

LEGISLATIVE BILL 828

Approved by the Governor February 7, 1990

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to public health; to amend sections 71-1,187, 71-1,188, 71-1522, 71-1527, 71-1528, 71-1537, 71-1539, 71-1551, and 71-1554, Reissue Revised Statutes of Nebraska, 1943; to change internal references as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 71-1,187, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,187. Nothing in ~~this act~~ the Uniform Licensing Law shall be construed to prevent or restrict:

(1) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;

(2) A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery under the supervision of a physician;

(3) A person licensed as a hearing aid fitter and dealer in this state from engaging in the fitting, selling, and servicing of hearing aids or performing such other duties as defined in ~~Chapter 71, article 47~~ sections 71-4701 to 71-4719;

(4) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a speech or hearing specialist, issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of ~~this act~~ sections 71-1,186 to 71-1,196;

(5) The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as trainee or other title clearly indicating the training status; or

(6) The activities and services of persons fulfilling the supervised clinical experience requirements of this act section 71-1,190, which activities and services shall be performed by persons under the supervision of a person licensed in the area in which the individual is practicing.

Sec. 2. That section 71-1,188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,188. Nothing in this act sections 71-1,186 to 71-1,196 shall be construed to prevent or restrict (1) a qualified person licensed in this state from engaging in the profession for which he or she is licensed if he or she does not present himself or herself to be an audiologist or speech-language pathologist or (2) the performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed under this act such sections, if such services are performed for not more than thirty days in any calendar year, if such person meets the qualifications and requirements for application for licensure under this act such sections, if such person is working under the supervision of a person licensed to practice speech-language pathology or audiology, and if such person registers with the board prior to initiation of professional services.

Sec. 3. That section 71-1522, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1522. As used in this act For purposes of the Nebraska Housing Authorities Law, unless the context otherwise requires:

(1) Authority or housing authority shall mean any of the public corporations created pursuant to this act the law, and such terms shall also include a joint housing authority unless the context shall specify otherwise;

(2) City shall mean any city incorporated under the laws of this state; county shall mean any

county in this state; village shall mean any village incorporated under the laws of this state; a city shall mean the particular city for which a particular housing authority is created; a county shall mean the particular county for which a particular housing authority is created; and a village shall mean the particular village for which a particular housing authority is created;

(3) Governing body shall mean, in the case of the city, the council; in the case of a village, the board of trustees; and in the case of a county, the county board;

(4) Mayor shall mean the mayor of the city, or the officer thereof charged with the duties customarily imposed upon a mayor or executive head of the city, and the chairperson of the board of trustees shall mean the executive head of a village;

(5) Clerk shall mean the clerk of the city, village, or county, as the case may be, or the officer charged with the duties customarily imposed on such clerk;

(6) Area of operation shall mean: (a) In the case of metropolitan cities, a city and the area within ten miles of the territorial boundaries thereof; (b) in the case of a city, not of the metropolitan class, or a village, such city or village and the area within five miles of the territorial boundaries thereof, except ; ~~PROVIDED~~; that the area of operation of a housing authority of any city of the metropolitan class or any other city or village shall not include any area which lies within the territorial boundaries of any other city or village of any class in which a housing authority ~~shall have~~ has been created pursuant to ~~this act the law~~; (c) in the case of a county, all of the county except that portion which lies within the territorial boundaries of any city or village in which a housing authority ~~shall have~~ has been created pursuant to ~~this act the law~~; and (d) in the case of a joint housing authority, an area equivalent to the total areas of operation which the housing authorities, if created separately by the cities, villages, or counties establishing the joint authority, would have. The creation of subsequent housing authorities shall not affect the area of operation or territorial jurisdiction of any existing housing authority, except that no existing housing authority shall thereafter establish any new project within the territorial boundaries of any city or village which subsequently established a housing authority for that city or village, without the consent of such subsequent housing authority and approval of the

governing body of such city or village. No joint housing authority shall establish any new project within the area of operation of any other housing authority without the consent of such other housing authority. In the case of changes in the boundaries of political subdivisions which have established housing authorities or the establishment of subsequent housing authorities, territories may exist that are under the area of operation or concurrent jurisdiction of two or more housing authorities, except that no new housing project shall be constructed by any authority within such area of concurrent jurisdiction without sixty days' prior written notice to all other housing authorities existing within such area of concurrent jurisdiction. The 7 and such notice shall specify the location and general nature of the proposed new project. Any housing project established by a housing authority pursuant to ~~this act~~ the law shall continue to be maintained and operated by the housing authority so establishing it, except as provided in section 71-1550;

(7) Federal government shall mean the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America;

(8) Slum shall mean an area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors, are detrimental to safety, health, and morals;

(9) Housing project, or projects, shall mean any work or undertaking on contiguous or noncontiguous sites, whether within a slum area or not, (a) to demolish, clear, or remove buildings, or (b) to provide, or assist in providing, by any suitable method, including, but not limited to, rental or sale to persons of low income, of individual units and single or multifamily structures which provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low income, elderly or handicapped persons of low income, or displaced persons, or (c) to accomplish a combination of the foregoing. Such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, utilities, parks, site preparations, and landscaping, and facilities for administrative, community, health, recreational, welfare, or other purposes. The term

terms housing project or ~~project~~ projects also may be applied to the planning of buildings and other improvements, the acquisition of property or any interest therein, the demolition of existing structures, construction, reconstruction, rehabilitation, alteration, or repair of the improvements and all other work in connection therewith. The 7 and the terms shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project;

(10) Persons of low income shall mean persons or families who lack the amount of income which is necessary, as determined by the authority undertaking the housing project, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding;

(11) Bonds shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to ~~this act~~ the law;

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

(13) Obligee of the authority or obligee shall mean any bondholder, the trustee or trustees for any bondholders, the holder of any note, mortgage, or other security authorized pursuant to ~~sections 71-1503, 71-1509, and 71-1518 to 71-1554~~ the law, or any lessor demising to the authority property used in connection with the housing 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 the authority;

(14) Public body shall mean the state and any city, county, or municipal corporation and any commission, district, authority, agency, subdivision, or other body of any of the foregoing;

(15) Elderly shall mean any person sixty-two years of age or older on the date such person intends to occupy the premises, or any family the head of which, or his or her spouse, is ~~an elderly person~~ as defined in this subdivision, and who meets the income or other conditions established by the regulations of the authority; ~~pursuant to this act;~~

(16) Handicapped shall mean a person whose functioning is substantially impaired and who meets the

disability, income, or other conditions as determined in accordance with the regulations established by the authority; ~~pursuant to this act;~~

(17) Displaced shall mean a person who is removed from his or her dwelling by the rehabilitation, clearance, or redevelopment of slums in blighted areas, condemnation, enforcement of minimum dwelling standard ordinances, or the exercise of the power of eminent domain as a result of governmental action and who meets the income and other conditions as determined in accordance with the regulations established by the authority; ~~pursuant to this act;~~

(18) Community facilities shall include real and personal property and buildings and equipment for recreational, educational, health, or welfare purposes and necessary utilities when designed primarily for the benefit and use of the occupants of the dwelling accommodations, or for both;

(19) Joint housing authority shall mean an authority created by two or more cities, villages, or counties, or any combination thereof; and

(20) Instrumentality shall mean a nonprofit corporation created by a housing authority solely for the purpose of administering housing under section 8 of the United States Housing Act of 1937, as amended.

Sec. 4. That section 71-1527, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1527. Any housing authority established under ~~provisions of~~ any prior law relating to housing authorities; and in existence on December 25, 1969, shall have continued existence under ~~this act~~ the Nebraska Housing Authorities Law and shall ~~henceforth~~ conduct its operations consistent with the ~~provisions of this act and all law.~~ All commissioners or members of such authority and all officers, legal counsel, technical experts, directors, and other appointees or employees of such authority; holding office or employment by virtue of any such prior law on December 25, 1969, shall be deemed to have been appointed or employed by the mayor, ~~chairman~~ chairperson of the board of trustees, governing body, or ~~the~~ housing authority, as the case may be, under ~~provisions of this act~~ the Nebraska Housing Authorities Law.

Sec. 5. That section 71-1528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1528. A housing authority created or existing under ~~this act~~ the Nebraska Housing Authorities

Law shall constitute a body corporate and politic; and, for the purpose of making provisions for the preservation of the public health, safety, morals, and welfare by facilitating sanitary housing conditions and the elimination of congested and insanitary housing conditions, shall have all the powers necessary or convenient to carry out and effectuate the purposes ~~and provisions of this act of the law~~, including the following powers in addition to others granted in ~~this act the law~~:

(1) To sue and be sued; to have a seal and alter the same at pleasure; or to dispense with the necessity thereof; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and to make, amend, and repeal bylaws, rules, and regulations not inconsistent with ~~this act the law~~ to carry out and to effectuate its powers and purposes;

(2) Within its area of operation, to prepare, carry out, acquire, lease, and operate projects; and to provide for the acquisition, construction, reconstruction, rehabilitation, improvement, extension, alteration, or repair of any housing project or any part thereof;

(3) To utilize, contract with, act through, assist, and cooperate or deal with any person, agency, institution, or organization, public or private, for the provision of services, privileges, works, or facilities for or in connection with its projects and the occupants thereof and in connection with housing projects by other housing authorities, political subdivisions of this state, or the federal government; and notwithstanding anything to the contrary contained in ~~this act the Nebraska Housing Authorities Law~~ or any other provision of law, to include in any contract awarded or entered into in connection with the project, stipulations requiring that the contractor and all subcontractors comply with the requirements as to minimum salary or wages and maximum hours of labor and comply with any other conditions which the federal government may have attached to the financial aid of the project;

(4) To lease, rent, sell, or lease with the option to purchase, any dwellings, accommodations, lands, buildings, structures, or facilities embraced in any project and, subject to the limitations contained in ~~this act the law~~ with respect to the rental of or charges for dwellings in housing projects, to establish and revise the rents or charges therefor, to own, hold, and improve real or personal property, to purchase,

lease, obtain options upon, or acquire by gift, grant, bequest, devise, or otherwise; any real or personal property; or any interest therein; to acquire by the exercise of the power of eminent domain any real property or interest therein; to sell, lease, exchange, transfer, assign, pledge, mortgage, or dispose of any real or personal property or interest therein; to borrow or give security in connection therewith, and otherwise to enter into contracts, leases, or agreements in order to provide housing for occupancy by persons of low income, elderly or handicapped persons of low income, or displaced persons in need; and to procure or to agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by the authority, including the power to pay premiums on any such insurance;

(5) To invest any funds held in reserve as sinking funds or any funds not required for immediate disbursement in any bonds or other securities of the United States; or obligations of governmental agencies of the United States, including the twelve federal land banks, the twelve intermediate credit banks, the Federal Farm Credit Bank, the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, obligations, participations, or other instruments as authorized to be issued by the Government National Mortgage Association and the Federal National Mortgage Association, or bonds or other securities of the State of Nebraska, or to deposit the same in any financial institution whose deposits the deposits of which are insured by an agency of the United States Government up to the amount of such insurance; to deposit funds in excess of such insurance, if such deposit is protected by the type of bond or collateral in lieu of such insurance as is permitted under the law of the State of Nebraska for the security of funds deposited by counties; and to redeem its bonds at the redemption price established therein, all bonds so redeemed to be canceled;

(6) To undertake and carry out studies and analyses of housing needs within its area of operation; and ways of meeting such needs, including data with respect to population and family groups and distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, and other factors affecting the local housing needs and the meaning thereof; to make the results of such studies and analyses available to the public and to

engage in research and disseminate information on housing and slum clearance and to make studies and recommendations relating to the problem of clearing, replanning, and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, including, but not limited to, elderly and handicapped persons of low income, and displaced persons in need; to cooperate with the city, village, county, and state, or the federal government or any political subdivision thereof, or any person, agency, institution, or organization, public or private, in action taken in connection with such problem; and to engage in research studies and experimentations on the subject of housing;

(7) Acting through one or more commissioners or other person or persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths and issue subpoenas requiring the attendance of witnesses and the production of books and papers, and to issue commissions for the examination of witnesses who are outside the state or unable to attend before the authority or excused from attendance; and to make available to appropriate agencies, including those charged with the duty of abating or requiring a correction of nuisances or like conditions or of demolishing unsafe or insanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to public health, morals, safety, or welfare;

(8) To accept the provisions of and carry out the duties imposed under any act relating to public housing heretofore enacted by the Congress of the United States; and to cooperate with the federal government with respect to any housing for persons of low income undertaken or assisted pursuant to federal legislation, including the designation or approval of agencies or instrumentalities, as defined in subdivision (20) of section 71-1522, empowered to provide such federally assisted housing, and to do any and all things necessary or desirable to secure financial or other forms of assistance from the federal government with respect to such housing. Any bonds, notes, or other securities issued or received by any housing authority, or any agency or instrumentality designed or approved by such housing authority, pursuant to this section, shall not create or imply any obligation or indebtedness of any

kind on the part of the State of Nebraska; or any political subdivision thereof, and the same shall not create or imply any obligation or indebtedness of any kind on the part of any housing authority except as specifically stated in writing by such housing authority;

(9) To act as agent for any public agency, the federal government, any other housing authority, or other public body in connection with the acquisition, construction, operation, or management of a housing project or any part thereof;

(10) To insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; and

(11) To exercise all or any part or combination of the powers granted in this section.

No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall so specifically state.

Sec. 6. That section 71-1537, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1537. (1) An authority may establish from time to time rules and regulations consistent with the purposes of ~~this act~~ the Nebraska Housing Authorities Law concerning the priority of eligible applicants for occupancy who are entitled to the benefits of ~~this act~~ the law and may give consideration to the applicant's status as a ~~serviceman~~ member of the armed forces or veteran, as a or relative of a serviceman member of the armed forces or veteran, or to as a disabled serviceman member of the armed forces or veteran, and the applicant's age or disability, housing conditions, urgency of housing need, and source of income. ~~In~~ PROVIDED, that in any such system of priority, displaced persons in need shall have a priority ahead of all other such persons who may be entitled to the benefits of ~~this act~~; ~~AND PROVIDED FURTHER, that no~~ the law. No tenant in good standing ~~them~~ in occupancy and qualified for continued occupancy shall have his or her tenancy terminated in order to provide dwelling units for classes or categories of applicants as the authority may establish.

(2) For purposes of this section, veteran shall mean a person who has served in the armed forces of the United States and who ~~shall have~~ has been discharged, or released ~~therefrom from the armed forces~~ under conditions other than dishonorable and who shall

otherwise qualify as a person of low income or an elderly or handicapped person of low income, as defined by this act-

(3) For purposes of this section, serviceman member of the armed forces shall mean any person currently serving in the armed forces of the United States and who shall otherwise qualify as a person of low income, as defined by this act-

Sec. 7. That section 71-1539, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1539. Before the construction of any new project, an authority may, in its discretion, elect to construct such new project according to the following procedure:

(1) The authority shall formulate a general plan of the purposes and ends to be accomplished by the new project, including, but not limited to, the total number of units desired, whether any units are to be specially designed for the elderly or the handicapped, and the unit size, and any other details which the authority deems appropriate for inclusion within the proposed new project or any related facilities appurtenant thereto. The authority shall then publish this information in a newspaper of general circulation within the city, village, or county, as the case may be, in which such authority is located once each week for two consecutive weeks, and along with such publication, it shall include ~~therein~~ an invitation for interested persons, developers, or contractors to submit proposals for the construction of such project and any related facilities appurtenant thereto;

(2) Any interested person, developer, or contractor, may then submit to the authority a proposal for construction of the project and related facilities appurtenant thereto, together with sufficient preliminary plans and outline specifications, sufficient in detail to fix and illustrate intent as to all essentials of the project, including the estimated price, and including therein a proposed site for the location of such project to which site such person, developer, or contractor ~~shall hold~~ holds title or an option to buy. Proposals submitted shall indicate that improvements will be suitable, well designed, well constructed, and of long life, and designed for economical administration and maintenance, and be produced in the most efficient and economical manner, and the sites submitted with the proposal shall be located in neighborhoods that will provide a healthful

and decent environment, all pursuant to the purposes of ~~this act~~ the Nebraska Housing Authorities Law;

(3) An authority may then select, from among the proposals submitted, that proposal which is the most commensurate with the objectives of the authority and is most suitable for the purposes of ~~this act~~; ~~or the authority~~ the law. may reject all proposals and readvertise with or without modification of the original plan, or may select an alternate procedure for the construction of the proposed project. Any proposal that is initially accepted by the authority shall comply with all rules and regulations promulgated by the authority or with any rules and regulations promulgated by the federal government necessary to procure federal financial assistance in regard thereto;

(4) After the proposal has been initially accepted and all other steps have been taken pursuant to this section or any rules and regulations promulgated by the authority or by the federal government or by both, then the housing authority may enter into a contract with the person, developer, or contractor submitting the accepted proposal; that the housing authority will purchase and acquire the project and all facilities appurtenant thereto upon the completion thereof by such person, developer, or contractor; and

(5) Unless the housing authority states otherwise in its plan as provided in ~~subsection~~ subdivision (1) of this section, the person, developer, or contractor making any proposal or entering into any contract for construction shall be responsible for drawing the plans and specifications of the project and any related facilities appurtenant thereto and such person, developer, or contractor shall be responsible for acquisition of the site for the project, for the hiring of any architects, contractors, subcontractors, technical experts, laborers, suppliers, and any other persons furnishing work or services in connection with the project, and ~~shall be further responsible~~ for the completion of the project all pursuant to the terms of ~~this act~~ the law and any rules and regulations promulgated by the authority or by the federal government. ~~in relation thereto.~~

Sec. 8. That section 71-1551, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1551. In addition to the powers conferred upon an authority by other provisions of ~~this act~~ the Nebraska Housing Authorities Law, an authority is empowered to borrow money or accept contributions,

grants, or other financial assistance from the federal government for or in aid of any project or related activities concerning health, welfare, economic, educational, environmental, and similar problems of persons entitled to the benefits of ~~this act~~ the law, to take over or lease or manage any project or undertaking constructed, owned, financed, or otherwise assisted in whole or in part, by the federal government, and to these ends, to comply with such conditions and enter into such contracts, covenants, mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable. It is the purpose and intent of ~~this act~~ the law to authorize any authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the provision of decent, safe, and sanitary dwellings and maintaining of a wholesome living environment for persons entitled to the benefits of ~~this act~~ the law.

Sec. 9. That section 71-1554, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1554. ~~This act~~ The Nebraska Housing Authorities Law shall be construed liberally to effect the charitable and public purposes hereof and the enumeration of specific powers in ~~this act~~ the law shall not operate to restrict the meaning of any general grant of power contained in ~~this act~~, the law or to exclude other powers comprehended in such general grant.

Sec. 10. That original sections 71-1,187, 71-1,188, 71-1522, 71-1527, 71-1528, 71-1537, 71-1539, 71-1551, and 71-1554, Reissue Revised Statutes of Nebraska, 1943, are repealed.