

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1138

Introduced by Mello, 5.

Read first time January 19, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Community Development Assistance Act; to
2 amend sections 13-202, 13-203, 13-204, and 13-207,
3 Reissue Revised Statutes of Nebraska, and section 13-206,
4 Revised Statutes Cumulative Supplement, 2010; to define
5 and redefine terms; to change provisions relating to
6 legislative findings, community betterment organizations,
7 and tax credits; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-202, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-202 The Legislature hereby finds that areas of chronic
4 economic distress in the State of Nebraska are a detriment to the
5 economic well-being, health, and safety of the citizens of Nebraska.
6 The Legislature further contends that ~~current~~ governmental solutions
7 have not been able to completely resolve certain problems such as
8 overcrowding, unemployment, ~~and~~ poor health and sanitary conditions,
9 and a lack of affordable housing in a community which lead to further
10 deterioration. Such problems cannot be remedied by the government
11 alone, but can be alleviated through a partnership between the
12 government and private enterprise. It is therefor declared to be
13 public policy in this state to encourage affordable housing equity
14 investments and contributions by business firms and individuals that
15 offer and provide community and neighborhood assistance and community
16 services.

17 Sec. 2. Section 13-203, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 13-203 For purposes of the Community Development
20 Assistance Act, unless the context otherwise requires:

21 (1) Business firm ~~shall mean~~ means any business entity,
22 including a corporation, a fiduciary, a sole proprietorship, a
23 partnership, a limited liability company, a corporation having an
24 election in effect under Chapter 1, subchapter S of the Internal
25 Revenue Code, as defined in section 49-801.01, subject to the state

1 income tax imposed by section 77-2715 or 77-2734.02, an insurance
2 company paying premium or related retaliatory taxes in this state
3 pursuant to section 44-150 or 77-908, or a financial institution
4 paying the tax imposed pursuant to sections 77-3801 to 77-3807;

5 (2) Community services ~~shall mean~~ means any type of the
6 following in a community development area: (a) Employment training;
7 (b) human services; (c) medical services; (d) physical facility and
8 neighborhood development services; (e) recreational services or
9 activities; (f) educational services; (g) affordable housing
10 activity; or ~~(g)-(h)~~ crime prevention activities, including, but not
11 limited to, (i) the instruction of any individual in the community
12 development area that enables him or her to acquire vocational
13 skills, (ii) counseling and advice, (iii) emergency services, (iv)
14 community, youth, day care, and senior citizen centers, (v) in-home
15 services, (vi) home improvement services and programs, (vii) graffiti
16 removal and abatement, and ~~(vii)-(viii)~~ any legal enterprise which
17 aids in the prevention or reduction of crime;

18 (3) Department ~~shall mean~~ means the Department of
19 Economic Development;

20 (4) Director ~~shall mean~~ means the Director of Economic
21 Development;

22 (5) Community development area ~~shall mean~~ means any
23 village, city, county, unincorporated area of a county, or census
24 tract which has been designated by the department as an area of
25 chronic economic distress;

1 (6) Community assistance ~~shall mean~~ means furnishing
2 financial assistance, labor, material, ~~or~~ technical advice, or an
3 affordable housing equity investment to aid in the physical
4 improvement of any part or all of a community development area;

5 (7) Community betterment organization ~~shall mean~~ means
6 (a) any organization performing community services or offering
7 community assistance in a community development area and to which
8 contributions are tax deductible under the provisions of the Internal
9 Revenue Service of the United States Department of the Treasury, ~~and~~
10 (b) a county, city, or village performing community services or
11 offering community assistance in a community development area, or (c)
12 any organization that receives assistance under the Nebraska
13 Affordable Housing Act as described in section 58-707 providing any
14 affordable housing activity in a community development area; and

15 (8) Affordable housing activity means an activity
16 eligible for assistance under the Nebraska Affordable Housing Act as
17 provided in section 58-706;

18 (9) Affordable housing equity investment means (a) stock
19 ownership in a corporation or (b) a capital contribution to a
20 partnership or limited liability company that is a community
21 betterment organization investing equity funds in an affordable
22 housing activity with a minimum affordability period of fifteen
23 years; and

24 ~~(8)~~-(10) Area of chronic economic distress ~~shall mean~~
25 means an area of the state which meets any of the following

1 conditions:

2 (a) An unemployment rate which exceeds the statewide
3 average unemployment rate;

4 (b) A per capita income below the statewide average per
5 capita income; or

6 (c) A population loss between the two most recent federal
7 decennial censuses.

8 Sec. 3. Section 13-204, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 13-204 Any community betterment organization which
11 provides community assistance or community services in a community
12 development area may apply any time during the fiscal year to the
13 department to have one or more programs certified for tax credit
14 status as provided in sections 13-205 to 13-208. The proposal shall
15 set forth the program to be conducted, the community development
16 area, the estimated amount to be required for completion of the
17 program or the annual estimated amount required for an ongoing
18 program, the plans for implementing the program, and the amount of
19 contributions or affordable housing equity investment committed or
20 anticipated for such activities or services.

21 Sec. 4. Section 13-206, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 13-206 (1) The director shall adopt and promulgate rules
24 and regulations for the approval or disapproval of the program
25 proposals submitted pursuant to section 13-205 taking into account

1 the economic need level and the geographic distribution of the
2 population of the community development area. Beginning with the full
3 fiscal year immediately following the effective date of this act and
4 each fiscal year thereafter, the director shall allocate at least
5 twenty-five percent of all tax credits to each congressional
6 district. The director shall also adopt and promulgate rules and
7 regulations concerning the amount of the tax credit for which a
8 program shall be certified. The tax credits shall be available for
9 contributions to a certified program which may qualify as a
10 charitable contribution deduction on the federal income tax return
11 filed by the business firm or individual making such contribution or
12 for an affordable housing equity investment. The decision of the
13 department to approve or disapprove all or any portion of a proposal
14 shall be in writing. If the proposal is approved, the maximum tax
15 credit allowance for the certified program shall be stated along with
16 the approval. The maximum tax credit allowance approved by the
17 department shall be final for the fiscal year in which the program is
18 certified. A copy of all decisions shall be transmitted to the Tax
19 Commissioner. A copy of all credits allowed to business firms under
20 sections 44-150 and 77-908 shall be transmitted to the Director of
21 Insurance.

22 (2) For all business firms and individuals eligible for
23 the credit allowed by section 13-207, except for insurance companies
24 paying premium and related retaliatory taxes in this state pursuant
25 to section 44-150 or 77-908, the Tax Commissioner shall provide for

1 the manner in which the credit allowed by section 13-207 shall be
2 taken and the forms on which such credit shall be allowed. The Tax
3 Commissioner shall adopt and promulgate rules and regulations for the
4 method of providing tax credits. The Director of Insurance shall
5 provide for the manner in which the credit allowed by section 13-207
6 to insurance companies paying premium and related retaliatory taxes
7 in this state pursuant to sections 44-150 and 77-908 shall be taken
8 and the forms on which such credit shall be allowed. The Director of
9 Insurance may adopt and promulgate rules and regulations for the
10 method of providing the tax credit. The Tax Commissioner shall allow
11 against any income tax due from the insurance companies paying
12 premium and related retaliatory taxes in this state pursuant to
13 section 44-150 or 77-908 a credit for the credit provided by section
14 13-207 and allowed by the Director of Insurance.

15 Sec. 5. Section 13-207, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-207 (1) Any business firm or individual which plans to
18 or which has contributed to a certified program of a community
19 betterment organization or has invested in an affordable housing
20 activity of such organization may apply to the department for
21 authorization for a tax credit for ~~the such contribution to the~~
22 ~~certified program~~ or investment in an amount up to but not exceeding
23 the maximum tax credit allowed by the department. The maximum tax
24 credit allowed by the department for each approved business firm or
25 individual shall be in an amount which does not exceed forty percent

1 of the total amount contributed by the business firm or individual
2 during its taxable year to any programs certified pursuant to section
3 13-205 or invested by the business firm or individual during its
4 taxable year in affordable housing activity. The director shall send
5 a copy of the approved application which includes the amount of the
6 tax credit to be allowed and a certification by the department that
7 the contribution has been paid or the affordable housing equity
8 investment has been made as proposed by the business firm or
9 individual to the Tax Commissioner who shall grant a tax credit
10 against any tax due under sections 77-2715, 77-2734.02, and 77-3801
11 to 77-3807 and to the Director of Insurance who shall grant a tax
12 credit against any premium and related retaliatory taxes due under
13 sections 44-150 and 77-908.

14 (2) No tax credit shall be granted to any business firm
15 or individual in this state pursuant to the Community Development
16 Assistance Act for activities that are a part of its normal course of
17 business. Any tax credit balance may be carried over and applied
18 against the business firm's or individual's tax liability for the
19 next five years immediately succeeding the tax year in which the
20 credit was first allowed.

21 Sec. 6. Original sections 13-202, 13-203, 13-204, and
22 13-207, Reissue Revised Statutes of Nebraska, and section 13-206,
23 Revised Statutes Cumulative Supplement, 2010, are repealed.