, or technical advice to aid in the
24 physical improvement of any part or all of a community development
25 area;

26 (7) Community betterment organization shall mean (a) any
27 organization performing community services or offering community
28 assistance in a community development area and to which

1 contributions are tax deductible under the provisions of the
2 Internal Revenue Service of the United States Department of the
3 Treasury, and (b) a ~~business development corporation formed to~~
4 ~~carry out section 58-440,~~ and (c) a county, city, or village
5 performing community services or offering community assistance in a
6 community development area; and

7 (8) Area of chronic economic distress shall mean an area
8 of the state which meets a majority of the following categories:

9 (a) An unemployment rate which exceeds the statewide
10 average unemployment rate;

11 (b) Vacant and substandard housing stock which exceeds
12 the statewide average percentage for vacant and substandard housing
13 stock;

14 (c) Depressed housing valuations which exceed the
15 statewide average rate for depressed housing valuations;

16 (d) A crime rate which exceeds the statewide average
17 crime rate; or

18 (e) A per capita income below the statewide average per
19 capita income.

20 Sec. 3. Section 13-206, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 13-206. (1) The director shall adopt and promulgate
23 rules and regulations for the approval or disapproval of the
24 program proposals submitted pursuant to section 13-205 taking into
25 account the economic need level and the geographic distribution of
26 the population of the community development area. The director
27 shall also adopt and promulgate rules and regulations concerning
28 the amount of the tax credit for which a program shall be

1 certified. The tax credits shall be available for ~~(a)~~
2 contributions to a certified program which may qualify as a
3 charitable contribution deduction on the federal income tax return
4 filed by the business entity making such contribution. ~~and (b)~~
5 ~~amounts used to purchase shares in a business development~~
6 ~~corporation formed to carry out section 58-440.~~ The decision of
7 the department to approve or disapprove all or any portion of a
8 proposal shall be in writing. If the proposal is approved, the
9 maximum tax credit allowance for the certified program shall be
10 stated along with the approval. The maximum tax credit allowance
11 approved by the department shall be final for the fiscal year in
12 which the program is certified. A copy of all decisions shall be
13 transmitted to the Tax Commissioner. A copy of all credits allowed
14 to business firms under sections 44-150 and 77-908 shall be
15 transmitted to the Director of Insurance.

16 (2) For all business firms eligible for the credit
17 allowed by section 13-207, except for insurance companies paying
18 premium and related retaliatory taxes in this state pursuant to
19 section 44-150 or 77-908, the Tax Commissioner shall provide for
20 the manner in which the credit allowed by section 13-207 shall be
21 taken and the forms on which such credit shall be allowed. The Tax
22 Commissioner shall adopt and promulgate rules and regulations for
23 the method of providing tax credits. The Director of Insurance
24 shall provide for the manner in which the credit allowed by section
25 13-207 to insurance companies paying premium and related
26 retaliatory taxes in this state pursuant to sections 44-150 and
27 77-908 shall be taken and the forms on which such credit shall be
28 allowed. The Director of Insurance shall adopt and promulgate

1 rules and regulations for the method of providing the tax credit.
2 The Tax Commissioner shall allow against any income tax due from
3 the insurance companies paying premium and related retaliatory
4 taxes in this state pursuant to section 44-150 or 77-908 a credit
5 for the credit provided by section 13-207 and allowed by the
6 Director of Insurance.

7 Sec. 4. Section 13-207, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 13-207. (1) Any business firm which plans to or which
10 has contributed to a certified program of a community betterment
11 organization may apply to the department for authorization for a
12 tax credit for the contribution to the certified program in an
13 amount up to but not exceeding the maximum tax credit allowed by
14 the department. The maximum tax credit allowed by the department
15 for each approved business firm shall be in an amount which does
16 not exceed forty percent of the total amount contributed by the
17 business firm during its taxable year to any programs certified
18 pursuant to section 13-205. ~~Purchase of shares in a business~~
19 ~~development corporation formed to carry out section 58-440 shall be~~
20 ~~deemed a contribution to a certified program of a community~~
21 ~~betterment organization.~~ The director shall send a copy of the
22 approved application which includes the amount of the tax credit to
23 be allowed and a certification by the department that the
24 contribution has been paid as proposed by the business firm to the
25 Tax Commissioner who shall grant a tax credit against any tax due
26 under sections 77-2715, 77-2734.02, and 77-3801 to 77-3807 and to
27 the Director of Insurance who shall grant a tax credit against any
28 premium and related retaliatory taxes due under sections 44-150 and

1 77-908.

2 (2) No tax credit shall be granted to any business firm
3 in this state pursuant to the Community Development Assistance Act
4 for activities that are a part of its normal course of business.
5 Any tax credit balance may be carried over and applied against the
6 business firm's tax liability for the next five years immediately
7 succeeding the tax year in which the credit was first allowed.

8 Sec. 5. Section 21-2102, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 21-2102. For purposes of the Nebraska Business
11 Development Corporation Act, unless the context otherwise requires:

12 (1) Development corporation or corporation shall mean any
13 corporation organized pursuant to the act for the purpose of
14 developing business, industry, and enterprise in the State of
15 Nebraska by the lending of money thereto and otherwise organizing
16 for the purposes set forth in section 21-2104;

17 (2) Financial institution shall mean any banking
18 institution, insurance company or related corporation, savings and
19 loan association, partnership, limited liability company, credit
20 union, foundation, trust, licensee under the Small Business
21 Investment Act of 1958, 15 U.S.C. 661 et seq., as the act existed
22 on the effective date of this act, or other entity engaged in
23 lending or investing funds and authorized to do business in the
24 State of Nebraska, including ~~the Research and Development Authority~~
25 ~~and~~ the United States Small Business Administration;

26 (3) Member shall mean any financial institution which
27 undertakes to lend money to a development corporation upon its call
28 and in accordance with section 21-2109;

1 (4) Board of directors shall mean members of the board of
2 directors of a development corporation in office from time to time;
3 and

4 (5) Loan limit shall mean, for any member, the maximum
5 account permitted to be outstanding at any one time on loans made
6 by any such member to a development corporation, as determined
7 under the Nebraska Business Development Corporation Act.

8 Sec. 6. Section 21-2104, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 21-2104. The purposes of a business development
11 corporation shall be only: (1) To promote, stimulate, develop, and
12 advance the business prosperity and economic welfare of the State
13 of Nebraska and its citizens; (2) to encourage and assist through
14 loans, investments, or other business transactions the location of
15 new business and industry in the state; (3) to rehabilitate and
16 assist existing business and industry in this state; (4) to
17 stimulate and assist in the expansion of any kind of business
18 activity which would tend to promote business development and
19 maintain the economic stability in this state, provide maximum
20 opportunities for employment, encourage thrift, and improve the
21 standard of living of the citizens of this state; (5) to cooperate
22 and act in conjunction with other organizations, public or private,
23 including ~~the Research and Development Authority~~ and the United
24 States Small Business Administration, in the promotion and
25 advancement of industrial, commercial, agricultural, and
26 recreational development in this state; and (6) to provide
27 financing for the promotion, development, and conduct of all kinds
28 of business activity in this state.

1 Sec. 7. Section 21-2109, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 21-2109. (1) Notwithstanding any other provision of law,
4 any financial institution is authorized to become a member of and
5 to invest in a development corporation by making application to the
6 board of directors on such form and in such manner as the board of
7 directors may require, and membership shall become effective upon
8 acceptance of such application by such board. Membership shall be
9 for the duration of the corporation, except that upon written
10 notice given to the corporation two years in advance, a member may
11 withdraw from membership at the expiration date of such notice and
12 shall not, after the expiration date of such notice, be obligated
13 to make any loans to the corporation. No financial institution
14 shall become a member of more than one development corporation. 7
15 ~~except that this restriction shall not apply to the Research and~~
16 ~~Development Authority.~~

17 (2) Each such member shall make loans to the corporation
18 as and when called upon to do so, upon such terms and conditions as
19 approved from time to time by the board of directors, subject to
20 the following conditions:

21 (a) All loans shall be evidenced by negotiable
22 instruments of the corporation and shall bear interest at the rate
23 determined by the board of directors to be the prime rate on
24 unsecured commercial loans as of the date of the loan;

25 (b) All loan limits shall be established at the thousand
26 dollar amount nearest the amount computed in accordance with this
27 section;

28 (c) The total amount outstanding at any one time on loans

1 to a development corporation made by any member, other than an
2 insurance company, reciprocal exchange, or fraternal benefit
3 society, shall not exceed the following limit, to be determined as
4 of the time such member becomes a member, on the basis of figures
5 contained in the most recent year-end statement prior to its
6 application for membership:

7 (i) Banking associations, three percent of the paid-in
8 capital and surplus;

9 (ii) Savings and loan associations, three percent of the
10 general reserve account and surplus; and

11 (iii) Other financial institutions, such limits as may be
12 approved from time to time by the board of directors of the
13 development corporation;

14 (d) In the case of an insurance company, reciprocal
15 exchange, and fraternal benefit society, the total amount
16 outstanding at any time on loans to a development corporation shall
17 be limited as follows: (i) For stock life insurance companies, one
18 percent of capital and unassigned surplus, which amount loaned
19 shall be included in and be a part of those investments authorized
20 for stock life insurance companies under section 44-5153; (ii) for
21 mutual life insurance companies or fraternal benefit societies, one
22 percent of unassigned surplus, which amount loaned shall be
23 included in and be a part of those investments authorized under
24 such section; and (iii) for other insurance companies or reciprocal
25 exchanges, one-tenth of one percent of admitted assets, which
26 amount loaned shall be included in and be a part of those
27 investments authorized under such section; and

28 (e) Each call for loans made by the corporation shall be

1 prorated among the members of the corporation in substantially the
2 same proportion that the loan limit of each member bears to the
3 aggregate loan limits of all members.

4 Sec. 8. Section 58-239, Revised Statutes Supplement,
5 2000, is amended to read:

6 58-239. The authority is hereby granted all powers
7 necessary or appropriate to carry out and effectuate its public and
8 corporate purposes including:

9 (1) To have perpetual succession as a body politic and
10 corporate and an independent instrumentality exercising essential
11 public functions;

12 (2) To adopt, amend, and repeal bylaws, rules, and
13 regulations not inconsistent with the Nebraska Investment Finance
14 Authority Act, to regulate its affairs, to carry into effect the
15 powers and purposes of the authority, and to conduct its business;

16 (3) To sue and be sued in its own name;

17 (4) To have an official seal and alter it at will;

18 (5) To maintain an office at such place or places within
19 the state as it may designate;

20 (6) To make and execute contracts and all other
21 instruments as necessary or convenient for the performance of its
22 duties and the exercise of its powers and functions under the act;

23 (7) To employ architects, engineers, attorneys,
24 inspectors, accountants, building contractors, financial experts,
25 and such other advisors, consultants, and agents as may be
26 necessary in its judgment and to fix their compensation;

27 (8) To obtain insurance against any loss in connection
28 with its bonds, property, and other assets in such amounts and from

1 such insurers as it deems advisable;

2 (9) To borrow money and issue bonds as provided by the
3 act;

4 (10) To receive and accept from any source aid or
5 contributions of money, property, labor, or other things of value
6 to be held, used, and applied to carry out the purposes of the act
7 subject to the conditions upon which the grants or contributions
8 are made including gifts or grants from any department, agency, or
9 instrumentality of the United States, and to make grants, for any
10 purpose consistent with the act;

11 (11) To enter into agreements with any department,
12 agency, or instrumentality of the United States or this state and
13 with lenders for the purpose of carrying out projects authorized
14 under the act;

15 (12) To enter into contracts or agreements with lenders
16 for the servicing and processing of mortgages or loans pursuant to
17 the act;

18 (13) To provide technical assistance to local public
19 bodies and to for-profit and nonprofit entities in the areas of
20 housing for low-income and moderate-income persons, agricultural
21 enterprises, and community or economic development, to distribute
22 data and information concerning the needs of the state in these
23 areas, and, at the discretion of the authority, to charge
24 reasonable fees for such assistance;

25 (14) To the extent permitted under its contract with the
26 holders of bonds of the authority, to consent to any modification
27 with respect to the rate of interest, time, and payment of any
28 installment of principal or interest or any other term of any

1 contract, loan, loan note, loan note commitment, mortgage, mortgage
2 loan, mortgage loan commitment, lease, or agreement of any kind to
3 which the authority is a party;

4 (15) To the extent permitted under its contract with the
5 holders of bonds of the authority, to enter into contracts with any
6 lender containing provisions enabling it to reduce the rental or
7 carrying charges to persons unable to pay the regular schedule of
8 charges when, by reason of other income or payment by any
9 department, agency, or instrumentality of the United States of
10 America or of the state, the reduction can be made without
11 jeopardizing the economic stability of the project being financed;

12 (16) To acquire by construction, purchase, devise, gift,
13 or lease or any one or more of such methods one or more projects
14 located within this state, except that the authority shall not
15 acquire any projects or parts of such projects by condemnation;

16 (17) To lease to others any or all of its projects for
17 such rentals and upon such terms and conditions as the authority
18 may deem advisable and as are not in conflict with the act;

19 (18) To issue bonds for the purpose of paying the cost of
20 financing any project or projects and to secure the payment of such
21 bonds as provided in the act;

22 (19) To sell and convey any real or personal property and
23 make such order respecting the same as it deems conducive to the
24 best interest of the authority;

25 (20) To make and undertake commitments to make loans to
26 lenders under the terms and conditions requiring the proceeds of
27 the loans to be used by such lenders to make loans for projects.
28 Loan commitments or actual loans shall be originated through and

1 serviced by any bank, trust company, savings and loan association,
2 mortgage banker, or other financial institution authorized to
3 transact business in the state;

4 (21) To hold and dispose of any real or personal
5 property, whether tangible or intangible, and any distributions
6 thereon, transferred to or received by the authority as collateral
7 or in payment of amounts due the authority or otherwise pursuant to
8 state law, in accordance with the act;

9 (22) To invest in, purchase, make commitments to invest
10 in or purchase, and take assignments or make commitments to take
11 assignments of loans made by lenders for the construction,
12 rehabilitation, or purchase of projects;

13 ~~(22)~~ (23) To enter into financing agreements with others
14 with respect to projects to provide financing for such projects
15 upon such terms and conditions as the authority deems advisable to
16 effectuate the public purposes of the act, which projects shall be
17 located within the state. The authority shall not operate any
18 project referred to in this section as a business or in any manner
19 except as the lessor or seller of such project;

20 ~~(23)~~ (24) To enter into financing agreements with any
21 corporation, partnership, limited liability company, or individual
22 or with any county, city, village, or entity created pursuant to
23 the Interlocal Cooperation Act or the Joint Public Agency Act for
24 purposes of financing any solid waste disposal project;

25 ~~(24)~~ (25) To enter into agreements with or purchase or
26 guaranty obligations of political subdivisions of the state,
27 including authorities, agencies, commissions, districts, and
28 instrumentalities thereof, to provide financing for affordable

1 housing infrastructure; and

2 ~~(25)~~ (26) In lieu of providing direct financing as
3 authorized by the Nebraska Investment Finance Authority Act, to
4 guaranty debt obligations of any project owner to whom, and for
5 such purposes as, the authority could otherwise provide direct
6 financing, and the authority may establish a fund or account and
7 limit its obligation on such guaranties to money in such fund or
8 account. Any such guaranty shall contain a statement similar to
9 that required by section 58-255 for bonds issued by the authority.

10 Sec. 9. Original sections 13-203, 13-206, 13-207,
11 21-2102, 21-2104, and 21-2109, Reissue Revised Statutes of
12 Nebraska, and section 58-239, Revised Statutes Supplement, 2000,
13 are repealed.

14 Sec. 10. The following sections are outright repealed:
15 Sections 58-401 to 58-442 and 77-2704.18, Reissue Revised Statutes
16 of Nebraska.