

## LEGISLATIVE BILL 451

Approved by the Governor May 23, 1983

Introduced by Newell, 13

AN ACT to amend sections 18-1614, 18-1615, 18-1617, and 18-1618, Reissue Revised Statutes of Nebraska, 1943, relating to industrial financing; to define and redefine terms; to provide financing for the development of blighted areas; to change provisions relating to revenue bonds; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 18-1614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1614. As used in sections 18-1614 to 18-1623, unless the context otherwise requires:

(1) Municipality shall mean any incorporated city or village in the state, including cities operating under home rule charters;

(2) Project shall mean (a) any land, any building, or equipment or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for manufacturing or industrial enterprises or (b) any land, building, or improvements located in a blighted area located within a municipality of the metropolitan, primary, first, or second class, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for any enterprise, including, but not limited to, profit or nonprofit commercial, business, governmental, or multi-family housing enterprises;

(3) Governing body shall mean the board or body in which the general legislative powers of the municipality or county are vested; and

(4) Mortgage shall mean a mortgage or a mortgage and deed of trust, or other security device; and

(5) Blighted area shall mean an area within

this state which has been designated by a resolution of the governing body of a municipality of the metropolitan, primary, first, or second class as a blighted area pursuant to subdivision (1) of section 18-2103.

Sec. 2. That section 18-1615, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1615. In addition to any other powers which it may now have, each municipality and each county shall have without any other authority the following powers:

(1) To acquire, whether by construction, purchase, devise, gift, or lease, or any one or more of such methods, one or more projects, which shall be located within this state, and may be located within, without, partially within, or partially without the municipality or county;

(2) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of sections 18-1614 to 18-1623;

(3) To finance the acquisition, construction, rehabilitation, or purchase of projects in blighted areas. The power to finance such projects in blighted areas shall mean and include the power to enter into any type of agreement, including a loan agreement, when the other party to the agreement agrees (a) to use the proceeds of money provided under the agreement to pay the costs of such acquisition, construction, rehabilitation, or purchase and any costs incident to the issuance of the related bonds and the funding of any reserve funds, (b) to be bound by the terms of the Act Prohibiting Unjust Discrimination in Employment Because of Age, the Nebraska Fair Employment Act, and sections 48-1219 to 48-1227, regardless of the number of employees, and (c) to make payments to the municipality or county sufficient to enable it to pay on a timely basis all principal, redemption premiums, and interest on the related revenue bonds issued to provide such financing, and any amounts necessary to repay such municipality or county for any and all costs incurred by it that are incidental to such financing. Title to any such project in a blighted area need not be in the name of the municipality or county, but may be in the name of a private party;

~~(3)~~ (4) To issue revenue bonds for the purpose of defraying the cost of acquiring, or improving, or financing any project or projects, including the cost of any real estate previously purchased and used for such project or projects, or the cost of any option in connection with acquiring such property, and to secure

the payment of such bonds as provided in sections 18-1614 to 18-1623, which revenue bonds may be issued in two or more series or issues where deemed advisable, and each such series or issue may contain different maturity dates, interest rates, priorities on revenue available for payment of such bonds and priorities on securities available for guaranteeing payment thereof, and such other differing terms and conditions as are deemed necessary and are not in conflict with the provisions of sections 18-1614 to 18-1623; and

{4} {5} To sell and convey any real or personal property acquired as provided by subdivision (1) of this section, and make such order respecting the same as may be deemed conducive to the best interest of the municipality or county; PROVIDED, that such sale or conveyance shall be subject to the terms of any lease but shall be free and clear of any other encumbrance.

No municipality or county shall have the power to (a) operate any project, referred to in this section, as a business or in any manner except as the lessor thereof, (b) lease any project acquired under powers conferred by this section for use principally for commercial feeding of livestock, (c) issue bonds under this section principally for the purpose of financing the construction or acquisition of commercial feeding facilities for livestock, or (d) acquire any project or any part thereof by condemnation.

Sec. 3. That section 18-1617, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1617. (1) The principal of and interest on any bonds issued under the authority of sections 18-1614 to 18-1623 (a) shall be secured by a pledge of the revenue revenues out of which such bonds shall be made payable, (b) may be secured by a mortgage covering all or any part of the project, and (c) may be secured by a pledge of the lease of such project or by any related financing agreement, or (d) may be secured by such other security device as may be deemed most advantageous by the issuing authority.

(2) The proceedings, under which the bonds are authorized to be issued under the provisions of sections 18-1614 to 18-1623, and any mortgage given to secure the same may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting (a) the fixing and collection of rents for any project covered by such proceedings or mortgage, (b) the terms to be incorporated in the lease or financing of such project, (c) the maintenance and insurance of such project, (d) the creation and maintenance of special funds from the revenue revenues of such project, and (e) the rights and

remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of sections 18-1614 to 18-1623; PROVIDED, that in making any such agreements or provisions a municipality or county shall not have the power to obligate itself except with respect to the project and the application of the revenues revenue therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under the provisions of sections 18-1614 to 18-1623 and any mortgage securing such bonds may provide that, in the event of a default in the payment of the principal or of the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenue revenues from the project in accordance with such proceedings or the provisions of such mortgage.

(4) Any mortgage, made under the provisions of sections 18-1614 to 18-1623, to secure bonds issued thereunder, may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

Sec. 4. That section 18-1618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1618. (1) Prior to the leasing or financing of any project, the governing body must determine and find the following: The amount necessary to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project including taxes; and, with respect to leases, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the

project in good repair and keeping it properly insured.

(2) The determinations and findings of the governing body, required to be made by subsection (1) of this section, shall be set forth in the proceedings under which the proposed bonds are to be issued. Prior to the issuance of the bonds authorized by sections 18-1614 to 18-1623, the municipality or county shall (a) lease the project to a lessee or lessees under an agreement conditioned upon completion of the project and providing for payment to the municipality or county of such rentals as, upon the basis of such determinations and findings, will be sufficient (i) (a) to pay the principal of and interest on the bonds issued to finance the project, (ii) (b) to pay the taxes on the project, (iii) (c) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (d) (iv) unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured or (b) enter into a financing agreement pursuant to subdivision (3) of section 18-1615. Subject to the limitations of sections 18-1614 to 18-1623, the lease or extensions or modifications thereof may contain such other terms and conditions as may be mutually acceptable to the parties, and notwithstanding any other provisions of law relating to the sale of property owned by municipalities and counties, such lease may contain an option for the lessees to purchase the project on such terms and conditions as may be mutually acceptable to the parties.

(3) At a public hearing or at the adjournment of such hearing, the governing body of the city in which the proposed project is located shall determine whether the location of the proposed project is within a blighted area and whether the proposed project is within the development plan or plans for the area. Notice of the time and place of the hearing shall be published at least two times not less than seven days prior to the hearing in a legal newspaper having a general circulation within the boundaries of the city. Upon a favorable resolution by the governing body of the city where the proposed project is located, the governing body of the city or county may proceed to issue bonds.

Sec. 5. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 6. That original sections 18-1614, 18-1615, 18-1617, and 18-1618, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 7. Since an emergency exists, this act

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shall be in full force and take effect, from and after its passage and approval, according to law.