

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 674**

Introduced by Linehan, 39.

Read first time January 20, 2021

Committee:

1 A BILL FOR AN ACT relating to the Affordable Housing Tax Credit Act; to  
2 amend sections 77-2501, 77-2502, 77-2503, 77-2505, and 81-523,  
3 Reissue Revised Statutes of Nebraska; to redefine a term; to change  
4 provisions relating to the allocation and use of tax credits; to  
5 provide for applicability; to harmonize provisions; and to repeal  
6 the original sections.

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

1 Section 1. Section 77-2501, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 77-2501 Sections 77-2501 to 77-2507 and section 5 of this act shall  
4 be known and may be cited as the Affordable Housing Tax Credit Act.

5 Sec. 2. Section 77-2502, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 77-2502 For purposes of the Affordable Housing Tax Credit Act:

8 (1) Allocation year means the year for which the authority awards  
9 Nebraska affordable housing tax credits pursuant to the act;

10 (2) Authority means the Nebraska Investment Finance Authority;

11 (3) Eligibility statement means a statement authorized and issued by  
12 the authority certifying that a given project is a qualified project that  
13 qualifies for Nebraska affordable housing tax credits;

14 (4) Federal low-income housing tax credit means the federal tax  
15 credit provided in section 42 of the Internal Revenue Code of 1986, as  
16 amended;

17 (5) Nebraska affordable housing tax credit means the nonrefundable  
18 tax credit authorized in section 77-2503;

19 (6) Qualified project means a qualified low-income building or  
20 buildings, as that term is defined in section 42 of the Internal Revenue  
21 Code of 1986, as amended;

22 (7) Qualified taxpayer means a taxpayer owning an interest, direct  
23 or indirect, in a qualified project; and

24 (8) Taxpayer means a person, firm, corporation, or other business  
25 entity subject to the income tax imposed by section 77-2715 or  
26 77-2734.02, an insurance company subject to premium and related  
27 retaliatory tax liability imposed by section 44-150, ~~or~~ 77-908, or  
28 81-523, or a financial institution subject to the franchise tax imposed  
29 by sections 77-3801 to 77-3807.

30 Sec. 3. Section 77-2503, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           77-2503 (1) An owner of an affordable housing project seeking a  
2 Nebraska affordable housing tax credit shall file an application with the  
3 authority on a form prescribed by the authority. A qualified taxpayer  
4 shall be allowed a nonrefundable tax credit if the authority determines  
5 that the project for which tax credits are sought is a qualified project.

6           (2) If the requirements of subsection (1) of this section are met,  
7 the authority shall issue an eligibility statement to the owner of such  
8 qualified project stating the amount of Nebraska affordable housing tax  
9 credits allocated to the qualified project. The amount of such tax  
10 credits shall be the amount of federal low-income housing tax credits  
11 available to such project, except as otherwise provided in subsection (4)  
12 of this section. Tax credits for each building in a qualified project  
13 shall be issued for the first six years of the credit period as defined  
14 in 26 U.S.C. 42(f)(1), except that any reduction in the credit allowable  
15 in the first year of the credit period due to the calculation in 26  
16 U.S.C. 42(f)(2) shall be allowable in the seventh year of the credit  
17 period. The authority shall only allocate tax credits to qualified  
18 projects that are placed in service after January 1, 2018.

19           (3) If the owner of the qualified project is (a) a partnership, (b)  
20 a limited liability company, or (c) a corporation having an election in  
21 effect under subchapter S of the Internal Revenue Code of 1986, as  
22 amended, the Nebraska affordable housing tax credit shall be allocated  
23 among some or all of the partners, members, or shareholders of the owner  
24 of the qualified project in any manner agreed to by such persons, but  
25 only if such persons have been admitted as partners or members, or have  
26 acquired their shares, on or prior to the due date for filing the  
27 qualified taxpayer's tax return, or amended return, claiming the tax  
28 credit. A qualified taxpayer may transfer, sell, or assign all or part of  
29 his or her ownership interest, including his or her interest in the tax  
30 credits authorized in this section. For any tax year in which such an  
31 interest is transferred, sold, or assigned pursuant to this subsection,

1 the transferor shall notify the Department of Revenue of the transfer,  
2 sale, or assignment and provide the tax identification number of the new  
3 owner at least thirty days prior to the new owner claiming the tax  
4 credits. The notification shall be in the manner prescribed by the  
5 department.

6 (4) The maximum amount of Nebraska affordable housing tax credits  
7 awarded to all qualified projects in any given allocation year shall be  
8 no more than one hundred percent of the total amount of federal low-  
9 income housing tax credits awarded by the authority in the same  
10 allocation year. Notwithstanding any other provision of the Affordable  
11 Housing Tax Credit Act, the authority is prohibited from awarding to a  
12 qualified project any combined amount of federal low-income housing tax  
13 credits and Nebraska affordable housing tax credits that is more than  
14 necessary to make the qualified project financially feasible.

15 (5) Any Nebraska affordable housing tax credits granted under this  
16 section may be used to offset any income taxes due under section 77-2715  
17 or 77-2734.02, any premium and related retaliatory taxes due under  
18 section 44-150, ~~or 77-908,~~ or 81-523, or any franchise taxes due under  
19 sections 77-3801 to 77-3807.

20 (6) The tax credit shall not be used to reduce the tax liability of  
21 the qualified taxpayer to less than zero. Any tax credit claimed but not  
22 used in a taxable year may be carried forward.

23 Sec. 4. Section 77-2505, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 77-2505 An insurance company claiming a Nebraska affordable housing  
26 tax credit against any premium and related retaliatory taxes due under  
27 section 44-150, ~~or 77-908,~~ or 81-523 shall not be required to pay any  
28 additional retaliatory tax as a result of claiming the tax credit. The  
29 tax credit may fully offset any retaliatory tax imposed under Nebraska  
30 law. Any tax credit claimed shall be considered a payment of tax for  
31 purposes of subsection (1) of section 77-2734.03.

1           Sec. 5. The changes made in sections 77-2502, 77-2503, and 77-2505  
2 by this legislative bill shall apply to taxable years beginning or deemed  
3 to begin on or after January 1, 2020.

4           Sec. 6. Section 81-523, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6           81-523 (1) For the purpose of maintaining the office of the State  
7 Fire Marshal and such other fire prevention activities as the Governor  
8 may direct, every foreign and alien insurance company including  
9 nonresident attorneys for subscribers to reciprocal insurance exchanges  
10 shall, on or before March 1, pay a tax to the Director of Insurance of  
11 three-fourths of one percent of the gross direct writing premiums and  
12 assessments received by each of such companies during the preceding  
13 calendar year for fire insurance business done in this state.

14           (2) For the purpose set forth in subsection (1) of this section,  
15 every domestic insurance company including resident attorneys for  
16 subscribers to reciprocal insurance exchanges shall, on or before March  
17 1, pay a tax to the Director of Insurance of three-eighths of one percent  
18 of the gross direct writing premiums and assessments received by each of  
19 such companies during the preceding calendar year for fire insurance  
20 business done in this state.

21           (3) The term fire insurance business, as used in subsections (1),  
22 (2), and (4) of this section, shall include, but not be limited to,  
23 premiums of policies on fire risks on automobiles, whether written under  
24 floater form or otherwise.

25           (4) Return premiums on fire insurance business, subject to the fire  
26 insurance tax, in accordance with subsections (1) and (2) of this  
27 section, may be deducted from the gross direct writing premiums for the  
28 purpose of the tax calculations provided for by subsections (1) and (2)  
29 of this section. In the case of mutual companies and assessment  
30 associations, the dividends paid or credited to policyholders or members  
31 in this state shall be construed to be return premiums.

1           (5) Any tax collected pursuant to subsections (1) and (2) of this  
2 section shall be remitted to the State Treasurer for credit to the  
3 General Fund.

4           (6) An insurance company described in this section shall receive a  
5 credit on the tax imposed under this section as provided in the  
6 Affordable Housing Tax Credit Act.

7           Sec. 7. Original sections 77-2501, 77-2502, 77-2503, 77-2505, and  
8 81-523, Reissue Revised Statutes of Nebraska, are repealed.