

## 2023 Kansas Statutes

**79-32,312. Kansas housing investor tax credit program; administration; qualified housing projects; requirements; eligibility; rules and regulations.** (a) There is hereby established the Kansas housing investor tax credit program within the Kansas housing resources corporation, to be administered by the director of housing. The purpose of tax credits issued under the Kansas housing investor tax credit program is to facilitate investment in suitable housing that will support the growth of communities that lack adequate housing by attracting new employees, residents and families and will support the development and expansion of businesses that are job and wealth creating enterprises.

(b) To achieve this purpose and to optimize the use of the limited resources of the state, the director is authorized to issue tax credits for qualified housing projects to qualified investors who make cash investments in such qualified housing projects and to project builders and developers. Such tax credits shall be issued for those qualified housing projects that, as determined by the director, are most likely to provide the greatest economic benefit to and best meet the needs of the community lacking adequate housing where the project is located. In issuing tax credits, the director shall give priority to Kansas investors.

(c) To be designated as a qualified housing project, the project builder or developer shall apply to the director. Such application shall be in a form and substance as required by the director and shall include:

- (1) The name and address of the project builder or developer and names of all principals or management;
- (2) if the project builder or developer is seeking tax credits for such builder's or developer's cash investment in the project, information as required by the director for consideration of the request;
- (3) a project plan, including a description of the project, timeline, housing to be constructed, intended market, costs and anticipated pricing for the housing and any other information that may be required by the director;
- (4) a statement of the potential economic impact of the project;
- (5) a description of all financing for the project, the amount of any tax credits requested and the earliest year in which the tax credits may be claimed;
- (6) a statement of the amount, timing and projected use of the proceeds to be raised from qualified investors;
- (7) the names, addresses and taxpayer identification numbers of all investors who may qualify for the tax credit. Such list of investors who may qualify for the tax credit shall be amended as any information on the list shall change; and
- (8) such additional information as the director may require.

(d) In determining whether to designate a project as a qualified housing project, the director shall consider whether the project:

- (1) Has the support of the community and the governing body of the city or county where such project is located;
- (2) will enhance the ability of the community that lacks adequate housing to attract new businesses or expand existing business by providing suitable housing directly for employees or make such housing significantly more available, or will meet other significant housing needs of the community making the community attractive to new or expanding businesses or their employees, as determined by the director;
- (3) has the financial support, management, planning and market to be successful;
- (4) has an analysis or survey of the housing needs of the community provided by the project builder or developer or the governing body of the city or county where the project is located that, in the director's judgment, supports proceeding with the proposed project for the purposes of this act;
- (5) has met all other requirements of this act to the satisfaction of the director; and
- (6) has met such other requirements of the director as adopted in rules and regulations.

(e) If the director approves the application, the director shall enter into an agreement with the project builder or developer for the project prior to issuing any tax credits for the project. The agreement shall set forth the amount of tax credits to

be issued for the project, the requirements for a cash investment and the issuance of tax credits. If the project builder or developer has been approved by the director for tax credits for the project builder's or developer's cash investment in the project, the agreement shall set forth the amount of credits so approved and the amount of credits remaining for issuance to other qualified investors. Such agreement shall require, as a condition of the issuance of tax credits, binding commitments by the project builder or developer to the corporation for:

(1) The reporting of progress and financial data, including investor information. The project builder or developer shall have the obligation to notify the director in a timely manner of any changes in the qualifications of the project or in the eligibility of investors to claim a tax credit;

(2) the right of access to the project and to the financial records of the project builder or developer;

(3) the provision of information for purposes of the economic development incentive program information database pursuant to K.S.A. 2023 Supp. 74-50,226, and amendments thereto;

(4) the repayment requirements upon loss of designation pursuant to K.S.A. 2023 Supp. 79-32,314, and amendments thereto; and

(5) any additional terms and conditions required by the director.

(f) To be eligible to receive tax credits, a qualified investor shall make a cash investment in the project in accordance with the agreement required by subsection (e). Each project builder or developer of a designated qualified housing project shall promptly report to the corporation the following information at the time such information becomes known to the builder or developer:

(1) The name, address and taxpayer identification number of each qualified investor who has made a cash investment in qualified securities in the project and has received tax credits for this investment during the preceding year and all other preceding years;

(2) the amounts of the cash investments by each qualified investor and a description of the qualified securities issued in consideration of such cash investments;

(3) the name, address and taxpayer identification number of each person to whom tax credits have been transferred by the original qualified investor; and

(4) any additional information as the director may require when requested.

(g) Any violation of the reporting requirements set forth in this section shall be grounds for loss of the designation as a qualified housing project, as provided by K.S.A. 2023 Supp. 79-32,314, and amendments thereto.

(h) The reasonable costs of the administration of this act, the review of applications for certification as qualified housing projects and the issuance of tax credits to qualified housing projects as authorized by this act may be reimbursed in total or in part through fees paid by the qualified project, qualified investors or transferees of investors, according to a reasonable fee schedule adopted by the director.

(i) The state of Kansas shall not be held liable for any damages to any qualified investor that makes an investment in a qualified housing project.

(j) The director shall provide information regarding qualified housing projects and qualified investors to the secretary of revenue.

(k) The director shall adopt rules and regulations as necessary to implement the provisions of this act.

**History:** L. 2022, ch. 85, § 9; July 1.