

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 66
Final Reading

Introduced by Schilz, 47.

Read first time January 10, 2013

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to the Community Development Law; to amend
2 sections 18-2101, 18-2103, and 18-2147, Reissue Revised
3 Statutes of Nebraska; to define and redefine terms; to
4 provide for redevelopment of formerly used defense sites
5 as prescribed; to provide for applicability of certain ad
6 valorem taxation provisions as prescribed; to harmonize
7 provisions; to provide a duty for the Revisor of
8 Statutes; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2101 Sections 18-2101 to 18-2144 and section 3 of this
4 act shall be known and may be cited as the Community Development Law.

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

7 18-2103 For purposes of the Community Development Law,
8 unless the context otherwise requires:

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

14 (2) Limited community redevelopment authority means a
15 community redevelopment authority created pursuant to section
16 18-2102.01 having only one single specific limited pilot project
17 authorized;

18 (3) City means any city or incorporated village in the
19 state;

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

23 (5) Governing body or local governing body means the city
24 council, board of trustees, or other legislative body charged with
25 governing the municipality;

1 (6) Mayor means the mayor of the city or chairperson of
2 the board of trustees of the village;

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

4 (8) Federal government means the United States of
5 America, or any agency or instrumentality, corporate or otherwise, of
6 the United States of America;

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

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

22 (11) Blighted area means an area, which (a) by reason of
23 the presence of a substantial number of deteriorated or deteriorating
24 structures, existence of defective or inadequate street layout,
25 faulty lot layout in relation to size, adequacy, accessibility, or

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

1 percent of the village as blighted;

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

1 such property, or assets, cash, or other funds held or used in
2 connection with residential, recreational, commercial, industrial, or
3 other uses, including parking or other facilities functionally
4 related or subordinate to such uses, or any public use specified in a
5 redevelopment plan or project, except that such disposition shall be
6 at its fair value for uses in accordance with the redevelopment plan;
7 (e) to acquire real property in a community redevelopment area which,
8 under the redevelopment plan, is to be repaired or rehabilitated for
9 dwelling use or related facilities, repair or rehabilitate the
10 structures, and resell the property; and (f) to carry out plans for a
11 program of voluntary or compulsory repair, rehabilitation, or
12 demolition of buildings or other improvements in accordance with the
13 redevelopment plan;

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

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

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

4 (16) Real property means all lands, including
5 improvements and fixtures thereon, and property of any nature
6 appurtenant thereto, or used in connection therewith, and every
7 estate, interest and right, legal or equitable, therein, including
8 terms for years and liens by way of judgment, mortgage, or otherwise,
9 and the indebtedness secured by such liens;

10 (17) Bonds means any bonds, including refunding bonds,
11 notes, interim certificates, debentures, or other obligations issued
12 pursuant to the Community Development Law except for bonds issued
13 pursuant to section 18-2142.04;

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

20 (19) Person means any individual, firm, partnership,
21 limited liability company, corporation, company, association, joint-
22 stock association, or body politic and includes any trustee,
23 receiver, assignee, or other similar representative thereof;

24 (20) Community redevelopment area means a substandard and
25 blighted area which the community redevelopment authority designates

1 as appropriate for a renewal project;

2 (21) Redevelopment project valuation means the valuation
3 for assessment of the taxable real property in a redevelopment
4 project last certified for the year prior to the effective date of
5 the provision authorized in section 18-2147;

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

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

13 (24) Employer-provided health benefit means any item paid
14 for by the employer in total or in part that aids in the cost of
15 health care services, including, but not limited to, health
16 insurance, health savings accounts, and employer reimbursement of
17 health care costs;

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

21 (26) Business means any private business located in an
22 enhanced employment area;

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

1 (28) Number of new employees means the number of
2 equivalent employees that are employed at a business as a result of
3 the redevelopment project during a year that are in excess of the
4 number of equivalent employees during the year immediately prior to
5 the year that a redevelopment plan is adopted; and

6 (29) Occupation tax means a tax imposed under section
7 18-2142.02.

8 Sec. 3. (1) Notwithstanding any other provisions of the
9 Community Development Law to the contrary, a city may undertake a
10 redevelopment project that includes real property located outside the
11 corporate limits of such city if the following requirements have been
12 met:

13 (a) The real property located outside the corporate
14 limits of the city is a formerly used defense site;

15 (b) The formerly used defense site is located within the
16 same county as the city approving such redevelopment project;

17 (c) The formerly used defense site is located within a
18 sanitary and improvement district;

19 (d) The governing body of the city approving such
20 redevelopment project passes an ordinance stating such city's intent
21 to annex the formerly used defense site in the future; and

22 (e) The redevelopment project has been consented to by
23 any city exercising extraterritorial jurisdiction over the formerly
24 used defense site.

25 (2) For purposes of this section, formerly used defense

1 site means real property that was formerly owned by, leased to, or
2 otherwise possessed by the United States and under the jurisdiction
3 of the United States Secretary of Defense. Formerly used defense site
4 does not include missile silos.

5 (3) The inclusion of a formerly used defense site in any
6 redevelopment project under this section shall not result in:

7 (a) Any change in the service area of any electric
8 utility or natural gas utility unless such change has been agreed to
9 by the electric utility or natural gas utility serving the formerly
10 used defense site at the time of approval of such redevelopment
11 project; or

12 (b) Any change in the service area of any communications
13 company as defined in section 77-2734.04 unless (i) such change has
14 been agreed to by the communications company serving the formerly
15 used defense site at the time of approval of such redevelopment
16 project or (ii) such change occurs pursuant to sections 86-135 to
17 86-138.

18 (4) A city approving a redevelopment project under this
19 section and the county in which the formerly used defense site is
20 located may enter into an agreement pursuant to the Interlocal
21 Cooperation Act in which the county agrees to reimburse such city for
22 any services the city provides to the formerly used defense site
23 after approval of the redevelopment project.

24 Sec. 4. Section 18-2147, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 18-2147 (1) Any redevelopment plan as originally approved
2 or as later modified pursuant to section 18-2117 may contain a
3 provision that any ad valorem tax levied upon real property, or any
4 portion thereof, in a redevelopment project for the benefit of any
5 public body shall be divided, for a period not to exceed fifteen
6 years after the effective date as identified in the project
7 redevelopment contract or in the resolution of the authority
8 authorizing the issuance of bonds pursuant to section 18-2124, as
9 follows:

10 (a) That portion of the ad valorem tax which is produced
11 by the levy at the rate fixed each year by or for each such public
12 body upon the redevelopment project valuation shall be paid into the
13 funds of each such public body in the same proportion as are all
14 other taxes collected by or for the body. When there is not a
15 redevelopment project valuation on a parcel or parcels, the county
16 assessor shall determine the redevelopment project valuation based
17 upon the fair market valuation of the parcel or parcels as of January
18 1 of the year prior to the year that the ad valorem taxes are to be
19 divided. The county assessor shall provide written notice of the
20 redevelopment project valuation to the authority as defined in
21 section 18-2103 and the owner. The authority or owner may protest the
22 valuation to the county board of equalization within thirty days
23 after the date of the valuation notice. All provisions of section
24 77-1502 except dates for filing of a protest, the period for hearing
25 protests, and the date for mailing notice of the county board of

1 equalization's decision are applicable to any protest filed pursuant
2 to this section. The county board of equalization shall decide any
3 protest filed pursuant to this section within thirty days after the
4 filing of the protest. The county clerk shall mail a copy of the
5 decision made by the county board of equalization on protests
6 pursuant to this section to the authority or owner within seven days
7 after the board's decision. Any decision of the county board of
8 equalization may be appealed to the Tax Equalization and Review
9 Commission, in accordance with section 77-5013, within thirty days
10 after the date of the decision;

11 (b) That portion of the ad valorem tax on real property,
12 as provided in the redevelopment contract or bond resolution, in the
13 redevelopment project in excess of such amount, if any, shall be
14 allocated to and, when collected, paid into a special fund of the
15 authority to be used solely to pay the principal of, the interest on,
16 and any premiums due in connection with the bonds of, loans, notes,
17 or advances of money to, or indebtedness incurred by, whether funded,
18 refunded, assumed, or otherwise, such authority for financing or
19 refinancing, in whole or in part, the redevelopment project. When
20 such bonds, loans, notes, advances of money, or indebtedness,
21 including interest and premiums due, have been paid, the authority
22 shall so notify the county assessor and county treasurer and all ad
23 valorem taxes upon taxable real property in such a redevelopment
24 project shall be paid into the funds of the respective public bodies;
25 and

1 (c) Any interest and penalties due for delinquent taxes
2 shall be paid into the funds of each public body in the same
3 proportion as are all other taxes collected by or for the public
4 body.

5 (2) The effective date of a provision dividing ad valorem
6 taxes as provided in subsection (1) of this section shall not occur
7 until such time as the real property in the redevelopment project is
8 within the corporate boundaries of the city. This subsection shall
9 not apply to a redevelopment project involving a formerly used
10 defense site as authorized in section 3 of this act.

11 (3) Beginning August 1, 2006, all notices of the
12 provision for dividing ad valorem taxes shall be sent by the
13 authority to the county assessor on forms prescribed by the Property
14 Tax Administrator. The notice shall be sent to the county assessor on
15 or before August 1 of the year of the effective date of the
16 provision. Failure to satisfy the notice requirement of this section
17 shall result in the taxes, for all taxable years affected by the
18 failure to give notice of the effective date of the provision,
19 remaining undivided and being paid into the funds for each public
20 body receiving property taxes generated by the property in the
21 redevelopment project. However, the redevelopment project valuation
22 for the remaining division of ad valorem taxes in accordance with
23 subdivisions (1)(a) and (b) of this section shall be the last
24 certified valuation for the taxable year prior to the effective date
25 of the provision to divide the taxes for the remaining portion of the

1 fifteen-year period pursuant to subsection (1) of this section.

2 Sec. 5. The Revisor of Statutes shall assign section 3 of
3 this act within sections 18-2101 to 18-2144.

4 Sec. 6. Original sections 18-2101, 18-2103, and 18-2147,
5 Reissue Revised Statutes of Nebraska, are repealed.