

LEGISLATIVE BILL 66

Approved by the Governor May 29, 2013

Introduced by Schilz, 47.

FOR AN ACT relating to the Community Development Law; to amend sections 18-2101, 18-2103, and 18-2147, Reissue Revised Statutes of Nebraska; to define and redefine terms; to provide for redevelopment of formerly used defense sites as prescribed; to provide for applicability of certain ad valorem taxation provisions as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Section 1. Section 18-2101, Reissue Revised Statutes of Nebraska, is amended to read:

18-2101 Sections 18-2101 to 18-2144 and section 3 of this act shall be known and may be cited as the Community Development Law.

Sec. 2. Section 18-2103, Reissue Revised Statutes of Nebraska, is amended to read:

18-2103 For purposes of the Community Development Law, unless the context otherwise requires:

(1) An authority means any community redevelopment authority created pursuant to section 18-2102.01 and a city or village which has created a community development agency pursuant to the provisions of section 18-2101.01 and does not include a limited community redevelopment authority;

(2) Limited community redevelopment authority means a community redevelopment authority created pursuant to section 18-2102.01 having only one single specific limited pilot project authorized;

(3) City means any city or incorporated village in the state;

(4) Public body means the state or any municipality, county, township, board, commission, authority, district, or other political subdivision or public body of the state;

(5) Governing body or local governing body means the city council, board of trustees, or other legislative body charged with governing the municipality;

(6) Mayor means the mayor of the city or chairperson of the board of trustees of the village;

(7) Clerk means the clerk of the city or village;

(8) Federal government means the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(9) Area of operation means and includes the area within the corporate limits of the city and such land outside the city as may come within the purview of section 18-2123 and section 3 of this act;

(10) Substandard areas means an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare;

(11) Blighted area means an area, which (a) by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least

forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or (v) the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted;

(12) Redevelopment project means any work or undertaking in one or more community redevelopment areas: (a) To acquire substandard and blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such substandard and blighted areas; (b) to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, parks, playgrounds, public spaces, public parking facilities, sidewalks or moving sidewalks, convention and civic centers, bus stop shelters, lighting, benches or other similar furniture, trash receptacles, shelters, skywalks and pedestrian and vehicular overpasses and underpasses, and any other necessary public improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; (c) to sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use or to retain such land for public use, in accordance with a redevelopment plan; and may also include the preparation of the redevelopment plan, the planning, survey, and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project; (d) to dispose of all real and personal property or any interest in such property, or assets, cash, or other funds held or used in connection with residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or any public use specified in a redevelopment plan or project, except that such disposition shall be at its fair value for uses in accordance with the redevelopment plan; (e) to acquire real property in a community redevelopment area which, under the redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitate the structures, and resell the property; and (f) to carry out plans for a program of voluntary or compulsory repair, rehabilitation, or demolition of buildings or other improvements in accordance with the redevelopment plan;

(13) Redevelopment plan means a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project, which (a) conforms to the general plan for the municipality as a whole and (b) is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area, zoning and planning changes, if any, land uses, maximum densities, and building requirements;

(14) Redeveloper means any person, partnership, or public or private corporation or agency which enters or proposes to enter into a redevelopment contract;

(15) Redevelopment contract means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(16) Real property means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens;

(17) Bonds means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the Community Development Law except for bonds issued pursuant to section 18-2142.04;

(18) Obligee means any bondholder, agent, or trustee for any bondholder, or lessor demising to any authority, established pursuant to section 18-2102.01, property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with such

authority;

(19) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof;

(20) Community redevelopment area means a substandard and blighted area which the community redevelopment authority designates as appropriate for a renewal project;

(21) Redevelopment project valuation means the valuation for assessment of the taxable real property in a redevelopment project last certified for the year prior to the effective date of the provision authorized in section 18-2147;

(22) Enhanced employment area means an area not exceeding six hundred acres (a) within a community redevelopment area which is designated by an authority as eligible for the imposition of an occupation tax or (b) not within a community redevelopment area as may be designated under section 18-2142.04;

(23) Employee means a person employed at a business as a result of a redevelopment project;

(24) Employer-provided health benefit means any item paid for by the employer in total or in part that aids in the cost of health care services, including, but not limited to, health insurance, health savings accounts, and employer reimbursement of health care costs;

(25) Equivalent employees means the number of employees computed by (a) dividing the total hours to be paid in a year by (b) the product of forty times the number of weeks in a year;

(26) Business means any private business located in an enhanced employment area;

(27) New investment means the value of improvements to real estate made in an enhanced employment area by a developer or a business;

(28) Number of new employees means the number of equivalent employees that are employed at a business as a result of the redevelopment project during a year that are in excess of the number of equivalent employees during the year immediately prior to the year that a redevelopment plan is adopted; and

(29) Occupation tax means a tax imposed under section 18-2142.02.

Sec. 3. (1) Notwithstanding any other provisions of the Community Development Law to the contrary, a city may undertake a redevelopment project that includes real property located outside the corporate limits of such city if the following requirements have been met:

(a) The real property located outside the corporate limits of the city is a formerly used defense site;

(b) The formerly used defense site is located within the same county as the city approving such redevelopment project;

(c) The formerly used defense site is located within a sanitary and improvement district;

(d) The governing body of the city approving such redevelopment project passes an ordinance stating such city's intent to annex the formerly used defense site in the future; and

(e) The redevelopment project has been consented to by any city exercising extraterritorial jurisdiction over the formerly used defense site.

(2) For purposes of this section, formerly used defense site means real property that was formerly owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the United States Secretary of Defense. Formerly used defense site does not include missile silos.

(3) The inclusion of a formerly used defense site in any redevelopment project under this section shall not result in:

(a) Any change in the service area of any electric utility or natural gas utility unless such change has been agreed to by the electric utility or natural gas utility serving the formerly used defense site at the time of approval of such redevelopment project; or

(b) Any change in the service area of any communications company as defined in section 77-2734.04 unless (i) such change has been agreed to by the communications company serving the formerly used defense site at the time of approval of such redevelopment project or (ii) such change occurs pursuant to sections 86-135 to 86-138.

(4) A city approving a redevelopment project under this section and the county in which the formerly used defense site is located may enter into an agreement pursuant to the Interlocal Cooperation Act in which the county agrees to reimburse such city for any services the city provides to the formerly used defense site after approval of the redevelopment project.

Sec. 4. Section 18-2147, Reissue Revised Statutes of Nebraska, is

amended to read:

18-2147 (1) Any redevelopment plan as originally approved or as later modified pursuant to section 18-2117 may contain a provision that any ad valorem tax levied upon real property, or any portion thereof, in a redevelopment project for the benefit of any public body shall be divided, for a period not to exceed fifteen years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124, as follows:

(a) That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body. When there is not a redevelopment project valuation on a parcel or parcels, the county assessor shall determine the redevelopment project valuation based upon the fair market valuation of the parcel or parcels as of January 1 of the year prior to the year that the ad valorem taxes are to be divided. The county assessor shall provide written notice of the redevelopment project valuation to the authority as defined in section 18-2103 and the owner. The authority or owner may protest the valuation to the county board of equalization within thirty days after the date of the valuation notice. All provisions of section 77-1502 except dates for filing of a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall decide any protest filed pursuant to this section within thirty days after the filing of the protest. The county clerk shall mail a copy of the decision made by the county board of equalization on protests pursuant to this section to the authority or owner within seven days after the board's decision. Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision;

(b) That portion of the ad valorem tax on real property, as provided in the redevelopment contract or bond resolution, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies; and

(c) Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

(2) The effective date of a provision dividing ad valorem taxes as provided in subsection (1) of this section shall not occur until such time as the real property in the redevelopment project is within the corporate boundaries of the city. This subsection shall not apply to a redevelopment project involving a formerly used defense site as authorized in section 3 of this act.

(3) Beginning August 1, 2006, all notices of the provision for dividing ad valorem taxes shall be sent by the authority to the county assessor on forms prescribed by the Property Tax Administrator. The notice shall be sent to the county assessor on or before August 1 of the year of the effective date of the provision. Failure to satisfy the notice requirement of this section shall result in the taxes, for all taxable years affected by the failure to give notice of the effective date of the provision, remaining undivided and being paid into the funds for each public body receiving property taxes generated by the property in the redevelopment project. However, the redevelopment project valuation for the remaining division of ad valorem taxes in accordance with subdivisions (1)(a) and (b) of this section shall be the last certified valuation for the taxable year prior to the effective date of the provision to divide the taxes for the remaining portion of the fifteen-year period pursuant to subsection (1) of this section.

Sec. 5. The Revisor of Statutes shall assign section 3 of this act within sections 18-2101 to 18-2144.

Sec. 6. Original sections 18-2101, 18-2103, and 18-2147, Reissue Revised Statutes of Nebraska, are repealed.