

AMENDMENTS TO LB194

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 77-2902, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-2902 For purposes of the Nebraska Job Creation and Mainstreet
6 Revitalization Act:

7 (1) Department means the Department of Revenue;

8 (2) Eligible expenditure means any cost incurred for the improvement
9 of historically significant real property located in the State of
10 Nebraska, including, but not limited to, qualified rehabilitation
11 expenditures as defined in section 47(c)(2) of the Internal Revenue Code
12 of 1986, as amended, and the related regulations thereunder, if such
13 improvement is in conformance with the standards;

14 (3) Historically significant real property means a building or an
15 at-grade or above-ground structure used for any purpose, except for a
16 single-family detached residence, which, at the time of final approval of
17 the work by the officer pursuant to section 77-2906, is:

18 (a) Individually listed in the National Register of Historic Places;

19 (b)(i) Located within a district listed in the National Register of
20 Historic Places; and

21 (ii) Determined by the officer as being historically significant to
22 such district;

23 (c)(i) Individually designated pursuant to a landmark ordinance or
24 resolution enacted by a political subdivision of the state, which
25 ordinance or resolution has been approved by the officer; and

26 (ii) Determined by the officer as being historically significant; or

27 (d)(i) Located within a district designated pursuant to a

1 preservation ordinance or resolution enacted by a county, city, or
2 village of the state or political body comprised thereof providing for
3 the rehabilitation, preservation, or restoration of historically
4 significant real property, which ordinance or resolution has been
5 approved by the officer; and

6 (ii) Determined by the officer as contributing to the historical
7 significance or economic viability of such district ~~or to its economic~~
8 ~~viability;~~

9 (4) Improvement means a rehabilitation, preservation, or restoration
10 project that contributes to the basis, functionality, or value of the
11 historically significant real property and has a total cost which equals
12 or exceeds five thousand dollars; ~~the following:~~

13 ~~(a) For historically significant real property that is not located~~
14 ~~in a city of the metropolitan or primary class, twenty five thousand~~
15 ~~dollars; or~~

16 ~~(b) For historically significant real property that is located in a~~
17 ~~city of the metropolitan or primary class, the greater of (i) twenty five~~
18 ~~thousand dollars or (ii) twenty five percent of the historically~~
19 ~~significant real property's assessed value;~~

20 (5) Officer means the State Historic Preservation Officer;

21 (6) Person means any natural person, political subdivision, limited
22 liability company, partnership, private domestic or private foreign
23 corporation, or domestic or foreign nonprofit corporation certified
24 pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as
25 amended;

26 (7) Placed in service means that either (a) a temporary or final
27 certificate of occupancy has been issued for the improvement or (b) the
28 improvement is sufficiently complete to allow for the intended use of the
29 improvement; and

30 (8) Standards means (a) the Secretary of the Interior's Standards
31 for the Treatment of Historic Properties as promulgated by the United

1 States Department of the Interior or (b) specific standards for the
2 rehabilitation, preservation, and restoration of historically significant
3 real property contained in a duly adopted local preservation ordinance or
4 resolution that has been approved by the officer pursuant to section
5 77-2903.

6 Sec. 2. Section 77-2903, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-2903 For purposes of establishing standards under subdivision (8)
9 (b) of section 77-2902, the officer shall approve a duly adopted local
10 preservation ordinance or resolution if such ordinance or resolution
11 meets the following requirements:

12 (1) The ordinance or resolution provides for specific standards and
13 requirements regarding building exteriors that reflect the heritage,
14 values, and character of the political subdivision adopting such
15 ordinance or resolution; and

16 (2) The ordinance or resolution requires that any building to be
17 rehabilitated, preserved, or restored shall have been originally
18 constructed at least fifty years prior to the proposed rehabilitation,
19 preservation, or restoration and the facade of such building shall not
20 have undergone material structural alteration since its original
21 construction, unless the rehabilitation, preservation, or restoration to
22 be performed proposes to restore the facade to substantially its original
23 condition.

24 Sec. 3. Section 77-2904, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-2904 (1) Any person incurring eligible expenditures may receive a
27 nonrefundable credit against any income tax imposed by the Nebraska
28 Revenue Act of 1967 or any tax imposed pursuant to sections 44-101 to
29 44-165, 77-907 to 77-918, or 77-3801 to 77-3807 for the year the
30 historically significant real property is placed in service. ~~The amount~~
31 ~~of the credit shall be equal to twenty percent of eligible expenditures~~

1 ~~up to a maximum credit of one million dollars.~~

2 (2) For historically significant real property located in a county
3 that includes a city of the metropolitan class or a city of the primary
4 class, the credit shall be equal to twenty-five percent of eligible
5 expenditures. For historically significant real property located in any
6 other county, the credit shall be equal to thirty percent of eligible
7 expenditures. In all cases, the maximum credit allocated to any one
8 project shall be two million dollars.

9 (3) Any taxpayer that claims a tax credit shall not be required to
10 pay any additional retaliatory tax under section 44-150 as a result of
11 claiming such tax credit. Any tax credit claimed under this section shall
12 be considered a payment of tax for purposes of subsection (1) of section
13 77-2734.03.

14 (4) ~~(2)~~ To claim the credit authorized under this section, a person
15 must first apply and receive an allocation of credits and application
16 approval under section 77-2905 and then request and receive final
17 approval under section 77-2906.

18 (5) ~~(3)~~ Interest shall not be allowed on any refund paid under the
19 Nebraska Job Creation and Mainstreet Revitalization Act.

20 Sec. 4. Section 77-2905, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-2905 (1) Prior to commencing work on the historically significant
23 real property, a person shall file an application for credits under the
24 Nebraska Job Creation and Mainstreet Revitalization Act containing all
25 required information with the officer on a form prescribed by the officer
26 and shall include an application fee established by the officer pursuant
27 to section 77-2907. ~~The officer shall not accept any application for~~
28 ~~credits prior to January 1, 2015.~~ The application shall include plans and
29 specifications, an estimate of the cost of the project prepared by a
30 licensed architect, licensed engineer, or licensed contractor, and a
31 request for a specific amount of credits based on such estimate. The

1 officer shall review the application and, within twenty-one days after
2 receiving the application, shall determine whether the information
3 contained therein is complete. The officer shall notify the applicant in
4 writing of the determination within five business days after making the
5 determination. If the officer fails to provide such notification as
6 required, the application shall be deemed complete as of the twenty-first
7 day after the application is received by the officer. If the officer
8 determines the application is complete or if the application is deemed
9 complete pursuant to this section, the officer shall reserve for the
10 benefit of the applicant an allocation of credits in the amount specified
11 in the application and determined by the officer to be reasonable and
12 shall notify the applicant in writing of the amount of the allocation.
13 The allocation does not entitle the applicant to an issuance of credits
14 until the applicant complies with all other requirements of the Nebraska
15 Job Creation and Mainstreet Revitalization Act for the issuance of
16 credits. The date the officer determines the application is complete or
17 the date the application is deemed complete pursuant to this section
18 shall constitute the applicant's priority date for purposes of allocating
19 credits under this section. For complete applications receiving an
20 allocation under this section, the officer shall determine whether the
21 application conforms to the standards, and, if so, the officer shall
22 approve such application or approve such application with conditions. If
23 the application does not conform to the standards, the officer shall deny
24 such application. The officer shall promptly provide the person filing
25 the application and the department with written notice of the officer's
26 determination. If the officer does not provide a written notice of his or
27 her determination within thirty days after the date the application is
28 determined or deemed to be complete pursuant to this section, the
29 application shall be deemed approved. The officer shall notify the
30 department of any applications that are deemed approved pursuant to this
31 section. If the officer denies the application, the credits allocated to

1 the applicant under this subsection shall be added to the annual amount
2 available for allocation under subsection (2) of this section. Any denial
3 of an application by the officer pursuant to this section may be
4 appealed, and the appeal shall be in accordance with the Administrative
5 Procedure Act.

6 (2) ~~For calendar years beginning before January 1, 2017, the total~~
7 ~~amount of credits that may be allocated by the officer under this section~~
8 ~~in any calendar year shall be limited to fifteen million dollars. For~~
9 ~~calendar years beginning before January 1, 2022 on or after January 1,~~
10 ~~2017, the total amount of credits that may be allocated by the officer~~
11 ~~under this section in any calendar year shall be limited to fifteen~~
12 ~~million dollars, of which four million dollars shall be reserved for~~
13 ~~applications seeking an allocation of credits of less than one hundred~~
14 ~~thousand dollars. For calendar years beginning on or after January 1,~~
15 ~~2022, the total amount of credits that may be allocated by the officer~~
16 ~~under this section in any calendar year shall be limited to twelve~~
17 ~~million dollars, of which four million dollars shall be reserved for~~
18 ~~applications seeking an allocation of credits of less than one hundred~~
19 ~~thousand dollars. If the amount of credits allocated in any calendar year~~
20 ~~is less than the maximum amount of credits available under this section~~
21 ~~for that year fifteen million dollars, the unused amount shall be carried~~
22 ~~forward to subsequent years and shall be available for allocation in~~
23 ~~subsequent years until fully utilized, except as otherwise provided in~~
24 ~~section 77-2912. If the amount of credits reserved for applications~~
25 ~~seeking an allocation of credits of less than one hundred thousand~~
26 ~~dollars is not allocated by April 1 of any calendar year, such~~
27 ~~unallocated credits for the calendar year shall be available for any~~
28 ~~application seeking an allocation of credits based upon the applicant's~~
29 ~~priority date as determined by the officer. The officer shall allocate~~
30 ~~credits based on priority date, from earliest to latest. If the officer~~
31 ~~determines that the complete applications for credits in any calendar~~

1 year exceed the maximum amount of credits available under this section
2 for that year, only those applications with a priority date on or before
3 the date on which the officer makes that determination may receive an
4 allocation in that year, and the officer shall not make additional
5 allocations until sufficient credits are available. If the officer
6 suspends allocations of credits pursuant to this section, applications
7 with priority dates on or before the date of such suspension shall retain
8 their priority dates. Once additional credits are available for
9 allocation, the officer shall once again allocate credits based on
10 priority date, from earliest to latest, even if the priority dates are
11 from a prior calendar year.

12 ~~(3) Prior to December 1 of any year, the holder of an allocation of~~
13 ~~credits under this section who has not commenced the improvements in his~~
14 ~~or her approved application shall notify the officer of his or her intent~~
15 ~~to retain or release the allocation. Any released allocation shall be~~
16 ~~added to the aggregate amount of credits available for allocation in the~~
17 ~~following year. Any holder of an allocation who fails to timely notify~~
18 ~~the officer of such intent shall be deemed to have released the~~
19 ~~allocation.~~

20 (3) ~~(4)~~ The holder of an allocation of credits whose application was
21 approved under this section shall start substantial work pursuant to the
22 approved application within twenty-four months after receiving notice of
23 approval of the application or, if no notice of approval is sent by the
24 officer, within twenty-four months after the application is deemed
25 approved pursuant to this section. Failure to comply with this subsection
26 shall result in forfeiture of the allocation of credits received under
27 this section. Any such forfeited allocation shall be added to the
28 aggregate amount of credits available for allocation for the year in
29 which the forfeiture occurred.

30 (4) ~~(5)~~ Notwithstanding subsection (1) of this section, the person
31 applying for the credit under this section may, at its own risk, incur

1 eligible expenditures up to six months prior to the submission of the
2 application required under subsection (1) of this section if such
3 eligible expenditures are limited to architectural—fees, engineering,
4 accounting, and legal fees, and any costs generally related to the
5 protection of the historically significant real property from
6 deterioration.

7 Sec. 5. Section 77-2910, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-2910 (1) The Nebraska State Historical Society and the department
10 may each adopt and promulgate rules and regulations to carry out the
11 Nebraska Job Creation and Mainstreet Revitalization Act.

12 (2) The Nebraska State Historical Society and the department shall
13 annually issue a joint report electronically to the Revenue Committee of
14 the Legislature no later than December 31 of each year ,—2017. The report
15 shall include, but not be limited to, (a) the total number of
16 applications submitted under the Nebraska Job Creation and Mainstreet
17 Revitalization Act, (b) the number of applications approved or
18 conditionally approved, (c) the number of applications outstanding, if
19 any, (d) the number of applications denied and the basis for denial, (e)
20 the total amount of eligible expenditures approved, (f) the total amount
21 of credits issued, claimed, and still available for use, (g) the total
22 amount of fees collected, (h) the name and address location of each
23 historically significant real property identified in each application,
24 whether approved or denied, (i) the total amount of credits transferred,
25 sold, and assigned and a certification of the ownership of the credits,
26 (j) the total amount of credits claimed against each tax type by
27 category, and (k) the total amount of credits recaptured, if any. No
28 information shall be provided in the report that is protected by state or
29 federal confidentiality laws.

30 Sec. 6. Section 77-2912, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2912 There shall be no new applications filed under the Nebraska
2 Job Creation and Mainstreet Revitalization Act after December 31, 2029
3 ~~2022~~. All applications and all credits pending or approved before such
4 date shall continue in full force and effect, except that no credits
5 shall be allocated under section 77-2905, issued under section 77-2906,
6 or used on any tax return or similar filing after December 31, 2034 ~~2027~~.

7 Sec. 7. Original sections 77-2902, 77-2903, 77-2904, 77-2905,
8 77-2910, and 77-2912, Reissue Revised Statutes of Nebraska, are repealed.