

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 653

Introduced by Wayne, 13.

Read first time January 20, 2021

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to the Community Development Law; to amend
- 2 sections 18-2101, 18-2101.02, 18-2103, 18-2117.02, and 18-2119,
- 3 Revised Statutes Cumulative Supplement, 2020; to define a term; to
- 4 change provisions relating to the utilization of historically
- 5 underutilized businesses, reporting requirements, and redevelopment
- 6 contracts; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2101, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 18-2101 Sections 18-2101 to 18-2155 and section 4 of this act shall
4 be known and may be cited as the Community Development Law.

5 Sec. 2. Section 18-2101.02, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 18-2101.02 (1) For any city that (a) intends to carry out a
8 redevelopment project which will involve the construction of workforce
9 housing in an extremely blighted area as authorized under subdivision
10 ~~(29)(g)~~ ~~(28)(g)~~ of section 18-2103, (b) intends to declare an area as an
11 extremely blighted area for purposes of funding decisions under
12 subdivision (1)(b) of section 58-708, or (c) intends to declare an area
13 as an extremely blighted area in order for individuals purchasing
14 residences in such area to qualify for the income tax credit authorized
15 in subsection (7) of section 77-2715.07, the governing body of such city
16 shall first declare, by resolution adopted after the public hearings
17 required under this section, such area to be an extremely blighted area.

18 (2) Prior to making such declaration, the governing body of the city
19 shall conduct or cause to be conducted a study or an analysis on whether
20 the area is extremely blighted and shall submit the question of whether
21 such area is extremely blighted to the planning commission or board of
22 the city for its review and recommendation. The planning commission or
23 board shall hold a public hearing on the question after giving notice of
24 the hearing as provided in section 18-2115.01. The planning commission or
25 board shall submit its written recommendations to the governing body of
26 the city within thirty days after the public hearing.

27 (3) Upon receipt of the recommendations of the planning commission
28 or board, or if no recommendations are received within thirty days after
29 the public hearing required under subsection (2) of this section, the
30 governing body shall hold a public hearing on the question of whether the
31 area is extremely blighted after giving notice of the hearing as provided

1 in section 18-2115.01. At the public hearing, all interested parties
2 shall be afforded a reasonable opportunity to express their views
3 respecting the proposed declaration. After such hearing, the governing
4 body of the city may make its declaration.

5 (4) Copies of each study or analysis conducted pursuant to
6 subsection (2) of this section shall be posted on the city's public web
7 site or made available for public inspection at a location designated by
8 the city.

9 (5) The study or analysis required under subsection (2) of this
10 section may be conducted in conjunction with the study or analysis
11 required under section 18-2109. The hearings required under this section
12 may be held in conjunction with the hearings required under section
13 18-2109.

14 Sec. 3. Section 18-2103, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 18-2103 For purposes of the Community Development Law, unless the
17 context otherwise requires:

18 (1) Area of operation means and includes the area within the
19 corporate limits of the city and such land outside the city as may come
20 within the purview of sections 18-2123 and 18-2123.01;

21 (2) Authority means any community redevelopment authority created
22 pursuant to section 18-2102.01 and any community development agency
23 created pursuant to section 18-2101.01 and does not include a limited
24 community redevelopment authority;

25 (3) Blighted area means an area (a) which, by reason of the presence
26 of a substantial number of deteriorated or deteriorating structures,
27 existence of defective or inadequate street layout, faulty lot layout in
28 relation to size, adequacy, accessibility, or usefulness, insanitary or
29 unsafe conditions, deterioration of site or other improvements, diversity
30 of ownership, tax or special assessment delinquency exceeding the fair
31 value of the land, defective or unusual conditions of title, improper

1 subdivision or obsolete platting, or the existence of conditions which
2 endanger life or property by fire and other causes, or any combination of
3 such factors, substantially impairs or arrests the sound growth of the
4 community, retards the provision of housing accommodations, or
5 constitutes an economic or social liability and is detrimental to the
6 public health, safety, morals, or welfare in its present condition and
7 use and (b) in which there is at least one of the following conditions:
8 (i) Unemployment in the designated area is at least one hundred twenty
9 percent of the state or national average; (ii) the average age of the
10 residential or commercial units in the area is at least forty years;
11 (iii) more than half of the plotted and subdivided property in an area is
12 unimproved land that has been within the city for forty years and has
13 remained unimproved during that time; (iv) the per capita income of the
14 area is lower than the average per capita income of the city or village
15 in which the area is designated; or (v) the area has had either stable or
16 decreasing population based on the last two decennial censuses. In no
17 event shall a city of the metropolitan, primary, or first class designate
18 more than thirty-five percent of the city as blighted, a city of the
19 second class shall not designate an area larger than fifty percent of the
20 city as blighted, and a village shall not designate an area larger than
21 one hundred percent of the village as blighted. A redevelopment project
22 involving a formerly used defense site as authorized under section
23 18-2123.01 shall not count towards the percentage limitations contained
24 in this subdivision;

25 (4) Bonds means any bonds, including refunding bonds, notes, interim
26 certificates, debentures, or other obligations issued pursuant to the
27 Community Development Law except for bonds issued pursuant to section
28 18-2142.04;

29 (5) Business means any private business located in an enhanced
30 employment area;

31 (6) City means any city or incorporated village in the state;

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

2 (8) Community redevelopment area means a substandard and blighted
3 area which the community redevelopment authority designates as
4 appropriate for a redevelopment project;

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

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

11 (11) Enhanced employment area means an area not exceeding six
12 hundred acres (a) within a community redevelopment area which is
13 designated by an authority as eligible for the imposition of an
14 occupation tax or (b) not within a community redevelopment area as may be
15 designated under section 18-2142.04;

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

19 (13) Extremely blighted area means a substandard and blighted area
20 in which: (a) The average rate of unemployment in the area during the
21 period covered by the most recent federal decennial census or American
22 Community Survey 5-Year Estimate is at least two hundred percent of the
23 average rate of unemployment in the state during the same period; and (b)
24 the average poverty rate in the area exceeds twenty percent for the total
25 federal census tract or tracts or federal census block group or block
26 groups in the area;

27 (14) Federal government means the United States of America, or any
28 agency or instrumentality, corporate or otherwise, of the United States
29 of America;

30 (15) Governing body or local governing body means the city council,
31 board of trustees, or other legislative body charged with governing the

1 municipality;

2 (16)(a) Historically underutilized business or HUB means any person
3 or business with its principal place of business located in this state
4 that is:

5 (i) A participant in the United States Department of
6 Transportation's disadvantaged business enterprise program and that
7 adheres to the requirements and guidance contained in 49 C.F.R. part 26,
8 Participation By Disadvantaged Business Enterprises In Department of
9 Transportation Financial Assistance Programs, as such part existed on
10 January 1, 2021;

11 (ii) A contractor, including a building constructor or heavy and
12 civil engineering constructor as described in subsectors 236 and 237,
13 respectively, of the North American Industry Classification System whose
14 average annual gross receipts from the past three years do not exceed the
15 size standard of XX million dollars or the size standard in number of
16 employees, twenty-five percent of the North American Industry
17 Classification System for those subsectors of the North American Industry
18 Classification System as published in the current United States Small
19 Business Administration Table of Small Business Size Standards matched to
20 the North American Industry Classification System subsectors;

21 (iii) A specialty trade contractor as described in subsector 238 of
22 the North American Industry Classification System whose average annual
23 gross receipts from the past three years do not exceed the size standard
24 of XX million dollars or the size standard in number of employees,
25 twenty-five percent of the North American Industry Classification System
26 for those subsectors of the North American Industry Classification System
27 as published in the current United States Small Business Administration
28 Table of Small Business Size Standards matched to the North American
29 Industry Classification System subsectors; or

30 (iv) An entity whose average annual gross receipts from the past
31 three years do not exceed the size standard of XX million dollars or the

1 size standard in number of employees, twenty-five percent of the North
2 American Industry Classification System as published in the current
3 United States Small Business Administration Table of Small Business
4 Standards matched to the North American Industry Classification System
5 subsectors; and that is not an affiliate or subsidiary of a business in
6 its field of operation; and

7 (b) HUB cannot be:

8 (i) A manufacturer's representative; a franchise, unless operating
9 as an independent entrepreneur utilizing a franchise name only; a
10 business for which the owner is an owner or part owner of another similar
11 business; or a non-stocking retailer or wholesaler; or

12 (ii) An entity whose owners:

13 (A) Have a net worth more than the sum of one million five hundred
14 thousand dollars after excluding the equity of the individual or
15 individuals in the business seeking certification and such individual's
16 equity in their primary residences; or

17 (B) Hold more than ten percent ownership in any other single
18 business, unless the other business is a HUB;

19 (17) ~~(16)~~ Limited community redevelopment authority means a
20 community redevelopment authority created pursuant to section 18-2102.01
21 having only one single specific limited pilot project authorized;

22 (18) ~~(17)~~ Mayor means the mayor of the city or chairperson of the
23 board of trustees of the village;

24 (19) ~~(18)~~ New investment means the value of improvements to real
25 estate made in an enhanced employment area by a developer or a business;

26 (20) ~~(19)~~ Number of new employees means the number of equivalent
27 employees that are employed at a business as a result of the
28 redevelopment project during a year that are in excess of the number of
29 equivalent employees during the year immediately prior to the year that a
30 redevelopment plan is adopted;

31 (21) ~~(20)~~ Obligee means any bondholder, agent, or trustee for any

1 bondholder, or lessor demising to any authority, established pursuant to
2 section 18-2102.01, property used in connection with a redevelopment
3 project, or any assignee or assignees of such lessor's interest or any
4 part thereof, and the federal government when it is a party to any
5 contract with such authority;

6 (22) ~~(21)~~ Occupation tax means a tax imposed under section
7 18-2142.02;

8 (23) ~~(22)~~ Person means any individual, firm, partnership, limited
9 liability company, corporation, company, association, joint-stock
10 association, or body politic and includes any trustee, receiver,
11 assignee, or other similar representative thereof;

12 (24) ~~(23)~~ Public body means the state or any municipality, county,
13 township, board, commission, authority, district, or other political
14 subdivision or public body of the state;

15 (25) ~~(24)~~ Real property means all lands, including improvements and
16 fixtures thereon, and property of any nature appurtenant thereto, or used
17 in connection therewith, and every estate, interest and right, legal or
18 equitable, therein, including terms for years and liens by way of
19 judgment, mortgage, or otherwise, and the indebtedness secured by such
20 liens;

21 (26) ~~(25)~~ Redeveloper means any person, partnership, or public or
22 private corporation or agency which enters or proposes to enter into a
23 redevelopment contract;

24 (27) ~~(26)~~ Redevelopment contract means a contract entered into
25 between an authority and a redeveloper for the redevelopment of an area
26 in conformity with a redevelopment plan;

27 (28) ~~(27)~~ Redevelopment plan means a plan, as it exists from time to
28 time for one or more community redevelopment areas, or for a
29 redevelopment project, which (a) conforms to the general plan for the
30 municipality as a whole and (b) is sufficiently complete to indicate such
31 land acquisition, demolition and removal of structures, redevelopment,

1 improvements, and rehabilitation as may be proposed to be carried out in
2 the community redevelopment area, zoning and planning changes, if any,
3 land uses, maximum densities, and building requirements;

4 (29) ~~(28)~~ Redevelopment project means any work or undertaking in one
5 or more community redevelopment areas: (a) To acquire substandard and
6 blighted areas or portions thereof, including lands, structures, or
7 improvements the acquisition of which is necessary or incidental to the
8 proper clearance, development, or redevelopment of such substandard and
9 blighted areas; (b) to clear any such areas by demolition or removal of
10 existing buildings, structures, streets, utilities, or other improvements
11 thereon and to install, construct, or reconstruct streets, utilities,
12 parks, playgrounds, public spaces, public parking facilities, sidewalks
13 or moving sidewalks, convention and civic centers, bus stop shelters,
14 lighting, benches or other similar furniture, trash receptacles,
15 shelters, skywalks and pedestrian and vehicular overpasses and
16 underpasses, enhancements to structures in the redevelopment plan area
17 which exceed minimum building and design standards in the community and
18 prevent the recurrence of substandard and blighted conditions, and any
19 other necessary public improvements essential to the preparation of sites
20 for uses in accordance with a redevelopment plan; (c) to sell, lease, or
21 otherwise make available land in such areas for residential,
22 recreational, commercial, industrial, or other uses, including parking or
23 other facilities functionally related or subordinate to such uses, or for
24 public use or to retain such land for public use, in accordance with a
25 redevelopment plan; and may also include the preparation of the
26 redevelopment plan, the planning, survey, and other work incident to a
27 redevelopment project and the preparation of all plans and arrangements
28 for carrying out a redevelopment project; (d) to dispose of all real and
29 personal property or any interest in such property, or assets, cash, or
30 other funds held or used in connection with residential, recreational,
31 commercial, industrial, or other uses, including parking or other

1 facilities functionally related or subordinate to such uses, or any
2 public use specified in a redevelopment plan or project, except that such
3 disposition shall be at its fair value for uses in accordance with the
4 redevelopment plan; (e) to acquire real property in a community
5 redevelopment area which, under the redevelopment plan, is to be repaired
6 or rehabilitated for dwelling use or related facilities, repair or
7 rehabilitate the structures, and resell the property; (f) to carry out
8 plans for a program of voluntary or compulsory repair, rehabilitation, or
9 demolition of buildings in accordance with the redevelopment plan; and
10 (g) in a rural community or in an extremely blighted area within a
11 municipality that is not a rural community, to carry out construction of
12 workforce housing;

13 (30) ~~(29)~~ Redevelopment project valuation means the valuation for
14 assessment of the taxable real property in a redevelopment project last
15 certified for the year prior to the effective date of the provision
16 authorized in section 18-2147;

17 (31) ~~(30)~~ Rural community means any municipality in a county with a
18 population of fewer than one hundred thousand inhabitants as determined
19 by the most recent federal decennial census;

20 (32) ~~(31)~~ Substandard area means an area in which there is a
21 predominance of buildings or improvements, whether nonresidential or
22 residential in character, which, by reason of dilapidation,
23 deterioration, age or obsolescence, inadequate provision for ventilation,
24 light, air, sanitation, or open spaces, high density of population and
25 overcrowding, or the existence of conditions which endanger life or
26 property by fire and other causes, or any combination of such factors, is
27 conducive to ill health, transmission of disease, infant mortality,
28 juvenile delinquency, and crime, (which cannot be remedied through
29 construction of prisons), and is detrimental to the public health,
30 safety, morals, or welfare; and

31 (33) ~~(32)~~ Workforce housing means:

1 (a) Housing that meets the needs of today's working families;

2 (b) Housing that is attractive to new residents considering
3 relocation to a rural community;

4 (c) Owner-occupied housing units that cost not more than two hundred
5 seventy-five thousand dollars to construct or rental housing units that
6 cost not more than two hundred thousand dollars per unit to construct.
7 For purposes of this subdivision (c), housing unit costs shall be updated
8 annually by the Department of Economic Development based upon the most
9 recent increase or decrease in the Producer Price Index for all
10 commodities, published by the United States Department of Labor, Bureau
11 of Labor Statistics;

12 (d) Owner-occupied and rental housing units for which the cost to
13 substantially rehabilitate exceeds fifty percent of a unit's assessed
14 value; and

15 (e) Upper-story housing.

16 Sec. 4. After the effective date of this act, each city which
17 approves a redevelopment project that includes the division of taxes as
18 provided in section 18-2147 for which the amount of divided taxes exceeds
19 two hundred thousand dollars shall establish goals to utilize HUBs in
20 such redevelopment project for construction, services, including
21 professional and consulting services, and commodity purchases.

22 Sec. 5. Section 18-2117.02, Revised Statutes Cumulative Supplement,
23 2020, is amended to read:

24 18-2117.02 On or before May 1 of each year, each authority, or such
25 other division or department of the city as designated by the governing
26 body, shall compile information regarding the approval and progress of
27 redevelopment projects that are financed in whole or in part through the
28 division of taxes as provided in section 18-2147 and report such
29 information to the governing body of the city and to the governing body
30 of each county, school district, community college area, educational
31 service unit, and natural resources district whose property taxes are

1 affected by such division of taxes. The report shall include, but not be
2 limited to, the following information:

3 (1) The total number of active redevelopment projects within the
4 city that have been financed in whole or in part through the division of
5 taxes as provided in section 18-2147;

6 (2) The total estimated project costs for all such redevelopment
7 projects;

8 (3) A comparison between the initial projected valuation of property
9 included in each such redevelopment project as described in the
10 redevelopment contract or, for redevelopment projects approved using an
11 expedited review under section 18-2155, in the redevelopment plan and the
12 assessed value of the property included in each such redevelopment
13 project as of January 1 of the year of the report;

14 (4) The number of such redevelopment projects approved by the
15 governing body in the previous calendar year;

16 (5) Information specific to each such redevelopment project approved
17 by the governing body in the previous calendar year, including the
18 project area, project type, amount of financing approved, and total
19 estimated project costs;

20 (6) The number and dollar amount of contracts related to each such
21 redevelopment project approved by the governing body in the previous
22 calendar year which were awarded and paid to HUBs;

23 (7) (6) The number of redevelopment projects for which financing has
24 been paid in full during the previous calendar year and for which taxes
25 are no longer being divided pursuant to section 18-2147;~~and~~

26 (8) (7) The percentage of the city that has been designated as
27 blighted; and -

28 (9) The most recent goals for the utilization of HUBs in
29 redevelopment projects established by the city under section 4 of this
30 act, a statement regarding whether such goals were met during the
31 previous calendar year, and if such goals were not met, an explanation of

1 why such goals were not met.

2 Sec. 6. Section 18-2119, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 18-2119 (1) An authority shall, by public notice by publication once
5 each week for two consecutive weeks in a legal newspaper having a general
6 circulation in the city, prior to the consideration of any redevelopment
7 contract proposal relating to real estate owned or to be owned by the
8 authority, invite proposals from, and make available all pertinent
9 information to, private redevelopers or any persons interested in
10 undertaking the redevelopment of an area, or any part thereof, which the
11 governing body has declared to be in need of redevelopment. Such notice
12 shall identify the area, and shall state that such further information as
13 is available may be obtained at the office of the authority. The
14 authority shall consider all redevelopment proposals and the financial
15 and legal ability of the prospective redevelopers to carry out their
16 proposals and may negotiate with any redevelopers for proposals for the
17 purchase or lease of any real property in the redevelopment project area.
18 The authority may accept such redevelopment contract proposal as it deems
19 to be in the public interest and in furtherance of the purposes of the
20 Community Development Law if the authority has, not less than thirty days
21 prior thereto, notified the governing body in writing of its intention to
22 accept such redevelopment contract proposal. Thereafter, the authority
23 may execute such redevelopment contract in accordance with the provisions
24 of section 18-2118 and deliver deeds, leases, and other instruments and
25 take all steps necessary to effectuate such redevelopment contract. In
26 its discretion, the authority may, without regard to the foregoing
27 provisions of this section, dispose of real property in a redevelopment
28 project area to private redevelopers for redevelopment under such
29 reasonable competitive bidding procedures as it shall prescribe, subject
30 to the provisions of section 18-2118.

31 (2) In the case of any real estate owned by a redeveloper, the

1 authority may enter into a redevelopment contract providing for such
2 undertakings as the authority shall determine appropriate. Any such
3 redevelopment contract relating to real estate within an enhanced
4 employment area shall include a statement of the redeveloper's consent
5 with respect to the designation of the area as an enhanced employment
6 area, shall be recorded with respect to the real estate owned by the
7 redeveloper, and shall be binding upon all future owners of such real
8 estate.

9 (3)(a) Prior to entering into a redevelopment contract pursuant to
10 this section for a redevelopment plan that includes the division of taxes
11 as provided in section 18-2147, the authority shall require the
12 redeveloper to certify the following to the authority:

13 (i) Whether the redeveloper has filed or intends to file an
14 application to receive tax incentives under the Nebraska Advantage Act or
15 the Imagine Nebraska Act for a project located or to be located within
16 the redevelopment project area;

17 (ii) Whether such application includes or will include, as one of
18 the tax incentives, a refund of the city's local option sales tax
19 revenue; and

20 (iii) Whether such application has been approved under the Nebraska
21 Advantage Act or the Imagine Nebraska Act.

22 (b) The authority may consider the information provided under
23 subdivision (3)(a) of this section in determining whether to enter into
24 the redevelopment contract.

25 (4) A redevelopment contract for a redevelopment plan or
26 redevelopment project that includes the division of taxes as provided in
27 section 18-2147 shall include a provision requiring that the redeveloper
28 retain copies of all supporting documents that are associated with the
29 redevelopment plan or redevelopment project and that are received or
30 generated by the redeveloper for three years following the end of the
31 last fiscal year in which ad valorem taxes are divided and provide such

1 copies to the city as needed to comply with the city's retention
2 requirements under section 18-2117.04. For purposes of this subsection,
3 supporting document includes any cost-benefit analysis conducted pursuant
4 to section 18-2113 and any invoice, receipt, claim, or contract received
5 or generated by the redeveloper that provides support for receipts or
6 payments associated with the division of taxes.

7 (5) A redevelopment contract for a redevelopment plan that includes
8 the division of taxes as provided in section 18-2147 may include a
9 provision requiring that all ad valorem taxes levied upon real property
10 in a redevelopment project be paid before the taxes become delinquent in
11 order for such redevelopment project to receive funds from such division
12 of taxes.

13 (6) A redevelopment contract for a redevelopment plan or
14 redevelopment project that includes the division of taxes as provided in
15 section 18-2147 may include any additional requirements deemed reasonably
16 necessary by the city to meet goals for the utilization of HUBs
17 established by the city under section 4 of this act.

18 Sec. 7. Original sections 18-2101, 18-2101.02, 18-2103, 18-2117.02,
19 and 18-2119, Revised Statutes Cumulative Supplement, 2020, are repealed.