

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 530

Introduced by McKinney, 11.

Read first time January 17, 2023

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to the Nebraska Housing Agency Act; to amend
2 sections 71-1594, 71-1598, 71-15,101, 71-15,104, 71-15,106,
3 71-15,150, and 71-15,157, Reissue Revised Statutes of Nebraska; to
4 change provisions relating to selection, qualifications, terms, and
5 conflicts of interest of certain commissioners; to change provisions
6 relating to selection and removal of certain executive directors of
7 local housing agencies; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1594, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-1594 (1) When the governing body of any city or county, as the
4 case may be, has determined by resolution or ordinance as set forth in
5 section 71-1578 that it is expedient to establish a local housing agency:

6 (a) In the case of cities other than cities of the metropolitan
7 class, the chief elected official of such city shall appoint at least
8 five and not more than seven adult persons;

9 (b) In the case of cities of the metropolitan class:

10 (i) Except as otherwise provided in subdivision (b)(ii) of this
11 subsection, the chief elected official of such city shall appoint seven
12 adult persons; and

13 (ii) After the effective date of this act, within one hundred days
14 of the date the terms of two appointed members expire, and every four
15 years thereafter, an election shall be conducted by the housing agency
16 after ten days' written notice to each adult recipient of direct
17 assistance from the agency to elect from among such recipients two
18 commissioners in addition to the five appointed commissioners. The
19 election shall be by written ballot and each such recipient shall be
20 entitled to one vote. The two persons receiving the two highest number of
21 votes cast shall be elected to terms of four years each. To qualify for
22 election pursuant to this subdivision, a candidate for commissioner shall
23 be an adult recipient in good standing with the agency and shall not be
24 employed in any capacity by the housing agency, the city, or the county
25 in which the city is contained; and

26 (c) In the case of counties, the county board shall appoint at least
27 five and not more than seven adult persons.

28 (2) All such persons shall be residents of the area of operation of
29 the agency. If the selection of a resident commissioner is required under
30 section 71-15,104, then at least one such person shall be a resident
31 commissioner selected as provided in such section. Such persons so

1 appointed shall constitute the governing body of the local housing agency
2 and shall be called commissioners.

3 Sec. 2. Section 71-1598, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 71-1598 (1) Except as provided in subsection (2) of this section:

6 (a) In the case of local housing agencies, the commissioners who are
7 first appointed shall be designated to serve for terms of one, two,
8 three, four, and five years, respectively, from the date of their
9 appointment, but thereafter commissioners shall be appointed for terms of
10 five years.

11 (b) In the case of housing agencies when the appointing authority
12 has elected to have more than five commissioners as provided in section
13 71-1594 or has elected to add one or two commissioners to a presently
14 existing housing agency, the sixth commissioner who is first appointed
15 shall be designated to serve for a term of four years and the additional
16 commissioners who are first appointed shall be designated to serve for
17 terms of five years from the date of appointment, but thereafter the
18 commissioners shall be appointed for terms of five years.

19 (2) All commissioners of a local housing agency established by a
20 city of the metropolitan class appointed or elected on or after the
21 effective date of this act shall serve for terms of four years.

22 Sec. 3. Section 71-15,101, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-15,101 (1) Every commissioner shall be a resident of the area of
25 operation of the housing agency which he or she has been appointed to
26 serve. However, if after appointment a commissioner ceases to reside in
27 the local housing agency's area of operation, his or her term of office
28 shall automatically terminate and a successor shall be appointed to fill
29 such vacancy in the manner provided in sections 71-1594 to 71-15,105. Any
30 commissioner who ceases to reside within the area of operation of the
31 local housing agency in which such commissioner serves shall immediately

1 so inform the board of commissioners of the agency and the appointing
2 authority of his or her change in residence.

3 (2) No person who has been convicted of a felony shall be eligible
4 for appointment or service as a commissioner. No person who is an officer
5 or employee of a city of the metropolitan class which established the
6 housing agency shall be eligible for appointment or service as a
7 commissioner, except that any such officer or employee may be appointed
8 and serve as a commissioner beginning four years after no longer serving
9 as an officer or employee of such city.

10 (3) Any commissioner of a local housing agency for a city of the
11 metropolitan class shall, at the expense of the local housing agency,
12 attain a commissioner's certification from the National Association of
13 Housing and Redevelopment Officials, or equivalent certification from a
14 nationally recognized professional association in the housing and
15 redevelopment field as determined by the local housing agency, within
16 twelve months after the date of appointment or by December 31, 2019,
17 whichever is later, or shall be deemed to have resigned his or her
18 position effective at the end of that time.

19 Sec. 4. Section 71-15,104, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 71-15,104 (1) Each housing agency created under the Nebraska Housing
22 Agency Act shall include among the commissioners constituting the
23 governing body of such local housing agency at least one commissioner who
24 shall be known as a resident commissioner. For purposes of this section,
25 resident commissioner means a member of the governing board of a local
26 housing agency whose eligibility for membership is based upon such
27 person's status as a recipient of direct assistance from the agency
28 except as otherwise provided in this section.

29 (2) No later than thirty days after any vacancy in the office of a
30 resident commissioner, the local housing agency shall notify any resident
31 advisory board or other resident organization and all adult persons

1 directly assisted by such agency to the effect that the position of
2 resident commissioner is open and that if any such person is interested
3 in being considered as a candidate for the position, such person should
4 notify the local housing agency within thirty days of the person's
5 willingness to be considered and to serve in the position.

6 (3) For a housing agency other than a housing agency established by
7 a city of the metropolitan class, the ~~The~~ resident commissioner shall be
8 selected, either by an election or by appointment, as follows:

9 (a) The housing agency may hold an election, allowing each adult
10 direct recipient of its assistance to vote by secret written ballot, at
11 such time and place, or through the mail, as such agency may choose, all
12 to be conducted within thirty days after the receipt of names of
13 candidates as provided in subsection (2) of this section. The candidate
14 receiving the most votes shall serve as resident commissioner;

15 (b) If the housing agency decides not to hold an election, the names
16 of all persons interested who have notified the housing agency of their
17 interest in so serving shall be forwarded to the mayor or to the county
18 board, as the case may be, and the resident commissioner shall be
19 appointed from the list of names, as provided in section 71-1594, subject
20 to confirmation as provided in section 71-1596. In the case of a regional
21 housing agency, the regional board of commissioners shall make such an
22 appointment from among the persons interested in such position; and

23 (c) If no qualified person has submitted to the local housing agency
24 his or her name as a candidate for the position, then the mayor, county
25 board, or regional housing agency, as the case may be, shall fill the
26 position from among all adult persons receiving direct assistance from
27 the agency subject to confirmation, in the case of cities and counties,
28 pursuant to section 71-1596. If a local housing agency owns fewer than
29 three hundred low-income housing units which, for purposes of this
30 subdivision, does not include units of housing occupied by persons
31 assisted under any rental assistance program and the housing agency has

1 received no notification of interest in serving as a resident
2 commissioner as provided in this section, no resident commissioner shall
3 be required to be selected.

4 (4) For a housing agency established by a city of the metropolitan
5 class, the resident commissioner shall be selected, either by an election
6 or by appointment, as follows:

7 (a) The housing agency shall hold an election, allowing each adult
8 direct recipient of its assistance to vote by secret written ballot
9 either in person or at the local housing agency office or through the
10 mail, all to be conducted within thirty days after the receipt of names
11 of candidates as provided in subsection (2) of this section. The
12 candidate receiving the most votes shall serve as resident commissioner;

13 (b) If no qualified person has submitted to the local housing agency
14 his or her name as a candidate for the position, then the mayor, county
15 board, or regional housing agency, as the case may be, shall fill the
16 position from among all adult persons receiving direct assistance from
17 the agency subject to confirmation pursuant to section 71-1596. If a
18 local housing agency owns fewer than three hundred low-income housing
19 units which, for purposes of this subdivision, does not include units of
20 housing occupied by persons assisted under any rental assistance program
21 and the housing agency has received no notification of interest in
22 serving as a resident commissioner as provided in this section, no
23 resident commissioner shall be required to be selected; and

24 (c) A resident commissioner of the housing authority required by
25 this section to be a recipient of direct assistance of the housing
26 agency:

27 (i) Shall not be construed because of such requirement to have a
28 direct or indirect interest in any housing agency project, in any
29 property included or planned to be included in any such project, or in
30 any housing agency contract for materials or services; and

31 (ii) Who ceases to meet such requirement shall forfeit his or her

1 office. If a resident commissioner forfeits his or her office, an
2 election shall be held for the purpose of filling the vacancy. The
3 election shall be conducted pursuant to the procedures provided in
4 subdivision (4)(a) of this section. The successor elected shall serve for
5 the remainder of the term.

6 Sec. 5. Section 71-15,106, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-15,106 (1) The commissioners of each housing agency shall elect
9 a chairperson and vice-chairperson from among the commissioners. Except
10 as otherwise provided in subsection (2) of this section, the
11 commissioners ~~and~~ shall have power to employ an executive director who
12 shall serve as ex officio secretary of the local housing agency. The
13 agency may also employ legal counsel or engage the attorney of the city
14 or county served by the agency for such legal services as the agency may
15 require unless such employment or engagement will result in an ethical or
16 legal violation. The agency may employ accountants, appraisers, technical
17 experts, and such other officers, agents, and employees as the agency may
18 require and shall determine their qualifications, duties, compensation,
19 and terms of office. A local housing agency may delegate to one or more
20 of its agents or employees such powers and duties as it may deem proper.

21 (2)(a) For a housing agency established by a city of the
22 metropolitan class, the executive director shall be elected by each adult
23 direct recipient of its assistance. Beginning on the effective date of
24 this act, and each time a vacancy for executive director occurs, the
25 housing agency shall notify all such recipients of all candidates for
26 such position and allow such recipients to vote by secret ballot either
27 in person at the housing agency office or by mail. The candidate
28 receiving the most votes shall be elected executive director.

29 (b) If the executive director has three or more reported complaints
30 from residents, housing agency staff, or commissioners, the housing
31 agency shall hold a public hearing addressing such complaints within

1 thirty days of reaching the three-complaint threshold. After the hearing,
2 each adult recipient of direct assistance from the agency shall be
3 allowed to vote to remove the executive director in the same manner as
4 provided in subdivision (a) of this subsection for election of the
5 executive director.

6 Sec. 6. Section 71-15,150, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-15,150 (1) Except as otherwise permitted under the provisions of
9 sections 71-15,149 to 71-15,157, no housing agency official shall own or
10 hold an interest in any contract or property or engage in any business,
11 transaction, or professional or personal activity that would:

12 (a) Be or appear to be in conflict with such official's duties
13 relating to the housing agency served by or subject to the authority of
14 such official;

15 (b) Secure or appear to secure unwarranted privileges or advantages
16 for such official or others; or

17 (c) Prejudice or appear to prejudice such official's independence of
18 judgment in the exercise of his or her official duties relating to the
19 housing agency served by or subject to the authority of such official.

20 (2) No housing agency official shall act in an official capacity in
21 any matter in which such official has a direct or indirect financial or
22 personal involvement. ~~The ownership of less than five percent of the~~
23 ~~outstanding shares of a corporation shall not constitute an interest~~
24 ~~within the meaning of this section.~~ No housing agency official shall use
25 his or her public office or employment to secure financial gain to such
26 official. No commissioner of a housing agency for a city of the
27 metropolitan class shall have an ownership interest in any entity doing
28 business with such housing agency.

29 (3) Except as otherwise permitted by the provisions of sections
30 71-15,149 to 71-15,157, a housing agency shall not, with respect to any
31 housing agency official, during his or her tenure or for a period of one

1 year thereafter, either:

2 (a) Award or agree to award any contract to such housing agency
3 official or other local government official;

4 (b) Purchase or agree to purchase any real property from such
5 housing agency official or other local government official, or sell or
6 agree to sell any real property to such housing agency official or other
7 local government official;

8 (c) Permit any housing agency official to represent, appear, or
9 negotiate on behalf of any other party before the housing agency's board
10 of commissioners or with its other officials or employees;

11 (d) Employ any commissioner for compensation or otherwise;

12 (e) Employ any local government official, or any member of such
13 official's immediate family, if such official's duties involve the
14 exercise of authority relating to the housing agency; or

15 (f) Employ for compensation any member of the immediate family of a
16 housing agency official, if such employment creates the relationship of
17 direct supervisor or subordinate between family members or otherwise
18 creates a real or apparent conflict of interest.

19 Sec. 7. Section 71-15,157, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 71-15,157 (1) Nothing contained in sections 71-15,149 to 71-15,157
22 shall prohibit a housing agency of a city of the second class or of a
23 village from purchasing or otherwise acquiring any goods or services from
24 a provider of such goods or services owned in whole or in part by a
25 housing agency official if (a) the provider is the sole source for the
26 goods or services within the area of operation of the housing agency, (b)
27 the cost of the goods or services does not exceed three thousand dollars
28 in any one instance, or (c) the provider has not received more than ten
29 thousand dollars from the housing agency in any one calendar year.

30 (2) Nothing contained in sections 71-15,149 to 71-15,157 shall
31 prohibit a housing agency from entering into and performing contracts,

1 agreements, and arrangements with any nonprofit entity or any affiliate,
2 whether for-profit or nonprofit in character, notwithstanding that some
3 or all of the housing agency's representatives or public officials or
4 legislators who exercise functions or responsibilities with respect to a
5 housing agency's developments also serve as directors or in other
6 policymaking positions in such nonprofit entity or affiliate. Such
7 service by housing agency representatives, public officials, or
8 legislators is expressly permitted under the Nebraska Housing Agency Act.

9 (3) The provisions of sections 71-15,149 to 71-15,157 shall not
10 apply to any general depositary agreement entered into with a bank or
11 other financial institution regulated by the federal government or to
12 utility service for which rates are fixed by a state or local agency. The
13 provisions of sections 71-15,149 to 71-15,157 shall not apply to prohibit
14 any present or former tenant commissioner from acting upon housing agency
15 business affecting residents unless such business directly involves a
16 resident organization with respect to which such commissioner occupies a
17 policymaking position or serves as a member of the governing board.

18 (4) Except as provided in subsection (2) of section 71-15,101,
19 nothing ~~Nothing~~ contained in sections 71-15,149 to 71-15,157 shall
20 prohibit service as a commissioner by the chief elected official or any
21 member of the governing body of any city, county, or other public agency
22 which is served by a housing agency.

23 Sec. 8. Original sections 71-1594, 71-1598, 71-15,101, 71-15,104,
24 71-15,106, 71-15,150, and 71-15,157, Reissue Revised Statutes of
25 Nebraska, are repealed.