

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 842

Introduced by McKinney, 11.

Read first time January 03, 2024

Committee:

1 A BILL FOR AN ACT relating to housing; to amend sections 19-901, 19-902,
2 19-5503, 58-701, 58-706, 71-1575, and 71-15,124, Reissue Revised
3 Statutes of Nebraska; to define and redefine terms under the
4 Municipal Density and Missing Middle Housing Act, the Nebraska
5 Affordable Housing Act, and the Nebraska Housing Agency Act; to
6 change provisions relating to the activities that are eligible for
7 assistance from the Affordable Housing Trust Fund; to harmonize
8 provisions; to provide an operative date; to repeal the original
9 sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 19-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 19-901 (1) For the purpose of promoting health, safety, morals, or
4 the general welfare of the community, the city council of a city of the
5 first class or city of the second class or the village board of trustees
6 of a village may adopt zoning regulations which regulate and restrict the
7 height, number of stories, and size of buildings and other structures,
8 the percentage of lots that may be occupied, the size of yards, courts,
9 and other open spaces, the density of population, and the location and
10 use of buildings, structures, and land for trade, industry, residence, or
11 other purposes. For a city of the first class as described in subdivision
12 (4) ~~(3)~~ of section 19-5503, such regulations shall comply with the
13 Municipal Density and Missing Middle Housing Act.

14 (2) Such powers shall be exercised only after the city council or
15 village board of trustees has established a planning commission, received
16 from its planning commission a recommended comprehensive development plan
17 as defined in section 19-903, adopted such comprehensive development
18 plan, and received the specific recommendation of the planning commission
19 on the adoption or amendment of zoning regulations. The planning
20 commission shall make a preliminary report and hold public hearings on
21 its recommendations regarding the adoption or repeal of the comprehensive
22 development plan and zoning regulations and shall hold public hearings
23 thereon before submitting its final report to the city council or village
24 board of trustees. Amendments to the comprehensive plan or zoning
25 regulations shall be considered at public hearings before submitting
26 recommendations to the city council or village board of trustees.

27 (3) A comprehensive development plan as defined in section 19-903
28 which has been adopted and not rescinded by a city council or village
29 board of trustees prior to May 17, 1967, shall be deemed to have been
30 recommended and adopted in compliance with the procedural requirements of
31 this section when, prior to the adoption of the plan by the city council

1 or village board of trustees, a recommendation thereon had been made to
2 the city council or village board of trustees by a zoning commission in
3 compliance with the provisions of section 19-906, as such section existed
4 prior to its repeal by Laws 1967, c. 92, section 7, or by a planning
5 commission appointed under the provisions of Chapter 19, article 9,
6 regardless of whether the planning commission had been appointed as a
7 zoning commission.

8 (4) The requirement that a planning commission be appointed and a
9 comprehensive development plan be adopted shall not apply to cities of
10 the first class, cities of the second class, and villages which have
11 legally adopted a zoning ordinance prior to May 17, 1967, and which have
12 not amended the zoning ordinance or zoning map since May 17, 1967. Such
13 city or village shall appoint a planning commission and adopt the
14 comprehensive plan prior to amending the zoning ordinance or zoning map.

15 Sec. 2. Section 19-902, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 19-902 (1) For any or all of the purposes designated in section
18 19-901, the city council or village board of trustees may divide the
19 municipality into districts of such number, shape, and area as may be
20 deemed best suited to carry out the purposes of sections 19-901 to 19-915
21 and may regulate and restrict the erection, construction, reconstruction,
22 alteration, repair, or use of buildings, structures, or land within such
23 districts. All such regulations shall be uniform for each class or kind
24 of buildings throughout each district, but the regulations applicable to
25 one district may differ from those applicable to other districts. For a
26 city of the first class as described in subdivision (4) ~~(3)~~ of section
27 19-5503, such regulations shall comply with the Municipal Density and
28 Missing Middle Housing Act. If a regulation affects the Niobrara scenic
29 river corridor as defined in section 72-2006 and is not incorporated
30 within the boundaries of the municipality, the Niobrara Council shall act
31 on the regulation as provided in section 72-2010.

1 (2)(a) The city council or village board of trustees shall not adopt
2 or enforce any zoning ordinance or regulation which prohibits the use of
3 land for a proposed residential structure for the sole reason that the
4 proposed structure is a manufactured home if such manufactured home bears
5 an appropriate seal which indicates that it was constructed in accordance
6 with the standards of the Uniform Standard Code for Manufactured Homes
7 and Recreational Vehicles, the Nebraska Uniform Standards for Modular
8 Housing Units Act, or the United States Department of Housing and Urban
9 Development. The city council or village board of trustees may require
10 that a manufactured home be located and installed according to the same
11 standards for foundation system, permanent utility connections, setback,
12 and minimum square footage which would apply to a site-built, single-
13 family dwelling on the same lot. The city council or village board of
14 trustees may also require that manufactured homes meet the following
15 standards:

16 (i) The home shall have no less than nine hundred square feet of
17 floor area;

18 (ii) The home shall have no less than an eighteen-foot exterior
19 width;

20 (iii) The roof shall be pitched with a minimum vertical rise of two
21 and one-half inches for each twelve inches of horizontal run;

22 (iv) The exterior material shall be of a color, material, and scale
23 comparable with those existing in residential site-built, single-family
24 construction;

25 (v) The home shall have a nonreflective roof material which is or
26 simulates asphalt or wood shingles, tile, or rock; and

27 (vi) The home shall have wheels, axles, transporting lights, and
28 removable towing apparatus removed.

29 (b) The city council or village board of trustees may not require
30 additional standards unless such standards are uniformly applied to all
31 single-family dwellings in the zoning district.

1 (c) Nothing in this subsection shall be deemed to supersede any
2 valid restrictive covenants of record.

3 (3) For purposes of this section, manufactured home shall mean (a) a
4 factory-built structure which is to be used as a place for human
5 habitation, which is not constructed or equipped with a permanent hitch
6 or other device allowing it to be moved other than to a permanent site,
7 which does not have permanently attached to its body or frame any wheels
8 or axles, and which bears a label certifying that it was built in
9 compliance with national Manufactured Home Construction and Safety
10 Standards, 24 C.F.R. 3280 et seq., promulgated by the United States
11 Department of Housing and Urban Development, or (b) a modular housing
12 unit as defined in section 71-1557 bearing a seal in accordance with the
13 Nebraska Uniform Standards for Modular Housing Units Act.

14 (4) Subdivision regulations and building, plumbing, electrical,
15 housing, fire, or health codes or similar regulations and the adoption
16 thereof shall not be subject to sections 19-901 to 19-915.

17 Sec. 3. Section 19-5503, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 19-5503 For purposes of the Municipal Density and Missing Middle
20 Housing Act:

21 (1) Accessory dwelling unit means an interior, attached, or detached
22 residential structure that is used in connection with, or that is an
23 accessory to, a single-family dwelling and is located on the same lot or
24 parcel as such single-family dwelling;

25 (2) Affordable housing means residential dwelling units that:

26 (a) Are affordable to a household earning not more than one hundred
27 twenty percent of the area median income; and

28 (b) For rental units, require payment of monthly rental costs,
29 including utilities, of no more than thirty percent of the tenant's
30 annual income as defined in 24 C.F.R. 5.609 eighty percent of the income
31 limit as set forth by the United States Department of Housing and Urban

1 ~~Development under its Income Limits Documentation System, as such limits~~
2 ~~existed on January 1, 2022, for the county in which the units are located~~
3 ~~and for a particular household size;~~

4 (3) Area median income means the median household income, adjusted
5 for family size, for applicable income limit areas as determined by the
6 United States Department of Housing and Urban Development;

7 (4) (3) City means any city of the metropolitan class, city of the
8 primary class, or city of the first class in the State of Nebraska with a
9 population of at least twenty thousand inhabitants as determined by the
10 most recent federal decennial census or the most recent revised certified
11 count by the United States Bureau of the Census;

12 (5) (4) Cottage cluster means a grouping of no fewer than four
13 detached housing units per acre with a footprint of less than nine
14 hundred square feet each and that includes a common courtyard;

15 (6) (5) Density bonus means a density increase over the otherwise
16 maximum allowable residential density under a city's zoning codes,
17 ordinances, and regulations;

18 (7) (6) Middle housing means:

- 19 (a) Duplexes;
- 20 (b) Triplexes;
- 21 (c) Quadplexes;
- 22 (d) Cottage clusters; or
- 23 (e) Townhouses;

24 (8) (7) Townhouse means a dwelling unit constructed in a row of two
25 or more attached units where each dwelling unit is located on an
26 individual lot or parcel and shares at least one common wall with an
27 adjacent unit; and

28 (9) (8) Workforce housing means:

- 29 (a) Housing that meets the needs of working families;
- 30 (b) Owner-occupied housing units that have an after-construction
- 31 appraised value of at least one hundred twenty-five thousand dollars but

1 not more than three ~~two~~ hundred ~~seventy-five~~ thousand dollars to
2 construct;

3 (c) Owner-occupied housing units for which the cost to substantially
4 rehabilitate exceeds fifty percent of a unit's assessed value;

5 (d) Upper-story housing for occupation by a homeowner; and

6 (e) Housing that does not receive federal or state low-income
7 housing tax credits, community development block grants, HOME funds as
8 defined in section 81-1228, or funds from the Affordable Housing Trust
9 Fund.

10 Sec. 4. Section 58-701, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 58-701 Sections 58-701 to 58-711 and section 5 of this act shall be
13 known and may be cited as the Nebraska Affordable Housing Act.

14 Sec. 5. For purposes of the Nebraska Affordable Housing Act:

15 (1) Affordable housing means residential dwelling units that:

16 (a) Are affordable to a household earning not more than one hundred
17 twenty percent of the area median income; and

18 (b) For rental units, require payment of monthly rental costs,
19 including utilities, of no more than thirty percent of the tenant's
20 annual income as defined in 24 C.F.R. 5.609;

21 (2) Area median income means the median household income, adjusted
22 for family size, for applicable income limit areas as determined by the
23 United States Department of Housing and Urban Development;

24 (3) Low-income household means a household earning more than fifty
25 percent but not more than eighty percent of the area median income; and

26 (4) Very low-income household means a household earning not more
27 than fifty percent of the area median income.

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

30 58-706 The following activities are eligible for assistance from the
31 Affordable Housing Trust Fund:

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

3 (2) Matching funds for new construction, rehabilitation, or
4 acquisition of housing units to assist low-income households and very
5 low-income households ~~families~~;

6 (3) Technical assistance, design and finance services, and
7 consultation for eligible nonprofit community or neighborhood-based
8 organizations involved in the creation of affordable housing;

9 (4) Matching funds for operating costs for housing assistance groups
10 or organizations when such grant or loan will substantially increase the
11 recipient's ability to produce affordable housing;

12 (5) Mortgage insurance guarantees for eligible projects;

13 (6) Acquisition of housing units for the purpose of preservation of
14 housing to assist low-income households or very low-income households
15 ~~families~~;

16 (7) Projects making affordable housing more accessible to families
17 with elderly members or members who have disabilities;

18 (8) Projects providing housing in areas determined by the Department
19 of Economic Development to be of critical importance for the continued
20 economic development and economic well-being of the community and where,
21 as determined by the department, a shortage of affordable housing exists;

22 (9) Infrastructure projects necessary for the development of
23 affordable housing;

24 (10) Downpayment and closing cost assistance;

25 (11) Demolition of existing vacant, condemned, or obsolete housing
26 or industrial buildings or infrastructure;

27 (12) Housing education programs developed in conjunction with
28 affordable housing projects. The education programs ~~must~~ may be directed
29 toward:

30 (a) Preparing potential home buyers to purchase affordable housing
31 and postpurchase education. Such education programs may include any home

1 buyer education course approved by the United States Department of
2 Housing and Urban Development;

3 (b) Target audiences eligible to utilize the services of housing
4 assistance groups or organizations; and

5 (c) Developers interested in the rehabilitation, acquisition, or
6 construction of affordable housing;

7 (13) Support for efforts to improve programs benefiting homeless
8 youth;

9 (14) Vocational training in the housing and construction trades
10 industries by nonprofit groups;~~and~~

11 (15) Weatherization and solar or other energy improvements to make
12 utilities for housing more affordable; and ~~-~~

13 (16) Projects making reentry or transitional housing more
14 accessible.

15 Sec. 7. Section 71-1575, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 71-1575 For purposes of the Nebraska Housing Agency Act:

18 (1) Affiliate means any corporation, entity, partnership, venture,
19 syndicate, or arrangement in which a local housing agency participates by
20 holding an ownership interest or participating in its governance,
21 including both controlled and noncontrolled affiliates;

22 (2) Affordable housing means dwelling units that:

23 (a) May ~~may~~ be rented or purchased, as the case may be, by persons
24 of eligible income and qualifying tenants, with or without government
25 assistance; and

26 (b) For rental units, require payment of monthly rental costs,
27 including utilities, of no more than thirty percent of the tenant's
28 annual income as defined in 24 C.F.R. 5.609;

29 (3) Agreement means a contract or other legal relations with another
30 party, whether public or private;

31 (4) Area of operation means the geographical area within which a

1 local housing agency may own or operate housing developments as described
2 in section 71-1588;

3 (5) City means an incorporated city or village;

4 (6) Commissioner means a person serving on the governing board of a
5 local housing agency, including any person identified under prior law as
6 a member of a housing authority;

7 (7) Community facilities means real and personal property suitable
8 for recreational, educational, health, or welfare purposes, including,
9 but not limited to, buildings, equipment, and parks and other spaces or
10 structures;

11 (8) Controlled affiliate means any affiliate of a local housing
12 agency (a) in which commissioners, officers, employees, and agents of
13 such agency constitute a majority of the governing body of such entity or
14 (b) in which such agency holds a majority of the ownership interests;

15 (9) Development or housing development means and includes all
16 dwellings and associated appurtenances, including real and personal
17 property, and all other facilities and improvements of every kind and
18 description which a local housing agency may own or operate or in which
19 it may hold an interest under the provisions of the act; all land upon
20 which such dwellings, appurtenances, and facilities are situated; all
21 work and activities undertaken by a local housing agency or others
22 relating to the creation of such property and all tangible and intangible
23 personal property relating thereto, including all leases, licenses,
24 agreements, and other instruments; and all rights and obligations arising
25 thereunder establishing or confirming ownership, title, or right of use
26 or possession in or to any such property by a local housing agency;

27 (10) Establishing a housing agency means taking all actions required
28 under sections 71-1576 to 71-1587 to be taken by the governing body of a
29 city or county or, in the case of a regional housing agency, by the
30 governing bodies of all political subdivisions participating therein, for
31 a housing agency to conduct business and to exercise its powers. In the

1 case of a housing agency or housing authority existing on January 1,
2 2000, established means that such agency has been authorized to conduct
3 business and exercise its powers in accordance with prior law;

4 (11) Family means a single person or a number of persons that may,
5 but need not, include children, that a local housing agency accepts for
6 occupancy of a dwelling, or to which such agency offers or provides other
7 assistance, as particularly defined in the eligibility and occupancy
8 standards adopted by the agency;

9 (12) Guest means any person, not a resident of such development, who
10 is present within a development, or any person, not a resident in such
11 dwelling, who is present within a dwelling in a development, as an
12 invitee of or otherwise with the acquiescence or consent of a resident of
13 such development or dwelling, as the case may be;

14 (13) Hold an interest means ownership, control of, or participation
15 in an arrangement with respect to a development by a local housing agency
16 or any affiliate thereof;

17 (14) Household means a family as defined in subdivision (11) of this
18 section;

19 (15) Housing agency or agency means and includes both a local
20 housing agency established pursuant to sections 71-1576 to 71-1580 and a
21 regional housing agency established pursuant to sections 71-1581 to
22 71-1587. Reference in any prior or other law to housing authority is
23 deemed to refer to housing agency. Wherever the context requires or
24 permits, housing agency or agency includes controlled affiliates of a
25 housing agency;

26 (16) Local housing agency or agency means a public body, corporate
27 and politic, previously established or to be established by a city or a
28 county pursuant to the authority provided in the act, exercising
29 necessary and essential governmental functions for the purposes stated in
30 the act in matters of statewide concern, although its operations are
31 local in nature. A local housing agency shall be a political subdivision

1 of this state, independent from the city or county which established or
2 establishes it or which may appoint some or all of its commissioners. Any
3 reference in the act to a local housing agency includes a housing agency
4 or a regional housing agency, unless the context clearly otherwise
5 requires. The term local housing agency also includes any housing
6 authority established under prior law;

7 (17) Mixed-finance development means a development that is financed
8 both by funding derived from the private sector and funding provided by
9 the government that is permitted to be used for the development of
10 affordable housing;

11 (18) Mixed-income development means a housing development intended
12 to be, and which in fact is, occupied both by persons of eligible income
13 and by other persons, and if such other persons are living in a
14 development constructed or acquired and substantially occupied after
15 January 1, 2000, the incomes of such other persons at initial occupancy
16 shall not exceed one hundred forty percent of the median income in the
17 county in which the development is located;

18 (19) Noncontrolled affiliate means an affiliate in which a local
19 housing agency participates that is not a controlled affiliate;

20 (20) Person includes a family;

21 (21) Persons of eligible income means:

22 (a) With respect to state or federally funded activities or
23 developments, individuals or families who meet the applicable income
24 requirements of the state or federal program involved, if any such state
25 or federal income requirements are applicable, and, if none are so
26 applicable, then individuals or families who meet the requirements of
27 subdivision (b) of this subdivision; and

28 (b) With respect to activities and developments other than those to
29 which subdivision (a) of this subdivision is applicable, individuals or
30 families who, in the determination of the local housing agency, lack
31 sufficient income or assets, taking into account all resources available

1 to such individuals or families from whatever source derived or
2 reasonably derivable, to enable them, without undue hardship or
3 governmental financial assistance, to purchase or rent, as the case may
4 be, decent, safe, and sanitary dwellings of adequate size, except that
5 the income of such families shall not exceed one hundred twenty eight
6 percent of the area median income for families of like size;

7 (22) Public agency means and includes any: (a) County, city,
8 village, or township; school, drainage, tax, improvement, or other
9 district; local housing agency; department, division, or political
10 subdivision of this state or another state; housing agency, housing
11 finance agency, or housing trust of this state or another state; and
12 other agency, bureau, office, authority, or instrumentality of this state
13 or another state; (b) board, agency, commission, division, or other
14 instrumentality of a city or county; and (c) board, commission, agency,
15 department, or other instrumentality of the United States, or any
16 political subdivision or governmental unit thereof;

17 (23) Qualifying tenants means persons described in subdivision (21)
18 (b) of this section and individuals and families whose income does not
19 exceed one hundred twenty ~~twenty-five~~ percent of the maximum income
20 standard applicable under subdivision (21)(b) of this section;

21 (24) Regional housing agency means a public body, corporate and
22 politic, and a governmental subdivision of this state, formed by two or
23 more cities, two or more counties, or a combination of cities and
24 counties, pursuant to the authority provided in sections 71-1581 to
25 71-1587, exercising necessary and essential governmental functions for
26 the purposes stated in the act in matters of statewide concern, although
27 its operations are local or regional in nature. It is a political
28 subdivision of this state, independent from political subdivisions of
29 this state which established it or which may appoint some or all of its
30 commissioners;

31 (25) Representative means a commissioner, officer, employee, or

1 agent of a local housing agency; and

2 (26) Resident means a person residing in a development of a housing
3 agency pursuant to an agreement with such agency.

4 Sec. 8. Section 71-15,124, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 71-15,124 (1) With respect to any mixed-income development that is
7 constructed or acquired after January 1, 2000, and is solely owned by a
8 local housing agency, not more than sixty percent of the dwelling units
9 in such development shall be occupied by persons who are not persons of
10 eligible income, and no person occupying such a development shall have an
11 income at initial occupancy which exceeds one hundred forty percent of
12 the median income in the county in which the development is located. This
13 authority is granted only if the agency has made a determination that
14 such housing is an appropriate component for providing safe and sanitary
15 housing for persons of eligible income.

16 (2) With respect to any mixed-income development that is not solely
17 owned by a local housing agency, the proportion of the development that
18 is intended to be affordable to persons of eligible income shall be equal
19 to or greater than the proportion of financial resources for the
20 development which are provided by the local housing agency. The
21 proportion shall be determined in accordance with such reasonable method
22 as shall be adopted by the agency. The proportion may be based upon a
23 proportion of dwelling units, bedrooms, square footage, or any other
24 criteria deemed reasonable and appropriate by the local housing agency.
25 The determination of such proportion shall take into account any special
26 benefits accruing to an agency by virtue of its status as such,
27 including, among other things (a) the capital value of all subsidies and
28 other assistance provided by the agency or by other public sources on
29 behalf of the agency, (b) tax exemptions available because of the
30 agency's participation, and (c) interest savings attributable to tax-
31 exempt financing or to below market interest rates that are available

1 because of the participation of the local housing agency or the presence
2 in the development of dwelling units to be occupied by persons of
3 eligible income.

4 (3) A local housing agency may determine the period during which any
5 unit shall be designated for occupancy only by persons of eligible
6 income. Dwelling units in a mixed-income development that are designated
7 for occupancy by persons of eligible income need not be particular units
8 that are permanently so designated, and the physical location of the
9 units so designated may change from time to time.

10 Sec. 9. This act becomes operative on July 1, 2024.

11 Sec. 10. Original sections 19-901, 19-902, 19-5503, 58-701, 58-706,
12 71-1575, and 71-15,124, Reissue Revised Statutes of Nebraska, are
13 repealed.

14 Sec. 11. Since an emergency exists, this act takes effect when
15 passed and approved according to law.