

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 714

Introduced by Cavanaugh, J., 9.

Read first time January 18, 2023

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Affordable Housing Act; to
- 2 amend sections 58-701, 58-706, 58-707, 58-708, and 58-711, Reissue
- 3 Revised Statutes of Nebraska; to change provisions relating to the
- 4 Affordable Housing Trust Fund, assistance for qualified recipients,
- 5 and the Department of Economic Development; to state legislative
- 6 intent; to define terms; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 58-701, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 58-701 Sections 58-701 to 58-711 and section 6 of this act shall be
4 known and may be cited as the Nebraska Affordable Housing Act.

5 Sec. 2. Section 58-706, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 58-706 (1) For purposes of this section:

8 (a) Low-income family means a household that makes equal to or
9 greater than fifty percent but not exceeding eighty percent of the area
10 median income; and

11 (b) Very low-income family means a household that makes equal to or
12 greater than thirty percent but not exceeding fifty percent of the area
13 median income.

14 (2) The following activities are eligible for assistance from the
15 Affordable Housing Trust Fund:

16 (a) ~~(1)~~ New construction, rehabilitation, or acquisition of housing
17 to assist low-income and very low-income families;

18 (b) ~~(2)~~ Matching funds for new construction, rehabilitation, or
19 acquisition of housing units to assist low-income and very low-income
20 families;

21 (c) ~~(3)~~ Technical assistance, design and finance services, and
22 consultation for eligible nonprofit community or neighborhood-based
23 organizations involved in the creation of affordable housing;

24 (d) ~~Operating~~ ~~(4) Matching funds for operating costs for housing~~
25 assistance groups or organizations when such grant or loan will
26 substantially increase the recipient's ability to produce affordable
27 housing;

28 (e) ~~(5)~~ Mortgage insurance guarantees for eligible projects;

29 (f) ~~(6)~~ Acquisition of housing units for the purpose of preservation
30 of housing to assist low-income or very low-income families;

31 (g) ~~(7)~~ Projects making affordable housing more accessible to

1 families with elderly members or members who have disabilities;

2 (h) ~~(8)~~ Projects providing housing in areas determined by the
3 Department of Economic Development to be of critical importance for the
4 continued economic development and economic well-being of the community
5 and where, as determined by the department, a shortage of affordable
6 housing exists;

7 (i) ~~(9)~~ Infrastructure projects necessary for the development of
8 affordable housing;

9 (j) ~~(10)~~ Downpayment, ~~and closing cost,~~ and low-rate mortgage
10 assistance;

11 (k) ~~(11)~~ Demolition of existing vacant, condemned, or obsolete
12 housing or industrial buildings or infrastructure;

13 (l) ~~(12)~~ Housing education programs developed in conjunction with
14 affordable housing projects. The education programs must be directed
15 toward:

16 (i) ~~(a)~~ Preparing potential home buyers to purchase affordable
17 housing and postpurchase education;

18 (ii) ~~(b)~~ Target audiences eligible to utilize the services of
19 housing assistance groups or organizations; and

20 (iii) ~~(c)~~ Developers interested in the rehabilitation, acquisition,
21 or construction of affordable housing;

22 (m) ~~(13)~~ Support for efforts to improve programs benefiting homeless
23 youth;

24 (n) ~~(14)~~ Vocational training in the housing and construction trades
25 industries by nonprofit groups; and

26 (o) ~~(15)~~ Weatherization and solar or other energy improvements to
27 make utilities for housing more affordable.

28 Sec. 3. Section 58-707, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 58-707 (1) Organizations which may receive assistance under the
31 Nebraska Affordable Housing Act are governmental subdivisions, local

1 housing authorities, community action agencies, community-based or
2 neighborhood-based or reservation-based nonprofit organizations, and for-
3 profit entities working in conjunction with one of the other eligible
4 organizations. For-profit entities that are eligible under this section
5 shall be required to provide, or cause to be provided, matching funds for
6 the eligible activity in an amount determined by the Department of
7 Economic Development, which amount shall be at least equal to ten percent
8 of the amount of assistance provided by the Affordable Housing Trust
9 Fund. Political subdivisions, local housing authorities, community action
10 agencies, and community-based, neighborhood-based, and reservation-based
11 nonprofit organizations shall not be required to provide, or cause to be
12 provided, such matching funds. Nothing in the act shall be construed to
13 allow recipients individuals to receive direct loans from the Affordable
14 Housing Trust Fund.

15 (2) For-profit entities may receive assistance under the Nebraska
16 Affordable Housing Act without working in conjunction with one of the
17 other eligible organizations subject to the following conditions:

18 (a) For-profit entities are only eligible for new funds as of
19 January 1, 2023, that have been transferred from the General Fund or Cash
20 Reserve Fund into the Affordable Housing Trust Fund; and

21 (b) For-profit entities applying independently are not eligible to
22 receive funds that come from section 76-903.

23 Sec. 4. Section 58-708, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 58-708 (1) During each calendar year in which funds are available
26 from the Affordable Housing Trust Fund for use by the Department of
27 Economic Development, the department shall make its best efforts to
28 allocate not less than thirty percent of such funds to each congressional
29 district. The department shall announce a grant and loan application
30 period of at least sixty ninety days duration for all projects. If all
31 trust fund assistance allotted for the calendar year is not spent, the

1 department shall allow for multiple application periods until the fund is
2 completely spent. In selecting projects to receive trust fund assistance,
3 the department shall develop a qualified allocation plan and give first
4 priority to financially viable projects that serve the lowest income
5 occupants for the longest period of time. The qualified allocation plan
6 shall:

7 (a) Set forth selection criteria to be used to determine housing
8 priorities of the housing trust fund which are appropriate to local
9 conditions, including the community's immediate need for owner-occupied
10 or rental affordable housing units, ~~proposed increases in home ownership,~~
11 private dollars leveraged, level of local government support and
12 participation, and repayment, in part or in whole, of financial
13 assistance awarded by the fund; ~~and~~

14 (b) Give first priority in allocating trust fund assistance among
15 selected projects to those projects which are located in whole or in part
16 within an enterprise zone designated pursuant to the Enterprise Zone Act
17 or an opportunity zone designated pursuant to the federal Tax Cuts and
18 Jobs Act, Public Law 115-97, serve the lowest income occupant, are
19 located in an area that has been declared an extremely blighted area
20 under section 18-2101.02, and are obligated to serve qualified occupants
21 for the longest period of time; and -

22 (c) Give first priority to for-profit entities that do not work in
23 conjunction with eligible organizations and that indicate they are a
24 small and emerging business or entrepreneur.

25 (2) The department shall fund in order of priority as many
26 applications as will utilize available funds less actual administrative
27 costs of the department in administering the program. In administering
28 the program the department may contract for services or directly provide
29 funds to other governmental entities or instrumentalities.

30 (3) The department may recapture any funds which were allocated to a
31 qualified recipient for an eligible project through an award agreement if

1 such funds were not utilized for eligible costs within the time of
2 performance under the agreement and are therefor no longer obligated to
3 the project. The recaptured funds shall be credited to the Affordable
4 Housing Trust Fund.

5 (4) It is at the discretion of the department to indicate how much
6 of the amounts transferred from the General Fund or Cash Reserve Fund to
7 the Affordable Housing Trust Fund will go toward qualified recipients
8 pursuant to subsection (2) of section 58-707.

9 (5) For the purposes of this section:

10 (a) Entrepreneur means a single individual taking on financial risk
11 while building a business venture with a total revenue threshold of one
12 hundred thousand dollars per fiscal year; and

13 (b) Small and emerging business means any person, firm, corporation,
14 limited liability company, partnership, or association located in the
15 state that employs at least one and no more than ten eligible employees
16 and has a total revenue threshold of five hundred thousand dollars per
17 fiscal year. In determining the number of eligible employees, companies
18 that are affiliated companies or that are eligible to file a combined tax
19 return for purposes of state taxation shall be considered one employer.

20 Sec. 5. Section 58-711, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 58-711 (1) The Department of Economic Development shall submit, as
23 part of the department's annual status report under section 81-1201.11,
24 the following information regarding the Affordable Housing Trust Fund:

25 (a) The applications funded during the previous calendar year; (b) the
26 applications funded in previous years; (c) the identity and
27 classification of the qualified recipient of each organization the
28 organizations receiving funds; (d) the location of each project; (e) the
29 amount of funding provided to each project; (f) the amount of funding
30 leveraged as a result of each project; (g) the number of units of housing
31 created by each project and the occupancy rate; (h) the expected cost of

1 rent or monthly payment of those units; (i) the projected number of new
2 employees and community investment as a result of each project; (j) the
3 amount of revenue deposited into the Affordable Housing Trust Fund
4 pursuant to section 76-903; (k) the total amount of funds for which
5 applications were received during the previous calendar year, the year-
6 end fund balance, and, if all available funds have not been committed, an
7 explanation of the reasons why all such funds have not been so committed;
8 (l) the amount of appropriated funds actually expended by the department
9 for the previous calendar year; (m) the department's current budget for
10 administration of the Nebraska Affordable Housing Act and the
11 department's planned use and distribution of funds, including details on
12 the amount of funds to be expended on projects and the amount of funds to
13 be expended by the department for administrative purposes; and (n)
14 project summaries, including the applicant municipality, project
15 description, grant amount requested, amount and type of matching funds,
16 and reasons for approval or denial for every application seeking funds
17 during the previous calendar year.

18 (2) The status report shall contain no information that is protected
19 by state or federal confidentiality laws.

20 Sec. 6. It is the intent of the Legislature to transfer twenty-five
21 million dollars from the General Fund for fiscal year 2023-24 and twenty-
22 five million dollars from the General Fund for fiscal year 2024-25 to the
23 Affordable Housing Trust Fund to provide assistance for affordable
24 housing development projects under the Nebraska Affordable Housing Act.

25 Sec. 7. Original sections 58-701, 58-706, 58-707, 58-708, and
26 58-711, Reissue Revised Statutes of Nebraska, are repealed.