

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 613

Introduced by Crawford, 45.

Read first time January 23, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-1116, 77-2912, and 77-5208, Reissue Revised Statutes of Nebraska,
3 and section 81-12,146, Revised Statutes Cumulative Supplement, 2018;
4 to change application deadlines under the New Markets Job Growth
5 Investment Act, the Nebraska Job Creation and Mainstreet
6 Revitalization Act, and the Beginning Farmer Tax Credit Act; to
7 state intent relating to appropriations; to repeal the original
8 sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-1116, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-1116 (1) A qualified community development entity that seeks to
4 have an equity investment or long-term debt security designated as a
5 qualified equity investment and eligible for tax credits under the New
6 Markets Job Growth Investment Act shall apply to the Tax Commissioner.
7 There shall be no new applications for such designation filed under this
8 section after July 1, 2019 ~~December 31, 2022~~.

9 (2) The qualified community development entity shall submit an
10 application on a form that the Tax Commissioner provides that includes:

11 (a) Evidence of the entity's certification as a qualified community
12 development entity, including evidence of the service area of the entity
13 that includes this state;

14 (b) A copy of the allocation agreement executed by the entity, or
15 its controlling entity, and the Community Development Financial
16 Institutions Fund referred to in section 77-1109;

17 (c) A certificate executed by an executive officer of the entity
18 attesting that the allocation agreement remains in effect and has not
19 been revoked or canceled by the Community Development Financial
20 Institutions Fund referred to in section 77-1109;

21 (d) A description of the proposed amount, structure, and purchaser
22 of the equity investment or long-term debt security;

23 (e) Identifying information for any taxpayer eligible to utilize tax
24 credits earned as a result of the issuance of the qualified equity
25 investment;

26 (f) Information regarding the proposed use of proceeds from the
27 issuance of the qualified equity investment; and

28 (g) A nonrefundable application fee of five thousand dollars.

29 (3) Within thirty days after receipt of a completed application
30 containing the information necessary for the Tax Commissioner to certify
31 a potential qualified equity investment, including the payment of the

1 application fee, the Tax Commissioner shall grant or deny the application
2 in full or in part. If the Tax Commissioner denies any part of the
3 application, the Tax Commissioner shall inform the qualified community
4 development entity of the grounds for the denial. If the qualified
5 community development entity provides any additional information required
6 by the Tax Commissioner or otherwise completes its application within
7 fifteen days after the notice of denial, the application shall be
8 considered completed as of the original date of submission. If the
9 qualified community development entity fails to provide the information
10 or complete its application within the fifteen-day period, the
11 application remains denied and must be resubmitted in full with a new
12 submission date.

13 (4) If the application is deemed complete, the Tax Commissioner
14 shall certify the proposed equity investment or long-term debt security
15 as a qualified equity investment that is eligible for tax credits,
16 subject to the limitations contained in section 77-1115. The Tax
17 Commissioner shall provide written notice of the certification to the
18 qualified community development entity. The notice shall include the
19 names of those taxpayers who are eligible to utilize the credits and
20 their respective credit amounts. If the names of the taxpayers who are
21 eligible to utilize the credits change due to a transfer of a qualified
22 equity investment or a change in an allocation pursuant to section
23 77-1114, the qualified community development entity shall notify the Tax
24 Commissioner of such change.

25 (5) The Tax Commissioner shall certify qualified equity investments
26 in the order applications are received. Applications received on the same
27 day shall be deemed to have been received simultaneously. For
28 applications received on the same day and deemed complete, the Tax
29 Commissioner shall certify, consistent with remaining tax credit
30 capacity, qualified equity investments in proportionate percentages based
31 upon the ratio of the amount of qualified equity investment requested in

1 an application to the total amount of qualified equity investments
2 requested in all applications received on the same day.

3 (6) Once the Tax Commissioner has certified qualified equity
4 investments that, on a cumulative basis, are eligible for the maximum
5 limitation contained in section 77-1115, the Tax Commissioner may not
6 certify any more qualified equity investments for that fiscal year. If a
7 pending request cannot be fully certified, the Tax Commissioner shall
8 certify the portion that may be certified unless the qualified community
9 development entity elects to withdraw its request rather than receive
10 partial credit.

11 (7) Within thirty days after receiving notice of certification, the
12 qualified community development entity shall issue the qualified equity
13 investment and receive cash in the amount of the certified amount. The
14 qualified community development entity shall provide the Tax Commissioner
15 with evidence of the receipt of the cash investment within ten business
16 days after receipt. If the qualified community development entity does
17 not receive the cash investment and issue the qualified equity investment
18 within thirty days after receipt of the certification notice, the
19 certification shall lapse and the entity may not issue the qualified
20 equity investment without reapplying to the Tax Commissioner for
21 certification. A certification that lapses reverts back to the Tax
22 Commissioner and may be reissued only in accordance with the application
23 process outlined in this section.

24 Sec. 2. Section 77-2912, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-2912 There shall be no new applications filed under the Nebraska
27 Job Creation and Mainstreet Revitalization Act after July 1, 2019
28 ~~December 31, 2022~~. All applications and all credits pending or approved
29 before such date shall continue in full force and effect, except that no
30 credits shall be allocated under section 77-2905, issued under section
31 77-2906, or used on any tax return or similar filing after December 31,

1 2027.

2 Sec. 3. Section 77-5208, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 77-5208 The board shall meet at least twice during the year. The
5 board shall review pending applications in order to approve and certify
6 beginning farmers and livestock producers as eligible for the programs
7 provided by the board, to approve and certify owners of agricultural
8 assets as eligible for the tax credits authorized by sections 77-5211 to
9 77-5213, and to approve and certify qualified beginning farmers and
10 livestock producers as eligible for the tax credit authorized by section
11 77-5209.01 and for qualification to claim an exemption of taxable
12 tangible personal property as provided by section 77-5209.02. No new
13 applications for any such programs, tax credits, or exemptions shall be
14 approved or certified by the board after July 1, 2019 ~~December 31, 2022~~.
15 Any action taken by the board regarding approval and certification of
16 program eligibility, granting of tax credits, or termination of rental
17 agreements shall require the affirmative vote of at least four members of
18 the board.

19 Sec. 4. Section 81-12,146, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 81-12,146 The Site and Building Development Fund is created. The
22 fund shall receive money pursuant to section 76-903 and may include
23 revenue from appropriations from the Legislature, grants, private
24 contributions, repayment of loans, and all other sources. The Department
25 of Economic Development, as part of its comprehensive business
26 development strategy, shall administer the fund. Any money in the fund
27 available for investment shall be invested by the state investment
28 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
29 State Funds Investment Act. It is the intent of the Legislature that
30 thirty million dollars of the amount saved from no longer accepting
31 applications under the New Markets Job Growth Investment Act, the

1 Nebraska Job Creation and Mainstreet Revitalization Act, and the
2 Beginning Farmer Tax Credit Act be used to increase the appropriation to
3 the Site and Building Development Fund for fiscal year 2019-20 and each
4 fiscal year thereafter.

5 Sec. 5. Original sections 77-1116, 77-2912, and 77-5208, Reissue
6 Revised Statutes of Nebraska, and section 81-12,146, Revised Statutes
7 Cumulative Supplement, 2018, are repealed.

8 Sec. 6. Since an emergency exists, this act takes effect when
9 passed and approved according to law.