

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1028

Introduced by Wayne, 13.

Read first time January 16, 2018

Committee:

- 1 A BILL FOR AN ACT relating to municipalities; to adopt the Abandoned and
- 2 Dilapidated Housing Act; and to provide a duty for the Revisor of
- 3 Statutes.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Abandoned and Dilapidated Housing Act.

3 Sec. 2. The Legislature finds that:

4 (1) Nebraska municipalities suffer from abandoned and dilapidated
5 housing;

6 (2) There is a public purpose associated with restoring and
7 preserving housing properties that have been abandoned and will otherwise
8 be rendered uninhabitable unless there is common maintenance to preserve
9 the housing;

10 (3) Abandoned and dilapidated housing leads to the deterioration and
11 decay of neighborhoods in Nebraska municipalities;

12 (4) The restoration and preservation of abandoned and dilapidated
13 housing will lead to the best and most efficient use of such property;
14 and

15 (5) The Abandoned and Dilapidated Housing Act will lead to the
16 restoration and preservation of residential housing in Nebraska and
17 strengthen Nebraska municipalities.

18 Sec. 3. For purposes of the Abandoned and Dilapidated Housing Act:

19 (1) Preservation improvements means improvements made to preserve
20 and secure real property by properly keeping it in repair for its proper
21 and reasonable use, having due regard for the kind and character of the
22 property at the time of the sale of the tax sale certificate; and

23 (2) Real property means property that is not occupied by the owner
24 or any lessee or licensee of the owner and that substantially meets at
25 least one or more of the following criteria:

26 (a) There are no utilities currently provided to the property or
27 actively being billed by any utility provider to the property;

28 (b) Any buildings on the property have been deemed unfit for human
29 habitation, occupancy, or use by local housing officials;

30 (c) Any buildings on the property are exposed to the elements such
31 that deterioration of the building is occurring;

1 (d) Any buildings on the property are boarded up or otherwise
2 sealed;

3 (e) There have been previous efforts to rehabilitate any buildings
4 on the property;

5 (f) There is a presence of vermin, uncut vegetation, or debris
6 accumulation on the property;

7 (g) There have been past actions taken by the municipality in which
8 the property is located to maintain the grounds or any buildings on the
9 property; or

10 (h) The property has been out of compliance with orders of local
11 housing officials.

12 Sec. 4. (1) Any person entitled to redeem real property under
13 sections 77-1801 to 77-1863 must pay, in addition to any other amounts
14 set forth in such sections, the reasonable and necessary costs paid by
15 the holder of the tax sale certificate, including materials and labor of
16 all preservation improvements made on the property determined in
17 accordance with this section, with interest on such costs at the rate
18 specified in section 45-104.01, as such rate may be from time to time
19 adjusted by the Legislature. Such interest shall begin to accrue on the
20 date that payment of the cost of preservation improvements was made by
21 the holder.

22 (2) The holder of the tax sale certificate shall, at least thirty
23 days prior to making any preservation improvements on the property, send
24 written notice to the person to whom the property is assessed that the
25 holder intends to make preservation improvements, setting forth the
26 parcel identification number of the property, the proposed preservation
27 improvements, the estimated cost of such improvements, and the name and
28 mailing address of the holder. If costs for preservation improvements
29 have been incurred by the holder of the tax sale certificate, such holder
30 shall file with the county treasurer of the county which issued the tax
31 sale certificate a written notice stating that costs for preservation

1 improvements have been incurred. Such notice shall include the tax sale
2 certificate number, the parcel identification number of the property, the
3 name of all persons to whom the property is assessed, the name and
4 mailing address of the holder, the criteria in subsection (2) of section
5 3 of this act applicable to the property, and the actual costs incurred
6 for the preservation improvements. Failure to comply with these notice
7 provisions shall preclude the holder of the tax sale certificate from
8 recovering any costs for preservation improvements pursuant to this
9 section.

10 (3) Prior to redeeming the property, the person entitled to redeem
11 the property shall contact the county treasurer of the county which
12 issued the tax sale certificate to determine if a notice concerning
13 preservation improvements has been filed. If such notice has been filed,
14 the person entitled to redeem the property shall make written demand upon
15 the holder of the tax sale certificate for an itemized statement of the
16 amount claimed as the cost of all such preservation improvements made to
17 the property since the date of the sale of the tax sale certificate and
18 documents evidencing the payment of such costs by the holder. The written
19 demand shall include an address to which the holder of the tax sale
20 certificate may send his or her response to the person entitled to redeem
21 the property. In response to a written demand made pursuant to this
22 subsection, the holder of the tax sale certificate shall furnish the
23 person entitled to redeem the property with an itemized statement of the
24 amount claimed as the cost of such preservation improvements and copies
25 of documents evidencing the payment of such costs by the holder within
26 fourteen days of receipt of such written demand. Within ten days after
27 receipt of such response, the person entitled to redeem the property
28 shall either accept the cost as stated or appoint a referee to ascertain
29 the reasonableness and necessity of the cost of such preservation
30 improvements. The person entitled to redeem the property shall give
31 written notice to the holder of the tax sale certificate (a) of his or

1 her disagreement as to the cost and the reasons therefor and (b) of the
2 name, address, and telephone number of the referee appointed by him or
3 her. Within ten days after the receipt of such notice, the holder of the
4 tax sale certificate shall appoint a referee to ascertain the
5 reasonableness and necessity of the cost of the preservation improvements
6 and give written notice to the person entitled to redeem the property of
7 the name, address, and telephone number of the referee appointed by him
8 or her. Within ten days after the holder of the tax sale certificate has
9 appointed his or her referee, the two referees shall meet and confer to
10 ascertain and award any claimed costs. If the referees cannot reach an
11 agreement, the referees shall at once appoint an umpire, and the award by
12 a majority of such body shall be made within ten days after the
13 appointment of the umpire and shall be final between the parties.

14 (4) All written demands and notices made pursuant to this section by
15 either the person entitled to redeem the property or the holder of the
16 tax sale certificate shall be sent by both certified mail, return receipt
17 requested, and first-class United States mail, postage prepaid, to the
18 holder of the tax sale certificate at such holder's mailing address on
19 file with the county treasurer of the county which issued the tax sale
20 certificate or to the person entitled to redeem the property at the
21 mailing address provided in the demand.

22 (5) If the person entitled to redeem the property fails or refuses
23 to nominate a referee, he or she must pay the cost of the preservation
24 improvements set forth by the holder of the tax sale certificate. If the
25 holder of the tax sale certificate refuses or fails to appoint a referee,
26 the holder of the tax sale certificate shall forfeit his or her claim to
27 compensation for such preservation improvements. The failure of the
28 referees or either of them to act or to appoint an umpire shall not
29 operate to impair or forfeit the rights of either the person entitled to
30 redeem the property or the holder of the tax sale certificate. In the
31 event of failure without fault of the parties to affect an award, a court

1 of appropriate jurisdiction may ascertain the reasonableness and
2 necessity of the cost of such preservation improvements as applicable and
3 enforce the redemption accordingly.

4 (6) The maximum amount of costs for preservation improvements that a
5 holder of a tax sale certificate may be entitled to recover, excluding
6 the interest provided in subsection (1) of section 4 of this act, shall
7 be no more than twenty-five percent of the tax assessed value of the
8 property as of the date the tax sale certificate was issued by the county
9 treasurer.

10 Sec. 5. The Revisor of Statutes shall assign sections 1 to 4 of
11 this act to a new article in Chapter 18.