

LEGISLATIVE BILL 304

Approved by the Governor February 14, 2018

Introduced by Crawford, 45.

A BILL FOR AN ACT relating to the Nebraska Housing Agency Act; to amend sections 71-15,102, 71-15,140, 71-15,141, 71-15,142, 71-15,157, and 71-15,158, Reissue Revised Statutes of Nebraska; to change provisions relating to commission membership, storage and possession of personal property, filing of reports and plans, conflicts of interest, and public bidding requirements as prescribed; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-15,102, Reissue Revised Statutes of Nebraska, is amended to read:

71-15,102 (1) In the case of a city of the metropolitan class, at least one commissioner shall be a member of a racial minority.

~~(2) In the case of a county, not more than three members of a housing agency shall be residents of the same incorporated community within the county.~~

Sec. 2. Section 71-15,140, Reissue Revised Statutes of Nebraska, is amended to read:

71-15,140 A housing agency may adopt and promulgate reasonable rules and regulations consistent with the purposes of the Nebraska Housing Agency Act concerning personal property of residents and other persons located in a development of the agency, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any resident, an agency may remove the same and store such property in a secure location at the resident's risk and expense. If possession of such personal property is not taken by the resident or other person authorized by law to take possession within fourteen ~~forty-five~~ days after such termination, vacation, ~~or~~ abandonment, or death and if any storage removal charges remain unpaid, then the housing agency may, at its option, dispose of the personal property in any manner which the authority deems fit. In no case shall any employee or relative of an employee of the housing agency take ownership of such property. No resident or other person shall have any cause of action against the housing agency for such removal or disposition of such personal property.

Sec. 3. Section 71-15,141, Reissue Revised Statutes of Nebraska, is amended to read:

71-15,141 (1) Within nine ~~six~~ months after the end of each fiscal year, each local housing agency shall prepare a report summarizing such agency's activities for the year then ended. The report shall contain financial statements depicting the financial condition of the agency, its assets and liabilities, including contingent liabilities, and the results of its operations for the year then ended. The report shall be approved by the agency's board of commissioners and signed by its chairperson.

(2) The annual report of a local housing agency shall be a public record that is available for inspection and copying by members of the general public at the offices of the local housing agency. A local housing agency shall also file its annual report with the city or county clerk promptly upon completion thereof. Regional housing agencies shall file annual reports with the appropriate officials of all participating political subdivisions.

(3) Any employee or member of the board of commissioners of a local housing agency who approves, signs, or files an annual report of an agency knowing it is materially false or misleading shall be guilty of a Class II misdemeanor.

(4) The financial statements contained in annual reports of local housing agencies with gross revenue of two hundred fifty thousand dollars or more shall be audited annually. The financial statements of agencies with gross revenue of less than two hundred fifty thousand dollars shall be audited at least biennially. A copy of each audit report shall be filed with the Auditor of Public Accounts within nine months after the end of each fiscal year in which such agency is required to file an audit report or in which an audit report of such agency is prepared. Each local housing agency audit shall be conducted in accordance with generally accepted accounting principles, except that if the agency is a recipient of federal assistance, the audit shall be conducted in accordance with any accounting principles required by the federal government.

Sec. 4. Section 71-15,142, Reissue Revised Statutes of Nebraska, is amended to read:

71-15,142 (1) Before any local housing agency shall construct any new development for housing purposes, it shall submit to the governing body of the city or county creating such agency, as the case may be, or to the governing body of the political subdivision which has zoning jurisdiction for the site or sites of such new development, in the case of regional housing agencies, a plan indicating the general location or locations and boundaries of the proposed site or sites for any such development, which plans shall be subject to the approval of such governing body, and such governing body may, in its discretion, submit such plan to the planning department, if any, of the city or

county, as the case may be, for that department's comments and recommendations.

~~(2) Each local housing agency shall file with the governing body of the city or county creating such agency a copy of the five year plan and annual plan required by section 511 of the federal Quality Housing and Work Responsibility Act of 1998. The plans shall be filed with the governing body within thirty days after the date the plan is filed with the federal Department of Housing and Urban Development.~~

Sec. 5. Section 71-15,157, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Nothing contained in sections 71-15,149 to 71-15,157 shall prohibit a housing agency from entering into and performing contracts, agreements, and arrangements with any nonprofit entity or any affiliate, whether for-profit or nonprofit in character, notwithstanding that some or all of the housing agency's representatives or public officials or legislators who exercise functions or responsibilities with respect to a housing agency's developments also serve as directors or in other policymaking positions in such nonprofit entity or affiliate. Such service by housing agency representatives, public officials, or legislators is expressly permitted under the Nebraska Housing Agency Act.

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

(4) Nothing contained in sections 71-15,149 to 71-15,157 shall prohibit service as a commissioner by the chief elected official or any member of the governing body of any city, county, or other public agency which is served by a housing agency.

Sec. 6. Section 71-15,158, Reissue Revised Statutes of Nebraska, is amended to read:

71-15,158 (1) Local housing agencies shall adopt policies, rules, and procedures governing the procurement of goods or services, the sale or disposition of agency property, and the management of agency personnel. Such policies, rules, and procedures shall apply to all controlled affiliates of a local housing agency unless the agency, by resolution of its board of commissioners, elects otherwise.

(2) To the extent that federal funds are involved in any procurement by a local housing agency and public bidding or other procedures and conditions are required as a condition of the acceptance of federal financial assistance, a local housing agency shall follow such federal procedures and other conditions in such procurement.

(3) Contracts or awards for housing developments which the local housing agency proposes to construct or cause to be constructed, if the estimated cost is one hundred fifty thousand dollars or more, shall be entered into or awarded only after public bidding as provided in this section. This section shall not apply to the procurement of any professional services such as that of an architect, engineer, or legal counsel.

(4) For the construction of new housing developments, the local housing agency, in its discretion, may publish a request for proposals, including a general plan for the purposes and ends to be accomplished by the new development, including, but not limited to, the total number of units desired, any units that are to be specifically designed for the elderly or the handicapped, the unit size, and any other details which the local housing agency deems appropriate for inclusion within the proposed new development or any facilities that are pertinent thereto.

(5) The local housing agency shall advertise for public bids or proposals once a week for two consecutive weeks in a newspaper of general circulation in its area of operation. After sealed bids or proposals are received, the contract shall be awarded to the lowest and best bidder or, if the local housing agency has elected to proceed under subsection (4) of this section, in favor of the proposal that is most commensurate with the published objectives of the local housing agency and is most suitable for the purposes of the Nebraska Housing Agency Act, except that a local housing agency, if it deems it to be in its best interests or necessary or desirable to effectuate the purposes of the act or economy and efficiency in the construction and operation of such housing development, may either reject all bids or proposals and readvertise or elect not to proceed with the development.

(6) The local housing agency may adopt and promulgate rules and regulations governing the qualifications of bidders, the submission of combined bids by two or more contractors, the award and execution of the contract,

security, if any, the execution and performance of the contract, the requirements for making a proposal, and any other matters which the local housing agency deems appropriate.

(7) The local housing agency may, in its discretion, insert a provision in any contract that additional work may be done or materials or supplies furnished or that work or materials may be omitted for the purpose of completing the contract in accordance with any changes, omissions, or additions in the specifications of any such contract. Nothing in this section shall be construed to limit the power of the local housing agency to carry out a project or development or any part thereof directly by the officers, agencies, and employees of the agency or by any public agency or to purchase or to acquire goods, services, materials, equipment, or property by or through any other local housing agency as provided in section 71-15,160 or by any other public agency provided in section 71-15,161. The local housing agency may, in its discretion, insert a provision in any contract regarding labor, including wage rates, safety, and equal employment opportunities, that the local housing agency deems necessary or desirable or as may be required by law.

Sec. 7. Original sections 71-15,102, 71-15,140, 71-15,141, 71-15,142, 71-15,157, and 71-15,158, Reissue Revised Statutes of Nebraska, are repealed.