

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 210

Introduced by Ebke, 32; Craighead, 6.

Read first time January 13, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to housing agencies; to amend sections
- 2 71-1575, 71-1590, and 71-15,124, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to taxation of mixed-use
- 4 developments; to provide an operative date; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1575, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-1575 For purposes of the Nebraska Housing Agency Act:

4 (1) Affiliate means any corporation, entity, partnership, venture,
5 syndicate, or arrangement in which a local housing agency participates by
6 holding an ownership interest or participating in its governance,
7 including both controlled and noncontrolled affiliates;

8 (2) Affordable housing means dwelling units that may be rented or
9 purchased, as the case may be, by persons of eligible income and
10 qualifying tenants, with or without government assistance;

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

13 (4) Area of operation means the geographical area within which a
14 local housing agency may own or operate housing developments as described
15 in section 71-1588;

16 (5) City means an incorporated city or village;

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

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

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

28 (9) Development or housing development means and includes all
29 dwellings and associated appurtenances, including real and personal
30 property, and all other facilities and improvements of every kind and
31 description which a local housing agency may own or operate or in which

1 it may hold an interest under the provisions of the act; all land upon
2 which such dwellings, appurtenances, and facilities are situated; all
3 work and activities undertaken by a local housing agency or others
4 relating to the creation of such property and all tangible and intangible
5 personal property relating thereto, including all leases, licenses,
6 agreements, and other instruments; and all rights and obligations arising
7 thereunder establishing or confirming ownership, title, or right of use
8 or possession in or to any such property by a local housing agency;

9 (10) Establishing a housing agency means taking all actions required
10 under sections 71-1576 to 71-1587 to be taken by the governing body of a
11 city or county or, in the case of a regional housing agency, by the
12 governing bodies of all political subdivisions participating therein, for
13 a housing agency to conduct business and to exercise its powers. In the
14 case of a housing agency or housing authority existing on January 1,
15 2000, established means that such agency has been authorized to conduct
16 business and exercise its powers in accordance with prior law;

17 (11) Family means a single person or a number of persons that may,
18 but need not, include children, that a local housing agency accepts for
19 occupancy of a dwelling, or to which such agency offers or provides other
20 assistance, as particularly defined in the eligibility and occupancy
21 standards adopted by the agency;

22 (12) Guest means any person, not a resident of such development, who
23 is present within a development, or any person, not a resident in such
24 dwelling, who is present within a dwelling in a development, as an
25 invitee of or otherwise with the acquiescence or consent of a resident of
26 such development or dwelling, as the case may be;

27 (13) Hold an interest means ownership, control of, or participation
28 in an arrangement with respect to a development by a local housing agency
29 or any affiliate thereof;

30 (14) Household means a family as defined in subdivision (11) of this
31 section;

1 (15) Housing agency or agency means and includes both a local
2 housing agency established pursuant to sections 71-1576 to 71-1580 and a
3 regional housing agency established pursuant to sections 71-1581 to
4 71-1587. Reference in any prior or other law to housing authority is
5 deemed to refer to housing agency. Wherever the context requires or
6 permits, housing agency or agency includes controlled affiliates of a
7 housing agency;

8 (16) Local housing agency or agency means a public body, corporate
9 and politic, previously established or to be established by a city or a
10 county pursuant to the authority provided in the act, exercising
11 necessary and essential governmental functions for the purposes stated in
12 the act in matters of statewide concern, although its operations are
13 local in nature. A local housing agency shall be a political subdivision
14 of this state, independent from the city or county which established or
15 establishes it or which may appoint some or all of its commissioners. Any
16 reference in the act to a local housing agency includes a housing agency
17 or a regional housing agency, unless the context clearly otherwise
18 requires. The term local housing agency also includes any housing
19 authority established under prior law;

20 (17) Market-rate unit means a dwelling unit in a mixed-income
21 development that is not designated for occupancy only by persons of
22 eligible income or that is not available at a reduced rent to persons of
23 eligible income;

24 (~~18~~ 17) Mixed-finance development means a development that is
25 financed both by funding derived from the private sector and funding
26 provided by the government that is permitted to be used for the
27 development of affordable housing;

28 (~~19~~ 18) Mixed-income development means a housing development
29 intended to be, and which in fact is, occupied both by persons of
30 eligible income and by other persons, and if such other persons are
31 living in a development constructed or acquired and substantially

1 occupied after January 1, 2000, the incomes of such other persons at
2 initial occupancy shall not exceed one hundred percent of the median
3 income in the county in which the development is located;

4 (~~20~~ 19) Noncontrolled affiliate means an affiliate in which a local
5 housing agency participates that is not a controlled affiliate;

6 (~~21~~ 20) Person includes a family;

7 (~~22~~ 21) Persons of eligible income means:

8 (a) With respect to state or federally funded activities or
9 developments, individuals or families who meet the applicable income
10 requirements of the state or federal program involved, if any such state
11 or federal income requirements are applicable, and, if none are so
12 applicable, then individuals or families who meet the requirements of
13 subdivision (b) of this subdivision; and

14 (b) With respect to activities and developments other than those to
15 which subdivision (a) of this subdivision is applicable, individuals or
16 families who, in the determination of the local housing agency, lack
17 sufficient income or assets, taking into account all resources available
18 to such individuals or families from whatever source derived or
19 reasonably derivable, to enable them, without undue hardship or
20 governmental financial assistance, to purchase or rent, as the case may
21 be, decent, safe, and sanitary dwellings of adequate size, except that
22 the income of such families shall not exceed eighty percent of the area
23 median income for families of like size;

24 (~~23~~ 22) Public agency means and includes any: (a) County, city,
25 village, or township; school, drainage, tax, improvement, or other
26 district; local housing agency; department, division, or political
27 subdivision of this state or another state; housing agency, housing
28 finance agency, or housing trust of this state or another state; and
29 other agency, bureau, office, authority, or instrumentality of this state
30 or another state; (b) board, agency, commission, division, or other
31 instrumentality of a city or county; and (c) board, commission, agency,

1 department, or other instrumentality of the United States, or any
2 political subdivision or governmental unit thereof;

3 (~~24~~ 23) Qualifying tenants means persons described in subdivision
4 (~~22~~ 21)(b) of this section and individuals and families whose income does
5 not exceed one hundred twenty-five percent of the maximum income standard
6 applicable under subdivision (~~22~~ 21)(b) of this section;

7 (~~25~~ 24) Regional housing agency means a public body, corporate and
8 politic, and a governmental subdivision of this state, formed by two or
9 more cities, two or more counties, or a combination of cities and
10 counties, pursuant to the authority provided in sections 71-1581 to
11 71-1587, exercising necessary and essential governmental functions for
12 the purposes stated in the act in matters of statewide concern, although
13 its operations are local or regional in nature. It is a political
14 subdivision of this state, independent from political subdivisions of
15 this state which established it or which may appoint some or all of its
16 commissioners;

17 (~~26~~ 25) Representative means a commissioner, officer, employee, or
18 agent of a local housing agency; and

19 (~~27~~ 26) Resident means a person residing in a development of a
20 housing agency pursuant to an agreement with such agency.

21 Sec. 2. Section 71-1590, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 71-1590 (1) The real and personal property of a local housing agency
24 and any wholly owned controlled affiliate thereof used solely (a) for the
25 administrative offices of the housing agency or wholly owned controlled
26 affiliate thereof, (b) to provide housing for persons of eligible income
27 and qualifying tenants, and (c) for appurtenances related to such housing
28 shall be exempt from all taxes and special assessments of any city, any
29 county, the state, or any public agency thereof, including without
30 limitation any special taxing district or similar political subdivision.
31 All other real and personal property of the housing agency or wholly

1 owned controlled affiliate thereof, including dwelling units occupied by
2 persons who are not persons of eligible income and market-rate units,
3 shall be deemed to not be used for a public purpose for purposes of
4 section 77-202 and shall be taxable as provided in sections 77-201 and
5 77-202.11. Property owned jointly by a housing agency or its wholly owned
6 controlled affiliates with other nongovernmental persons or entities
7 shall be exempt from such taxes and assessments to the extent of the
8 ownership interest which the housing agency and its wholly owned
9 controlled affiliates hold in the property and to the extent the property
10 is used solely to provide housing for persons of eligible income and
11 qualifying tenants. Nothing in this section shall be deemed to preclude a
12 housing agency and its wholly owned controlled affiliates from entering
13 into an agreement for the payment of all or any portion of any special
14 assessments which might otherwise be assessed except for the exemption
15 created by this section.

16 (2) A housing agency may agree to make payments in lieu of all taxes
17 or special assessments to the county within whose territorial
18 jurisdiction any development of such housing agency or its controlled
19 affiliates is located, for improvements, services, and facilities
20 furnished by the city, county, or other public agencies, for the benefit
21 of such development. Nothing contained in this section shall be deemed to
22 require such an agreement by a local housing agency, and in no event
23 shall the amounts payable by the housing agency exceed the amounts which,
24 except for the exemption provided in this section, would otherwise be
25 payable under regular taxes and special assessments for similar
26 properties referred to in subsection (1) of this section. All payments in
27 lieu of taxes made by any such housing agency shall be distributed by the
28 county to all public agencies in such proportion that each public agency
29 shall receive from the total payment the same proportion as its property
30 tax rate bears to the total property tax which would be levied by each
31 public agency against property of the housing agency if the same were not

1 exempt from taxation.

2 (3) The property of Indian housing authorities created under Indian
3 law shall be exempt from all taxes and special assessments of the state
4 or any city, village, or public agency thereof. In lieu of such taxes or
5 special assessments, an Indian housing authority may agree to make
6 payments to any city, village, or public agency for improvements,
7 services, or facilities furnished by such city, village, or public agency
8 for the benefit of a housing project owned by the housing authority, but
9 in no event shall such payments exceed the estimated cost to such city,
10 village, or public agency of the improvements, services, or facilities to
11 be so furnished. All payments made by any such housing authority in lieu
12 of taxes, whether such payments are contractually stipulated or
13 gratuitous voluntary payments, shall be distributed among the cities,
14 villages, or public agencies within which the housing project is located,
15 in such proportion that each city, village, or public agency shall
16 receive from the total payment the same proportion as its ad valorem tax
17 rate bears to the total ad valorem tax rate which would be levied by each
18 city, village, or public agency against the properties of the Indian
19 housing authority if the same were not exempt from taxation. For purposes
20 of this section, (a) Indian housing authority means an entity that is
21 authorized by federal law to engage or assist in the development or
22 operation of low-income housing for Indians and which is established by
23 the exercise of the power of self-government of an Indian tribe and (b)
24 Indian law means the code of an Indian tribe recognized as eligible for
25 services provided to Indians by the United States Secretary of the
26 Interior.

27 Sec. 3. Section 71-15,124, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 71-15,124 (1) With respect to any mixed-income development that is
30 constructed or acquired after January 1, 2000, and is solely owned by a
31 local housing agency, not more than sixty percent of the dwelling units

1 in such development shall be occupied by persons who are not persons of
2 eligible income, and no person occupying such a development shall have an
3 income at initial occupancy which exceeds one hundred percent of the
4 median income in the county in which the development is located. This
5 authority is granted only if the agency has made a determination that
6 such housing is an appropriate component for providing safe and sanitary
7 housing for persons of eligible income.

8 (2) With respect to any mixed-income development that is not solely
9 owned by a local housing agency, the proportion of the development that
10 is intended to be affordable to persons of eligible income shall be equal
11 to or greater than the proportion of financial resources for the
12 development which are provided by the local housing agency. The
13 proportion shall be determined in accordance with such reasonable method
14 as shall be adopted by the agency. The proportion may be based upon a
15 proportion of dwelling units, bedrooms, square footage, or any other
16 criteria deemed reasonable and appropriate by the local housing agency.
17 The determination of such proportion shall take into account any special
18 benefits accruing to an agency by virtue of its status as such,
19 including, among other things (a) the capital value of all subsidies and
20 other assistance provided by the agency or by other public sources on
21 behalf of the agency, (b) tax exemptions available because of the
22 agency's participation, and (c) interest savings attributable to tax-
23 exempt financing or to below market interest rates that are available
24 because of the participation of the local housing agency or the presence
25 in the development of dwelling units to be occupied by persons of
26 eligible income.

27 (3) A local housing agency may determine the period during which any
28 unit shall be designated for occupancy only by persons of eligible
29 income. Dwelling units in a mixed-income development that are designated
30 for occupancy by persons of eligible income need not be particular units
31 that are permanently so designated, and the physical location of the

1 units so designated may change from time to time.

2 (4) Market-rate units in a mixed-income development shall be deemed
3 to not be used for a public purpose for purposes of section 77-202 and
4 shall be taxable as provided in sections 77-201 and 77-202.11.

5 Sec. 4. This act becomes operative on January 1, 2016.

6 Sec. 5. Original sections 71-1575, 71-1590, and 71-15,124, Reissue
7 Revised Statutes of Nebraska, are repealed.