

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 973

Introduced by Hansen, M., 26.

Read first time January 11, 2022

Committee:

1 A BILL FOR AN ACT relating to the Nebraska Investment Finance Authority
2 Act; to amend sections 58-210.02, 58-219, 58-220, 58-221, 58-222,
3 58-239, and 58-251, Reissue Revised Statutes of Nebraska; to
4 redefine terms; to change provisions relating to the powers of the
5 Nebraska Investment Finance Authority; to harmonize provisions; and
6 to repeal the original sections.

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

1 Section 1. Section 58-210.02, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 58-210.02 (1) Economic-impact project means:

4 (a) Any any of the following, whether or not in existence, financed
5 in whole or in part through the use of the federal new markets tax credit
6 described in section 45D of the Internal Revenue Code, and located in a
7 low-income community designated pursuant to section 45D of the Internal
8 Revenue Code or designated by the Department of Economic Development:

9 (i) ~~(a)~~ Any land, building, or other improvement, including, but not
10 limited to, infrastructure;

11 (ii) ~~(b)~~ Any real or personal property;

12 (iii) ~~(c)~~ Any equipment; or and

13 (iv) ~~(d)~~ Any undivided or other interest in any property described
14 in subdivision ~~(1)(a)(i), (1)(a)(ii), or (1)(a)(iii)~~ of this section; or
15 ~~(a), (b), or (c) of this subsection.~~

16 (b) Any of the following, whether or not in existence, which
17 constitutes a qualified opportunity zone business located in one or more
18 certified qualified opportunity zones which is financed in whole or in
19 part through one or more investments acquired by one or more qualified
20 opportunity funds as authorized pursuant to the federal Tax Cuts and Jobs
21 Act, Public Law 115-97:

22 (i) Any land, building, or other improvement, including, but not
23 limited to, infrastructure;

24 (ii) Any real or personal property;

25 (iii) Any equipment; or

26 (iv) Any undivided or other interest in any property described in
27 subdivision ~~(1)(b)(i), (1)(b)(ii), or (1)(b)(iii)~~ of this section.

28 (2) Economic-impact project does not include any operating capital.

29 Sec. 2. Section 58-219, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 58-219 Project shall mean one or more of the following:

1 (1)(a) Rental housing;
2 (b) Residential housing; and
3 (c) Residential energy conservation devices;
4 (2) Agriculture or agricultural enterprise;
5 (3) Any land, building, or other improvement, any real or personal
6 property, or any equipment and any undivided or other interest in any of
7 the foregoing, whether or not in existence, suitable or used for or in
8 connection with any of the following revenue-producing enterprises or two
9 or more such enterprises engaged or to be engaged in:

10 (a) In all areas of the state, manufacturing or industrial
11 enterprises, including assembling, fabricating, mixing, processing,
12 warehousing, distributing, or transporting any products of agriculture,
13 forestry, mining, industry, or manufacturing; pollution control
14 facilities; and facilities incident to the development of industrial
15 sites, including land costs and the costs of site improvements such as
16 drainage, water, storm, and sanitary sewers, grading, streets, and other
17 facilities and structures incidental to the use of such sites for
18 manufacturing or industrial enterprises;

19 (b) In all areas of the state, service enterprises if (i) such
20 facilities constitute new construction or rehabilitation, including
21 hotels or motels, sports and recreation facilities available for use by
22 members of the general public either as participants or spectators, and
23 convention or trade show facilities, (ii) such facilities do not or will
24 not derive a significant portion of their gross receipts from retail
25 sales or utilize a significant portion of their total area for retail
26 sales, and (iii) such facilities are owned or to be owned by a nonprofit
27 entity or a public agency;

28 (c) In blighted areas of the state, service and business enterprises
29 if such facilities constitute new construction, acquisition, or
30 rehabilitation, including, but not limited to, those enterprises
31 specified in subdivision (3)(b) of this section, office buildings, and

1 retail businesses if such facilities are owned or to be owned by a
2 nonprofit entity or a public agency; and

3 (d) In all areas of the state, any land, building, or other
4 improvement and all real or personal property, including furniture and
5 equipment, and any undivided or other interest in any such property,
6 whether or not in existence, suitable or used for or in connection with
7 any hospital, nursing home, nonprofit child care facility, or ~~and~~
8 facilities related and subordinate thereto.

9 Nothing in this subdivision shall be construed to include any rental
10 or residential housing, residential energy conservation device, or
11 agriculture or agricultural enterprise;

12 (4) Any land, building, or other improvement, any real or personal
13 property, or any equipment and any undivided or other interest in any of
14 the foregoing, whether or not in existence, used by a nonprofit entity as
15 an office building, but only if (a) the principal long-term occupant or
16 occupants thereof initially employ at least fifty people, (b) the office
17 building will be used by the principal long-term occupant or occupants as
18 a national, regional, or divisional office, (c) the principal long-term
19 occupant or occupants are engaged in a multistate operation, and (d) the
20 authority makes the findings specified in subdivision (1) of section
21 58-251;

22 (5) Wastewater treatment or safe drinking water project which shall
23 include any project or undertaking which involves the construction,
24 development, rehabilitation, and improvement of wastewater treatment
25 facilities or safe drinking water facilities and is financed by a loan
26 from or otherwise provided financial assistance by the Wastewater
27 Treatment Facilities Construction Loan Fund or any comparable state fund
28 providing money for the financing of safe drinking water facilities;

29 (6) Any cost necessary for abatement of an environmental hazard or
30 hazards in school buildings or on school grounds upon a determination by
31 the school that an actual or potential environmental hazard exists in the

1 school buildings or on the school grounds under its control;

2 (7) Any accessibility barrier elimination project costs necessary
3 for accessibility barrier elimination in school buildings or on school
4 grounds upon a determination by the school that an actual or potential
5 accessibility barrier exists in the school buildings or on the school
6 grounds under its control;

7 (8) Solid waste disposal project which shall include land,
8 buildings, equipment, and improvements consisting of all or part of an
9 area or a facility for the disposal of solid waste, including recycling
10 of waste materials, either publicly or privately owned or operated, and
11 any project or program undertaken by a county, city, village, or entity
12 created pursuant to the Interlocal Cooperation Act or the Joint Public
13 Agency Act for closure, monitoring, or remediation of an existing solid
14 waste disposal area or facility and any undivided or other interest in
15 any of the foregoing;

16 (9) Any affordable housing infrastructure which shall include
17 streets, sewers, storm drains, water, broadband, electrical and other
18 utilities, sidewalks, public parks, public playgrounds, public swimming
19 pools, public recreational facilities, and other community facilities,
20 easements, and similar use rights thereof, as well as improvements
21 preparatory to the development of housing units;

22 (10) Any public safety communication project, including land,
23 buildings, equipment, easements, licenses, and leasehold interests, and
24 any undivided or other interest in any of the foregoing, held for or on
25 behalf of any public safety communication system owned or operated by (a)
26 a joint entity providing public safety communications and created
27 pursuant to the Interlocal Cooperation Act or (b) a joint public agency
28 providing public safety communications and created pursuant to the Joint
29 Public Agency Act; and

30 (11) Economic-impact projects.

31 Sec. 3. Section 58-220, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 58-220 Rental housing shall mean a specific work or improvement
3 within this state undertaken primarily to provide rental dwelling
4 accommodations for low-income or moderate-income persons, which work or
5 improvement shall include the acquisition, construction, reconstruction,
6 or rehabilitation of land, buildings, and improvements thereto and such
7 other nonhousing facilities, including commercial facilities, as may be
8 ~~incidental or appurtenant thereto so long as the cost of such nonhousing~~
9 facilities does not exceed twenty percent of the total cost of the rental
10 housing.

11 Sec. 4. Section 58-221, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 58-221 Residential energy conservation device shall mean any prudent
14 means of reducing the demands for conventional fuels or increasing the
15 supply or efficiency of these fuels in residential housing and shall
16 include, but not be limited to:

17 (1) Caulking and weather stripping of doors and windows;

18 (2) Furnace efficiency modifications, including:

19 (a) Replacement burners, furnaces, heat pumps, or boilers or any
20 combination thereof which, as determined by the Director of Environment
21 and Energy, substantially increases the energy efficiency of the heating
22 system;

23 (b) Any device for modifying flue openings which will increase the
24 energy efficiency of the heating system; and

25 (c) Any electrical or mechanical furnace ignition system which
26 replaces a standing gas pilot light;

27 (3) A clock thermostat;

28 (4) Ceiling, attic, wall, and floor insulation;

29 (5) Water heater insulation;

30 (6) Storm windows and doors, multiglazed windows and doors, and
31 heat-absorbed or heat-reflective glazed window and door materials;

1 (7) Any device which controls demand of appliances and aids load
2 management;

3 (8) Any device to utilize solar energy, biomass, geothermal, or wind
4 power for any residential energy conservation purpose including heating
5 of water and space heating or cooling; and

6 (9) Any other conservation device, renewable energy technology, and
7 specific home improvement necessary to insure the effectiveness of the
8 energy conservation measures as the Director of Environment and Energy by
9 rule or regulation identifies.

10 Sec. 5. Section 58-222, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 58-222 Residential housing shall mean a specific work or improvement
13 within this state undertaken primarily to provide owner-occupied single-
14 ~~family~~ dwelling accommodations for low-income and moderate-income
15 persons, which work or improvement shall include the acquisition,
16 construction, reconstruction, or rehabilitation of land, buildings, and
17 improvements thereto, including residential energy conservation devices,
18 and such other nonhousing facilities, including commercial facilities, as
19 may be ~~incidental or~~ appurtenant thereto so long as the cost of such
20 nonhousing facilities does not exceed twenty percent of the total cost of
21 the residential housing , ~~including residential energy conservation~~
22 ~~devices.~~

23 Sec. 6. Section 58-239, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 58-239 The authority is hereby granted all powers necessary or
26 appropriate to carry out and effectuate its public and corporate purposes
27 including:

28 (1) To have perpetual succession as a body politic and corporate and
29 an independent instrumentality exercising essential public functions;

30 (2) To adopt, amend, and repeal bylaws, rules, and regulations not
31 inconsistent with the Nebraska Investment Finance Authority Act, to

1 regulate its affairs, to carry into effect the powers and purposes of the
2 authority, and to conduct its business;

3 (3) To sue and be sued in its own name;

4 (4) To have an official seal and alter it at will;

5 (5) To maintain an office at such place or places within the state
6 as it may designate;

7 (6) To make and execute contracts and all other instruments as
8 necessary or convenient for the performance of its duties and the
9 exercise of its powers and functions under the act;

10 (7) To employ architects, engineers, attorneys, inspectors,
11 accountants, building contractors, financial experts, and such other
12 advisors, consultants, and agents as may be necessary in its judgment and
13 to fix their compensation;

14 (8) To obtain insurance against any loss in connection with its
15 bonds, property, and other assets in such amounts and from such insurers
16 as it deems advisable;

17 (9) To borrow money and issue bonds as provided by the act;

18 (10) To receive and accept from any source aid or contributions of
19 money, property, labor, or other things of value to be held, used, and
20 applied to carry out the purposes of the act subject to the conditions
21 upon which the grants or contributions are made including gifts or grants
22 from any department, agency, or instrumentality of the United States, and
23 to make grants, for any purpose consistent with the act;

24 (11) To enter into agreements with any department, agency, or
25 instrumentality of the United States or this state and with lenders for
26 the purpose of carrying out projects authorized under the act;

27 (12) To enter into contracts or agreements with lenders for the
28 servicing and processing of mortgages or loans pursuant to the act;

29 (13) To provide technical assistance to local public bodies and to
30 for-profit and nonprofit entities in the areas of housing for low-income
31 and moderate-income persons, agricultural enterprises, and community or

1 economic development, to distribute data and information concerning the
2 needs of the state in these areas, and, at the discretion of the
3 authority, to charge reasonable fees for such assistance;

4 (14) To the extent permitted under its contract with the holders of
5 bonds of the authority, to consent to any modification with respect to
6 the rate of interest, time, and payment of any installment of principal
7 or interest or any other term of any contract, loan, loan note, loan note
8 commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or
9 agreement of any kind to which the authority is a party;

10 (15) To the extent permitted under its contract with the holders of
11 bonds of the authority, to enter into contracts with any lender
12 containing provisions enabling it to reduce the rental or carrying
13 charges to persons unable to pay the regular schedule of charges when, by
14 reason of other income or payment by any department, agency, or
15 instrumentality of the United States of America or of the state, the
16 reduction can be made without jeopardizing the economic stability of the
17 project being financed;

18 (16) To acquire by construction, purchase, devise, gift, or lease or
19 any one or more of such methods one or more projects located within this
20 state, except that the authority shall not acquire any projects or parts
21 of such projects by condemnation;

22 (17) To lease to others any or all of its projects for such rentals
23 and upon such terms and conditions as the authority may deem advisable
24 and as are not in conflict with the act;

25 (18) To issue bonds for the purpose of paying the cost of financing
26 any project or projects and to secure the payment of such bonds as
27 provided in the act;

28 (19) To sell and convey any real or personal property and make such
29 order respecting the same as it deems conducive to the best interest of
30 the authority;

31 (20) To make and undertake commitments to make loans to lenders

1 under the terms and conditions requiring the proceeds of the loans to be
2 used by such lenders to make loans for projects. Loan commitments or
3 actual loans shall be originated through and serviced by any bank, trust
4 company, savings and loan association, mortgage banker, or other
5 financial institution authorized to transact business in the state;

6 (21) To hold and dispose of any real or personal property, whether
7 tangible or intangible, and any distributions thereon, transferred to or
8 received by the authority as collateral or in payment of amounts due the
9 authority or otherwise pursuant to state law, in accordance with the act;

10 (22) To invest in, purchase, make commitments to invest in or
11 purchase, and take assignments or make commitments to take assignments of
12 loans made by lenders for the construction, rehabilitation, or purchase
13 of projects;

14 (23) To enter into financing agreements with others with respect to
15 projects to provide financing for such projects upon such terms and
16 conditions as the authority deems advisable to effectuate the public
17 purposes of the act, which projects shall be located within the state.
18 ~~The authority shall not operate any project referred to in this section~~
19 ~~as a business or in any manner except as the lessor or seller of such~~
20 ~~project;~~

21 (24) To enter into financing agreements with any corporation,
22 partnership, limited liability company, or individual or with any county,
23 city, village, or entity created pursuant to the Interlocal Cooperation
24 Act or the Joint Public Agency Act for purposes of financing any solid
25 waste disposal project;

26 (25) To enter into agreements with or purchase or guaranty
27 obligations of political subdivisions of the state, including
28 authorities, agencies, commissions, districts, and instrumentalities
29 thereof, to provide financing for affordable housing infrastructure and
30 to enter into financing agreements with private parties for the purpose
31 of financing infrastructure in connection with the development of

1 affordable housing; and

2 (26) In lieu of providing direct financing as authorized by the
3 Nebraska Investment Finance Authority Act, to guaranty debt obligations
4 of any project owner to whom, and for such purposes as, the authority
5 could otherwise provide direct financing, and the authority may establish
6 a fund or account and limit its obligation on such guaranties to money in
7 such fund or account. Any such guaranty shall contain a statement similar
8 to that required by section 58-255 for bonds issued by the authority.

9 Sec. 7. Section 58-251, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 58-251 Prior to providing financing for a development project as
12 defined by subdivision (3) of section 58-219, the authority shall make
13 specific findings relating to the public purposes to be effectuated
14 thereby, including but not limited to (1) with respect to a project as
15 defined in subdivision (3)(a), (3)(b), or (3)(c) of section 58-219, the
16 project's effect on the economic base, the tax base, tax revenue, and
17 employment opportunities, and (2) with respect to a project as defined in
18 subdivision (3)(d) of section 58-219, the project's effect on the
19 provision, including the continued provision, of health care, child care,
20 and related services.

21 Sec. 8. Original sections 58-210.02, 58-219, 58-220, 58-221,
22 58-222, 58-239, and 58-251, Reissue Revised Statutes of Nebraska, are
23 repealed.