

LEGISLATIVE BILL 1065

Approved by the Governor April 18, 2022

Introduced by Wayne, 13; Groene, 42; Jacobson, 42.

A BILL FOR AN ACT relating to the Community Development Law; to amend sections 18-2109 and 18-2155, Revised Statutes Cumulative Supplement, 2020, and sections 18-2101.02 and 18-2147, Revised Statutes Supplement, 2021; to change and eliminate provisions relating to declarations of substandard and blighted areas and redevelopment plans receiving an expedited review; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 18-2101.02, Revised Statutes Supplement, 2021, is amended to read:

18-2101.02 (1) For any city that (a) intends to carry out a redevelopment project which will involve the construction of workforce housing in an extremely blighted area as authorized under subdivision (28)(g) of section 18-2103, (b) intends to prepare a redevelopment plan that will divide ad valorem taxes for a period of more than fifteen years but not more than twenty years as provided in subdivision (3)(a) ~~(3)(b)~~ of section 18-2147, (c) intends to declare an area as an extremely blighted area for purposes of funding decisions under subdivision (1)(b) of section 58-708, or (d) intends to declare an area as an extremely blighted area in order for individuals purchasing residences in such area to qualify for the income tax credit authorized in subsection (7) of section 77-2715.07, the governing body of such city shall first declare, by resolution adopted after the public hearings required under this section, such area to be an extremely blighted area.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is extremely blighted and shall submit the question of whether such area is extremely blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is extremely blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may make its declaration.

(4) Copies of each study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(5) The study or analysis required under subsection (2) of this section may be conducted in conjunction with the study or analysis required under section 18-2109. The hearings required under this section may be held in conjunction with the hearings required under section 18-2109.

Sec. 2. Section 18-2109, Revised Statutes Cumulative Supplement, 2020, is amended to read:

18-2109 (1) A redevelopment plan for a redevelopment project area shall not be prepared and the governing body of the city in which such area is located shall not approve a redevelopment plan unless the governing body has, by resolution adopted after the public hearings required under this section, declared such area to be a substandard and blighted area in need of redevelopment.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is substandard and blighted and shall submit the question of whether such area is substandard and blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is substandard and blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may

declare such area or any portion of such area to be a substandard and blighted area make its declaration.

(4) Copies of each substandard and blighted study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

Sec. 3. Section 18-2147, Revised Statutes Supplement, 2021, 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 the applicable period described in subsection (3) of this section, 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, bond resolution, or redevelopment plan, as applicable, 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. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project; 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) To the extent that a redevelopment plan authorizes the division of ad valorem taxes levied upon only a portion of the real property included in such redevelopment plan, any improvements funded by such division of taxes shall be related to the redevelopment plan that authorized such division of taxes.

~~(3)(a) For redevelopment plans that receive an expedited review under section 18-2155, ad valorem taxes shall be divided for a period not to exceed ten years after the effective date as identified in the redevelopment plan.~~

(3)(a) (b) For any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be divided for a period not to exceed twenty 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.

(b) (c) For all other redevelopment plans, ad valorem taxes 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, or in the redevelopment plan, whichever is applicable.

(4) The effective date of a provision dividing ad valorem taxes as provided in subsection (3) 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 18-2123.01.

(5) 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 ~~ten-year~~, twenty-year, or fifteen-year period pursuant to subsection (3) of this section.

Sec. 4. Section 18-2155, Revised Statutes Cumulative Supplement, 2020, is amended to read:

18-2155 (1) The governing body of a city may elect by resolution to allow expedited reviews of redevelopment plans that meet the requirements of subsection (2) of this section. A redevelopment plan that receives an expedited review pursuant to this section shall be exempt from the requirements of sections 18-2111 to 18-2115 and 18-2116.

(2) A redevelopment plan is eligible for expedited review under this section if:

(a) The redevelopment plan includes only one redevelopment project;

(b) The redevelopment project involves:

(i) The ~~the~~ repair, rehabilitation, or replacement of an existing structure that has been within the corporate limits of the city for at least sixty years and is located within a substandard and blighted area; or

(ii) The redevelopment of a vacant lot that is located within a substandard and blighted area that has been within the corporate limits of the city for at least sixty years and has been platted for at least sixty years;

(c) The redevelopment project is located in a county with a population of less than one hundred thousand inhabitants; ~~and~~

~~(d) The existing structure is at least sixty years old; and~~

~~(d)~~ (e) The assessed value of the property within the redevelopment project area when the project is complete is estimated to be no more than:

(i) ~~Three~~ ~~Two~~ hundred fifty thousand dollars for a redevelopment project involving a single-family residential structure;

(ii) One million ~~five~~ hundred thousand dollars for a redevelopment project involving a multi-family residential structure or commercial structure; or

(iii) Ten million dollars for a redevelopment project involving the revitalization of a structure included in the National Register of Historic Places.

(3) The expedited review shall consist of the following steps:

(a) A redeveloper shall prepare the redevelopment plan using a standard form developed by the Department of Economic Development. The form shall include (i) the existing uses and condition of the property within the redevelopment project area, (ii) the proposed uses of the property within the redevelopment project area, (iii) the number of years current age of the existing structure has been within the corporate limits of the city or the number of years that the vacant lot has been platted within the corporate limits of the city, whichever is applicable, (iv) the current assessed value of the property within the redevelopment project area, (v) the increase in the assessed value of the property within the redevelopment project area that is estimated to occur as a result of the redevelopment project, and (vi) an indication of whether the redevelopment project will be financed in whole or in part through the division of taxes as provided in section 18-2147;

(b) The redeveloper shall submit the redevelopment plan directly to the governing body along with any building permit or other permits necessary to complete the redevelopment project and an application fee in an amount set by the governing body, not to exceed fifty dollars. Such application fee shall be separate from any fees for building permits or other permits needed for the project; and

(c) If the governing body has elected to allow expedited reviews of redevelopment plans under subsection (1) of this section and the submitted redevelopment plan meets the requirements of subsection (2) of this section, the governing body shall approve the redevelopment plan within thirty days after submission of the plan.

(4) Each city may select the appropriate employee or department to conduct expedited reviews pursuant to this section.

(5) For any approved redevelopment project that is financed in whole or in part through the division of taxes as provided in section 18-2147:

(a) The authority shall incur indebtedness in the form of a promissory note issued to the owner of record of the property within the redevelopment project area on which the structure identified in the redevelopment plan is located. The total amount of indebtedness shall not exceed the amount estimated to be generated over a ~~fifteen-year~~ ~~ten-year~~ period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147. The terms of such promissory note shall clearly state that such indebtedness does not create a general obligation on behalf of the authority or the city in the event that the amount generated over a ~~fifteen-year~~ ~~ten-year~~ period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 does not equal the costs of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan;

(b) Upon completion of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan, the redeveloper shall notify the county assessor of such completion; and

(c) The county assessor shall then determine:

(i) Whether the redevelopment project is complete. Redevelopment projects must be completed within two years after the redevelopment plan is approved under this section; and

(ii) The assessed value of the property within the redevelopment project area.

(6) After the county assessor makes the determinations required under subdivision (5)(c) of this section, the county assessor shall use a standard certification form developed by the Department of Revenue to certify to the authority:

(a) That improvements have been made and completed;

(b) That a valuation increase has occurred;

(c) The amount of the valuation increase; and

(d) That the valuation increase was due to the improvements made.

(7) Once the county assessor has made the certification required under subsection (6) of this section, the authority may begin to use the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 to pay the indebtedness incurred by the authority under subdivision (5)(a) of this section. The payments shall be remitted to the owner of record of the property within the redevelopment project area ~~on which the structure identified in the redevelopment plan is located.~~

(8) A single fund may be used for all redevelopment projects that receive an expedited review pursuant to this section. It shall not be necessary to create a separate fund for any such project, including a project financed in whole or in part through the division of taxes as provided in section 18-2147.

Sec. 5. Original sections 18-2109 and 18-2155, Revised Statutes Cumulative Supplement, 2020, and sections 18-2101.02 and 18-2147, Revised Statutes Supplement, 2021, are repealed.