

LEGISLATIVE BILL 388

Approved by the Governor April 26, 2011

Introduced by Wightman, 36; at the request of the Governor.

FOR AN ACT relating to economic development; to amend sections 58-702, 58-703, 58-706, 58-708, and 76-903, Reissue Revised Statutes of Nebraska; to adopt the Site and Building Development Act; to create funds; to provide for assistance to political subdivisions; to provide funding; to authorize uses of the Affordable Housing Trust Fund; to provide for recapture of unused allocated funds; to provide for transfers; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Site and Building Development Act.

Sec. 2. The Legislature finds that current economic conditions, lack of available industrial sites and buildings, and declining resources at all levels of government adversely affect the ability of Nebraska's cities and villages to obtain viable industrial sites on which to build businesses, obtain buildings, and create jobs. Lack of industrial sites and buildings also affects the ability of communities to maintain and develop stable and growth-prone economies.

Furthermore, the Legislature finds that Nebraska is at a competitive disadvantage for business development relative to other states in the nation due to a lack of appropriately sized industrial sites and buildings available for business relocations to Nebraska and expansions. The future of investment and jobs in Nebraska will suffer should the state continue to ignore this challenge.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of industrial-ready sites and buildings in all areas of the state. The establishment of the Site and Building Development Fund will assist in creating conditions favorable to meeting the industrial readiness of the state.

Sec. 3. The Site and Building Development Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the fund.

The State Treasurer shall transfer one million dollars from the Affordable Housing Trust Fund to the Site and Building Development Fund on or after January 1, 2012, but no later than January 10, 2012.

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Sec. 4. The Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(1) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(2) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(3) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the creation of industrial-ready sites and buildings;

(4) Loan guarantees for eligible projects;

(5) Projects making industrial-ready sites and buildings more accessible to business and industry; and

(6) Infrastructure projects necessary for the development of industrial-ready sites and buildings.

Sec. 5. Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under the act shall provide, or cause to be provided, matching funds for the eligible activity in an amount

determined by the Department of Economic Development, which amount shall be at least equal to one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

Sec. 6. (1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development, in consultation with the Economic Development Commission, shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

Sec. 7. The Department of Economic Development, in consultation with the Economic Development Commission, shall adopt and promulgate rules and regulations to carry out the Site and Building Development Act.

Sec. 8. The Department of Economic Development shall submit an annual report regarding the Site and Building Development Act to the Legislature no later than July 1 of each year beginning July 1, 2012. The report shall contain no information that is protected by state or federal confidentiality laws.

Sec. 9. (1) The Industrial Recovery Fund is created. The fund shall be administered by the Department of Economic Development. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department may provide assistance from the fund to a political subdivision impacted by a sudden and significant private-sector entity closure or downsizing that will have a significant impact on the community. The assistance shall be used to mitigate the economic impact of the closure or downsizing by making necessary improvements to the buildings and infrastructure, or both, related to the assets of the private-sector entity.

(3) The fund shall consist of funds remitted for deposit in the fund pursuant to section 58-708. If the fund balance exceeds one million dollars, deposits to the fund pursuant to such section shall cease until the fund balance is less than one million dollars.

Sec. 10. Section 58-702, Reissue Revised Statutes of Nebraska, is amended to read:

58-702 The Legislature finds that current economic conditions, lack of available affordable housing, federal housing policies that have placed an increasing burden on the state, and declining resources at all levels of government adversely affect the ability of Nebraska's citizens to obtain safe, decent, and affordable housing. Lack of affordable housing also affects the ability of communities to maintain and develop viable and stable economies.

Furthermore, the Legislature finds that impediments exist to the construction and rehabilitation of affordable housing. Local codes and state statutes have an important effect on housing's affordability by placing increased costs on developers. Financing affordable housing, especially in rural areas and smaller communities, is becoming increasingly difficult. In addition, existing dilapidated housing stock and industrial buildings are detrimental to new affordable housing development and the general health and safety of people living and working in or around such places. An affordable housing trust fund would assist all Nebraska communities in financing affordable housing projects and other projects which make the community safer for residents.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of safe, decent, and affordable housing in

all areas of the state. The establishment of the Nebraska Affordable Housing Act will assist in creating conditions favorable to meeting the affordable housing needs of the state.

Sec. 11. Section 58-703, Reissue Revised Statutes of Nebraska, is amended to read:

58-703 The Affordable Housing Trust Fund is created. The fund shall receive money pursuant to sections 8-1120 and 76-903 and may include revenue from sources recommended by the housing advisory committee established in section 58-704, appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources, except that before appropriations from the General Fund may be used as a revenue source for the Affordable Housing Trust Fund or for administrative costs of the Department of Economic Development in administering the fund, such use must be specifically authorized by a separate legislative bill passed in a legislative session subsequent to the Ninety-fourth Legislature, Second Session, 1996. Any initial appropriation from the General Fund which is used as a revenue source for the Affordable Housing Trust Fund or for administrative costs shall be in an appropriations bill which does not contain appropriations for other programs. The department as part of its comprehensive housing affordability strategy shall administer the Affordable Housing Trust Fund.

Transfers may be made from the Affordable Housing Trust Fund to the General Fund, and the Behavioral Health Services Fund, and the Site and Building Development Fund at the direction of the Legislature. The State Treasurer shall make transfers from the Affordable Housing Trust Fund to the General Fund according to the following schedule: (1) \$1,500,000 on or after July 1, 2005, but no later than July 10, 2005; and (2) \$1,500,000 on or after July 1, 2006, but no later than July 10, 2006. The State Treasurer shall transfer \$2,000,000 from the Affordable Housing Trust Fund to the Behavioral Health Services Fund on or after July 1, 2005, but not later than July 10, 2005.

Sec. 12. Section 58-706, Reissue Revised Statutes of Nebraska, is amended to read:

58-706 The following activities are eligible for assistance from the Affordable Housing Trust Fund:

(1) New construction, rehabilitation, or acquisition of housing to assist low-income and very low-income families;

(2) Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low-income and very low-income families;

(3) Technical assistance, design and finance services, and consultation for eligible nonprofit community or neighborhood-based organizations involved in the creation of affordable housing;

(4) Matching funds for operating costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's ability to produce affordable housing;

(5) Mortgage insurance guarantees for eligible projects;

(6) Acquisition of housing units for the purpose of preservation of housing to assist low-income or very low-income families;

(7) Projects making affordable housing more accessible to families with elderly members or members who have disabilities;

(8) Projects providing housing in areas determined by the Department of Economic Development to be of critical importance for the continued economic development and economic well-being of the community and where, as determined by the department, a shortage of affordable housing exists;

(9) Infrastructure projects necessary for the development of affordable housing;

(10) Downpayment and closing cost assistance; and

(11) Demolition of existing vacant, condemned, or obsolete housing or industrial buildings or infrastructure; and

(11) (12) Housing education programs developed in conjunction with affordable housing projects. The education programs must be directed toward:

(a) Preparing potential home buyers to purchase affordable housing and postpurchase education;

(b) Target audiences eligible to utilize the services of housing assistance groups or organizations; and

(c) Developers interested in the rehabilitation, acquisition, or construction of affordable housing.

Sec. 13. Section 58-708, Reissue Revised Statutes of Nebraska, is amended to read:

58-708 (1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not

less than twenty-five percent, to each congressional district. Entitlement area funds allocated under this section that are not awarded to an eligible project from within the entitlement area within one year shall be made available for distribution to eligible projects elsewhere in the state. The department shall announce a grant and loan application period of at least ninety days duration for all nonentitlement areas. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which serve the lowest income occupant and are obligated to serve qualified occupants for the longest period of time.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(3) The department may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project. The recaptured funds shall be credited to the Industrial Recovery Fund except as provided in section 9 of this act.

Sec. 14. Section 76-903, Reissue Revised Statutes of Nebraska, is amended to read:

76-903 The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section 76-901 is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute arises concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund pursuant to section 76-908. The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. From each two dollars and twenty-five cents of tax collected pursuant to section 76-901, the register of deeds shall retain fifty cents to be placed in the county general fund and shall remit the balance to the State Treasurer who shall credit one dollar and twenty ninety-five cents of such amount to the Affordable Housing Trust Fund, twenty-five cents of such amount to the Site and Building Development Fund, twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund, and thirty cents of such amount to the Behavioral Health Services Fund.

Sec. 15. This act becomes operative on October 1, 2011.

Sec. 16. Original sections 58-702, 58-703, 58-706, 58-708, and 76-903, Reissue Revised Statutes of Nebraska, are repealed.