

Executive Reorganization Order No. 30

By Governor Kathleen Sebelius

2-11

Section 1. There is hereby established within the Kansas development finance authority, a division of housing to be organized and administered by the Kansas development finance authority. The head of the division shall be the director of housing, who shall be appointed by and serve at the pleasure of the president of the Kansas development finance authority. The director of housing shall administer the division of housing.

Sec. 2. (a) The division of housing within the department of commerce and housing and the undersecretary for housing within the department of commerce and housing created by K.S.A. 74-5002g, and amendments thereto, are hereby abolished. On the effective date of this order, the department of commerce and housing is hereby renamed the department of commerce, and the secretary of commerce and housing is hereby renamed the secretary of commerce.

(b) Except as otherwise provided by this order, all of the powers, duties and functions of the existing division of housing within the department of commerce and housing, and the existing undersecretary of housing within the department of commerce and housing, are hereby transferred to and imposed upon the division of housing within the Kansas development finance authority and the director of housing established by this order.

(c) Except as otherwise provided by this order, all of the powers, duties and functions of the department of commerce and housing and the secretary of commerce and housing that relate to housing and housing-related purposes are hereby transferred to and imposed upon the Kansas development finance authority and the president of the Kansas development finance authority.

Sec. 3. (a) The division of housing within the Kansas development finance authority established by this order shall be the successor in every way to the powers, duties, and functions of the division of housing within the department of commerce and housing in which the same were vested prior to the effective date of this order and that are transferred pursuant to section 2. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas development finance authority or the director of housing within the Kansas development

1 finance authority established by this order shall be deemed to have the
2 same force and effect as if performed by the department of commerce
3 and housing or the undersecretary of housing within the department of
4 commerce and housing in which such powers, duties and functions were
5 vested prior to the effective date of this order. Contracts related to hous-
6 ing functions shall be transferred to the extent they may be legally trans-
7 ferred or assigned.

8 (b) Whenever the division of housing of the department of commerce
9 and housing, or words of like effect, are referred to or designated by a
10 statute, contract or other document, such reference or designation shall
11 be deemed to apply to the division of housing established by this order.

12 (c) Whenever the undersecretary for housing within the department
13 of commerce and housing, or words of like effect, are referred to or
14 designated by a statute, contract or other document, such reference or
15 designation shall be deemed to apply to the director of housing estab-
16 lished by this order.

17 (d) Whenever the department of commerce and housing or the sec-
18 retary of commerce and housing, or words of like effect, are referred to
19 or designated by a statute, contract or other document and such reference
20 is in regard to any of the powers, duties, or functions transferred to the
21 Kansas development finance authority pursuant to this order, such ref-
22 erence or designation shall be deemed to apply to the Kansas develop-
23 ment finance authority and the president of the Kansas development fi-
24 nance authority.

25 (e) All rules and regulations, orders and directives of the secretary of
26 the department of commerce and housing or the undersecretary for hous-
27 ing which relate to the functions transferred by this order and which are
28 in effect on the effective date of this order shall continue to be effective
29 and shall be deemed to be rules and regulations, orders and directives of
30 the Kansas development finance authority and the director of housing
31 until revised, amended, revoked, or nullified pursuant to law.

32 Sec. 4. (a) On the effective date of this order, the balances of all funds
33 or accounts thereof appropriated or reappropriated for the department
34 of commerce and housing relating to the powers and duties and functions
35 transferred by this order are hereby transferred within the state treasury
36 to the division of housing within the Kansas development finance au-
37 thority and shall be used only for the purpose for which the appropriation
38 was originally made.

39 (b) On the effective date of this order, liability for all accrued com-
40 pensation or salaries of officers and employees who are transferred to the
41 Kansas development finance authority under this order shall be assumed
42 and paid by the division of housing within the Kansas development fi-
43 nance authority.

1 (c) The Kansas development finance authority shall keep separate
2 records and accounts for the division of finance and the division of hous-
3 ing within the Kansas development finance authority. All expenses of the
4 division of finance incurred in the performance of its duties and con-
5 ducting its finance programs shall be payable from funds generated by or
6 designated for the division of finance, and all expenses of the division of
7 housing incurred in the performance of its duties and conducting its hous-
8 ing programs shall be payable from funds generated by or designated for
9 the division of housing, including state appropriations. This system of
10 separate records and accounts shall be in effect for such period as the
11 Kansas development finance authority deems necessary and appropriate,
12 and may also be subject to modification as the Kansas development fi-
13 nance authority deems necessary and appropriate.

14 Sec. 5. (a) When any conflict arises as to the disposition of any prop-
15 erty, power, duty or function or the unexpended balance of any appro-
16 priation as a result of any abolition or transfer made by or under the
17 authority of this order, such conflict shall be resolved by the governor,
18 whose decision shall be final.

19 (b) The Kansas development finance authority shall succeed to all
20 property, property rights and records which were used for or pertain to
21 the performance of powers, duties and functions transferred to the Kansas
22 development finance authority. Any conflict as to the proper disposition
23 of property, personnel or records arising under this order shall be deter-
24 mined by the governor, whose decision shall be final.

25 Sec. 6. (a) No suit, action or other proceeding, judicial or adminis-
26 trative, lawfully commenced, or which could have been commenced, by
27 or against any state agency or program mentioned in this order, or by or
28 against any officer of the state in such officer's official capacity or in
29 relation to the discharge of such officer's official duties, shall abate by
30 reason of the governmental reorganization effected under the provisions
31 of this order. The court may allow any such suit, action or other pro-
32 ceeding to be maintained by or against the successor of any such state
33 agency or any officer affected. The state shall remain the party in interest
34 in any such action.

35 (b) No criminal action commenced or which could have been com-
36 menced by the state shall abate by the taking effect of this order, and the
37 state shall remain the party in interest in any such action.

38 Sec. 7. (a) Except with respect to the powers, duties, and functions
39 that are transferred by this order to the Kansas development finance
40 authority or to the division of housing within the Kansas development
41 finance authority, the department of commerce established by this order
42 shall be the successor in every way to the powers, duties, and functions
43 of the department of commerce and housing in which the same were

1 vested prior to the effective date of this order. Every act performed in
2 the exercise of such powers, duties and functions by or under the au-
3 thority of the Kansas department of commerce or the secretary of com-
4 merce established by this order shall be deemed to have the same force
5 and effect as if performed by the department of commerce and housing
6 or the secretary of commerce and housing in which such powers, duties
7 and functions were vested prior to the effective date of this order.

8 (b) Whenever the department of commerce and housing, or words
9 of like effect, are referred to or designated by a statute, contract or other
10 document, and such reference or designation is in regard to any function,
11 power, or duty other than those powers, duties, and functions that are
12 transferred to the Kansas development finance authority under this order,
13 such reference or designation shall be deemed to apply to the department
14 of commerce established by this order.

15 (c) Whenever the secretary of commerce and housing, or words of
16 like effect, are referred to or designated by a statute, contract or other
17 document, and such reference or designation is in regard to any function,
18 power, or duty other than those powers, duties, and functions that are
19 transferred to the Kansas development finance authority under this order,
20 such reference or designation shall be deemed to apply to the secretary
21 of commerce established by this order.

22 (d) All rules and regulations, orders and directives of the secretary of
23 the department of commerce and housing that relate to functions other
24 than those functions transferred by this order and that are in effect on
25 the effective date of this order shall continue to be effective and shall be
26 deemed to be rules and regulations, orders and directives of the secretary
27 of commerce until revised, amended, revoked, or nullified pursuant to
28 law.

29 Sec. 8. (a) All officers and employees of the division of housing within
30 the department of commerce and housing who, immediately prior to the
31 effective date of this order, are engaged in the exercise and performance
32 of the powers, duties and functions transferred by this order are hereby
33 transferred to and become employees of the Kansas development finance
34 authority. All classified employees so transferred shall retain their status
35 as classified employees. Thereafter, the Kansas development finance au-
36 thority may convert vacant classified positions to positions that are not
37 classified.

38 (b) Officers and employees of the division of housing of the depart-
39 ment of commerce and housing transferred by this order shall retain all
40 retirement benefits and leave balances and rights which had accrued or
41 vested prior to the date of transfer. The service of each such officer and
42 employee so transferred shall be deemed to have been continuous. Any
43 subsequent transfers, layoffs and abolition of classified service positions

1 under the Kansas civil service act shall be made in accordance with the
2 civil service laws and any rules and regulations adopted thereunder. Noth-
3 ing in this order shall affect the classified status of any transferred person
4 employed prior to the date of transfer by the division of housing within
5 the department of commerce and housing.

6 Sec. 9. All of the provisions of this order shall take effect and have
7 the force of general law on July 1, 2003, unless disapproved by either
8 house of the Kansas legislature as provided by subsection (c) of section 6
9 of article 1 of the constitution of Kansas, and unless so disapproved, this
10 order is to be published as and with the acts of the legislature and the
11 statutes of this state.

12 DONE AT The Capitol in Topeka
13 Under the Great Seal of the
14 State of Kansas this 10th day
15 of February, 2003.

16 BY THE GOVERNOR

17 Kathleen Sebelius

18 Ron E. Thornburgh

19 *Secretary of State*

20 Janet A. Chubb

21 *Assistant Secretary of State*
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