

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1176

Introduced by Bostar, 29.

Read first time January 19, 2022

Committee: Revenue

1 A BILL FOR AN ACT relating to the Affordable Housing Tax Credit Act; to
2 amend sections 77-2501, 77-2502, 77-2503, 77-2505, and 81-523,
3 Reissue Revised Statutes of Nebraska; to redefine a term; to change
4 provisions relating to the allocation and use of tax credits; to
5 provide for applicability; to harmonize provisions; and to repeal
6 the original sections.

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

1 Section 1. Section 77-2501, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2501 Sections 77-2501 to 77-2507 and section 5 of this act shall
4 be known and may be cited as the Affordable Housing Tax Credit Act.

5 Sec. 2. Section 77-2502, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-2502 For purposes of the Affordable Housing Tax Credit Act:

8 (1) Allocation year means the year for which the authority awards
9 Nebraska affordable housing tax credits pursuant to the act;

10 (2) Authority means the Nebraska Investment Finance Authority;

11 (3) Eligibility statement means a statement authorized and issued by
12 the authority certifying that a given project is a qualified project that
13 qualifies for Nebraska affordable housing tax credits;

14 (4) Federal low-income housing tax credit means the federal tax
15 credit provided in section 42 of the Internal Revenue Code of 1986, as
16 amended;

17 (5) Nebraska affordable housing tax credit means the nonrefundable
18 tax credit authorized in section 77-2503;

19 (6) Qualified project means a qualified low-income building or
20 buildings, as that term is defined in section 42 of the Internal Revenue
21 Code of 1986, as amended;

22 (7) Qualified taxpayer means a taxpayer owning an interest, direct
23 or indirect, in a qualified project; and

24 (8) Taxpayer means a person, firm, corporation, or other business
25 entity subject to the income tax imposed by section 77-2715 or
26 77-2734.02, an insurance company subject to premium and related
27 retaliatory tax liability imposed by section 44-150, ~~or~~ 77-908, or
28 81-523, or a financial institution subject to the franchise tax imposed
29 by sections 77-3801 to 77-3807.

30 Sec. 3. Section 77-2503, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2503 (1) An owner of an affordable housing project seeking a
2 Nebraska affordable housing tax credit shall file an application with the
3 authority on a form prescribed by the authority. A qualified taxpayer
4 shall be allowed a nonrefundable tax credit if the authority determines
5 that the project for which tax credits are sought is a qualified project.

6 (2) If the requirements of subsection (1) of this section are met,
7 the authority shall issue an eligibility statement to the owner of such
8 qualified project stating the amount of Nebraska affordable housing tax
9 credits allocated to the qualified project. The amount of such tax
10 credits shall be the amount of federal low-income housing tax credits
11 available to such project, except as otherwise provided in subsection (4)
12 of this section. Tax credits for each building in a qualified project
13 shall be issued for the first six years of the credit period as defined
14 in 26 U.S.C. 42(f)(1), except that any reduction in the credit allowable
15 in the first year of the credit period due to the calculation in 26
16 U.S.C. 42(f)(2) shall be allowable in the seventh year of the credit
17 period. The authority shall only allocate tax credits to qualified
18 projects that are placed in service after January 1, 2018.

19 (3) If the owner of the qualified project is (a) a partnership, (b)
20 a limited liability company, or (c) a corporation having an election in
21 effect under subchapter S of the Internal Revenue Code of 1986, as
22 amended, the Nebraska affordable housing tax credit shall be allocated
23 among some or all of the partners, members, or shareholders of the owner
24 of the qualified project in any manner agreed to by such persons, but
25 only if such persons have been admitted as partners or members, or have
26 acquired their shares, on or prior to February 15 of the year in which
27 the tax return, or amended return, claiming the tax credit is filed. A
28 qualified taxpayer may transfer, sell, or assign all or part of his or
29 her ownership interest, including his or her interest in the tax credits
30 authorized in this section. For any tax year in which such an interest is
31 transferred, sold, or assigned pursuant to this subsection, the

1 transferor shall notify the Department of Revenue of the transfer, sale,
2 or assignment and provide the tax identification number of the new owner
3 at least thirty days prior to the new owner claiming the tax credits. The
4 notification shall be in the manner prescribed by the department.

5 (4) The maximum amount of Nebraska affordable housing tax credits
6 awarded to all qualified projects in any given allocation year shall be
7 no more than one hundred percent of the total amount of federal low-
8 income housing tax credits awarded by the authority in the same
9 allocation year. Notwithstanding any other provision of the Affordable
10 Housing Tax Credit Act, the authority is prohibited from awarding to a
11 qualified project any combined amount of federal low-income housing tax
12 credits and Nebraska affordable housing tax credits that is more than
13 necessary to make the qualified project financially feasible.

14 (5) Any Nebraska affordable housing tax credits granted under this
15 section may be used to offset any income taxes due under section 77-2715
16 or 77-2734.02, any premium and related retaliatory taxes due under
17 section 44-150, ~~or 77-908,~~ or 81-523, or any franchise taxes due under
18 sections 77-3801 to 77-3807.

19 (6) The tax credit shall not be used to reduce the tax liability of
20 the qualified taxpayer to less than zero. Any tax credit claimed but not
21 used in a taxable year may be carried forward.

22 Sec. 4. Section 77-2505, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-2505 An insurance company claiming a Nebraska affordable housing
25 tax credit against any premium and related retaliatory taxes due under
26 section 44-150, ~~or 77-908,~~ or 81-523 shall not be required to pay any
27 additional retaliatory tax as a result of claiming the tax credit. The
28 tax credit may fully offset any retaliatory tax imposed under Nebraska
29 law. Any tax credit claimed shall be considered a payment of tax for
30 purposes of subsection (1) of section 77-2734.03.

31 Sec. 5. The changes made in sections 77-2502, 77-2503, and 77-2505

1 by this legislative bill shall apply to taxable years beginning or deemed
2 to begin on or after January 1, 2023.

3 Sec. 6. Section 81-523, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-523 (1) For the purpose of maintaining the office of the State
6 Fire Marshal and such other fire prevention activities as the Governor
7 may direct, every foreign and alien insurance company including
8 nonresident attorneys for subscribers to reciprocal insurance exchanges
9 shall, on or before March 1, pay a tax to the Director of Insurance of
10 three-fourths of one percent of the gross direct writing premiums and
11 assessments received by each of such companies during the preceding
12 calendar year for fire insurance business done in this state.

13 (2) For the purpose set forth in subsection (1) of this section,
14 every domestic insurance company including resident attorneys for
15 subscribers to reciprocal insurance exchanges shall, on or before March
16 1, pay a tax to the Director of Insurance of three-eighths of one percent
17 of the gross direct writing premiums and assessments received by each of
18 such companies during the preceding calendar year for fire insurance
19 business done in this state.

20 (3) The term fire insurance business, as used in subsections (1),
21 (2), and (4) of this section, shall include, but not be limited to,
22 premiums of policies on fire risks on automobiles, whether written under
23 floater form or otherwise.

24 (4) Return premiums on fire insurance business, subject to the fire
25 insurance tax, in accordance with subsections (1) and (2) of this
26 section, may be deducted from the gross direct writing premiums for the
27 purpose of the tax calculations provided for by subsections (1) and (2)
28 of this section. In the case of mutual companies and assessment
29 associations, the dividends paid or credited to policyholders or members
30 in this state shall be construed to be return premiums.

31 (5) Any tax collected pursuant to subsections (1) and (2) of this

1 section shall be remitted to the State Treasurer for credit to the
2 General Fund.

3 (6) An insurance company described in this section shall receive a
4 credit on the tax imposed under this section as provided in the
5 Affordable Housing Tax Credit Act.

6 Sec. 7. Original sections 77-2501, 77-2502, 77-2503, 77-2505, and
7 81-523, Reissue Revised Statutes of Nebraska, are repealed.