

## NEBRASKA HOUSING AGENCY ACT

### **71-1572. Act, how cited.**

Sections 71-1572 to 71-15,168 shall be known and may be cited as the Nebraska Housing Agency Act.

**Source:** Laws 1999, LB 105, § 1.

### **71-1573. Legislative findings.**

The Legislature declares that:

(1) There exists within this state a shortage of residential housing that is decent, safe, and sanitary, situated in safe, livable neighborhoods, and affordable to persons of low and moderate income;

(2) Many persons and families throughout this state occupy inadequate, overcrowded, unsafe, or unsanitary residential housing because they are unable to locate and secure suitable housing at a price that they can reasonably afford. This circumstance has resulted in undue concentrations of impoverished populations in certain areas, increased rates of crime, deterioration in human health, and other family and social dysfunction, thereby seriously and adversely affecting the public health, safety, and welfare of persons residing in this state;

(3) In addition to the lack of suitable, affordable housing, there persists in numerous areas of this state conditions of economic distress accompanied by physical deterioration of public facilities and commercial and residential infrastructure;

(4) It is the goal and policy of this state that all its residents shall have access to decent, safe, sanitary, and affordable housing in safe and livable neighborhoods and it is the policy of this state to assure the availability, for rental or sale, of decent, safe, and sanitary housing that is affordable to all persons residing in this state;

(5) It is further the goal and policy of this state that, to the maximum extent feasible, persons and families benefiting from activities authorized under the Nebraska Housing Agency Act be encouraged to become economically self-sufficient;

(6) Achieving permanent improvement in the living standards of persons of low and moderate income may require, in addition to providing enhanced housing opportunities, the delivery of social, educational, and other supportive services and the operation of programs to develop self-sufficiency and to provide economic and employment opportunities and other benefits for persons assisted under the act;

(7) Persons of low and moderate income possess inadequate access to sources of equity and financing for the purchase and ownership of housing at rates and upon terms reasonably affordable to such persons;

(8) The adverse conditions described in this section cannot be remedied, nor can the goals and policies of this section be successfully carried out, through the ordinary functioning of private enterprise alone. These objectives may be attainable by diligent efforts of public agencies acting both alone and cooperatively with private sector entities and enterprises. The actions of public agencies so taken are, therefor, not competitive with private enterprise;

(9) The replanning and reconstruction of areas in which housing is unsafe or unsanitary or in which neighborhoods are unlivable; the provision of decent, safe, and sanitary housing that is affordable to persons of low and moderate income, including the development, leasing, or sale thereof; and the provision of supportive services and programs benefiting persons and families receiving housing assistance under the act are public uses and purposes and essential governmental functions for which public funds may be spent and private property acquired. The character of any expenditures of public funds contemplated under the act as necessary and proper public expenditures for essential government functions is not altered because such expenditures may be made to, or in connection with, the activities of private sector entities or enterprises, whether nonprofit or for-profit in nature;

(10) The amount of funding for decent, safe, and sanitary housing that is affordable to persons of low and moderate income and for associated services to benefit such persons has not kept pace either with the growing demand for such housing and services or with the needs of local housing agencies to operate and maintain their facilities and programs. Since local housing agencies do not possess the power to tax, it is necessary to ensure other adequate funding sources for their activities. Accordingly, this state must provide to its local housing agencies sufficient power to adequately address the housing needs of persons of low and moderate income within this state and to operate related programs with funding derived from public and private sources as well as the federal government. In this regard it is further found that:

(a) Carrying out the purposes of the act may necessitate agreements with private sector entities and with other public entities. It is the policy of this state to encourage such public-private and intergovernmental cooperation;

(b) The purposes of the act will best be carried out by affording to local housing agencies of this state the maximum amount of flexibility, responsibility, and discretion. Therefor, in carrying out the purposes of the act, such agencies shall be presumed to possess necessary powers and legal prerogatives which will enable them to carry out their purposes;

(c) Adequately serving persons who are eligible for assistance under the act may be possible only if the income of local housing agencies is supplemented by income derived from providing housing to persons who are not eligible for such assistance; and

(d) Improved sources of financing must be made available to local housing agencies and by local housing agencies to the private sector of the economy to enable such agencies and private enterprise to increase the production of new housing and to conserve and preserve the supply of existing housing that is affordable for rental or sale to persons of low and moderate income;

(11) This state and its public agencies should be involved to a significant degree in the provision of decent, safe, sanitary, and affordable housing within safe, livable neighborhoods for its residents. It is the policy of this state to cooperate and to encourage all of its public agencies to cooperate with local housing agencies in order to facilitate, to the maximum extent feasible, the planning, development, and operation of decent, safe, and sanitary housing that is affordable to persons of low and moderate income;

(12) Adverse social conditions and crime problems, including drug-related crime problems, exist within this state and in some local housing agency developments. All reasonable and practicable steps should be taken to mitigate adverse social conditions and to lessen the effects of drug and crime problems on residents of local housing agency developments. Local housing agencies should possess reasonable power and authority to establish and implement policies and to take all reasonable actions appropriate to mitigate adverse social conditions and to eliminate drug and crime problems in their developments; and

(13) While it is the goal of this state to provide access to decent, safe, sanitary, and affordable housing to all of its residents, persons accepting assistance under the act shall, by such acceptance thereof, recognize their responsibilities to the

local housing agencies providing such assistance and to other persons living in their vicinity. Accordingly, local housing agencies should be permitted to impose and enforce occupancy standards and requirements that are typical of those applicable in standard rental agreements.

**Source:** Laws 1999, LB 105, § 2.

**71-1574. Act; purposes.**

The purposes of the Nebraska Housing Agency Act are:

(1) To remedy the shortage of decent, safe, and sanitary housing affordable to persons of low and moderate income, to provide opportunities to secure such housing to all such persons, to preserve existing supplies of such housing, and to create, administer, and operate programs to increase and maintain access to decent, safe, and sanitary rental housing and home ownership upon terms affordable to such persons;

(2) To encourage the development, redevelopment, rehabilitation, and preservation of safe, livable neighborhoods containing housing that is affordable to persons of low and moderate income, including mixed-income developments, and to reduce where feasible high residential concentrations of impoverished persons;

(3) In connection with the provision of affordable housing and related activities authorized under the act, to eliminate or ameliorate conditions of blight and physical deterioration in public facilities and the residential infrastructure;

(4) To provide housing, rental, and other assistance to persons of low and moderate income and assistance to properties and entities in accordance with the provisions of the act and, subject to standards and procedures adopted by the local housing agency, to authorize the provision by local housing agencies of supportive services and programs of every kind and description to advance the social, educational, and economic well-being and the economic and social self-sufficiency of persons receiving housing assistance under the act so as to create wholesome living environments, eliminate long-term poverty, encourage gainful employment, develop social and economic self-sufficiency, including living independently of housing assistance, and enhance personal responsibility on the part of such persons;

(5) To increase intergovernmental cooperation and the use of consortia and intergovernmental partnerships for the development of affordable housing and suitable neighborhoods;

(6) To encourage the use of entrepreneurial methods and approaches and to stimulate and increase private sector initiatives and joint public-private sector initiatives by local housing agencies in carrying out the purposes and provisions of the act;

(7) To increase the availability, from both public and private sector sources, of financing for the purchase of dwellings and the financing for home improvements, repairs, and rehabilitation at rates and upon terms that are affordable to persons of low or moderate income and to increase the availability of sources of equity and other financing for the development and operation by local housing agencies and private sector entities of decent, safe, and sanitary rental housing that is affordable to persons of low and moderate income; and

(8) In carrying out the purposes described in this section, to vest in local housing agencies reasonable responsibility, authority, and discretion.

**Source:** Laws 1999, LB 105, § 3.

### **71-1575. Terms, defined.**

For purposes of the Nebraska Housing Agency Act:

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

(2) Affordable housing means dwelling units that may be rented or purchased, as the case may be, by persons of eligible income and qualifying tenants, with or without government assistance;

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

(4) Area of operation means the geographical area within which a local housing agency may own or operate housing developments as described in section 71-1588;

(5) City means an incorporated city or village;

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

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

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

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

(10) Establishing a housing agency means taking all actions required under sections 71-1576 to 71-1587 to be taken by the governing body of a city or county or, in the case of a regional housing agency, by the governing bodies of all political subdivisions participating therein, for a housing agency to conduct business and to exercise its powers. In the case of a housing agency or housing authority existing on January 1, 2000, established means that such agency has been authorized to conduct business and exercise its powers in accordance with prior law;

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

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

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

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

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

(16) Local housing agency or agency means a public body, corporate and politic, previously established or to be established by a city or a county pursuant to the authority provided in the act, exercising necessary and essential governmental functions for the purposes stated in the act in matters of statewide concern, although its operations are local in nature. A local housing agency shall be a political subdivision of this state, independent from the city or county which established or establishes it or which may appoint some or all of its commissioners. Any reference in the act to a local housing agency includes a housing agency or a regional housing agency, unless the context clearly otherwise requires. The term local housing agency also includes any housing authority established under prior law;

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

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

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

(20) Person includes a family;

(21) Persons of eligible income means:

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

(b) With respect to activities and developments other than those to which subdivision (a) of this subdivision is applicable, individuals or families who, in the determination of the local housing agency, lack sufficient income or assets, taking into account all resources available to such individuals or families from whatever source derived or reasonably derivable, to enable them, without undue hardship or governmental financial assistance, to purchase or rent, as the case may be, decent, safe, and sanitary dwellings of adequate size, except that the income of such families shall not exceed eighty percent of the area median income for families of like size;

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

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

(24) Regional housing agency means a public body, corporate and politic, and a governmental subdivision of this state, formed by two or more cities, two or more counties, or a combination of cities and counties, pursuant to the authority



provided in sections 71-1581 to 71-1587, exercising necessary and essential governmental functions for the purposes stated in the act in matters of statewide concern, although its operations are local or regional in nature. It is a political subdivision of this state, independent from political subdivisions of this state which established it or which may appoint some or all of its commissioners;

(25) Representative means a commissioner, officer, employee, or agent of a local housing agency; and

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

**Source:** Laws 1999, LB 105, § 4.

**71-1576. Authority established under prior law; existence and actions; how treated.**

Any local housing authority established under any prior Nebraska law relating to housing authorities and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act and shall thereafter conduct its operations consistent with the act. All property, rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of an authority shall belong to the agency as successor. All obligations, debts, commitments, and liabilities of an authority shall become obligations, debts, commitments, and liabilities of the successor agency. Any resolution by an authority and any action taken by the authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a twelve-month period following January 1, 2000, and which resolution or action is lawful under Nebraska law as it exists prior to January 1, 2000, shall be a lawful resolution or action of the successor agency and binding upon such successor agency and enforceable by or against such agency notwithstanding that such resolution or action is inconsistent with, not authorized, or prohibited under the provisions of the act. All commissioners of such agency and all officers, legal counsel, technical experts, directors, and other appointees or employees of such agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the act.

**Source:** Laws 1999, LB 105, § 5.

**71-1577. Local housing agency; created; when.**

In each city and county of this state which has not previously established a housing agency or authority, there is hereby created a local housing agency. Such agency shall not be deemed to be established under the Nebraska Housing Agency Act, nor shall it be authorized to conduct any business or exercise any of its powers, unless and until the governing body of the city or county declares by resolution or ordinance that a need exists for such a local housing agency to function in such city or county and finds that there exists a shortage of decent, safe, and sanitary housing in such city or county that is available and affordable to all residents regardless of income.

**Source:** Laws 1999, LB 105, § 6.

**71-1578. Local housing agency; resolution or ordinance; effect.**

In order for a city or county to establish a local housing agency which may conduct business and exercise its powers, the governing body of such city or county desiring to establish such agency shall adopt a resolution or ordinance declaring that there is a need for a local housing agency in such city or county because there exists a shortage of decent, safe, and sanitary housing in such city or county that is affordable to all residents thereof, regardless of income. No further action or findings shall be necessary. Upon the adoption of such resolution or ordinance, the local housing agency shall be established and shall have perpetual existence unless dissolved in accordance with law.

**Source:** Laws 1999, LB 105, § 7.

**71-1579. Local housing agency; name.**

Each local housing agency established pursuant to the Nebraska Housing Agency Act shall adopt, within or together with the resolution or ordinance required under section 71-1578, a name for all legal and operating purposes. The name so adopted shall include a reference to the geographic locus of the agency and such other name or identifier as the governing body establishing the agency shall determine. A local housing agency established under prior law may adopt a name consistent with this section by resolution or ordinance adopted by at least two-thirds of such agency's entire board of commissioners and approved by the governing body of the city or county establishing such agency.

**Source:** Laws 1999, LB 105, § 8.

**71-1580. Local housing agency; evidence of establishment.**

A duly certified copy of the resolution or ordinance establishing a local housing agency shall, in any proceeding in which such evidence may be required, be conclusive evidence that such agency has been properly established and is authorized to transact business and exercise its powers under the Nebraska Housing Agency Act.

**Source:** Laws 1999, LB 105, § 9.

**71-1581. Regional housing agency; resolution or ordinance to establish.**

Any two or more cities, two or more counties, or any combination of cities and counties may, by resolution or ordinance of their separate governing bodies, establish a regional housing agency by adopting a joint resolution or ordinance declaring that there is a need for a regional housing agency to provide decent, safe, and sanitary housing that is affordable to persons of low and moderate income residing in a multijurisdictional area and that this need would be more efficiently served by the establishment of a regional housing agency.

**Source:** Laws 1999, LB 105, § 10.

**71-1582. Regional housing agency; resolution or ordinance; effect.**

Upon the adoption of a resolution or ordinance, as provided in section 71-1581, by two or more cities or counties, a regional housing agency shall be established, and except as otherwise provided in the Nebraska Housing Agency Act, such regional housing agency shall have perpetual existence unless dissolved in accordance with law.

**Source:** Laws 1999, LB 105, § 11.

**71-1583. Regional housing agency; name.**

Each regional housing agency established pursuant to the Nebraska Housing Agency Act shall adopt, within or together with the resolution or ordinance required under section 71-1581, a name for all legal and operating purposes. The name so adopted shall include a reference to the geographic locus of the agency and such other name or identifier as the governing bodies establishing the agency shall determine. A regional housing agency established under prior law may adopt a name consistent with this section by resolution or ordinance adopted by at least

two-thirds of such agency's entire board of commissioners and approved by the governing bodies of all political subdivisions establishing such agency.

**Source:** Laws 1999, LB 105, § 12.

**71-1584. Regional housing agency; evidence of establishment.**

A duly certified copy of the resolution or ordinance establishing a regional housing agency shall, in any proceeding in which such evidence may be required, be conclusive evidence that such agency has been properly established and is authorized to transact business and exercise its powers under the Nebraska Housing Agency Act.

**Source:** Laws 1999, LB 105, § 13.

**71-1585. Regional housing agency; additional members; procedure.**

After a regional housing agency has been established, any additional city or county may elect to participate as a member of such regional housing agency upon adoption of a resolution or ordinance to such effect containing, in substance, the findings provided in section 71-1581, if a majority of the existing commissioners of such regional housing agency and all participating political subdivisions, by action of their respective governing bodies, consent to such additional member or members.

**Source:** Laws 1999, LB 105, § 14.

**71-1586. Regional housing agency; withdrawal; conditions; effect.**

Any participating city or county may withdraw from participation in the regional housing agency by resolution or ordinance of its governing body. Any withdrawal from participation shall be subject to, and may occur only pursuant to, the following conditions:

(1) The regional housing agency has no bonds, notes, or other obligations outstanding or adequate provision for payment of such bonds, notes, or other obligations, by escrow or otherwise, has been made. Past performance without breach or default of an obligation secured only by one or more developments or the income thereof shall be deemed to be adequate provision;

(2) The withdrawing city or county has made adequate provision for the performance of all of its outstanding obligations and responsibilities as a participant in the regional housing agency;

(3) The withdrawing city or county has given six months' written notice to the regional housing agency and all other cities and counties participating therein; and

(4) The commissioner or commissioners appointed by the withdrawing city or county shall be deemed to have resigned as of the date upon which the withdrawal is effective. Vacancies on the board of commissioners created by withdrawal of a city or county shall be filled in such manner as the cities and counties remaining as participants shall agree.

Notwithstanding the withdrawal of any participating city or county, the legal title to and operating responsibility for any development located outside the area of operation of the regional housing agency remaining after such withdrawal has occurred shall continue to be vested in the regional housing agency unless a different arrangement is made.

**Source:** Laws 1999, LB 105, § 15.

**71-1587. Regional housing agency; become local housing agency or dissolve; when.**

If only one city or county remains as a participant in any regional housing agency, such regional housing agency shall become the local housing agency of the remaining city or county at the discretion of its governing body, or such regional housing agency shall be dissolved and its assets and liabilities transferred to another existing housing agency or to a city or county or other public agency in the manner provided for dissolution of a local housing agency under sections 71-15,108 to 71-15,111.

**Source:** Laws 1999, LB 105, § 16.

**71-1588. Area of operation; effect on jurisdiction.**

(1) The area of operation of a local housing agency shall be, depending upon the classification of the political subdivision establishing the agency, one of the following:

(a) In the case of a local housing agency established by a city, the agency's area of operation shall be the city and the area within ten miles from the territorial boundaries thereof. For purposes of this subdivision, home county means the county in which the city establishing the local housing agency is situated. Depending upon the geographical location of the city, an area of operation may include portions of one or more counties. It may also include areas lying within the territorial boundaries of cities outside the city establishing the local housing agency. In order to resolve territorial conflicts, the following rules shall apply:

(i) In the case of the local housing agency's home county, it may operate outside of the area described in subdivision (a) of this subsection in the unincorporated areas of the home county without the need for the county's consent unless the home county has established its own local housing agency. If the home county has established a local housing agency, then the city's local housing agency may so operate outside the area described in this subdivision only with the consent of the county board;

(ii) In the case of incorporated areas of the home county, the local housing agency may only operate within the territorial boundaries thereof by consent of the other city and its local housing agency, if any;

(iii) In the case of unincorporated portions of counties other than the local housing agency's home county, it may operate only with the consent of the county board, regardless of whether the other county has established a local housing agency;

(iv) In the case of incorporated areas within other counties, it may operate only with the consent of the governing body of any city incorporating such areas and, if the other city has also established its own local housing agency, also with the consent of the other local housing agency; and

(v) Notwithstanding any other provision of this section, a local housing agency may, subject to the limitations stated in subdivision (28) of section 71-15,113, provide rental assistance to persons residing outside the agency's area of operation as defined in this section;

(b) In the case of a local housing agency established by a county, the agency's area of operation shall be all of the county except that portion which lies within the territorial boundaries of any city in which a local housing agency has been established;

(c) In the case of a regional housing agency, the agency's area of operation shall be an area equivalent to the total areas of operation which the local housing agencies, if created separately by political subdivisions establishing the regional housing agency, would have when aggregated. The area of operation of a regional housing agency shall not include any area which lies within the territorial boundaries of any city or county in which a local housing agency has been established and which city or county is not a participant in the regional housing agency. The local housing agency of the city or county and the governing body of the city or county may consent to the operation of one or more developments by the regional housing agency within the city's or county's territorial boundaries; and

(d) Whether due to changes in the boundaries of cities or counties which have established local housing agencies, or the establishment of new local housing agencies, or for any other reason, territories may exist that include the area of operation of two or more local housing agencies. Such areas shall be areas of concurrent jurisdiction. No local housing agency whose area of operation includes an area of concurrent jurisdiction shall construct, acquire, or develop any new housing development within the area of concurrent jurisdiction except upon sixty days' prior written notice to all other local housing agencies existing within such area of concurrent jurisdiction. The notice shall specify the location, size, and general nature of the proposed new development. Any local housing agency receiving the notice shall have thirty days to send written objections thereto to the local housing agency sending the notice and proposing the new development. If written objections are timely made, the local housing agency proposing the new development shall not proceed unless and until both agencies have made a good faith effort to resolve their differences and, failing such resolution, the proposing local housing agency shall submit the matter to the governing body of the city or county in which the proposed new development is planned to be located. The governing body, after allowing both local housing agencies to be heard, shall decide whether the new development shall be constructed, acquired, or developed by the local housing agency proposing such action.

(2) Any housing development established by a housing agency pursuant to law shall continue to be maintained and operated by the housing agency so establishing the development or its designee unless the development is conveyed to another housing agency or to a city, county, or other public agency or is otherwise disposed of in accordance with law.

(3) Notwithstanding the area of operation as provided in this section, all local housing agencies shall have the jurisdiction and authority to cooperate and contract

with all other local housing agencies and other public agencies within this state and any public agencies of any other state, with the federal government, and with any person or entity, public or private, and wherever located, in order to carry out the purposes of the Nebraska Housing Agency Act. Such cooperation may include, but shall not be limited to, activities and operations conducted with the agreement of any public agency. The area of operation of a local housing agency shall be deemed to include any other area or areas within any city or county, regardless of location, with respect to which the city or county within whose boundaries such area or areas lie agrees to allow the local housing agency to operate.

**Source:** Laws 1999, LB 105, § 17.

### **71-1589. Debts and liability; responsibility.**

Except to the extent such city or county or this state may expressly elect to undertake such liability, neither any city or county with respect to which a local housing agency is established, nor any city or county participating in a regional housing agency, nor the state, nor any other public agency of this state shall be responsible for the debts or liabilities of any local housing agency or regional housing agency.

**Source:** Laws 1999, LB 105, § 18.

### **71-1590. Taxation of property; Indian housing authorities; payments in lieu of taxes.**

(1) The real and personal property of a local housing agency and any wholly owned controlled affiliate thereof used solely (a) for the administrative offices of the housing agency or wholly owned controlled affiliate thereof, (b) to provide housing for persons of eligible income and qualifying tenants, and (c) for appurtenances related to such housing shall be exempt from all taxes and special assessments of any city, any county, the state, or any public agency thereof, including without limitation any special taxing district or similar political subdivision. All other real and personal property of the housing agency or wholly owned controlled affiliate thereof shall be deemed to not be used for a public purpose for purposes of section 77-202 and shall be taxable as provided in sections 77-201 and 77-202.11. Property owned jointly by a housing agency or its wholly owned controlled affiliates with other nongovernmental persons or entities shall be exempt from such taxes and assessments to the extent of the ownership interest which the housing agency and its wholly owned controlled affiliates hold in the property and to the extent the property is used solely to provide housing for



persons of eligible income and qualifying tenants. Nothing in this section shall be deemed to preclude a housing agency and its wholly owned controlled affiliates from entering into an agreement for the payment of all or any portion of any special assessments which might otherwise be assessed except for the exemption created by this section.

(2) A housing agency may agree to make payments in lieu of all taxes or special assessments to the county within whose territorial jurisdiction any development of such housing agency or its controlled affiliates is located, for improvements, services, and facilities furnished by the city, county, or other public agencies, for the benefit of such development. Nothing contained in this section shall be deemed to require such an agreement by a local housing agency, and in no event shall the amounts payable by the housing agency exceed the amounts which, except for the exemption provided in this section, would otherwise be payable under regular taxes and special assessments for similar properties referred to in subsection (1) of this section. All payments in lieu of taxes made by any such housing agency shall be distributed by the county to all public agencies in such proportion that each public agency shall receive from the total payment the same proportion as its property tax rate bears to the total property tax which would be levied by each public agency against property of the housing agency if the same were not exempt from taxation.

(3) The property of Indian housing authorities created under Indian law shall be exempt from all taxes and special assessments of the state or any city, village, or public agency thereof. In lieu of such taxes or special assessments, an Indian housing authority may agree to make payments to any city, village, or public agency for improvements, services, or facilities furnished by such city, village, or public agency for the benefit of a housing project owned by the housing authority, but in no event shall such payments exceed the estimated cost to such city, village, or public agency of the improvements, services, or facilities to be so furnished. All payments made by any such housing authority in lieu of taxes, whether such payments are contractually stipulated or gratuitous voluntary payments, shall be distributed among the cities, villages, or public agencies within which the housing project is located, in such proportion that each city, village, or public agency shall receive from the total payment the same proportion as its ad valorem tax rate bears to the total ad valorem tax rate which would be levied by each city, village, or public agency against the properties of the Indian housing authority if the same were not exempt from taxation. For purposes of this section, (a) Indian housing authority means an entity that is authorized by federal law to engage or assist in the development or operation of low-income housing for Indians and which is

established by the exercise of the power of self-government of an Indian tribe and (b) Indian law means the code of an Indian tribe recognized as eligible for services provided to Indians by the United States Secretary of the Interior.

**Source:** Laws 1999, LB 105, § 19; Laws 2000, LB 1107A, § 1.

### **71-1591. Property; exempt from judicial process.**

Except to the extent a local housing agency or its controlled affiliates may otherwise expressly agree, all real and personal property of a local housing agency and its controlled affiliates shall be exempt from execution, levy, and sale for the payment of debt or otherwise pursuant to any judicial or other process.

**Source:** Laws 1999, LB 105, § 20.

### **71-1592. Agency representatives; exempt from licensing requirements; when.**

All representatives of a local housing agency, acting within the scope of carrying out the business and conducting the affairs of a local housing agency, shall be exempt from all licensing requirements imposed by any law with respect to the sale, rental, or management of real property or the improvement or development thereof, including requirements imposing any fee or charge.

**Source:** Laws 1999, LB 105, § 21.

### **71-1593. Applicability of Administrative Procedure Act and procurement, operation, and disposition of property provisions.**

The following provisions of law, and any regulations relating thereto, shall not apply to a local housing agency unless the legislation imposing such requirements is expressly and specifically applicable to local housing agencies or the local housing agency expressly elects to be governed by such legislation or regulations:

(1) The Administrative Procedure Act; and

(2) Any law, resolution, ordinance, or regulation governing or otherwise applicable to the procurement of goods and services, or to the acquisition, operation, or disposition of property by public agencies of this state, including any requirements for delivery of payment or performance bonds by contractors.

**Source:** Laws 1999, LB 105, § 22.

**Cross References Administrative Procedure Act,** see section 84-920.

#### **71-1594. Local housing agency; commissioners; appointment.**

(1) When the governing body of any city or county, as the case may be, has determined by resolution or ordinance as set forth in section 71-1578 that it is expedient to establish a local housing agency:

(a) In the case of cities other than cities of the metropolitan class, the chief elected official of such city shall appoint at least five and not more than seven adult persons;

(b) In the case of cities of the metropolitan class, the chief elected official of such city shall appoint seven adult persons; and

(c) In the case of counties, the county board shall appoint at least five and not more than seven adult persons.

(2) All such persons shall be residents of the area of operation of the agency. If the selection of a resident commissioner is required under section 71-15,104, then at least one such person shall be a resident commissioner selected as provided in such section. Such persons so appointed shall constitute the governing body of the local housing agency and shall be called commissioners.

**Source:** Laws 1999, LB 105, § 23; Laws 2018, LB399, § 1.

**Effective Date:** July 19, 2018

#### **71-1595. Commissioners; powers; quorum; executive committee.**

(1) The powers of each local housing agency shall be vested in its commissioners in office. A majority of the commissioners shall constitute a quorum of the agency for the purpose of conducting its business and exercising its powers and for all other purposes. Except for any matter with respect to which the resolution or ordinance creating the agency or its bylaws requires a higher number or proportion of votes, action may be taken by the agency upon the vote of a majority of the commissioners present and voting.

(2) Housing agencies that have twelve or more commissioners may, by resolution or bylaw, establish an executive committee of at least five commissioners. The committee shall have such powers over the management or

operation of such housing agency as the commissioners of such agency shall specify and declare in the resolution establishing the executive committee.

**Source:** Laws 1999, LB 105, § 24.

### **71-1596. Commissioners; appointment; procedure.**

When commissioners are appointed or reappointed by the chief elected official of a city or county, such appointments or reappointments shall be referred to the governing body of such city or county for confirmation or denial by such governing body, and such governing body shall confirm or deny any such appointment or reappointment.

**Source:** Laws 1999, LB 105, § 25.

### **71-1597. Regional housing agency; commissioners; appointment.**

When the governing bodies of two or more political subdivisions have determined by resolution or ordinance pursuant to section 71-1581 to establish and participate in a regional housing agency, the chief elected officials of such political subdivisions or, if no such official exists for a participating political subdivision, then the governing body thereof, shall appoint adult persons who shall be residents of the area of operation of the regional housing agency. Such persons so appointed shall constitute the governing body of the regional housing agency and shall be called commissioners. The number of commissioners who shall be appointed by each participating political subdivision shall be as agreed upon by the participating political subdivisions.

**Source:** Laws 1999, LB 105, § 26.

### **71-1598. Commissioners; terms.**

In the case of local housing agencies, the commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for terms of five years. In the case of housing agencies when the appointing authority has elected to have more than five commissioners as provided in section 71-1594 or has elected to add one or two commissioners to a presently existing housing agency, the sixth commissioner who is first appointed shall be designated to serve for a term of four years and the additional commissioners who are first appointed shall be designated to serve for terms of five years from the date

of appointment, but thereafter the commissioners shall be appointed for terms of five years.

**Source:** Laws 1999, LB 105, § 27; Laws 2018, LB399, § 2.

**Effective Date: July 19, 2018**

### **71-1599. Commissioners; vacancies.**

All vacancies shall be filled for the unexpired terms. A vacancy shall be filled by the same authority and in the same manner as the previous commissioner whose position has become vacant was appointed.

**Source:** Laws 1999, LB 105, § 28.

### **71-15,100. Certificate of appointment or reappointment.**

A certificate of the appointment or reappointment of any commissioner shall be filed with the secretary or clerk of the governing body making or confirming the appointment or reappointment, and such certificate shall be conclusive evidence of the proper appointment of such commissioner.

**Source:** Laws 1999, LB 105, § 29.

### **71-15,101. Commissioner; qualifications; requirements.**

Every commissioner shall be a resident of the area of operation of the housing agency which he or she has been appointed to serve. However, if after appointment a commissioner ceases to reside in the local housing agency's area of operation, his or her term of office shall automatically terminate and a successor shall be appointed to fill such vacancy in the manner provided in sections 71-1594 to 71-15,105. Any commissioner who ceases to reside within the area of operation of the local housing agency in which such commissioner serves shall immediately so inform the board of commissioners of the agency and the appointing authority of his or her change in residence. No person who has been convicted of a felony shall be eligible for appointment or service as a commissioner.

Any commissioner of a local housing agency for a city of the metropolitan class shall, at the expense of the local housing agency, attain a commissioner's certification from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field as determined by the local housing agency, within twelve months after the date of appointment or by

December 31, 2019, whichever is later, or shall be deemed to have resigned his or her position effective at the end of that time.

**Source:** Laws 1999, LB 105, § 30; Laws 2018, LB399, § 3.

**Effective Date: July 19, 2018**

### **71-15,102. City of the metropolitan class; commissioner; requirements.**

In the case of a city of the metropolitan class, (1) at least one commissioner shall be a member of a racial minority and (2) at least one commissioner shall have experience in the following professions: (a) Real estate development or management; (b) accounting, banking, or finance; and (c) law or business management. A single commissioner may satisfy more than one of the requirements provided in subdivisions (2)(a) through (c) of this section.

**Source:** Laws 1999, LB 105, § 31; Laws 2018, LB304, § 1; Laws 2018, LB399, § 4.

**Effective Date: July 19, 2018**

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB304, section 1, with LB399, section 4, to reflect all amendments.

### **71-15,103. Commissioner; city representative; required; when.**

The governing body of any city other than a city of the metropolitan class in which a housing agency has been or may be created may appoint one of its members to serve as one of the five commissioners of such housing agency for such term as the governing body may determine. Notwithstanding any other provision of the Nebraska Housing Agency Act, it shall not be considered a conflict of interest if such person so appointed as a commissioner votes on any matter involving the city. If the governing body of the city intends that a commissioner's appointment is made with the intention that such commissioner represent the city, then his or her certificate of appointment shall so state. If any such commissioner so appointed and designated ceases to serve as a member of the governing body of a city, then his or her term of office shall automatically terminate and a successor shall be appointed to fill the vacancy in the manner provided in sections 71-1594 to 71-15,105.

**Source:**Laws 1999, LB 105, § 32; Laws 2018, LB399, § 5.

**Effective Date: July 19, 2018**

#### **71-15,104. Resident commissioner; selection; procedure.**

(1) Each housing agency created under the Nebraska Housing Agency Act shall include among the commissioners constituting the governing body of such local housing agency at least one commissioner who shall be known as a resident commissioner. For purposes of this section, resident commissioner means a member of the governing board of a local housing agency whose eligibility for membership is based upon such person's status as a recipient of direct assistance from the agency except as otherwise provided in this section.

(2) No later than thirty days after any vacancy in the office of a resident commissioner, the local housing agency shall notify any resident advisory board or other resident organization and all adult persons directly assisted by such agency to the effect that the position of resident commissioner is open and that if any such person is interested in being considered as a candidate for the position, such person should notify the local housing agency within thirty days of the person's willingness to be considered and to serve in the position.

(3) The resident commissioner shall be selected, either by an election or by appointment, as follows:

(a) The housing agency may hold an election, allowing each adult direct recipient of its assistance to vote by secret written ballot, at such time and place, or through the mail, as such agency may choose, all to be conducted within thirty days after the receipt of names of candidates as provided in subsection (2) of this section. The candidate receiving the most votes shall serve as resident commissioner;

(b) If the housing agency decides not to hold an election, the names of all persons interested who have notified the housing agency of their interest in so serving shall be forwarded to the mayor or to the county board, as the case may be, and the resident commissioner shall be appointed from the list of names, as provided in section 71-1594, subject to confirmation as provided in section 71-1596. In the case of a regional housing agency, the regional board of commissioners shall make such an appointment from among the persons interested in such position; and

(c) If no qualified person has submitted to the local housing agency his or her name as a candidate for the position, then the mayor, county board, or regional housing agency, as the case may be, shall fill the position from among all adult persons receiving direct assistance from the agency subject to confirmation, in the

case of cities and counties, pursuant to section 71-1596. If a local housing agency owns fewer than three hundred low-income housing units which, for purposes of this subdivision, does not include units of housing occupied by persons assisted under any rental assistance program and the housing agency has received no notification of interest in serving as a resident commissioner as provided in this section, no resident commissioner shall be required to be selected.

**Source:** Laws 1999, LB 105, § 33; Laws 2018, LB399, § 6.

**Effective Date:** July 19, 2018

### **71-15,105. Commissioner; removal; procedure.**

(1) A commissioner of a local housing agency may be removed for neglect of duty, misconduct in office, or conviction of any felony by the chief elected official of the city or county appointing the commissioner, or if no chief elected official exists, then by the governing body. A commissioner of a regional housing agency may be removed for any of such grounds by the governing body of the city or county that originally appointed the commissioner.

(2) The chief elected official or the governing body, as the case may be, which seeks to remove a commissioner shall send a notice of removal to such commissioner, which notice shall set forth the charges against him or her. Unless within ten days from the receipt of such notice the commissioner files with the clerk or secretary of the city's or county's governing body a request for a hearing before the governing body, the commissioner shall be deemed removed from office. If a request for hearing is so filed, the governing body of the city or county, as the case may be, shall hold a hearing not sooner than ten days after the date a hearing is requested, at which hearing the commissioner shall have the right to appear in person or by counsel and the governing body shall determine whether the removal shall be upheld. If the removal is not upheld by the governing body, the commissioner shall continue to hold his or her office.

(3) All actions taken by a board of commissioners shall be presumed valid unless otherwise shown by clear and convincing evidence.

**Source:** Laws 1999, LB 105, § 34.

### **71-15,106. Officers; executive director; employees.**

The commissioners of each housing agency shall elect a chairperson and vice-chairperson from among the commissioners and shall have power to employ an



executive director who shall serve as ex officio secretary of the local housing agency. The agency may also employ legal counsel or engage the attorney of the city or county served by the agency for such legal services as the agency may require unless such employment or engagement will result in an ethical or legal violation. The agency may employ accountants, appraisers, technical experts, and such other officers, agents, and employees as the agency may require and shall determine their qualifications, duties, compensation, and terms of office. A local housing agency may delegate to one or more of its agents or employees such powers and duties as it may deem proper.

**Source:** Laws 1999, LB 105, § 35.

#### **71-15,107. Commissioner; expenses.**

A commissioner shall receive no compensation for his or her services but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in connection with the discharge of his or her duties on the same basis as provided in sections 81-1174 to 81-1177.

**Source:** Laws 1999, LB 105, § 36.

#### **71-15,108. Local housing agency; dissolution; conditions.**

Any local housing agency may by written resolution elect to dissolve, except that no such dissolution or any transfer of property pursuant to dissolution shall occur unless the following conditions are met:

(1) The governing body of the city or county which established the local housing agency so dissolving has consented thereto;

(2) The dissolving agency has designated another local housing agency or another city, county, or public agency of this state, which may be the city or county for which the agency was formed, as the transferee of its assets and liabilities in dissolution;

(3) The local housing agency, city, county, or other public agency receiving such property or assets and the political subdivision which established it consent thereto by resolution or ordinance; and

(4) All obligees of bonds or other evidences of indebtedness of such transferring or dissolving agency or the trustees for such obligees or the federal

government if the bonds or other obligations are secured by any contract right pursuant to a contract between the transferring agency and the federal government have consented thereto in writing or as otherwise provided in the contracts. No such transfer shall in any way diminish or impair the obligations of any transferring agency.

**Source:** Laws 1999, LB 105, § 37.

**71-15,109. Local housing agency; dissolution; transfer of rights, property, and liability.**

Within a reasonable time subsequent to approval by all necessary parties of a local housing agency's resolution to dissolve, the agency shall transfer its assets and liabilities to the transferee designated in the resolution. Upon the transfer of any of the agency's property, the receiving local housing agency, city, county, or other public agency shall have all right, title, and interest in and to such property and all duties and obligations arising out of the transfer of such property as the transferring agency had. Upon dissolution and transfer, all rights, contracts, agreements, obligations, and property, real and personal, of such transferring agency shall be in the name of, and vest in, such receiving local housing agency, city, county, or other public agency and all obligations of such transferring local housing agency shall be the obligations of such receiving local housing agency, city, county, or other public agency. All rights and remedies of any person against such transferring local housing agency may be asserted, enforced, and prosecuted against such receiving local housing agency, city, county, or other public agency to the same extent as they might have been asserted, enforced, and prosecuted against such transferring local housing agency.

**Source:** Laws 1999, LB 105, § 38.

**71-15,110. Local housing agency; dissolution; effect on area of operation.**

After any dissolution and transfer, notwithstanding anything contained in section 71-1588, the area of operation of the receiving local housing agency shall include, nonexclusively, the area of operation of the transferring local housing agency.

**Source:** Laws 1999, LB 105, § 39.

### **71-15,111. Regional housing agency; dissolution; procedure.**

A regional housing agency desiring to dissolve may do so in the same manner as provided in sections 71-15,108 and 71-15,109, except that consent of all participating cities and counties shall be required and the transfer of property and assets of the regional housing agency upon dissolution may be effected either to a single transferee or to multiple transferees, as the agency shall determine, subject to approval by the participating political subdivisions.

**Source:** Laws 1999, LB 105, § 40.

### **71-15,112. Local housing agency; general powers.**

(1) A local housing agency shall possess all powers necessary, convenient, or desirable in carrying out the purposes of the Nebraska Housing Agency Act, exercising any power provided in the act, and engaging in any activity related to furthering the purposes of the act. Such powers shall include, but shall expressly not be limited to, the powers enumerated in this section and section 71-15,113 or stated elsewhere in the act or in other applicable law.

(2) The powers enumerated in the act may be exercised singly or in any combination. The enumeration of any power shall not require, expressly or by implication, that any local housing agency is required to exercise such power.

**Source:** Laws 1999, LB 105, § 41.

### **71-15,113. Local housing agency; powers enumerated.**

In addition to any other express, constructive, or implied powers existing under applicable law, a local housing agency shall have the following powers, which may be exercised singly or in any combination, the enumeration of which shall not be construed to limit the powers of any local housing agency to the powers so enumerated:

(1) To have perpetual existence unless terminated by proper authority as provided by law;

(2) To sue and, subject to the limitations, privileges, and immunities provided by applicable law, be sued;

(3) To adopt a seal and to alter such seal from time to time;

(4) To adopt, amend, repeal, and restate bylaws;

(5) To adopt, promulgate, and enforce rules and regulations related to carrying out the purposes of the local housing agency and exercising its powers and to amend or repeal such rules and regulations from time to time;

(6) To enter into, execute, and perform contracts, instruments, and agreements of every kind and description within or without its area of operation except where otherwise expressly provided in furtherance of the purposes of the Nebraska Housing Agency Act and in connection with the exercise of any of its powers;

(7) To issue bonds and other debt instruments as provided in sections 71-15,114 to 71-15,121 and to secure the repayment of such bonds and debt instruments as provided in subdivision (24) of this section;

(8) Subject to the limitations elsewhere provided in the act, to guarantee any indebtedness or performance of any controlled affiliates or other public bodies of this state. The housing agency shall not guarantee the indebtedness or performance of any other party, except that the housing agency may create a special limited fund for the purposes provided in section 71-15,131;

(9) To enter into and perform interagency and intergovernmental agreements of every kind and description; and to act in consortium with, as agent or manager for, or pursuant to agreement or contract with other local housing agencies and any and all state, federal, and local public agencies to carry out the purposes of the act and to exercise any of its powers;

(10) To form and operate nonprofit corporations and other affiliates of every kind and description, which may be wholly or partially owned or controlled, for carrying out the purposes of the act and in connection with the exercise of any of the powers of a local housing agency;

(11) To enter into agreements of every kind and description in furtherance of the purposes of the act and in connection with the exercise of any of the powers of a local housing agency. Consistent with the limitations upon their powers set forth in sections 71-15,122 to 71-15,129, local housing agencies may participate in agreements with persons and for-profit entities whose purpose is solely that of pecuniary gain, as well as with nonprofit entities and persons who seek no pecuniary gain. The participation of a local housing agency in any arrangement with other persons or entities, including for-profit persons and entities, shall not

cause any activity engaged in by the agency to be characterized as proprietary nor deprive the agency of any privilege or immunity otherwise existing under law;

(12) Pursuant to approval of the local housing agency's board of commissioners, acting through one or more of its commissioners or other designees, to conduct examinations and investigations with respect to any matter relating to the purposes of the act and to make available to public agencies and officials and the public all findings, conclusions, and recommendations resulting from such examinations and investigations; to subpoena and compel the attendance of witnesses and the production of documents, books, records, papers, electronic and other data, and things; to issue commissions for the examination of witnesses who are outside this state, are unable to attend a hearing, or are excused from such attendance and to issue commissions for the examination of documents, books, records, papers, electronic and other data, and things outside this state; and to administer oaths and receive sworn or unsworn testimony or other proofs at public or nonpublic hearings;

(13) To invest or cause to be invested any funds held as reserves or sinking funds and any sums not required for immediate disbursement in connection with the operations of the agency, its developments, and its programs in property or securities in any manner allowable by law with respect to funds of this state or any public agency of this state, except that if any funds are pledged as security for a debt and the debt or security instrument specifies the permitted investments, such debt or security instrument provision shall control the permitted investments of such funds; to cooperate with this state or any public agency of this state with respect to investing the housing agency's funds; to enter into agreements and contracts with respect to the investment of its funds upon such terms and conditions as the agency deems reasonable and appropriate; and to purchase the agency's own bonds or other securities at such price as the agency shall in its discretion determine to be acceptable, except that no funds of an agency shall be placed in investments which the agency believes at the time of investment are highly speculative or involve a high degree of foreseeable risk;

(14) To conduct studies, assessments, and analyses of living conditions and affordable housing and community development and redevelopment needs and the means and methods through which unsatisfactory living conditions may be improved and affordable housing and community development and redevelopment needs may be met; to participate in the planning processes conducted by units of local government having jurisdiction over the agency's area of operation and to make recommendations with respect to the provision of decent, safe, and sanitary

dwelling accommodations to persons of eligible income and the improvement of the social and economic conditions affecting such persons; to evaluate the supply and adequacy of financing available for the development and rental of affordable housing and for the purchase of decent, safe, and sanitary dwelling accommodations by persons of eligible income; and to identify the means and methods through which adequate sources of financing for such purposes may be developed and maintained;

(15) To plan, prepare, carry out, develop, construct, acquire, improve, reconstruct, renovate, rehabilitate, enlarge, reduce, alter, manage, own, lease, and operate housing, housing projects or developments, or any portions of housing projects or developments;

(16) To finance an agency's developments, operations, and other activities in such manner, utilizing such public or private source or sources of revenue, and employing such financing methods or techniques as the agency deems appropriate; to combine revenue derived from different sources, including equity investments and borrowings, in any combination and proportion as the agency deems appropriate; and to create and to enter into arrangements concerning mixed-finance developments;

(17) To maintain, repair, and replace all housing developments, any portions thereof, and any facilities and improvements contained therein or associated therewith;

(18) Subject only to the limitations contained in sections 71-15,122 to 71-15,129, to lease or rent any dwellings, facilities, or other real or personal property owned, controlled, or possessed by the agency, or with respect to which the agency has contractual rights permitting such lease or rental, for such terms, upon such conditions and lease terms, and in exchange for such rentals as the agency may from time to time in its discretion determine; to establish rents in such manner and in such amounts as the agency may deem appropriate, including, but not limited to, rents based upon family income, determined with such adjustments and exclusions as the agency deems appropriate, minimum rents, flat rents, graduated rents, rent ranges, and maximum rents, any of which may vary among the agency's developments; and to establish any other standards and conditions relating to rentals that the agency may deem appropriate;

(19) To acquire title, long-term and short-term leasehold interests, possessory rights, options upon, cooperative interests in, or any other interest in or relating to

land, dwellings, facilities, or any other real or personal property by purchase, gift, grant, bequest, devise, lease, contract, or any other manner or arrangement; to acquire any such property or any interest therein through the exercise of the power of eminent domain as provided in subdivision (39) of this section; to take over or lease and manage any housing development or undertaking in which a local government or the state or federal government has an interest; and to transfer, donate, sell, lease, exchange, convey, assign, or otherwise dispose of any of its property or any interest therein to any person, organization, or entity, either public or private, nonprofit or for-profit; and in such regard:

(a) A local housing agency may sell or lease any real or personal property, or any interest therein, with or without public bidding, as the agency in its sole discretion may deem appropriate. Any acquisition or disposition of property or any interest therein may occur upon such terms and conditions and in exchange for such prices, or without consideration, as the agency shall deem appropriate, if such actions are taken in furtherance of the purposes of the act and subject to the limitations contained in sections 71-15,122 to 71-15,129; and

(b) At and subsequent to an acquisition of occupied property, a local housing agency may permit existing tenants therein to remain in occupancy upon such terms and conditions and for such periods as the agency shall deem appropriate, notwithstanding that such tenants do not qualify as persons of eligible income;

(20) To develop, acquire, own, lease, and operate properties and facilities that are nonresidential in character which are used (a) for the agency's office, administrative, management, or maintenance purposes or (b) for educational, governmental, or other public purposes by the agency or others;

(21) To develop, acquire, own, or lease community facilities and to provide such facilities to any public agency or to any person, agency, institution, or organization, public or private, for recreational, educational, health, or welfare purposes for the benefit and use of the local housing agency, for occupants of its dwelling accommodations, persons of eligible income, or elderly or handicapped persons, or for any combination of the persons listed in this subdivision, and which facilities may also serve the general public and the provision of such community facilities may be with or without charge therefor as in the local housing agency's discretion shall be deemed advisable to promote the public purposes of the act; to operate or manage community facilities itself, or as agent for any public agency, or for any person, institution, or organization, public or private; and to receive compensation therefor, if any, as the parties may agree;

(22) To carry out plans, programs, contracts, and agreements of every kind and description and to provide grants, guarantees, and other financial assistance to public or private persons or entities, whether nonprofit or for-profit, in order to rehabilitate, maintain, procure, and preserve existing affordable housing stocks in safe, decent, and sanitary condition and to ensure that they remain affordable to persons of eligible income; in connection therewith, to impose or agree to such terms and conditions concerning the term of affordability and other matters as the local housing agency shall deem appropriate;

(23) Subject to the limitations contained in sections 71-15,122 to 71-15,129, to establish and apply such criteria and requirements relating to eligibility for any assistance administered or provided by the agency as the agency shall from time to time determine to be necessary, appropriate, or desirable, including, without limitation, criteria and requirements relating to income, work, or employment, child care, education, job training, and personal or family self-sufficiency; in addition to establishing eligibility, to utilize such criteria and requirements for determining the amount and duration of any assistance to be provided to a beneficiary of such assistance; to establish such exclusions from income for purposes of determining eligibility as the agency shall deem appropriate; and to adopt and administer lawful preferences which may include preferences for working persons and families;

(24) To mortgage, encumber, pledge, convey by trust deed or deed to secure debt, assign, or otherwise grant or consent to a lien or other security interest in, any real or personal property, or any interest therein, owned or held by the agency or in which the agency may hold an interest. Any and all such actions may be taken to provide security for the repayment of borrowed funds, or to secure any guarantee of such repayment or any other performance by the agency, or to secure any payment, guarantee, or performance of any controlled affiliate of the agency in furtherance of the purposes of the act. Any such action shall be upon such terms and conditions as the agency shall in its discretion from time to time determine. The terms and conditions of any mortgage or other instrument granting or consenting to a security interest in property of a local housing agency may include any and all provisions that are deemed necessary by the agency. Such terms and conditions may, among other things, contain a power of sale or right of foreclosure in the event of nonpayment or other default thereunder. All actions taken by a local housing agency authorized in this section shall be consistent with the requirements of section 71-15,130 and shall comply with the requirements of section 71-15,129, where such requirements are applicable;



(25) Subject to the limitations contained in section 71-15,130:

(a) With respect to qualifying tenants:

(i) To make grants or subsidy payments to such persons;

(ii) To act as a guarantor, borrower, fiduciary, or partner in programs which provide financing to such persons;

(iii) To make loans for the purpose of assisting such persons to become homeowners or economically self-sufficient when such persons are not otherwise qualified, or need such assistance to become qualified, to borrow from private financial institutions;

(iv) To purchase loans made in connection with or encumbering housing for such persons; and

(v) To engage in mortgage rate buy-downs to enhance the availability of mortgage financing that is affordable to qualifying tenants;

(b) To make loans, including acquisition, development, construction, and rehabilitation loans, long-term mortgage loans, and guarantees, to or for the benefit of (i) affiliates of the housing agency or (ii) persons, firms, partnerships, associations, joint ventures, or corporations, public or private, whether nonprofit or for-profit, in conjunction with loans provided by private financial institutions, for purposes of developing and constructing housing for persons of eligible income, and for mixed-income housing developments;

(c) For the benefit of qualifying tenants, to enter into and perform contracts, agreements, and arrangements of every kind and description with banks, thrift institutions, credit unions, mortgage bankers, and other lenders to enhance the supply of:

(i) Mortgage financing affordable to such persons; and

(ii) Financing for the production of rental and fee-ownership housing for occupancy for such persons;

(d) To enter into commitments relating to any action authorized under this subdivision;

(e) To charge such fees and impose such repayment terms and other terms and conditions concerning loans, mortgages, guarantees, mortgage subsidies, and other forms of assistance provided by the agency as the agency shall from time to time determine to be necessary or appropriate;

(f) To not lend its credit or otherwise act as a guarantor or surety for the indebtedness or performance of any other person or entity, other than its own controlled affiliates and any other public body of this state, unless the housing agency creates a special limited fund for such purpose as provided in section 71-15,131; and

(g) To not make loans directly, or indirectly through a controlled affiliate, except as provided in subdivision (25) of this section;

(26) To forgive, compromise, or forebear from collecting or enforcing, wholly, partially, temporarily, or permanently, any debt or obligation owed to the local housing agency;

(27) To develop, acquire, own, hold, lease, rent, and operate mixed-income developments, subject to the limitations contained in section 71-15,124;

(28) To administer rental and relocation assistance programs of every kind and description on its own behalf or for others within its area of operation and, to the extent such agency determines such administration to be feasible, in any area elsewhere in this state (a) with respect to which a local housing agency has not been established or (b) with the consent of any local housing agency established to serve the area in which such assistance would be administered; and in connection with the administration of such assistance, to make payments relating to relocations and rent subsidy payments to persons of eligible income or to others, including landlords, on behalf of persons of eligible income. Rental assistance programs administered by a local housing agency may be tenant-based, in which event the assistance is provided to or for the benefit of the tenant, or such programs may be development-based, in which event the assistance is connected to particular real property;

(29) To purchase and maintain in force bonds and insurance of such types and for such purposes as the agency deems appropriate; to pay premiums and charges for all bonds and policies of insurance purchased by the agency, which bonds and policies of insurance benefiting or insuring the agency shall be in such amounts, contain such terms and conditions, provide for such deductibles, be in such form, and be issued by such companies as the agency shall deem appropriate; and to self-

insure and to form and participate in consortia, insurance pools, and other organizations owned or operated by housing agencies for the purpose of insuring such agencies, which consortia, pools, or organizations may include units of government or public agencies other than housing agencies. An agency may purchase and maintain insurance covering the liability of any commissioner, officer, employee, or agent of the agency arising in connection with the agency's business or affairs;

(30) To indemnify any commissioner, officer, or employee of the agency as provided in sections 71-15,143 and 71-15,144;

(31) To provide directly or to contract for, arrange, or cooperate with any person or entity, public or private, including any other public agency, and to utilize its property to provide services or make financial or other contributions of every kind and description to enhance the social and economic well-being of residents of the agency's housing developments and other persons of eligible income; to create and operate accounts for the benefit of persons and families participating in activities and programs for the enhancement of individual and family economic self-sufficiency; and to award scholarships and to conduct or make provision for educational and training programs of every kind and description. Except as otherwise provided in the act, the agency may establish and collect fees or seek reimbursement of costs in connection with the delivery of programs and services;

(32) To borrow money or accept grants and other forms of assistance, financial and otherwise, from the local, state, or federal government in connection with any activity or program furthering the purposes of the act; to take all actions necessary to agree to and fully comply with all requirements and conditions of any state or federal program, grant, loan, or program providing services or assistance to the agency, its programs, its properties and housing developments, and the residents of such housing developments; and to perform all responsibilities and obligations of the agency under any contract or agreement with state or federal authorities and imposed by applicable state or federal law and regulation with respect to such state or federal assistance. Without limiting such provisions, a housing agency may:

(a) Take over, lease, or manage any development or undertaking constructed or owned by the state, or any public agency thereof, or the federal government;

(b) Participate in any plan or program of the state, or any public agency thereof, or the federal government, which provides revenue that may be used for carrying

out the purposes of the act, including without limitation any program involving the issuance of bonds, special fees or taxes, or tax credits;

(c) Operate and administer any program providing rental assistance for itself or on behalf of others; and

(d) Comply with such conditions and enter into such mortgages, trust indentures, leases, agreements, or arrangements as may be necessary, convenient, or desirable for the purposes of this subdivision.

It is the purpose and intent of the act to authorize every housing agency to do all things necessary or desirable to secure the financial aid or cooperation of the state and federal governments and their public agencies in the development, maintenance, operation, or disposition of any housing development or other activity undertaken by such housing agency to carry out the purposes of the act;

(33) To borrow money and accept grants and other forms of assistance, financial and otherwise, from private persons or entities in furtherance of the purposes of the act; except as otherwise provided under the act, to agree to and comply with all otherwise lawful requirements and conditions attached to the provision of such assistance; to enter into contracts and agreements of every kind and description with private persons and entities, nonprofit or for-profit, to acquire, create, manage, or operate housing developments including, without limitation, mixed-income developments and housing developments benefiting qualifying tenants, to supply services to the residents of such developments, and otherwise to engage in activities furthering the purposes of the act; and to undertake and perform all responsibilities and obligations of the agency under such arrangements as the agency determines to be necessary or desirable in connection therewith, if the same is not expressly prohibited by the provisions of the act;

(34) To operate and manage housing developments owned or controlled by other housing agencies or public agencies, or other persons or entities, whether private or public and whether nonprofit or for-profit, if the agency determines that such action will further the purposes of the act; to permit and provide for the operation or management of any development in which the agency holds an interest by a person or entity other than the agency, whether public or private and whether nonprofit or for-profit; to administer any program of, or provide services or assistance on behalf of, another housing agency or other public agency; to permit and provide for the management or administration of any of the agency's programs, assistance, or services by another housing agency or other public

agency, or by any other person or entity, whether public or private and whether nonprofit or for-profit; and to enter into and perform contracts and agreements relating to any such management or administration upon such terms and conditions and in exchange for such compensation, if any, as the agency deems appropriate;

(35) To construct and operate facilities and programs and to provide services of every kind and description, directly or by contract or agreement with others, for the maintenance of safety and security and the protection of persons and property at or near the agency's developments; and to make, impose, and enforce rules and regulations for such purposes;

(36) To assist in the formation and operation of resident organizations, including resident councils, resident management corporations, and other nonprofit entities controlled and operated by residents of the agency's developments; to donate or loan money to such resident organizations in such amounts and upon such terms and conditions as the agency deems appropriate; to enter into and perform contracts, agreements, and arrangements with resident organizations for the management of housing developments and other facilities and properties and for the administration of programs, assistance, or services, and for other activities, all with respect to such matters and upon such terms and conditions as the agency may from time to time deem appropriate; and to enter into partnerships, joint ventures, associations, or other arrangements with resident organizations in furtherance of the purposes of the act. Such activities may include the formation and operation of business enterprises that provide employment and other benefits to residents of the agency's housing developments and others as elsewhere permitted under the act;

(37) To develop, acquire, own, renovate, lease, and operate facilities specifically intended to house and otherwise assist homeless persons, including, without limitation, shelters and transitional housing; and to provide other assistance and services to homeless persons. Such housing and other assistance may be provided in such manner, upon such conditions, and for such duration as the local housing agency shall deem appropriate;

(38) By itself or in cooperation with others, including participation in a group or groups, to form, administer, operate, and purchase funds or plans, including, but not limited to, health care, health insurance, retirement or pension, and other plans for the benefit of employees of the local housing agency and their families;

(39) To acquire real property through the exercise of the power of eminent domain in accordance with Chapter 76, article 7. Such power shall only be exercised by the public housing agency and not any affiliate thereof, and property acquired by the exercise of eminent domain shall be used solely for the purpose of providing housing which is wholly owned by the agency or its wholly owned controlled affiliates. Public property may be so acquired only with the consent of the public agency which owns such property. An agency may acquire property through the exercise of the power of eminent domain notwithstanding that, subsequent to such acquisition but not sooner than five years thereafter, the agency may, if it determines such action to be in furtherance of the purposes of the act, convey the property so acquired, or any interest therein, to others, including private nonprofit or for-profit entities;

(40) To expend public funds in any manner related to the exercise of the powers granted to a housing agency under the act and otherwise existing under other applicable law;

(41) To join and participate in organizations and associations and to pay the costs, fees, and dues necessary to initiate and maintain such memberships and to participate in the activities of such organizations or associations;

(42) To grant, donate, or contribute funds, property, or services to others and to enter into arrangements involving the same in such manner and amount as the agency may deem appropriate if the agency determines that such action will benefit residents or other persons of eligible income or will otherwise further the purposes of the act. A housing agency may not make any grant, donation, or contribution to any candidate for political office, any campaign committee or other organization advocating the election of a political candidate, or any political action committee or other organization whose principal activity involves political action or advocacy; and

(43) To establish special or limited funds or reserves as security for or to facilitate or implement any of the powers specified in the act.

**Source:** Laws 1999, LB 105, § 42.

#### **71-15,114. Housing agency; borrow money and issue bonds; liability.**

(1) A housing agency may borrow money, incur indebtedness, and issue bonds, notes, or other instruments from time to time in its discretion upon such terms and conditions as it shall deem necessary or desirable for any purpose permitted under

the Nebraska Housing Agency Act, including paying or retiring debt previously incurred by it. This section, without reference to other statutes of the state, shall constitute full and complete authority for the authorization, issuance, delivery, and sale of bonds, notes, or other instruments under the act, and such authorization, issuance, delivery, and sale by the housing agency shall not be subject to any conditions, restrictions, or limitations imposed by any other law. For purposes of the act, obligations of a housing agency shall include all bonds, notes, or other instruments that are evidences of indebtedness. Such obligations may also include, but not be limited to, borrowings in anticipation of the receipt of proceeds from the sale of bonds, notes, or other instruments.

(2) Neither the commissioners of a housing agency nor any person executing the bonds shall be liable personally on any bonds, notes, or other instruments by reason of the issuance thereof.

(3) The obligations of a housing agency, including any bonds, notes, or other evidences of indebtedness, shall not be a debt of the city, the county, the state, or any public agency thereof, and the obligations shall so state on their face. Except as the state, a city, a county, or any other public agency shall otherwise expressly agree, and further except as the obligations of a housing agency, duly authorized by such agreement, shall specifically and directly otherwise provide, neither the state nor any city, county, or public agency other than the housing agency issuing the bonds shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of such issuing housing agency pledged to the payment thereof or any guarantor or insurer thereof.

(4) The obligations of a housing agency shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

**Source:** Laws 1999, LB 105, § 43.

### **71-15,115. Housing agency; obligations; issuance and sale.**

(1) Obligations of a housing agency shall be authorized by a resolution adopted by a vote of a majority of the board of commissioners.

(2) The obligations of an agency, including bonds, notes, and other evidences of indebtedness, may be issued in one or more series and shall bear such dates, mature at such times, bear interest at such fixed or variable rate or rates, be in such denominations, be in such form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium

of payments and at such places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture, or mortgage may provide.

(3) The obligations of an agency, including bonds, notes, and other evidences of indebtedness, may be sold at public or private negotiated sale, without any public advertisement, at par, or at any discount or premium, as the resolution authorizing them provides. A housing agency issuing obligations may enter into such agreements and arrangements with third parties for the marketing of its obligations as it shall deem appropriate.

**Source:** Laws 1999, LB 105, § 44.

### **71-15,116. Obligations; validity and enforceability.**

(1) In case any of the representatives of the housing agency whose signatures appear on any obligations cease to be commissioners, officers, or agents of the issuing agency before the delivery of such obligations, the signatures shall nevertheless be valid and sufficient for all purposes, the same as if the representatives had remained in office until delivery. Any law to the contrary notwithstanding, obligations issued pursuant to the Nebraska Housing Agency Act are fully negotiable unless otherwise provided in the resolution authorizing the same.

(2) No suit, action, or proceeding involving the validity or enforceability of any obligation of a housing agency may be commenced after delivery of the obligation. In any suit, action, or proceeding involving the validity or enforceability of any obligation of a housing agency or the security therefor, any such obligation reciting in substance that it has been issued by the housing agency to aid in financing a development or activity furthering the purposes of the act is conclusively deemed to have been issued in accordance with the act, and any development financed thereby and with respect to which such recitation is made shall be conclusively deemed to have been planned, located, and constructed in accordance with the act.

**Source:** Laws 1999, LB 105, § 45.

### **71-15,117. Issuance of obligations or incurring debt; housing agency; powers.**

In connection with the issuance of obligations or the incurring of debt and in order to secure the payment of such obligations or debt, a housing agency may:



(1) Pledge all or any part of its gross or net rents, fees, or revenue to which its right then exists or thereafter comes into existence;

(2) Mortgage its real or personal property, then owned or thereafter acquired;

(3) Covenant and agree against pledging all or any part of its returns, fees, and revenue, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence, or against permitting or suffering any lien on such revenue or property;

(4) Covenant and agree with respect to limitations on its right to sell, lease, or otherwise dispose of any development or any part thereof;

(5) Covenant and agree as to what other or additional debts or obligations may be incurred by it;

(6) Covenant and agree as to the obligations to be issued and as to the issuance of such obligations and as to the use and disposition of the proceeds thereof;

(7) Provide for the replacement of lost, destroyed, or mutilated obligations;

(8) Covenant and agree against extending the time for the payment of its obligations or interest thereon;

(9) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof;

(10) Covenant and agree, subject to the limitations of the Nebraska Housing Agency Act, as to the rents and fees to be charged in the operation of a development or developments, the amount to be raised each year or other period of time by rents, fees, and other revenue, and as to the use and disposition to be made thereof;

(11) Create or authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money held in such funds;

(12) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the minimum required amount of obligations that must be held by holders consenting to an amendment or

abrogation in order to authorize the same, and the manner in which such consent may be given;

(13) Covenant and agree as to the use, maintenance, and replacement of its real and personal property, the insurance to be carried thereon, and the use and disposition of insurance money;

(14) Covenant and agree as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation;

(15) Covenant, agree, and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(16) Vest in a trustee or trustees or the holders of obligations or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations;

(17) Vest in a trustee or trustees the right, in the event of a default by the agency, to take possession of and use, operate, and manage any housing development or part thereof, to collect the rents and revenue arising therefrom, and to dispose of such money in accordance with the agreement of the housing agency with the trustees;

(18) Provide for the powers and duties of a trustee or trustees and to limit their liabilities;

(19) Provide the terms and conditions upon which the trustee or trustees or the holders of obligations or any proportion of them may enforce any covenant or rights securing or relating to the obligations;

(20) Purchase letters of credit, bond insurance, or any other credit enhancement device that would establish or increase marketability of its obligations;

(21) Pay its obligations with income, revenue, or loan repayments of the development financed with the proceeds of such obligations, or with such proceeds together with a grant from the federal government, the state, or any public agency thereof, in aid of such development;

(22) Exercise all or any part or combination of the powers granted in this section;

(23) Make covenants and agreements other than and in addition to the covenants expressly authorized in this section, of like or different character; and

(24) Make any covenants and agreements and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the agency, to assure the marketability of its obligations, although the covenants, acts, or things are not enumerated in this section.

**Source:** Laws 1999, LB 105, § 46.

### **71-15,118. Obligee; rights.**

An obligee of a housing agency, in addition to all other rights conferred on the obligee, subject only to any contractual restrictions binding upon the obligee, may:

(1) By mandamus or other action or proceeding for legal or equitable remedies, compel the housing agency and its representatives to perform each and every term, provision, and covenant contained in any contract of the housing agency with or for the benefit of such obligee, and require the carrying out of all covenants and agreements of the housing agency and the fulfillment of all duties imposed upon the housing agency by the Nebraska Housing Agency Act; and

(2) By action or proceeding, enjoin any acts or things which may be unlawful or which violate any rights of the obligee.

**Source:** Laws 1999, LB 105, § 47.

### **71-15,119. Obligee; powers conferred.**

A housing agency, by its resolution, trust indenture, mortgage, lease, or other contract, may in its discretion elect to confer upon any obligee holding or representing a specified amount in bonds or other instruments or holding a lease such rights as the housing agency determines are necessary or desirable in order to generate revenue or which it otherwise deems to be in its best interests and in furtherance of its purposes. Such rights, which shall be exercisable upon the happening of an event of default as defined in such resolution or instrument, are cumulative of all rights otherwise conferred and may, in the agency's discretion,

include any one or more of the following rights, which shall be enforceable by suit, action, or proceeding in any court of competent jurisdiction:

(1) The right to cause possession of any housing development or any part thereof to be surrendered to an obligee;

(2) The right to obtain the appointment of a receiver for any housing development or part thereof and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of the housing development or any part thereof and operate and maintain it and collect and receive all fees, rents, revenue, or other charges thereafter arising therefrom and shall keep such money in separate accounts and apply them in accordance with the obligations of the housing agency as the court directs; and

(3) The right to require the housing agency to account as if it were the trustee of an express trust.

**Source:** Laws 1999, LB 105, § 48.

### **71-15,120. Investments in obligations authorized.**

The state and all public agencies therein, all banks, bankers, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money or funds belonging to them or within their control in any obligations issued by a housing agency, and such obligations shall be authorized security for all public deposits. It is the purpose of the Nebraska Housing Agency Act to authorize any of such persons to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension, and trust funds and funds held on deposit for the purchase of any such obligations. Nothing contained in the act shall be construed as relieving any person, firm, or corporation from any duty or exercising reasonable care in selecting securities. The provisions of the act shall apply notwithstanding any restrictions on investments contained in other laws.

**Source:** Laws 1999, LB 105, § 49.

### **71-15,121. Tax status of bonds and other obligations.**

(1) All bonds, notes, certificates, and other instruments evidencing indebtedness of a housing agency or any controlled affiliate thereof are deemed to be issued for an essential public and governmental purpose and shall be free of taxation of any kind by this state and its public agencies unless the agency issuing such bonds, notes, certificates, or other instruments shall elect that they be taxable. Any such election shall apply only to the specific issue of bonds, notes, certificates, or other instruments with respect to which such election is expressly made.

(2) All bonds, notes, certificates, and other instruments evidencing indebtedness or conveying equity participations issued by a local housing agency or any controlled affiliate thereof are deemed to be issued for an essential governmental purpose.

(3) A local housing agency may issue bonds, notes, certificates, or other instruments evidencing indebtedness on behalf of others to carry out any purpose authorized by the Nebraska Housing Agency Act.

**Source:** Laws 1999, LB 105, § 50.

### **71-15,122. Revenue; how treated.**

The operation of housing developments and the other activities permitted to be undertaken by a local housing agency under the Nebraska Housing Agency Act, and all income, fees, or revenue derived or generated therefrom and belonging to such local housing agency, are for public uses and purposes, are not used or held for profit, and are governmental functions of state concern. No income, fees, or revenue received by a local housing agency, from whatever source, shall be used as a source of revenue for any city or county establishing the local housing agency or for any other public agency, nor shall any net income, fees, or net revenue be considered profit, but all of the same shall be utilized in the furtherance of the maintenance and enhancement of an adequate supply of decent, safe, and sanitary housing that is affordable to persons of eligible income and for other purposes contemplated by the act.

**Source:** Laws 1999, LB 105, § 51.

### **71-15,123. Establishment of rental rates.**

A local housing agency shall conduct its affairs in accordance with sound financial and business practices, taking into account the nature of its activities and intended purpose. The agency shall operate its housing developments in a manner calculated to enable the agency to fix rentals for dwelling accommodations for persons of eligible income at low rates consistent with its acting in a fiscally responsible manner and providing affordable, decent, safe, and sanitary dwelling accommodations for such persons. In this regard, a local housing agency may, in connection with establishing rents charged to persons of eligible income, take into account the sums necessary:

- (1) To pay when due all indebtedness of the agency;
- (2) To pay all administrative and other costs of operating the agency's developments and programs of assistance;
- (3) To pay the administrative and other costs of the maintenance, rehabilitation, renovation, repair, and replacement of the agency's developments and other property;
- (4) To otherwise carry out its purposes under the Nebraska Housing Agency Act, including acquiring or creating additional housing developments and acquiring or improving property for other purposes authorized under the act, including community facilities, mixed-income developments, and all other facilities and developments authorized under the act;
- (5) To pay the costs of insurance, including the costs of claims, liabilities, losses, and other expenses incurred in connection with any self-insurance program;
- (6) To provide funds for all required payments in lieu of taxes;
- (7) To make all payments required under and otherwise fully perform the agency's obligations under any contract, agreement, or arrangement entered into by the agency, including without limitation those required in connection with any partnership or joint venture entered into by the agency;
- (8) To perform the terms of any commitment or guarantee issued or given by the agency;

(9) To provide a reasonable return on the value of the property so as to enable the housing agency to continue to fulfill its duties, including, but not limited to, the acquisition of additional housing developments, land acquisition, and the acquisition or construction of buildings, equipment, facilities, or other real or personal property for public purposes, including parks or other recreational, educational, welfare, or community facilities within its area of operation;

(10) To accommodate economic factors which affect the financial stability and solvency of the agency's developments and programs;

(11) To pay the cost of actions occasioned by natural disasters and other emergencies; and

(12) To create and maintain operating and capital reserves that are reasonable and adequate to ensure the agency's ability to make all payments referred to in this section and any other matter with respect to which the agency, in its discretion reasonably exercised, determines that the creation and maintenance of a reserve is appropriate. Nothing in this section shall be construed to limit the amount which a housing agency may charge for nondwelling facilities or for dwelling facilities that are not rented to persons of eligible income.

**Source:** Laws 1999, LB 105, § 52.

#### **71-15,124. Mixed-income developments; restrictions; requirements.**

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

(2) With respect to any mixed-income development that is not solely owned by a local housing agency, the proportion of the development that is intended to be affordable to persons of eligible income shall be equal to or greater than the proportion of financial resources for the development which are provided by the local housing agency. The proportion shall be determined in accordance with such reasonable method as shall be adopted by the agency. The proportion may be based

upon a proportion of dwelling units, bedrooms, square footage, or any other criteria deemed reasonable and appropriate by the local housing agency. The determination of such proportion shall take into account any special benefits accruing to an agency by virtue of its status as such, including, among other things (a) the capital value of all subsidies and other assistance provided by the agency or by other public sources on behalf of the agency, (b) tax exemptions available because of the agency's participation, and (c) interest savings attributable to tax-exempt financing or to below market interest rates that are available because of the participation of the local housing agency or the presence in the development of dwelling units to be occupied by persons of eligible income.

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

**Source:** Laws 1999, LB 105, § 53.

#### **71-15,125. Income, surplus, and payments; use.**

All income, surplus, and payments received by a local housing agency, or to which such agency shall become entitled, shall be used for carrying out the purposes of the Nebraska Housing Agency Act.

**Source:** Laws 1999, LB 105, § 54.

#### **71-15,126. Policies and procedures; standards.**

A local housing agency shall not apply its policies, rules, procedures, criteria, requirements, and exclusions with respect to eligibility of applicants, granting assistance, or enforcing standards relating to occupancy or continuance of assistance in an arbitrary or capricious manner.

**Source:** Laws 1999, LB 105, § 55.

#### **71-15,127. Discretionary powers; how construed.**

Nothing contained in the Nebraska Housing Agency Act shall create, expressly or by implication, any right, claim, or cause of action in favor of anyone in



connection with any failure of a housing agency to exercise any one or more of its discretionary powers.

**Source:** Laws 1999, LB 105, § 56.

### **71-15,128. Noncontrolled affiliates; treatment.**

Noncontrolled affiliates of housing agencies shall not, by virtue of their affiliation with such local housing agencies, become subject to the laws of this state applicable to public agencies and their governing bodies, including, but not limited to, laws pertaining to public disclosure of records, open meetings, minimum wage rates applicable to government contracts and employees, procurement of goods and services, and laws relating to public employees.

**Source:** Laws 1999, LB 105, § 57.

### **71-15,129. Financing; limitations.**

No guaranty, other recourse obligation, mortgage, or security instrument, or other recourse instrument, given or entered into by a housing agency in connection with financing the acquisition, creation, modernization, rehabilitation, or replacement of a development which exposes to foreclosure, loss, or levy any property of the housing agency other than the development being acquired, created, modernized, rehabilitated, or replaced with the proceeds of such financing, shall be given or entered into unless the agency's board of commissioners has specifically approved such action by resolution which finds that such action:

(1) Is necessary and essential to acquiring the financing with respect to which such recourse instrument is given or entered into;

(2) Will not unreasonably expose to loss or foreclosure property of the agency other than the development for which such financing will be used;

(3) Is prudent and sound as required under section 71-15,130; and

(4) Is commercially reasonable, taking into account the characteristics of the transaction in which such recourse instrument would be given and its relative benefits and potential costs to the agency.

**Source:** Laws 1999, LB 105, § 58.

### **71-15,130. Financial affairs; how conducted.**

Local housing agencies shall conduct their financial affairs in a prudent and sound manner.

**Source:** Laws 1999, LB 105, § 59.

### **71-15,131. Special limited fund; authorized; restrictions on use.**

Neither a housing agency nor any controlled affiliate shall lend its credit to or guarantee or be a surety for the indebtedness or performance of any noncontrolled affiliate or third party, or any other individual or entity other than another public agency of the state, except as provided in this section. The housing agency or any controlled affiliate may establish a special limited fund which shall be segregated from all other funds, assets, and properties of the housing agency or any controlled affiliate and shall be deposited separately from all other deposits of the housing agency or any controlled affiliate. The special limited fund may be funded only from the rents and revenue of the housing agency or any controlled affiliate or from contributions, grants, or donations from other public or private sources which have been designated for such purpose. Any loan of credit, guarantee, or suretyship to any individual or entity other than another public body of this state shall be limited to the amount of the special limited fund, and neither the general credit nor any other asset or property of the housing agency, any controlled affiliate, the state, or any other public agency of the state shall be liable whatsoever for any such loan of credit, guarantee, or suretyship. Any such loan of credit, guarantee, or suretyship shall only be used for the purposes of expanding the availability of affordable housing to persons of eligible income in accordance with the provisions of the Nebraska Housing Agency Act. No such loan of credit, guarantee, or suretyship shall be valid unless in writing, which writing shall state on its face the limitations contained in this section, including the nonliability of the state and all other public agencies, and the loan of credit, guarantee, or suretyship shall be also subject to such other rules and regulations as the housing agency shall prescribe.

**Source:** Laws 1999, LB 105, § 60.

### **71-15,132. Dwelling units; occupancy eligibility.**

Except as otherwise provided in the Nebraska Housing Agency Act with respect to mixed-income developments or except as otherwise permitted by law, dwelling units in a local housing agency's developments shall be rented only to households consisting of persons of eligible income at the time of their initial occupancy of

such units. Notwithstanding any other provision of law, a local housing agency may allow police officers, elected officials, and maintenance and management employees not otherwise eligible for residence to reside in dwelling units in the housing agency's developments.

**Source:** Laws 1999, LB 105, § 61.

### **71-15,133. Plan for selection of applicants.**

Each housing agency shall adopt and promulgate fair and equitable policies establishing a plan for selection of applicants. The plan shall include standards for eligibility, procedures for prompt notification of eligibility or disqualification, and procedures for maintaining a waiting list of eligible applicants for whom vacancies are not immediately available. Eligible applicants shall be offered available vacancies as provided in such policies. Such policies and plans may, but shall not be required to, include the following:

(1) A local housing agency may deny a lease, right of occupancy, or any other assistance to any person, including the family or household of such person, if it determines that such person or any member of such person's household (a) has committed any fraud or made any material misrepresentation or omission in connection with any application for assistance or (b) has committed any fraud or made any material misrepresentation or omission in connection with any previous application for any public assistance or in connection with any determination or redetermination of eligibility;

(2) Preferences to give priority to persons displaced by public or private action, to families of veterans and servicemen and servicewomen, to families whose members are gainfully employed, to citizens of the United States or the state, to disabled persons or elderly persons, and such other preferences, as well as priorities within each preference category, as the local housing agency deems appropriate;

(3) Occupancy standards that provide for offering available units only to families of appropriate size and such other standards relating to occupancy and tenant conduct as the local housing agency deems appropriate; and

(4) Without limiting subdivisions (1) through (3) of this section, the local housing agency may further limit the offering of available units to families of appropriate qualifications in order to comply with state or federal law or

regulations or contractual agreements with governmental agencies pursuant to such law or regulations.

Nothing contained in this section shall prevent a housing agency from suspending processing of applications of persons of eligible income unlikely to be offered units within a reasonable time after initial application as determined by the agency or from requiring annual renewal of applications.

**Source:** Laws 1999, LB 105, § 62.

#### **71-15,134. Discrimination prohibited.**

Nothing contained in the Nebraska Housing Agency Act shall limit the ability of any local housing agency to establish and apply different criteria or requirements with respect to admissions and occupancy, to utilize different methods of establishing and charging rents, or to impose different occupancy standards (1) for different developments or portions thereof or (2) with respect to recipients of assistance in any program designed or intended to differentiate between individual recipients on the basis of their circumstances, actions, or characteristics, except that a housing agency shall not discriminate on the basis of race, national origin, or religion.

**Source:** Laws 1999, LB 105, § 63.

#### **71-15,135. Current occupants; how treated.**

Households which are already in occupancy or are receiving assistance but which become ineligible for occupancy or other assistance by reason of income may continue their occupancy or receipt of other assistance at the discretion of the local housing agency for such period, upon such terms and conditions, and, in the case of continued occupancy, in exchange for such rent, but not less than any applicable minimum rent, as the agency shall determine to be appropriate.

**Source:** Laws 1999, LB 105, § 64.

#### **71-15,136. Lease; terms and conditions.**

The local housing agency may require that each household occupying a dwelling unit enter into a lease containing such terms and conditions and for such duration as the agency reasonably deems appropriate. No tenant or lessee of, or recipient of assistance from, a local housing agency shall have any right to the renewal of any lease, tenancy, right of occupancy, or assistance, except as

expressly agreed by the agency. All members of the household who are permitted to reside in a dwelling unit must be identified in any lease of a dwelling.

**Source:** Laws 1999, LB 105, § 65.

**71-15,137. Change in household; effect.**

In the event of a change in the composition of a tenant household, the local housing agency shall have the authority to determine which member or members of the household are entitled to continued occupancy for the unexpired lease term or periodic tenancy. A local housing agency may adopt such reasonable rules and procedures governing such determinations as it deems appropriate.

**Source:** Laws 1999, LB 105, § 66.

**71-15,138. Termination of tenancy; conditions.**

Except as provided in the Nebraska Housing Agency Act, the landlord-tenant relationship, and the termination thereof, is governed by state law applicable to privately owned residential property. Without limiting such provision, a local housing agency may terminate the tenancy of a household or a resident or terminate any other assistance provided by such agency for:

(1) The commission of any fraud or any material misrepresentation or omission on the part of any recipient of assistance or member of a resident household in connection with any application for assistance or any determination or redetermination of eligibility therefor, or in connection with any investigation or determination of the local housing agency regarding compliance by the household with the terms of any lease or the agency's rules and regulations; or

(2) Any other violation of one or more provisions of any lease or agreement with the local housing agency to which a recipient of assistance or a resident is a party or any of the agency's rules or regulations duly promulgated.

**Source:** Laws 1999, LB 105, § 67.

**71-15,139. Termination of tenancy; procedure; recovery of possession of premises; when.**

(1) A housing agency may adopt and promulgate reasonable rules and regulations consistent with federal and state laws, rules, and regulations and the purposes of the Nebraska Housing Agency Act concerning the termination of

tenancy. Any resident so terminated shall be sent a written notice of termination setting out the reasons for such termination, and any resident served with a notice shall be given the opportunity to contest the termination in an appropriate hearing by the housing agency. A resident may contest the termination in any suit filed by the housing agency in any court for recovery of possession of the premises.

(2) Such notice may provide that if the resident fails to (a) pay his or her rent or comply with any covenant or condition of his or her lease or the rules and regulations of such housing agency, (b) cure a violation or default thereof as specified in such notice, or (c) follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice or notices need be given of such termination or the intent to terminate the tenancy, and upon such termination, and without any notice other than as provided for in this section, a housing agency may file suit against any resident for recovery of possession of the premises and may recover the same as provided by law.

(3) A housing agency may, after three days' written notice of termination and without an administrative hearing, file suit and have judgment against any resident for recovery of possession of the premises if the resident, any member of the resident's household, any guest, or any other person who is under the resident's control or who is present upon the premises with the resident's consent, engages in any drug-related or violent criminal activity on the premises, or engages in any activity that threatens the health, safety, or peaceful enjoyment of other residents or housing agency employees. Such activity shall include, but not be limited to, any of the following activities of the resident, or the activities of any other person on the premises with the consent of the resident: (a) Physical assault or the threat of physical assault; (b) illegal use of a firearm or other weapon or the threat to use an illegal firearm or other weapon; or (c) possession of a controlled substance by the resident or any other person on the premises with the consent of the resident if the resident knew or should have known of the possession by such other person of a controlled substance, unless such controlled substance was obtained directly from or pursuant to a medical order issued by a practitioner authorized to prescribe as defined in section 28-401 while acting in the course of his or her professional practice.

**Source:** Laws 1999, LB 105, § 68; Laws 2001, LB 398, § 68.

**Annotations** Under this section, a public housing agency has the authority to file suit for recovery of the premises if the resident engages in violent criminal activity. *Banks v. Housing Auth. of City of Omaha*, 281 Neb. 67, 795 N.W.2d 632 (2011).

### **71-15,140. Personal property; rules and regulations.**

A housing agency may adopt and promulgate reasonable rules and regulations consistent with the purposes of the Nebraska Housing Agency Act concerning personal property of residents and other persons located in a development of the agency, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any resident, an agency may remove the same and store such property in a secure location at the resident's risk and expense. If possession of such personal property is not taken by the resident or other person authorized by law to take possession within fourteen days after such termination, vacation, abandonment, or death and if any storage removal charges remain unpaid, then the housing agency may, at its option, dispose of the personal property in any manner which the authority deems fit. In no case shall any employee or relative of an employee of the housing agency take ownership of such property. No resident or other person shall have any cause of action against the housing agency for such removal or disposition of such personal property.

**Source:** Laws 1999, LB 105, § 69; Laws 2018, LB304, § 2.

**Effective Date:** July 19, 2018

### **71-15,141. Report; false report; penalty; audits.**

(1) Within nine months after the end of each fiscal year, each local housing agency shall prepare a report summarizing such agency's activities for the year then ended. The report shall contain financial statements depicting the financial condition of the agency, its assets and liabilities, including contingent liabilities, and the results of its operations for the year then ended. The report shall be approved by the agency's board of commissioners and signed by its chairperson.

(2) The annual report of a local housing agency shall be a public record that is available for inspection and copying by members of the general public at the offices of the local housing agency. A local housing agency shall also file its annual report with the city or county clerk promptly upon completion thereof. Regional housing agencies shall file annual reports with the appropriate officials of all participating political subdivisions.

(3) Any employee or member of the board of commissioners of a local housing agency who approves, signs, or files an annual report of an agency knowing it is materially false or misleading shall be guilty of a Class II misdemeanor.

(4) The financial statements contained in annual reports of local housing agencies with gross revenue of two hundred fifty thousand dollars or more shall be audited annually. The financial statements of agencies with gross revenue of less than two hundred fifty thousand dollars shall be audited at least biennially. A copy of each audit report shall be filed with the Auditor of Public Accounts within nine months after the end of each fiscal year in which such agency is required to file an audit report or in which an audit report of such agency is prepared. Each local housing agency audit shall be conducted in accordance with generally accepted accounting principles, except that if the agency is a recipient of federal assistance, the audit shall be conducted in accordance with any accounting principles required by the federal government.

**Source:** Laws 1999, LB 105, § 70; Laws 2003, LB 150, § 1; Laws 2018, LB304, § 3.  
**Effective Date: July 19, 2018**

**71-15,142. Plan for location and boundaries; approval required.**

Before any local housing agency shall construct any new development for housing purposes, it shall submit to the governing body of the city or county creating such agency, as the case may be, or to the governing body of the political subdivision which has zoning jurisdiction for the site or sites of such new development, in the case of regional housing agencies, a plan indicating the general location or locations and boundaries of the proposed site or sites for any such development, which plans shall be subject to the approval of such governing body, and such governing body may, in its discretion, submit such plan to the planning department, if any, of the city or county, as the case may be, for that department's comments and recommendations.

**Source:** Laws 1999, LB 105, § 71; Laws 2018, LB304, § 4.  
**Effective Date: July 19, 2018**

**71-15,143. Local housing agency representative; liability.**

No representative of a local housing agency shall personally be civilly or criminally liable with respect to any matter or act not directly committed or authorized by such person.

**Source:** Laws 1999, LB 105, § 72.



### **71-15,144. Housing agency representative; indemnification.**

If any legal action is brought against any representative of any housing agency, whether such person is a volunteer or partly paid or fully paid, based upon the negligent error or omission of such person while in the performance of his or her lawful duties, the housing agency shall defend him or her against such action, and if final judgment is rendered against such person, the housing agency shall pay the judgment in his or her behalf and shall have no right to restitution from such person. A housing agency shall have the right to purchase insurance to indemnify itself in advance against the possibility of such loss under this section, and the insurance company shall have no right of subrogation against the person. This section shall not be construed to permit a housing agency to pay a judgment obtained against the person as a result of illegal acts committed by such person.

**Source:** Laws 1999, LB 105, § 73.

### **71-15,145. Effect of local planning, zoning, sanitary, and building laws.**

(1) Except as otherwise provided in this section, all developments are subject to the planning, zoning, sanitary, and building laws applicable to the locality in which the development is located.

(2) In order to facilitate development, redevelopment, and other activities in furtherance of the purposes of the Nebraska Housing Agency Act by local housing agencies and their affiliates, a city or county may grant exceptions to the requirements of (a) zoning ordinances and other laws, resolutions, ordinances, and regulations regulating the use, development, and improvement of land or buildings, (b) laws, resolutions, ordinances, and regulations pertaining to historic buildings and structures, and (c) redevelopment plans, comprehensive plans, and other plans governing city or county land use. Any such exceptions shall not compromise essential health and safety standards. The provisions of this section shall be cumulative of, and not in limitation of, any existing laws, resolutions, ordinances, and regulations that permit variances, special exceptions, and other relief from applicable requirements relating to development and improvement of real property.

(3) With respect to matters relating to the purposes of the act, each city or county or regional planning body of the state may, in its planning processes, take into account the recommendations of local housing agencies formed by such city

or county, or by the cities and counties affected by the actions of such regional planning body.

**Source:** Laws 1999, LB 105, § 74.

**71-15,146. Records; exempt from disclosure.**

Notwithstanding the provision of any other law with respect to the availability of public records for inspection, the following records of a housing agency are exempt from disclosure:

(1) All records in the individual file of a resident, former resident, or applicant for public housing;

(2) All records in the individual file of a resident, former resident, or applicant for public housing in the possession of any landlord or individual providing a dwelling that is in any manner administered by a housing agency;

(3) All lists that identify residents, former residents, and applicants, except that statistical compilations are not exempt unless, by identification of location, family size, employment, or similar information, a resident, former resident, or applicant may be identified;

(4) The addresses of any dwellings that are assisted, either directly by the action of the housing agency or as a result of the resident's selection, except that statistical compilations are not exempt unless some or all of them may be specifically identified by address as a result of such compilation;

(5) The home address or personal telephone number of any resident, former resident, or applicant;

(6) Communications within a housing agency or between a housing agency and other public agencies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action;

(7) Any information in the possession of the agency concerning the criminal history or other background information pertaining to any tenant or applicant for assistance;

(8) Information submitted to a housing agency in confidence and not otherwise required by law to be submitted, if such information should reasonably be considered confidential and the housing agency has obligated itself in good faith not to disclose the information; and

(9) Any other material or information that is otherwise exempt from disclosure under applicable law.

**Source:** Laws 1999, LB 105, § 75.

**71-15,147. Records; disclosure permitted; when.**

A housing agency may provide any of the records described in section 71-15,146 to:

(1) Any recipient to whom disclosure is authorized pursuant to consent by all adult individuals identified in the record which is to be so disclosed;

(2) Such parties as the housing agency deems necessary when the agency determines that the disclosure is essential to the preservation of life, health, or safety;

(3) Anyone as required by a court order;

(4) A landlord or prospective landlord for purposes of enabling the landlord to determine an applicant's suitability for initial tenancy or to determine the suitability for continued tenancy of a person receiving assistance from the agency who is already in occupancy, if such information is pertinent to such suitability determination;

(5) Any applicant, tenant, or recipient of assistance to whom such information relates, or such person's designee or legal representative; or

(6) Any city, county, state, or federal public agency as required by law or agreement.

**Source:** Laws 1999, LB 105, § 76.

**71-15,148. Individual files; examination permitted.**

Any applicant or recipient of assistance from a housing agency may examine his or her individual file or files at reasonable times and intervals.

**Source:** Laws 1999, LB 105, § 77.

**71-15,149. Conflict of interest; terms, defined.**

For purposes of sections 71-15,149 to 71-15,157:

(1) Housing agency official means any representative of a housing agency or any director, officer, or employee of a resident management corporation or other resident organization who exercises authority or carries out responsibilities in connection with the housing agency's developments or any local government official who exercises authority or carries out responsibilities in connection with the housing agency's developments, including any member of such person's immediate family, any business entity or organization in which such person holds an interest, and any business partner of such person; and

(2) Immediate family includes spouses, children, siblings, and parents and includes stepparents or stepchildren, in-laws, and half sisters or half brothers.

**Source:** Laws 1999, LB 105, § 78.

**71-15,150. Conflict of interest; prohibited acts.**

(1) Except as otherwise permitted under the provisions of sections 71-15,149 to 71-15,157, no housing agency official shall own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity that would:

(a) Be or appear to be in conflict with such official's duties relating to the housing agency served by or subject to the authority of such official;

(b) Secure or appear to secure unwarranted privileges or advantages for such official or others; or

(c) Prejudice or appear to prejudice such official's independence of judgment in the exercise of his or her official duties relating to the housing agency served by or subject to the authority of such official.

(2) No housing agency official shall act in an official capacity in any matter in which such official has a direct or indirect financial or personal involvement. The ownership of less than five percent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. No housing agency official shall use his or her public office or employment to secure financial gain to such official.

(3) Except as otherwise permitted by the provisions of sections 71-15,149 to 71-15,157, a housing agency shall not, with respect to any housing agency official, during his or her tenure or for a period of one year thereafter, either:

(a) Award or agree to award any contract to such housing agency official or other local government official;

(b) Purchase or agree to purchase any real property from such housing agency official or other local government official, or sell or agree to sell any real property to such housing agency official or other local government official;

(c) Permit any housing agency official to represent, appear, or negotiate on behalf of any other party before the housing agency's board of commissioners or with its other officials or employees;

(d) Employ any commissioner for compensation or otherwise;

(e) Employ any local government official, or any member of such official's immediate family, if such official's duties involve the exercise of authority relating to the housing agency; or

(f) Employ for compensation any member of the immediate family of a housing agency official, if such employment creates the relationship of direct supervisor or subordinate between family members or otherwise creates a real or apparent conflict of interest.

**Source:** Laws 1999, LB 105, § 79.

### **71-15,151. Conflict of interest; disclosure required; when.**

If (1) a housing agency official becomes involved in an activity or, through inheritance or other involuntary cause or circumstance, acquires an interest that violates any provision of sections 71-15,149 to 71-15,157 or (2) a local government official, after becoming employed by the agency, is requested to act in

an official capacity with respect to a matter affecting his or her duties as an employee of the local housing agency, such housing agency or local government official shall immediately and fully disclose in writing to the housing agency's board of commissioners the circumstances giving rise to the conflict of interest. In the case of a local government official, such disclosure shall also be made to the local government served by such official. Upon receipt of any disclosure of actual or potential conflict of interest, a housing agency shall promptly cause such disclosure to be entered in the minutes of the housing agency.

**Source:** Laws 1999, LB 105, § 80.

### **71-15,152. Housing agency official; recusal; when.**

A housing agency official shall recuse himself or herself from any vote, decision, or other action and shall not directly or indirectly participate in any action or proceeding which involves an actual or potential conflict of interest as described in sections 71-15,149 to 71-15,157, including, but not limited to, any matter:

- (1) With respect to which disclosure is required under section 71-15,151;
- (2) Involving assistance to, the employment of, or otherwise relating to the personal status of a member of such housing agency official's immediate family;
- (3) In which the agency seeks to confer or bestow a special privilege or benefit upon such housing agency official;
- (4) Involving an action by the board of commissioners concerning a waiver of any provision of sections 71-15,149 to 71-15,157, which waiver would affect such housing agency official; or
- (5) Involving any other action or circumstance prohibited under sections 71-15,149 to 71-15,157 or which otherwise gives rise to a real or apparent conflict of interest.

**Source:** Laws 1999, LB 105, § 81.

### **71-15,153. Housing agency official; gifts; prohibited acts.**

A housing agency official shall not solicit or accept any gift, gratuity, favor, loan, contribution, service, employment, promise of future employment, or other thing of value from any present or prospective employee of the housing agency,

any present or prospective contractor, subcontractor, developer, broker, real estate agent, or any other person or organization in connection with the programs, benefits, or business of the housing agency. This section shall not prohibit the acceptance of gifts from relatives or gifts of nominal value which are not given with the intent to influence a housing agency official in the conduct of his or her official duties. Housing agencies may establish standards for determining whether or not a gift is of nominal value.

**Source:** Laws 1999, LB 105, § 82.

#### **71-15,154. Housing agency official; improper use of information.**

No housing agency official shall use any information not generally available to the public which he or she acquires in the course of his or her public service for the purpose of securing financial gain for such official or others.

**Source:** Laws 1999, LB 105, § 83.

#### **71-15,155. Misconduct in office.**

Material violation of any provision of sections 71-15,149 to 71-15,157 by a housing agency official shall, unless as otherwise provided in section 71-15,157, constitute misconduct in office.

**Source:** Laws 1999, LB 105, § 84.

#### **71-15,156. Conflict of interest; rules authorized.**

A local housing agency may adopt rules implementing sections 71-15,149 to 71-15,157. Such rules may include the provision for such disciplinary actions in the event of violation of sections 71-15,149 to 71-15,157 as the housing agency's board of commissioners may deem appropriate.

**Source:** Laws 1999, LB 105, § 85.

#### **71-15,157. Conflict of interest; sections; how construed.**

(1) Nothing contained in sections 71-15,149 to 71-15,157 shall prohibit a housing agency of a city of the second class or of a village from purchasing or otherwise acquiring any goods or services from a provider of such goods or services owned in whole or in part by a housing agency official if (a) the provider is the sole source for the goods or services within the area of operation of the

housing agency, (b) the cost of the goods or services does not exceed three thousand dollars in any one instance, or (c) the provider has not received more than ten thousand dollars from the housing agency in any one calendar year.

(2) Nothing contained in sections 71-15,149 to 71-15,157 shall prohibit a housing agency from entering into and performing contracts, agreements, and arrangements with any nonprofit entity or any affiliate, whether for-profit or nonprofit in character, notwithstanding that some or all of the housing agency's representatives or public officials or legislators who exercise functions or responsibilities with respect to a housing agency's developments also serve as directors or in other policymaking positions in such nonprofit entity or affiliate. Such service by housing agency representatives, public officials, or legislators is expressly permitted under the Nebraska Housing Agency Act.

(3) The provisions of sections 71-15,149 to 71-15,157 shall not apply to any general depositary agreement entered into with a bank or other financial institution regulated by the federal government or to utility service for which rates are fixed by a state or local agency. The provisions of sections 71-15,149 to 71-15,157 shall not apply to prohibit any present or former tenant commissioner from acting upon housing agency business affecting residents unless such business directly involves a resident organization with respect to which such commissioner occupies a policymaking position or serves as a member of the governing board.

(4) Nothing contained in sections 71-15,149 to 71-15,157 shall prohibit service as a commissioner by the chief elected official or any member of the governing body of any city, county, or other public agency which is served by a housing agency.

**Source:**Laws 1999, LB 105, § 86; Laws 2018, LB304, § 5.

**Effective Date: July 19, 2018**

**71-15,158. Property and personnel; policies, rules, and procedures; bidding requirements.**

(1) Local housing agencies shall adopt policies, rules, and procedures governing the procurement of goods or services, the sale or disposition of agency property, and the management of agency personnel. Such policies, rules, and procedures shall apply to all controlled affiliates of a local housing agency unless the agency, by resolution of its board of commissioners, elects otherwise.



(2) To the extent that federal funds are involved in any procurement by a local housing agency and public bidding or other procedures and conditions are required as a condition of the acceptance of federal financial assistance, a local housing agency shall follow such federal procedures and other conditions in such procurement.

(3) Contracts or awards for housing developments which the local housing agency proposes to construct or cause to be constructed, if the estimated cost is one hundred fifty thousand dollars or more, shall be entered into or awarded only after public bidding as provided in this section. This section shall not apply to the procurement of any professional services such as that of an architect, engineer, or legal counsel.

(4) For the construction of new housing developments, the local housing agency, in its discretion, may publish a request for proposals, including a general plan for the purposes and ends to be accomplished by the new development, including, but not limited to, the total number of units desired, any units that are to be specifically designed for the elderly or the handicapped, the unit size, and any other details which the local housing agency deems appropriate for inclusion within the proposed new development or any facilities that are pertinent thereto.

(5) The local housing agency shall advertise for public bids or proposals once a week for two consecutive weeks in a newspaper of general circulation in its area of operation. After sealed bids or proposals are received, the contract shall be awarded to the lowest and best bidder or, if the local housing agency has elected to proceed under subsection (4) of this section, in favor of the proposal that is most commensurate with the published objectives of the local housing agency and is most suitable for the purposes of the Nebraska Housing Agency Act, except that a local housing agency, if it deems it to be in its best interests or necessary or desirable to effectuate the purposes of the act or economy and efficiency in the construction and operation of such housing development, may either reject all bids or proposals and readvertise or elect not to proceed with the development.

(6) The local housing agency may adopt and promulgate rules and regulations governing the qualifications of bidders, the submission of combined bids by two or more contractors, the award and execution of the contract, security, if any, the execution and performance of the contract, the requirements for making a proposal, and any other matters which the local housing agency deems appropriate.

(7) The local housing agency may, in its discretion, insert a provision in any contract that additional work may be done or materials or supplies furnished or that work or materials may be omitted for the purpose of completing the contract in accordance with any changes, omissions, or additions in the specifications of any such contract. Nothing in this section shall be construed to limit the power of the local housing agency to carry out a project or development or any part thereof directly by the officers, agencies, and employees of the agency or by any public agency or to purchase or to acquire goods, services, materials, equipment, or property by or through any other local housing agency as provided in section 71-15,160 or by any other public agency provided in section 71-15,161. The local housing agency may, in its discretion, insert a provision in any contract regarding labor, including wage rates, safety, and equal employment opportunities, that the local housing agency deems necessary or desirable or as may be required by law.

**Source:** Laws 1999, LB 105, § 87; Laws 2018, LB304, § 6.

**Effective Date:** July 19, 2018

#### **71-15,159. Local housing agency; joint exercise of powers authorized.**

In addition to the cooperative action by public agencies through the formation and operation of regional housing agencies authorized under sections 71-1581 to 71-1587, any power, privilege, or authority exercised or capable of being exercised by a local housing agency of this state may be exercised and enjoyed jointly with any other housing agency or other public agency of this state having such power, privilege, or authority and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment.

**Source:** Laws 1999, LB 105, § 88.

#### **71-15,160. Local housing agency; joint or cooperative powers enumerated.**

(1) Any two or more local housing agencies may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes, or other obligations, and giving security therefor, or for planning, undertaking, owning, constructing, operating, or contracting with respect to a housing development or developments located within the area of operation of any one or more of the cooperating agencies. For such purpose an agency may, by resolution, authorize any other local housing agency or agencies so joining and cooperating with it to act on its behalf with respect to any or all of its powers as its agent or otherwise in the

name of the agency or agencies so joining and cooperating or in its own name. Any such cooperation which involves fiscal matters, ownership of any real property, or the assumption of the functions of one local housing agency by another local housing agency shall be by written contract, agreement, or arrangement entered into by such cooperating agencies.

(2) Any local housing agency may, by resolution, authorize another local housing agency to exercise its powers within the authorizing agency's area of operation at the same time that the authorizing agency is exercising the same powers.

(3) Any local housing agency may by agreement sell, lease, or otherwise provide any other local housing agency with any goods, supplies, materials, services, equipment, or property upon such terms and for such compensation as the parties shall determine and the same may be purchased, leased, or otherwise acquired without advertisement, appraisal, or public bidding.

(4) Local housing agencies may form, join, and participate in associations, cooperatives, or other entities for the purpose of purchasing goods, supplies, materials, equipment, and services, including, but not limited to, insurance, at prices or rates that may not otherwise be available to individual local housing agencies, and all such purchases and sales may be done without advertisement, appraisal, or public bidding.

**Source:** Laws 1999, LB 105, § 89.

### **71-15,161. Public agency; powers.**

For the purpose of aiding and cooperating with local housing agencies in the planning, undertaking, construction, or operation of developments providing decent, safe, and sanitary housing that is affordable to persons of eligible income, and otherwise to assist local housing agencies in carrying out any other activities that are authorized under or in furtherance of the purposes of the Nebraska Housing Agency Act, any public agency may, with or without consideration:

(1) Dedicate, sell, convey, or lease any of its property to a local housing agency;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished adjacent to or in connection with housing developments;

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, parking lots, or other places which it is otherwise empowered to undertake;

(4) Plan, replan, zone, or rezone any property over which it has such authority and make exemptions from building regulations, standards, resolutions, and ordinances;

(5) Enter into contracts, agreements, or arrangements which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a local housing agency or the federal government respecting action to be taken by such public agency pursuant to any of the powers granted by the act;

(6) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of such housing developments;

(7) Purchase or legally invest in any of the bonds, notes, obligations, or other securities of a local housing agency and exercise all of the rights of any holder of such bonds or other instruments;

(8) In connection with any public improvements made by a public agency in exercising the powers granted in this section, incur the entire expense thereof. Any sale, conveyance, lease, agreement, or arrangement provided for in this section may be made by a public agency without appraisal, public notice, advertisement, or public bidding;

(9) Make donations, grants, or loans to such local housing agency as it shall deem necessary or desirable to promote decent, safe, and sanitary housing that is affordable to persons of eligible income in this state;

(10) Enter into agreements with a local housing agency for payments to it in lieu of taxes as authorized in subsection (2) of section 71-1590;

(11) Agree or arrange that a local housing agency shall manage, operate, administer, or assist in any of the activities authorized in subdivisions (1) through (10) of this section or any program of the public agency or for which the public agency receives funds, from either a federal or state governmental source, or from any other source, whether public or private, for the purpose of providing decent, safe, and sanitary housing affordable to persons of eligible income, to provide shelter, with or without other services, to homeless persons, to remove or rehabilitate unsafe or unsound dwelling structures, or for carrying out any other

purpose of the act. Such agreements and arrangements may provide such compensation to a local housing agency for its services as the parties shall determine;

(12) Purchase or lease any goods, services, materials, equipment, or property from a local housing agency for any governmental or proprietary purpose for which the public agency is authorized by law to so acquire, on such terms and for such consideration as the parties shall determine, without advertisement, appraisal, or public bidding;

(13) Allow local housing agencies to purchase or acquire goods, services, materials, equipment, or property through its purchasing agency; and

(14) Upon its own initiative and without the approval of any other public agency or governing body, waive or reduce any charge or fee, including, but not limited to, any charge or fee relating to any permit, license, approval, or environmental or other impact fee, any contribution for capital improvements, and any charge or fee for any service or benefit provided by the public agency.

**Source:** Laws 1999, LB 105, § 90.

### **71-15,162. State and public agencies; powers.**

The state and all public agencies of this state are authorized to appropriate, lend credit, and make donations to local housing agencies and to agree to make such appropriations, loans, or donations upon such lawful terms and conditions as they shall from time to time deem appropriate.

**Source:** Laws 1999, LB 105, § 91.

### **71-15,163. Screening of applicants; powers of public agencies.**

(1) Notwithstanding any other provision of law, all public agencies of this state, including state, city, and county law enforcement agencies, shall cooperate with local housing agencies by providing, promptly upon request, information concerning the general background, including, but not limited to, the criminal history, of applicants for assistance or recipients of assistance from local housing agencies. Any such information shall be used by local housing agencies solely for the purpose of screening applicants for suitability for tenancy or for determining continued suitability for assistance or tenancy and shall not be disclosed except in a proceeding challenging a decision by an agency to deny or terminate benefits.

(2) Any person who applies for or accepts assistance provided by a local housing agency shall, by virtue of such application for or acceptance of such assistance, be deemed to have consented to the disclosure of information by public agencies as required by this section.

**Source:** Laws 1999, LB 105, § 92.

#### **71-15,164. Enforcement of rights; remedies.**

(1) All rights of local housing agencies existing under law or under any contract, agreement, or arrangement with any party, including this state or any public agency thereof, shall be enforceable by action brought in the courts of this state.

(2) In connection with enforcement of any right referred to in this section, a local housing agency shall be entitled to relief which may include, without limitation, the award of monetary damages, specific performance, and mandamus and other injunctive relief.

**Source:** Laws 1999, LB 105, § 93.

#### **71-15,165. Claims and actions; restrictions.**

No person or entity not expressly named as a party to a contract entered into by a housing agency shall have any right of action, by virtue of the status of such person or entity as a third-party beneficiary of such contract, or otherwise based upon such contract. Any claim or action in violation of this section shall be absolutely null and void.

**Source:** Laws 1999, LB 105, § 94.

#### **71-15,166. Act; how construed.**

The Nebraska Housing Agency Act shall be construed liberally to effect the charitable and public purposes thereof. The enumeration of specific powers, authorities, or activities in the act shall not operate to restrict the scope of any general grant of power or authority or any description of activities contained in the act or to exclude other powers, authorities, or activities reasonably comprehended in such general grant which are reasonably related to carrying out the purposes of the act.

It is the purpose and intent of the act that the powers of local housing agencies be construed to afford to every agency reasonable responsibility, authority, and flexibility in carrying out the provisions of the act and to maximize the involvement of private sector entities, in cooperation with local housing agencies, in the production and operation of affordable housing. The use of the disjunctive word "or" shall be construed to mean "and" and the conjunctive word "and" shall be construed to mean "or" where such construction will result in a broader interpretation of a power. Limitations upon the powers, authorities, and activities of local agencies contained in the act shall be strictly construed.

**Source:** Laws 1999, LB 105, § 95.

### **71-15,167. Conflicting provisions; how construed.**

To the extent that any provision of the Nebraska Housing Agency Act shall conflict with any provision of law not contained in the act, the act shall prevail with respect to local housing agencies. It is the intention of the Legislature that, with respect to any subject matter covered by the act, the provisions of the act shall preempt all other laws of this state with respect to the formation, powers, and operation of local housing agencies and the requirements of law applicable thereto.

**Source:** Laws 1999, LB 105, § 96.

### **71-15,168. Tort claims; other claims; procedure.**

(1) All tort claims against a housing agency shall be governed by the Political Subdivisions Tort Claims Act.

(2) Every person who has any claim against a housing agency, other than a tort claim under subsection (1) of this section, shall file the same, in writing, with the executive director or other person who may be acting as the secretary of such agency. If the claim is in contract, the claim shall state the services provided or articles furnished, as the case may be, and shall show the amount charged and claimed due and unpaid, allowing all just credits. The procedures set forth in this section shall not be applicable to any claim against any agency if the agency advises the claimant in writing that the liability of the agency for such claim, if any, is covered by insurance in whole or in part.

(3) If the claimant is dissatisfied with the disposition of his or her claim, or in the event that such claim is not paid or otherwise satisfied within ninety days after such claim has been filed as provided in this section, the claimant shall request, in

writing, a hearing on his or her claim before the board of commissioners of the agency. Such request shall be filed with the chairperson of the agency and shall be made within six months after the filing of the claim as provided by this section. The claimant shall be notified of the time and place of the hearing, and he or she shall have the opportunity to present evidence concerning his or her claim to the board of commissioners. The board of commissioners shall hold such hearing and shall allow, disallow, or otherwise dispose of the claim, as the case may be, with written notice to the claimant, all within six months after the filing of a written request for hearing as provided in this subsection.

(4) This section shall not apply to claims, actions, or proceedings by obligees on bonds of an agency or to claims, actions, or proceedings on notes, guarantees, or other evidences of indebtedness.

(5) The representatives of a housing agency shall not be personally liable as such on its contracts or for torts not committed or directly authorized by them.

**Source:** Laws 1999, LB 105, § 97.

#### **Cross References**

**Political Subdivisions Tort Claims Act**, see section 13-901.

#### **Annotations**

A tort claim against a housing agency is subject to the Political Subdivisions Tort Claims Act regardless of whether it is covered by liability insurance. *Harris v. Omaha Housing Auth.*, 269 Neb. 981, 698 N.W.2d 58 (2005).