

LEGISLATIVE BILL 1069

Approved by the Governor April 18, 2022

Introduced by Williams, 36; Vargas, 7.

A BILL FOR AN ACT relating to workforce housing; to amend sections 81-1228, 81-1229, 81-1230, 81-1231, 81-1238, 81-1239, and 81-1240, Revised Statutes Cumulative Supplement, 2020; to redefine terms; to change provisions relating to grant programs, investment funds, nonprofit development organizations, and the return, credit, and transfer of funds under the Rural Workforce Housing Investment Act and Middle Income Workforce Housing Investment Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 81-1228, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1228 For purposes of the Rural Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a nonprofit development organization means:
 - (a) New construction of owner-occupied or rental housing in a community with demonstrated workforce housing needs;
 - (b) Substantial repair or rehabilitation of dilapidated housing stock; or
 - (c) Upper-story housing development;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local, and regional, and statewide political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a local, regional, or statewide nonprofit development organization approved by the director;
- (7) Qualified activities include, but are not limited to, purchase and rental guarantees, loan guarantees, loan participations, and other credit enhancements or any other form of assistance designed to reduce the cost of workforce housing related to eligible activities of the nonprofit development organization;
- (8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;
- (9) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;
- (10) Workforce housing means:
 - (a) Housing that meets the needs of today's working families;
 - (b) Housing that is attractive to new residents considering relocation to a rural community;
 - (c) Owner-occupied housing units that cost not more than ~~three two hundred twenty-five~~ ~~seventy-five~~ thirty-five thousand dollars to construct or rental housing units that cost not more than two hundred fifty thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
 - (d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value;
 - (e) Upper-story housing; and
 - (f) Housing that does not receive federal or state low-income housing tax credits, community development block grants, HOME funds, funds from the National Housing Trust Fund, or funds from the Affordable Housing Trust Fund; and

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

Sec. 2. Section 81-1229, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1229 (1) The director shall establish a workforce housing grant program to foster and support the development of workforce housing in rural communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27 ~~2020-21~~, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed one million dollars to any one nonprofit development organization over a two-year period, with the no more than two million dollars cumulative amount for any single grantee to be determined by the department at

~~the discretion of the director through fiscal year 2020-21. An applicant shall provide matching funds of at least one-half of the amount of workforce housing grant funds awarded. Grants shall require a minimum one-to-one in matching funds to be considered a qualified grant application.~~ Unallocated workforce housing grant funds held by the department shall be rolled to the next program year.

(3) Grants shall be awarded based upon:

(a) A demonstrated and ongoing housing need as identified by a recent housing study;

(b) A community or region that has a low unemployment rate and is having difficulty attracting workers and filling employment positions;

(c) A community or region that exhibits a demonstrated commitment to growing its housing stock;

(d) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(e) A demonstrated ability to grow and manage a workforce housing investment fund.

~~(4) A workforce housing investment fund shall be required to receive annual certification from the department.~~

(4) ~~(5)~~ A nonprofit development organization shall:

(a) Invest or intend to invest in workforce housing eligible activities;

(b) Use any fees, interest, loan repayments, or other funds it received as a result of the administration of the grant to support qualified activities; and

(c) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall have an annual review ~~audit~~ of all financial records conducted by an independent certified public accountant.

Sec. 3. Section 81-1230, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1230 (1) The Rural Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1229 shall come from the Rural Workforce Housing Investment Fund. The Rural Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. In addition, the State Treasurer shall make a one-time transfer of seven million three hundred thousand dollars on or before October 1, 2017, from the Affordable Housing Trust Fund to the Rural Workforce Housing Investment Fund. Any money in the Rural Workforce Housing Investment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall administer the Rural Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(3) Interest earned by the department on grant funds shall be applied to the grant program.

(4) If a nonprofit development organization fails to engage in the initial qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization shall return the grant funds to the department for credit to the General Affordable Housing Trust Fund.

(5) If a nonprofit development organization fails to allocate any remaining initial grant funding on a qualified activity within twenty-four months after engaging in the initial qualified activity, the nonprofit development organization shall return such unallocated grant funds to the department for credit to the Rural Workforce Housing Investment Fund.

(6) Beginning July 1, ~~2027~~ 2022, any funds held by the department in the Rural Workforce Housing Investment Fund shall be transferred to the General Affordable Housing Trust Fund.

Sec. 4. Section 81-1231, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1231 (1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the nonprofit development organization meets the requirements of the Rural Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not necessarily be limited to:

(a) The name and geographical location of the reporting nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual review of all financial records ~~audit~~ required under subsection ~~(4)~~ ~~(5)~~ of section 81-1229.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, ~~2027~~

~~2022~~, any unallocated grant funds shall be returned to the department for credit to the Rural Workforce Housing Investment Fund. On and after July 1, ~~2027~~ ~~2022~~, any unallocated grant funds shall be returned to the department for transfer to the General credit to the Affordable Housing Trust Fund.

(4) If a nonprofit development organization fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 5. Section 81-1238, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1238 (1) The director shall establish a workforce housing investment grant program to foster and support the development of workforce housing in urban communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year ~~2026-27~~ ~~2022-2023~~, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed one million dollars to any one nonprofit development organization over a two-year period, with the no more than two million five hundred thousand dollars cumulative amount for any single grantee to be determined by the department at the discretion of the director through fiscal year 2022-2023. ~~An applicant shall provide matching funds of at least one-half of the amount of workforce housing grant funds awarded. Grants shall require a minimum one-to-one in matching funds to be considered a qualified grant application.~~ Unallocated funds held by the department shall be rolled to the next program year. ~~Unallocated funds on June 30, 2025, shall be returned to the Middle Income Workforce Housing Investment Fund.~~

(3) Grants shall be awarded based upon:

(a) A demonstrated need for additional owner-occupied housing. Need can be demonstrated with a recent housing study or a letter from the planning department of the city in which the fund is intending to operate stating that the proposal is in line with the city's most recent consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such subpart existed on January 1, 2020;

(b) A neighborhood or community that has a higher-than-state-average unemployment rate;

(c) A neighborhood or community that exhibits a demonstrated commitment to growing its housing stock;

(d) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(e) A demonstrated ability to grow and manage a workforce housing investment fund.

(4) A workforce housing investment fund shall:

(a) Be required to receive annual certification from the department;

(b) Invest or intend to invest in eligible activities for a workforce housing investment fund;

(c) Use any fees, interest, loan repayments, or other funds received by the nonprofit development organization as a result of the administration of the grant to support qualified activities; and

(d) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall conduct an annual audit of all financial records by an independent certified public accountant.

Sec. 6. Section 81-1239, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1239 (1) The Middle Income Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1238 shall come from the Middle Income Workforce Housing Investment Fund. The Middle Income Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. In addition, the Middle Income Workforce Housing Investment Fund shall receive a one-time transfer of ten million dollars on November 14, 2020, from the General Fund. Any money in the Middle Income Workforce Housing Investment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall administer the Middle Income Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(3) Interest earned by the department on grant funds shall be applied to the grant program.

(4) If a nonprofit development organization fails to engage in a qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization shall return the grant proceeds to the department for credit to the General Affordable Housing Trust Fund.

(5) Beginning July 1, ~~2029~~ ~~2025~~, any funds held by the department in the Middle Income Workforce Housing Investment Fund shall be transferred to the General Affordable Housing Trust Fund.

Sec. 7. Section 81-1240, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1240 (1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the workforce housing investment fund meets the requirements of the Middle Income Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not be limited to:

(a) The name and geographical location of the nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual audit required under subdivision (4)(d) of section 81-1238.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, ~~2029~~ 2025, any unallocated workforce housing investment fund grant funds shall be returned for credit to the Middle Income Workforce Housing Investment Fund. On and after July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned to the department for transfer to the General Fund.

(4) If a workforce housing investment fund fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 8. Original sections 81-1228, 81-1229, 81-1230, 81-1231, 81-1238, 81-1239, and 81-1240, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.