

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 789

Introduced by Groene, 42; Clements, 2; Halloran, 33.

Read first time January 05, 2022

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to urban housing; to amend sections 19-5504
2 and 81-1237, Revised Statutes Cumulative Supplement, 2020, and
3 sections 18-2119 and 19-5505, Revised Statutes Supplement, 2021; to
4 provide an exception for an affordable housing report and change an
5 affordable housing action plan requirement under the Municipal
6 Density and Missing Middle Housing Act; to redefine a term under the
7 Middle Income Workforce Housing Investment Act; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2119, Revised Statutes Supplement, 2021, is
2 amended to read:

3 18-2119 (1) An authority shall, by public notice by publication once
4 each week for two consecutive weeks in a legal newspaper having a general
5 circulation in the city, prior to the consideration of any redevelopment
6 contract proposal relating to real estate owned or to be owned by the
7 authority, invite proposals from, and make available all pertinent
8 information to, private redevelopers or any persons interested in
9 undertaking the redevelopment of an area, or any part thereof, which the
10 governing body has declared to be in need of redevelopment. Such notice
11 shall identify the area, and shall state that such further information as
12 is available may be obtained at the office of the authority. The
13 authority shall consider all redevelopment proposals and the financial
14 and legal ability of the prospective redevelopers to carry out their
15 proposals and may negotiate with any redevelopers for proposals for the
16 purchase or lease of any real property in the redevelopment project area.
17 The authority may accept such redevelopment contract proposal as it deems
18 to be in the public interest and in furtherance of the purposes of the
19 Community Development Law if the authority has, not less than thirty days
20 prior thereto, notified the governing body in writing of its intention to
21 accept such redevelopment contract proposal. Thereafter, the authority
22 may execute such redevelopment contract in accordance with the provisions
23 of section 18-2118 and deliver deeds, leases, and other instruments and
24 take all steps necessary to effectuate such redevelopment contract. In
25 its discretion, the authority may, without regard to the foregoing
26 provisions of this section, dispose of real property in a redevelopment
27 project area to private redevelopers for redevelopment under such
28 reasonable competitive bidding procedures as it shall prescribe, subject
29 to the provisions of section 18-2118.

30 (2) In the case of any real estate owned by a redeveloper, the
31 authority may enter into a redevelopment contract providing for such

1 undertakings as the authority shall determine appropriate. Any such
2 redevelopment contract relating to real estate within an enhanced
3 employment area shall include a statement of the redeveloper's consent
4 with respect to the designation of the area as an enhanced employment
5 area, shall be recorded with respect to the real estate owned by the
6 redeveloper, and shall be binding upon all future owners of such real
7 estate.

8 (3)(a) Prior to entering into a redevelopment contract pursuant to
9 this section for a redevelopment plan that includes the division of taxes
10 as provided in section 18-2147, the authority shall require the
11 redeveloper to certify the following to the authority:

12 (i) Whether the redeveloper has filed or intends to file an
13 application to receive tax incentives under the Nebraska Advantage Act or
14 the Imagine Nebraska Act for a project located or to be located within
15 the redevelopment project area;

16 (ii) Whether such application includes or will include, as one of
17 the tax incentives, a refund of the city's local option sales tax
18 revenue; and

19 (iii) Whether such application has been approved under the Nebraska
20 Advantage Act or the Imagine Nebraska Act.

21 (b) The authority may consider the information provided under
22 subdivision (3)(a) of this section in determining whether to enter into
23 the redevelopment contract.

24 (4) A redevelopment contract for a redevelopment plan or
25 redevelopment project that includes the division of taxes as provided in
26 section 18-2147 shall include a provision requiring that the redeveloper
27 retain copies of all supporting documents that are associated with the
28 redevelopment plan or redevelopment project and that are received or
29 generated by the redeveloper for three years following the end of the
30 last fiscal year in which ad valorem taxes are divided and provide such
31 copies to the city as needed to comply with the city's retention

1 requirements under section 18-2117.04. For purposes of this subsection,
2 supporting document includes any cost-benefit analysis conducted pursuant
3 to section 18-2113 and any invoice, receipt, claim, or contract received
4 or generated by the redeveloper that provides support for receipts or
5 payments associated with the division of taxes.

6 (5) A redevelopment contract for a redevelopment plan that includes
7 the division of taxes as provided in section 18-2147 may include a
8 provision requiring that all ad valorem taxes levied upon real property
9 in a redevelopment project be paid before the taxes become delinquent in
10 order for such redevelopment project to receive funds from such division
11 of taxes.

12 (6) A redevelopment contract for a redevelopment plan or
13 redevelopment project that includes the division of taxes as provided in
14 section 18-2147 may include any additional requirements deemed necessary
15 by the city to ensure that such plan or project complies with the city's
16 comprehensive development plan, the city's affordable housing action plan
17 required under section 19-5505, city zoning regulations, and any other
18 reasonable planning requirements or goals established by the city.

19 Sec. 2. Section 19-5504, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 19-5504 (1) Except as provided in subsection (3) of this section, on
22 ~~On~~ or before July 1, 2021, and by each July 1 every two years thereafter,
23 each city shall electronically submit a report to the Urban Affairs
24 Committee of the Legislature detailing its efforts to address the
25 availability of and incentives for affordable housing through its zoning
26 codes, ordinances, and regulations.

27 (2) Such report shall include, but not be limited to:

28 (a) An overview of the city's current residential zoning
29 requirements;

30 (b) The percentage of areas in the city zoned for residential use
31 which permit the construction of multifamily housing and middle housing;

1 (c) A breakdown of new residential construction in the city over the
2 previous five years, including the percentage of such construction that
3 was single-family housing, multifamily housing, and middle housing;

4 (d) A breakdown of residential units annexed by the city over the
5 previous five years, including the percentage of such units that were
6 single-family housing, multifamily housing, and middle housing;

7 (e) An estimate of the per-unit cost of housing in the city;

8 (f) Whether such zoning codes, ordinances, and regulations provide
9 for density bonuses or other concessions or incentives which encourage
10 residential density, and the frequency with which such bonuses,
11 concessions, or incentives are utilized;

12 (g) Whether such zoning codes, ordinances, and regulations allow the
13 construction of accessory dwelling units;

14 (h) What incentives the city applies to encourage the development of
15 affordable housing, including both direct incentives and regulatory
16 relief;

17 (i) A demographic analysis of the city with trends and estimates of
18 the housing need classified by housing type and price range; and

19 (j) Efforts to adopt an affordable housing action plan described in
20 ~~as required under~~ section 19-5505.

21 (3) This section does not apply to a city with a population of less
22 than fifty thousand inhabitants.

23 (4) (2) The Urban Affairs Committee of the Legislature may require
24 any city subject to the requirements of this section to present its
25 report to the committee at a public hearing.

26 Sec. 3. Section 19-5505, Revised Statutes Supplement, 2021, is
27 amended to read:

28 19-5505 (1)(a) (1) On or before January 1, 2023, each city with a
29 population of fifty thousand or more inhabitants shall adopt an
30 affordable housing action plan.

31 (b) Each ~~On or before January 1, 2024,~~ each city with a population

1 of less than fifty thousand inhabitants ~~may shall~~ adopt an affordable
2 housing action plan at any time.

3 (2) Such action plan shall include, but not be limited to:

4 (a) Goals for the construction of new affordable housing units,
5 including multifamily housing and middle housing, with specific types and
6 numbers of units, geographic locations, and specific actions to encourage
7 the development of affordable housing, middle housing, and workforce
8 housing;

9 (b) Goals for a percentage of areas in the city zoned for
10 residential use which permit the construction of multifamily housing and
11 middle housing;

12 (c) Plans for the use of federal, state, and local incentives to
13 encourage affordable housing, middle housing, and workforce housing,
14 including the Affordable Housing Trust Fund, the Local Option Municipal
15 Economic Development Act, tax-increment financing, federal community
16 development block grants, density bonuses, and other nonmonetary
17 regulatory relief; and

18 (d) Updates to the city's zoning codes, ordinances, and regulations
19 to incentivize affordable housing.

20 (3) ~~(2)~~ An affordable housing action plan described in ~~required~~
21 ~~under~~ subsection (2) ~~(1)~~ of this section may be adopted as part of a
22 city's comprehensive plan or as a separate plan.

23 (4) ~~(3)~~ Any city described in subdivision (1)(a) of this section
24 which fails to adopt an affordable housing action plan as required under
25 ~~subsection (1) of this section shall be required to~~ allow the development
26 of:

27 (a) Middle housing in all areas in the city zoned for residential
28 use that allow for the development of detached single-family dwellings;
29 and

30 (b) A duplex on each lot or parcel zoned for residential use that
31 allows for the development of detached single-family dwellings.

1 (5) ~~(4)~~ A city described in subdivision (1)(a) of this section shall
2 amend any building zoning ordinances or regulations as needed to comply
3 with subsection (4) ~~(3)~~ of this section.

4 Sec. 4. Section 81-1237, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 81-1237 For purposes of the Middle Income Workforce Housing
7 Investment Act:

8 (1) Department means the Department of Economic Development;

9 (2) Director means the Director of Economic Development;

10 (3) Eligible activities of a workforce housing investment fund
11 means:

12 (a) New construction of owner-occupied housing in a neighborhood and
13 community with a demonstrated need for housing that is affordable and
14 attractive to first-time homebuyers, middle-income families, and the
15 emerging workforce;

16 (b) Substantial repair or rehabilitation of dilapidated housing
17 stock; or

18 (c) Upper-story housing development for occupation by a homeowner;

19 (4) HOME funds means funds awarded as formula grants under the HOME
20 Investment Partnerships Program administered by the United States
21 Department of Housing and Urban Development;

22 (5) Matching funds means dollars contributed by individuals,
23 businesses, foundations, local and regional political subdivisions, or
24 other nonprofit organizations to a workforce housing investment fund
25 administered by a nonprofit development organization;

26 (6) Nonprofit development organization means a regional or statewide
27 nonprofit development organization approved by the director;

28 (7) Qualified activities include purchase guarantees, loan
29 guarantees, loan participations, and other credit enhancements related to
30 eligible activities of the workforce housing investment fund;

31 (8) Qualified investment means a cash investment in a workforce

1 housing investment fund administered by a nonprofit development
2 organization;

3 (9) Urban community means any area that is:

4 (a) In a county with a population greater than fifty ~~one hundred~~
5 thousand inhabitants as determined by the most recent federal decennial
6 census; and

7 (b) Within a qualified census tract as described in 26 U.S.C. 42(d)
8 (5)(B), as such section existed on January 1, 2020;

9 (10) Workforce housing means:

10 (a) Owner-occupied housing units that have an after-construction
11 appraised value of at least one hundred twenty-five thousand dollars but
12 not more than two hundred seventy-five thousand dollars. For purposes of
13 this subdivision (a) and subdivision (b) of this subsection, housing unit
14 after-construction appraised value shall be updated annually by the
15 department based upon the most recent increase or decrease in the
16 Producer Price Index for all commodities, published by the United States
17 Department of Labor, Bureau of Labor Statistics;

18 (b) Owner-occupied housing units for which the cost to substantially
19 rehabilitate such units exceeds fifty percent of a unit's before-
20 construction assessed value, and the after-construction appraised value
21 is at least one hundred twenty-five thousand dollars but not more than
22 two hundred seventy-five thousand dollars;

23 (c) Upper-story housing for occupation by a homeowner; and

24 (d) Housing that does not receive federal or state low-income
25 housing tax credits, community development block grants, HOME funds, or
26 funds from the Affordable Housing Trust Fund; and

27 (11) Workforce housing investment fund means a fund that has been
28 created by a nonprofit development organization and certified by the
29 director to encourage development of workforce housing in urban
30 communities.

31 Sec. 5. Original sections 19-5504 and 81-1237, Revised Statutes

- 1 Cumulative Supplement, 2020, and sections 18-2119 and 19-5505, Revised
- 2 Statutes Supplement, 2021, are repealed.