

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 729

Introduced by Mello, 5; Nordquist, 7.

Read first time January 04, 2012

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to the Community Development Law; to amend
2 sections 18-2103, 18-2107, and 18-2124, Reissue Revised
3 Statutes of Nebraska; to redefine a term; to provide
4 powers for an authority; to change provisions relating to
5 the issuance of bonds; and to repeal the original
6 sections.

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

1 Section 1. Section 18-2103, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2103 For purposes of the Community Development Law,
4 unless the context otherwise requires:

5 (1) An authority means any community redevelopment
6 authority created pursuant to section 18-2102.01 and a city or
7 village which has created a community development agency pursuant to
8 the provisions of section 18-2101.01 and does not include a limited
9 community redevelopment authority;

10 (2) Limited community redevelopment authority means a
11 community redevelopment authority created pursuant to section
12 18-2102.01 having only one single specific limited pilot project
13 authorized;

14 (3) City means any city or incorporated village in the
15 state;

16 (4) Public body means the state or any municipality,
17 county, township, board, commission, authority, district, or other
18 political subdivision or public body of the state;

19 (5) Governing body or local governing body means the city
20 council, board of trustees, or other legislative body charged with
21 governing the municipality;

22 (6) Mayor means the mayor of the city or chairperson of
23 the board of trustees of the village;

24 (7) Clerk means the clerk of the city or village;

25 (8) Federal government means the United States of

1 America, or any agency or instrumentality, corporate or otherwise, of
2 the United States of America;

3 (9) Area of operation means and includes the area within
4 the corporate limits of the city and such land outside the city as
5 may come within the purview of section 18-2123;

6 (10) Substandard areas means an area in which there is a
7 predominance of buildings or improvements, whether nonresidential or
8 residential in character, which, by reason of dilapidation,
9 deterioration, age or obsolescence, inadequate provision for
10 ventilation, light, air, sanitation, or open spaces, high density of
11 population and overcrowding, or the existence of conditions which
12 endanger life or property by fire and other causes, or any
13 combination of such factors, is conducive to ill health, transmission
14 of disease, infant mortality, juvenile delinquency, and crime, (which
15 cannot be remedied through construction of prisons), and is
16 detrimental to the public health, safety, morals, or welfare;

17 (11) Blighted area means an area, which (a) by reason of
18 the presence of a substantial number of deteriorated or deteriorating
19 structures, existence of defective or inadequate street layout,
20 faulty lot layout in relation to size, adequacy, accessibility, or
21 usefulness, insanitary or unsafe conditions, deterioration of site or
22 other improvements, diversity of ownership, tax or special assessment
23 delinquency exceeding the fair value of the land, defective or
24 unusual conditions of title, improper subdivision or obsolete
25 platting, or the existence of conditions which endanger life or

1 property by fire and other causes, or any combination of such
2 factors, substantially impairs or arrests the sound growth of the
3 community, retards the provision of housing accommodations, or
4 constitutes an economic or social liability and is detrimental to the
5 public health, safety, morals, or welfare in its present condition
6 and use and (b) in which there is at least one of the following
7 conditions: (i) Unemployment in the designated area is at least one
8 hundred twenty percent of the state or national average; (ii) the
9 average age of the residential or commercial units in the area is at
10 least forty years; (iii) more than half of the plotted and subdivided
11 property in an area is unimproved land that has been within the city
12 for forty years and has remained unimproved during that time; (iv)
13 the per capita income of the area is lower than the average per
14 capita income of the city or village in which the area is designated;
15 or (v) the area has had either stable or decreasing population based
16 on the last two decennial censuses. In no event shall a city of the
17 metropolitan, primary, or first class designate more than thirty-five
18 percent of the city as blighted, a city of the second class shall not
19 designate an area larger than fifty percent of the city as blighted,
20 and a village shall not designate an area larger than one hundred
21 percent of the village as blighted;

22 (12) Redevelopment project means any work or undertaking
23 in one or more community redevelopment areas: (a) To acquire
24 substandard and blighted areas or portions thereof, including lands,
25 structures, or improvements the acquisition of which is necessary or

1 incidental to the proper clearance, development, or redevelopment of
2 such substandard and blighted areas; (b) to clear any such areas by
3 demolition or removal of existing buildings, structures, streets,
4 utilities, or other improvements thereon and to install, construct,
5 or reconstruct streets, utilities, parks, playgrounds, public spaces,
6 public parking facilities, sidewalks or moving sidewalks, convention
7 and civic centers, bus stop shelters, lighting, benches or other
8 similar furniture, trash receptacles, shelters, skywalks and
9 pedestrian and vehicular overpasses and underpasses, and any other
10 necessary public improvements essential to the preparation of sites
11 for uses in accordance with a redevelopment plan; (c) to sell, lease,
12 or otherwise make available land in such areas for residential,
13 recreational, commercial, industrial, or other uses, including
14 parking or other facilities functionally related or subordinate to
15 such uses, or for public use or to retain such land for public use,
16 in accordance with a redevelopment plan; and may also include the
17 preparation of the redevelopment plan, the planning, survey, and
18 other work incident to a redevelopment project and the preparation of
19 all plans and arrangements for carrying out a redevelopment project;
20 (d) to dispose of all real and personal property or any interest in
21 such property, or assets, cash, or other funds held or used in
22 connection with residential, recreational, commercial, industrial, or
23 other uses, including parking or other facilities functionally
24 related or subordinate to such uses, or any public use specified in a
25 redevelopment plan or project, except that such disposition shall be

1 at its fair value for uses in accordance with the redevelopment plan;
2 (e) to acquire real property in a community redevelopment area which,
3 under the redevelopment plan, is to be repaired or rehabilitated for
4 dwelling use or related facilities, repair or rehabilitate the
5 structures, and resell the property; and (f) to carry out plans for a
6 program of voluntary or compulsory repair, ~~and rehabilitation,~~ or
7 demolition of buildings or other improvements in accordance with the
8 redevelopment plan;

9 (13) Redevelopment plan means a plan, as it exists from
10 time to time for one or more community redevelopment areas, or for a
11 redevelopment project, which (a) conforms to the general plan for the
12 municipality as a whole and (b) is sufficiently complete to indicate
13 such land acquisition, demolition and removal of structures,
14 redevelopment, improvements, and rehabilitation as may be proposed to
15 be carried out in the community redevelopment area, zoning and
16 planning changes, if any, land uses, maximum densities, and building
17 requirements;

18 (14) Redeveloper means any person, partnership, or public
19 or private corporation or agency which enters or proposes to enter
20 into a redevelopment contract;

21 (15) Redevelopment contract means a contract entered into
22 between an authority and a redeveloper for the redevelopment of an
23 area in conformity with a redevelopment plan;

24 (16) Real property means all lands, including
25 improvements and fixtures thereon, and property of any nature

1 appurtenant thereto, or used in connection therewith, and every
2 estate, interest and right, legal or equitable, therein, including
3 terms for years and liens by way of judgment, mortgage, or otherwise,
4 and the indebtedness secured by such liens;

5 (17) Bonds means any bonds, including refunding bonds,
6 notes, interim certificates, debentures, or other obligations issued
7 pursuant to the Community Development Law except for bonds issued
8 pursuant to section 18-2142.04;

9 (18) Obligee means any bondholder, agent, or trustee for
10 any bondholder, or lessor demising to any authority, established
11 pursuant to section 18-2102.01, property used in connection with a
12 redevelopment project, or any assignee or assignees of such lessor's
13 interest or any part thereof, and the federal government when it is a
14 party to any contract with such authority;

15 (19) Person means any individual, firm, partnership,
16 limited liability company, corporation, company, association, joint-
17 stock association, or body politic and includes any trustee,
18 receiver, assignee, or other similar representative thereof;

19 (20) Community redevelopment area means a substandard and
20 blighted area which the community redevelopment authority designates
21 as appropriate for a renewal project;

22 (21) Redevelopment project valuation means the valuation
23 for assessment of the taxable real property in a redevelopment
24 project last certified for the year prior to the effective date of
25 the provision authorized in section 18-2147;

1 (22) Enhanced employment area means an area not exceeding
2 six hundred acres (a) within a community redevelopment area which is
3 designated by an authority as eligible for the imposition of an
4 occupation tax or (b) not within a community redevelopment area as
5 may be designated under section 18-2142.04;

6 (23) Employee means a person employed at a business as a
7 result of a redevelopment project;

8 (24) Employer-provided health benefit means any item paid
9 for by the employer in total or in part that aids in the cost of
10 health care services, including, but not limited to, health
11 insurance, health savings accounts, and employer reimbursement of
12 health care costs;

13 (25) Equivalent employees means the number of employees
14 computed by (a) dividing the total hours to be paid in a year by (b)
15 the product of forty times the number of weeks in a year;

16 (26) Business means any private business located in an
17 enhanced employment area;

18 (27) New investment means the value of improvements to
19 real estate made in an enhanced employment area by a developer or a
20 business;

21 (28) Number of new employees means the number of
22 equivalent employees that are employed at a business as a result of
23 the redevelopment project during a year that are in excess of the
24 number of equivalent employees during the year immediately prior to
25 the year that a redevelopment plan is adopted; and

1 (29) Occupation tax means a tax imposed under section
2 18-2142.02.

3 Sec. 2. Section 18-2107, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 18-2107 An authority shall constitute a public body
6 corporate and politic, exercising public and essential governmental
7 functions and having all the powers necessary or convenient to carry
8 out and effectuate the purposes and provisions of the Community
9 Development Law and sections 18-2147 to 18-2151, including the power:

10 (1) To sue and to be sued; to have a seal and to alter
11 the same at pleasure; to have perpetual succession; to make and
12 execute contracts and other instruments necessary or convenient to
13 the exercise of the powers of the authority; and to make and from
14 time to time amend and repeal bylaws, rules, and regulations not
15 inconsistent with the Community Development Law;

16 (2) To prepare or cause to be prepared and recommend
17 redevelopment plans to the governing body of the city and to
18 undertake and carry out redevelopment projects within its area of
19 operation;

20 (3) To arrange or contract for the furnishing or repair,
21 by any person or agency, public or private, of services, privileges,
22 works, streets, roads, public utilities, or other facilities for or
23 in connection with a redevelopment project; and, notwithstanding
24 anything to the contrary contained in the Community Development Law
25 or any other provision of law, to agree to any conditions that it may

1 deem reasonable and appropriate attached to federal financial
2 assistance and imposed pursuant to federal law relating to the
3 determination of prevailing salaries or wages or compliance with
4 labor standards, in the undertaking or carrying out of a
5 redevelopment project, and to include in any contract let in
6 connection with such a project provisions to fulfill such federally
7 imposed conditions as it may deem reasonable and appropriate;

8 (4) Within its area of operation, to purchase, lease,
9 obtain options upon, or acquire by gift, grant, bequest, devise,
10 eminent domain, or otherwise any real or personal property or any
11 interest therein, together with any improvements thereon, necessary
12 or incidental to a redevelopment project; to hold, improve, clear, or
13 prepare for redevelopment any such property; to sell, lease for a
14 term not exceeding ninety-nine years, exchange, transfer, assign,
15 subdivide, retain for its own use, mortgage, pledge, hypothecate, or
16 otherwise encumber or dispose of any real or personal property or any
17 interest therein; to enter into contracts with redevelopers of
18 property containing covenants, restrictions, and conditions regarding
19 the use of such property for residential, commercial, industrial, or
20 recreational purposes or for public purposes in accordance with the
21 redevelopment plan and such other covenants, restrictions, and
22 conditions as the authority may deem necessary to prevent a
23 recurrence of substandard and blighted areas or to effectuate the
24 purposes of the Community Development Law; to make any of the
25 covenants, restrictions, or conditions of the foregoing contracts

1 covenants running with the land and to provide appropriate remedies
2 for any breach of any such covenants or conditions, including the
3 right in the authority to terminate such contracts and any interest
4 in the property created pursuant thereto; to borrow money, issue
5 bonds, and provide security for loans or bonds; to establish a
6 revolving loan fund; to insure or provide for the insurance of any
7 real or personal property or the operation of the authority against
8 any risks or hazards, including the power to pay premiums on any such
9 insurance; to enter into any contracts necessary to effectuate the
10 purposes of the Community Development Law; and to provide grants,
11 loans, or other means of financing to public or private parties in
12 order to accomplish the rehabilitation or redevelopment in accordance
13 with a redevelopment plan. No statutory provision with respect to the
14 acquisition, clearance, or disposition of property by other public
15 bodies shall restrict an authority exercising powers hereunder, in
16 such functions, unless the Legislature shall specifically so state;

17 (5) To invest any funds held in reserves or sinking funds
18 or any funds not required for immediate disbursement in property or
19 securities in which savings banks or other banks may legally invest
20 funds subject to their control; and to redeem its bonds at the
21 redemption price established therein or to purchase its bonds at less
22 than redemption price, and such bonds redeemed or purchased shall be
23 canceled;

24 (6) To borrow money and to apply for and accept advances,
25 loans, grants, contributions, and any other form of financial

1 assistance from the federal government, from the state, county,
2 municipality, or other public body, or from any sources, public or
3 private, including charitable funds, foundations, corporations,
4 trusts, or bequests, for purposes of the Community Development Law,
5 to give such security as may be required, and to enter into and carry
6 out contracts in connection therewith; and notwithstanding any other
7 provision of law, to include in any contract for financial assistance
8 with the federal government for a redevelopment project such
9 conditions imposed pursuant to federal law as the authority may deem
10 reasonable and appropriate and which are not inconsistent with the
11 purposes of the Community Development Law;

12 (7) Acting through one or more members of an authority or
13 other persons designated by the authority, to conduct examinations
14 and investigations and to hear testimony and take proof under oath at
15 public or private hearings on any matter material for its
16 information; to administer oaths and to issue commissions for the
17 examination of witnesses who are outside of the state or unable to
18 attend before the authority or excused from attendance; and to make
19 available to appropriate agencies or public officials, including
20 those charged with the duty of abating or requiring the correction of
21 nuisances or like conditions, demolishing unsafe or insanitary
22 structures, or eliminating conditions of blight within its area of
23 operation, its findings and recommendations with regard to any
24 building or property where conditions exist which are dangerous to
25 the public health, safety, morals, or welfare;

1 (8) Within its area of operation, to make or have made
2 all surveys, appraisals, studies, and plans, but not including the
3 preparation of a general plan for the community, necessary to the
4 carrying out of the purposes of the Community Development Law and to
5 contract or cooperate with any and all persons or agencies, public or
6 private, in the making and carrying out of such surveys, appraisals,
7 studies, and plans;

8 (9) To prepare plans and provide reasonable assistance
9 for the relocation of families, business concerns, and others
10 displaced from a redevelopment project area to permit the carrying
11 out of the redevelopment project to the extent essential for
12 acquiring possession of and clearing such area or parts thereof; and
13 to make relocation payments to or with respect to such persons for
14 moving expenses and losses of property for which reimbursement or
15 compensation is not otherwise made, including the making of such
16 payments financed by the federal government;

17 (10) To make such expenditures as may be necessary to
18 carry out the purposes of the Community Development Law; and to make
19 expenditures from funds obtained from the federal government without
20 regard to any other laws pertaining to the making and approval of
21 appropriations and expenditures;

22 (11) To certify on or before September 20 of each year to
23 the governing body of the city the amount of tax to be levied for the
24 succeeding fiscal year for community redevelopment purposes, not to
25 exceed two and six-tenths cents on each one hundred dollars upon the

1 taxable value of the taxable property in such city, which levy is
2 subject to allocation under section 77-3443 on and after July 1,
3 1998. The governing body shall levy and collect the taxes so
4 certified at the same time and in the same manner as other city taxes
5 are levied and collected, and the proceeds of such taxes, when due
6 and as collected, shall be set aside and deposited in the special
7 account or accounts in which other revenue of the authority is
8 deposited. Such proceeds shall be employed to assist in the defraying
9 of any expenses of redevelopment plans and projects, including the
10 payment of principal and interest on any bonds issued to pay the
11 costs of any such plans and projects;

12 (12) To exercise all or any part or combination of powers
13 granted in this section;

14 (13) To plan, undertake, and carry out neighborhood
15 development programs consisting of redevelopment project undertakings
16 and activities in one or more community redevelopment areas which are
17 planned and carried out on the basis of annual increments in
18 accordance with the Community Development Law and sections 18-2145
19 and 18-2146 for planning and carrying out redevelopment projects; ~~and~~

20 (14) To agree with the governing body of the city for the
21 imposition of an occupation tax for an enhanced employment area;
22 and -

23 (15) To demolish any structure determined by the
24 governing body of the city to be unsafe or unfit for human occupancy
25 in accordance with section 18-1722.01.

1 Sec. 3. Section 18-2124, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2124 An authority ~~shall have power to~~ may issue bonds
4 from time to time in its discretion for any of its corporate
5 purposes, including the payment of principal and interest upon any
6 advances for surveys and plans for redevelopment projects. An
7 authority ~~shall also have power to~~ may also issue refunding bonds for
8 the purpose of paying, retiring, or otherwise refinancing, or in
9 exchange for any or all of the principal or interest upon bonds
10 previously issued by ~~it.~~ the authority. An authority may issue such
11 types of bonds as it may determine, including, without limiting the
12 generality of the foregoing, bonds on which the principal and
13 interest are payable: (1) Exclusively from the income, proceeds, and
14 revenue of the redevelopment project financed with proceeds of such
15 bonds; (2) exclusively from the income, proceeds, and revenue of any
16 of its redevelopment projects whether or not they are financed in
17 whole or in part with the proceeds of such bonds; (3) exclusively
18 from its revenue and income, including any special assessment levied
19 pursuant to section 18-1722 and such tax revenue or receipts as may
20 be herein authorized, including those which may be pledged under
21 section 18-2150, and from such grants and loans as may be received;
22 or (4) from all or part of the income, proceeds, and revenue
23 enumerated in subdivisions (1), (2), and (3) of this section. Any ~~+~~
24 ~~Provided, that any~~ such bonds may be additionally secured by a pledge
25 of any loan, grant, or contributions, or parts thereof, from the

1 federal government or other source, or a mortgage of any
2 redevelopment project or projects of the authority. The ~~;~~ ~~that~~ ~~the~~
3 authority shall not ~~have the power to~~ pledge the credit or taxing
4 power of the state or any political subdivision thereof, except such
5 tax receipts as may be authorized under this section or pledged under
6 section 18-2150, or ~~to~~ place any lien or encumbrance on any property
7 owned by the state, county, or city used by the authority.

8 Sec. 4. Original sections 18-2103, 18-2107, and 18-2124,
9 Reissue Revised Statutes of Nebraska, are repealed.