

SESSION OF 2023

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 34**

As Amended by House Committee on Financial  
Institutions and Pensions

**Brief\***

SB 34, as amended, would create the Kansas Urban Housing Incentive District Act to allow for the designation of and criteria for an Urban Housing Incentive District (UHID) in certain cities with a population of 60,000 or more; would amend the Kansas Rural Housing Incentive District (RHID) Act to expand the list of costs that may be paid for by proceeds of special obligation bonds; and would amend the Kansas Housing Investor Tax Credit Act (HITCA) to expand the transferability of tax credits issued under that act.

The bill would be in effect upon publication in the *Kansas Register*.

***Kansas Urban Housing Incentive District Act***

The bill would designate the law created in the section pertaining to UHIDs as the Kansas Urban Housing Incentive District Act and would specify UHIDs would be generally subject to the provisions of the Kansas Rural Housing Incentive District Act (KSA 12-5244 through KSA 12-5252).

Under the bill, any city establishing an UHID would not be able to, within the district:

- Designate more than 100 units as for-sale units in one year;

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Designate more than 100 units as for-rent units in one year;
- Designate more than 50 units associated with a single project as for-sale units within one year; or
- Designate more than 50 units associated with a single project as for-rent units within one year.

For-sale units not sold within six months after the certificate of occupancy is granted would be eligible to be redesignated as for-rent units. The bill also provides that the governing body would be able to designate for-sale and for-rent units for succeeding years as part of a proposed multi-phased, multi-year development plan.

The bill would require the average size of each residence constructed within an UHID to be no larger than 1,650 square feet, excluding any garage or other exterior area, such as a porch, patio, or unattached storage building.

### ***Kansas Rural Housing Incentive District Act***

The bill would amend the Kansas RHID Act to expand the list of costs that may be paid for by proceeds of special obligation bonds, adding renovation or construction of residential dwellings, multi-family units, or buildings or other structures exclusively for residential use located on existing lots if either:

- The infrastructure, including streets, sewer, water, and utilities, has been in existence for at least ten years; or
- The lots on which the residential units are located have been subject to an improvement district tax assessment because the land is located in an improvement district already established by a city or county.

[*Note:* The city of Topeka is currently designated as a city for purposes of the Kansas Rural Housing Incentive District Act. A “city” as defined in the Kansas Urban Housing Incentive District Act would be any city with a population of 60,000 or more, as certified by the Secretary of State to the Director of the Budget, except for the city of Topeka.]

### ***Kansas Housing Incentive Tax Credit Act***

The bill would amend the HITCA to expand the transferability of tax credits issued under this act. Among changes addressing transferees, the bill would require transferees to provide information and documentation to claim the tax credit in the form and manner required by the Secretary of Revenue (qualified investors, project builders, and developers are subject to this requirement under current law).

Regarding claiming of a tax credit, the bill would also specify:

- Any portion of the tax credit that is carried forward could be transferred to another taxpayer;
- All or a portion of the tax credit could be transferred by the qualified investor or any subsequent transferees to one or more persons; and
- There will be no limit on the number of times a credit or any portion of a credit can be transferred.

The bill would also remove a limitation that specified only the full amount of the tax credit for any one investment may be transferred and may be transferred only one time.

The bill would clarify that the transferee would receive all remaining rights and restrictions for the tax credit being transferred on the date of the transfer.

The bill would also provide for the calculation of any tax due under provisions in the Insurance Code pertaining to retaliatory taxes (taxes imposed on out-of-state insurance companies); the tax credit would be treated as a tax paid as part of the insurance company's premium tax owed.

[*Note:* Under the HITCA, for tax years 2022 and thereafter, a tax credit could be claimed against Kansas income tax liability, the privilege tax liability imposed upon certain financial institutions, and the premium tax liability imposed upon insurance companies. The tax credit could be claimed by qualified investors and project builders or developers of a qualified housing project.]

## **Background**

The bill as amended by House Committee, combines provisions of SB 34 and SB 37.

### ***SB 34 (Kansas Rural Housing Incentive District Act)***

SB 34 was introduced in the Senate Committee on Financial Institutions and Insurance at the request of Senator Olson.

#### *Senate Committee on Financial Institutions and Insurance*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Olson; representatives of Heartland Housing Partners, the League of Kansas Municipalities, and the Kansas Association of Realtors; and a representative of Kansas Corn Growers Association, Kansas Farm Bureau, Northwest Kansas Economic Innovation Center, and Sunflower Electric Power Corporation. Proponents generally stated the bill would help address ongoing shortages of affordable housing, and this bill would provide another tool for cities to as they look for housing solutions.

Written-only proponent testimony was provided by representatives of The Chamber of Lawrence, Kansas; the city of Lawrence; the city of Overland Park; Haag Development Company; Kansas Bankers Association; Kansas Department of Commerce; Kansas Manufactured Housing Association; METL (Manhattan, Emporia, Topeka, and Lawrence Chambers of Commerce); Overland Park Chamber of Commerce; Sugar Creek Capital; and United Community Services of Johnson County, Inc.

No other testimony was provided.

*House Committee on Financial Institutions and Pensions*

In the House Committee joint hearing on SB 34 and SB 37, **proponents** generally addressed efforts and incentives to create affordable and attainable housing statewide. Proponents included proponents of SB 34 and SB 37 appearing before the Senate Committee. Proponents speaking specifically to SB 34 addressed the addition of vertical construction as an eligible expense, the potential to increase infill housing development on existing lots, and support for larger cities creating affordable housing developments. Proponents addressing SB 37 highlighted the shortage of attainable housing, which serves as a barrier to economic growth and development for any community, rural or urban.

Neutral written-only testimony was provided by the Kansas Housing Resources Corporation (KHRC) regarding SB 37.

The House Committee amended the bill to:

- Create and separately codify provisions pertaining to UHIDs;
- Define the term “city” as it relates to the designation of UHIDs;

- Update the effective date to be upon publication in the *Kansas Register*, and
- Add provisions expanding the transferability of certain tax credits under the HITCA (SB 37, as amended by Senate Committee).

### ***SB 37 (Kansas Housing Investor Tax Credit Act)***

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Olson. The bill was referred to the Senate Committee on Financial Institutions and Insurance.

#### *Senate Committee on Financial Institutions and Insurance*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Olson and representatives of the American Property Casualty Insurance Association (APCIA); Heartland Housing Partners; and Kansas Farm Bureau, Kansas Corn Growers Association, Sunflower Electric Power Corporation, and the Northwest Kansas Economic Innovation Center (termed “Coalition” in testimony). Proponents indicated the bill would remove a restriction in the Act to allow investors to sell more than one tax credit at a time. An example provided indicated an investor would be permitted to sell the tax credit to a banking trust department that could then, in turn, resell or transfer the benefits of the original tax credit to a banking client or other beneficiary. The APCIA representative requested consideration of an amendment regarding premium tax credit treatment for out-of-state insurance companies to provide retaliatory protections to these companies.

Written-only proponent testimony was submitted by representatives of the Kansas Department of Commerce, Haag Development Company, the Kansas Association of Realtors, Kansas Bankers Association, and Sugar Creek Capital.

Neutral testimony provided by a representative of the KHRC indicated the allowance of unlimited transfers and transfers of only a portion of the tax credits allocated to an investor would likely lead to more administrative work for the KHRC. The representative stated a limit to the number of transfers could alleviate this administrative burden while supporting the goals of the legislation.

Written-only **opponent** testimony was submitted by a representative of Americans for Prosperity Kansas. The testimony stated a concern for the limitation of the tax credit to only those making investments in qualified housing projects.

The Senate Committee amended the bill to address the retaliatory tax consideration of taxes paid by certain insurance companies.

## **Fiscal Information**

### ***SB 34 (Kansas Rural Housing Incentive District Act)***

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Kansas Development Finance Authority indicates the bill could reduce state tax revenues as the tax increment revenues would be pledged to pay debt service on bonds. The agency also indicates local governments could experience an increase in debt liabilities.

The Kansas Department of Revenue indicates, because revenues under the bill would come from future real property developments, the agency is unable to estimate what the fiscal effect would be.

The League of Kansas Municipalities indicates the bill could increase revenue to the cities because of the increased

property taxes and sales taxes from the construction projects and renovations of property detailed by the bill.

The Kansas Department of Commerce and the Kansas Association of Counties indicate the bill would not have a fiscal effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

***SB 37 (Kansas Housing Investor Tax Credit Act)***

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Department of Revenue indicates the bill would affect State General Fund (SGF) revenue. The bill would allow the Kansas Housing Investor Tax Credit to be transferred to multiple taxpayers; however, the total amount of these credits would continue to be capped at \$13.0 million per tax year.

The Department indicates enactment of the bill would require \$42,780 from the SGF in FY 2024 to implement the bill and for additional information technology expenditures. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

A fiscal note was not immediately available regarding the effect of the inclusion of certain premium taxes paid in consideration of taxes owed by insurance companies.

Any fiscal effect associated with SB 37 is not reflected in *The FY 2024 Governor's Budget Report*.

Housing; economic development; Kansas Rural Housing Incentive District Act; Kansas Urban Housing Incentive District Act; Kansas Investor Tax Credit Act; transferability of credits; retaliatory taxes