

AMENDMENTS TO LB800

(Amendments to Standing Committee amendments, AM2035)

Introduced by Bostar, 29.

1           1. Insert the following new sections:

2           Sec. 338. Section 77-2501, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4           77-2501 Sections 77-2501 to 77-2507 and section 342 of this act  
5 shall be known and may be cited as the Affordable Housing Tax Credit Act.

6           Sec. 339. Section 77-2502, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8           77-2502 For purposes of the Affordable Housing Tax Credit Act:

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

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

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

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

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

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

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

25           (8) Taxpayer means a person, firm, corporation, or other business  
26 entity subject to the income tax imposed by section 77-2715 or

1 77-2734.02, an insurance company subject to premium and related  
2 retaliatory tax liability imposed by section 44-150, ~~or~~ 77-908, or  
3 81-523, or a financial institution subject to the franchise tax imposed  
4 by sections 77-3801 to 77-3807.

5 Sec. 340. Section 77-2503, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 77-2503 (1) An owner of an affordable housing project seeking a  
8 Nebraska affordable housing tax credit shall file an application with the  
9 authority on a form prescribed by the authority. A qualified taxpayer  
10 shall be allowed a nonrefundable tax credit if the authority determines  
11 that the project for which tax credits are sought is a qualified project.

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

25 (3) If the owner of the qualified project is (a) a partnership, (b)  
26 a limited liability company, or (c) a corporation having an election in  
27 effect under subchapter S of the Internal Revenue Code of 1986, as  
28 amended, the Nebraska affordable housing tax credit shall be allocated  
29 among some or all of the partners, members, or shareholders of the owner  
30 of the qualified project in any manner agreed to by such persons, but  
31 only if such persons have been admitted as partners or members, or have

1 acquired their shares, on or prior to February 15 of the year in which  
2 the tax return, or amended return, claiming the tax credit is filed. A  
3 qualified taxpayer may transfer, sell, or assign all or part of his or  
4 her ownership interest, including his or her interest in the tax credits  
5 authorized in this section. For any tax year in which such an interest is  
6 transferred, sold, or assigned pursuant to this subsection, the  
7 transferor shall notify the Department of Revenue of the transfer, sale,  
8 or assignment and provide the tax identification number of the new owner  
9 at least thirty days prior to the new owner claiming the tax credits. The  
10 notification shall be in the manner prescribed by the department.

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

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

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

28 Sec. 341. Section 77-2505, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 77-2505 An insurance company claiming a Nebraska affordable housing  
31 tax credit against any premium and related retaliatory taxes due under

1 section 44-150, ~~or 77-908,~~ or 81-523 shall not be required to pay any  
2 additional retaliatory tax as a result of claiming the tax credit. The  
3 tax credit may fully offset any retaliatory tax imposed under Nebraska  
4 law. Any tax credit claimed shall be considered a payment of tax for  
5 purposes of subsection (1) of section 77-2734.03.

6 Sec. 342. The changes made in sections 77-2502, 77-2503, and  
7 77-2505 by this legislative bill shall apply to taxable years beginning  
8 or deemed to begin on or after January 1, 2023.

9 Sec. 345. Section 81-523, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

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

19 (2) For the purpose set forth in subsection (1) of this section,  
20 every domestic insurance company including resident attorneys for  
21 subscribers to reciprocal insurance exchanges shall, on or before March  
22 1, pay a tax to the Director of Insurance of three-eighths of one percent  
23 of the gross direct writing premiums and assessments received by each of  
24 such companies during the preceding calendar year for fire insurance  
25 business done in this state.

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

30 (4) Return premiums on fire insurance business, subject to the fire  
31 insurance tax, in accordance with subsections (1) and (2) of this

1 section, may be deducted from the gross direct writing premiums for the  
2 purpose of the tax calculations provided for by subsections (1) and (2)  
3 of this section. In the case of mutual companies and assessment  
4 associations, the dividends paid or credited to policyholders or members  
5 in this state shall be construed to be return premiums.

6 (5) Any tax collected pursuant to subsections (1) and (2) of this  
7 section shall be remitted to the State Treasurer for credit to the  
8 General Fund.

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

12 2. Correct the operative date and repealer sections so that the  
13 sections added by this amendment become operative three calendar months  
14 after the adjournment of this legislative session.

15 3. Renumber the remaining sections and correct internal references  
16 accordingly.