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6 **SENATE BILL No. 222**

7  
8 By Committee on Ways and Means

9  
10 2-13

11  
12 AN ACT concerning housing; relating to the Kansas development fi-  
13 nance authority; authorizing the issuance of mortgage revenue bonds;  
14 amending K.S.A. ~~12-5233~~, 74-8902, **74-8903**, 74-8904, 74-8905 and  
15 74-8912 and repealing the existing sections.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 74-8902 is hereby amended to read as follows: 74-  
19 8902. The following words or terms used in this act shall have the follow-  
20 ing meanings unless a different meaning clearly appears from the context:

21 (a) "Act" means the Kansas development finance authority act.

22 (b) "Authority" means the Kansas development finance authority cre-  
23 ated by K.S.A. 74-8903, and amendments thereto.

24 (c) "Agricultural business enterprises" means facilities supporting or  
25 utilized in the operation of farms, ranches and other agricultural, aqua-  
26 cultural or silvicultural commodity producers and services provided in  
27 conjunction with the foregoing. "Agricultural business enterprise" shall  
28 not include a swine production facility on agricultural land which is  
29 owned, acquired, obtained or leased by a corporation, limited liability  
30 company, limited partnership, corporate partnership or trust.

31 (d) "Agricultural land," "corporation," "corporate partnership," "lim-  
32 ited liability company," "limited partnership," "swine production facility"  
33 and "trust" have the meanings ascribed pursuant to K.S.A. 17-5903, and  
34 amendments thereto.

35 (e) "Board of directors" means the board of directors of the authority  
36 created by K.S.A. 74-8903, and amendments thereto.

37 (f) "Bonds" means any bonds, notes, debentures, interim certificates,  
38 grant and revenue anticipation notes, interest in a lease, lease certificate  
39 of participation or other evidences of indebtedness, whether or not the  
40 interest on which is subject to federal income taxation, issued by the  
41 authority pursuant to this act.

42 (g) "Capital improvements" means any physical public betterment or  
43 improvement or any preliminary plans, studies or surveys relative thereto;

1 land or rights in land, including, without limitations, leases, air rights,  
2 easements, rights-of-way or licenses; and any furnishings, machinery, ve-  
3 hicles, apparatus or equipment for any public betterment or  
4 improvement.

5 (h) “Construct” means to acquire or build, in whole or in part, in  
6 such manner and by such method as the authority shall determine to be  
7 in the public interest and necessary to accomplish the purposes of and  
8 authority set forth in this act.

9 (i) “Loans” means loans made for the purposes of financing any of  
10 the activities authorized within this act, including loans made to financial  
11 institutions for funding or as security for loans made for accomplishing  
12 any of the purposes of this act and reserves and expenses appropriate or  
13 incidental thereto.

14 (j) “Educational facilities” means real, personal and mixed property  
15 of any and every kind intended by an educational institution in further-  
16 ance of its educational program.

17 (k) “Facilities” means any real property, personal property or mixed  
18 property of any and every kind.

19 (l) “Health care facilities” means facilities for furnishing physical or  
20 mental health care.

21 (m) “Housing development” means any work or undertaking,  
22 whether new construction or rehabilitation, which is designed and fi-  
23 nanced pursuant to the provisions of this act for the primary purpose of  
24 providing dwelling accommodations for elderly persons and families of  
25 low or moderate income in need of housing.

26 (n) “Industrial enterprise” means facilities for manufacturing, pro-  
27 ducing, processing, assembling, repairing, extracting, warehousing, dis-  
28 tributing, communications, computer services, transportation, corporate  
29 and management offices and services provided in connection with any of  
30 the foregoing, in isolation or in any combination, that involve the creation  
31 of new or additional employment or the retention of existing employment.

32 (o) “Political subdivision” means political or taxing subdivisions of the  
33 state, including municipal and quasi-municipal corporations, boards, com-  
34 missions, authorities, councils, committees, subcommittees and other  
35 subordinate groups or administrative units thereof, receiving or expend-  
36 ing and supported, in whole or in part, by public funds.

37 (p) “Pooled bonds” means bonds of the authority, the interest on  
38 which is subject to federal income taxation, which are issued for the pur-  
39 pose of acquiring bonds issued by two or more political subdivisions.

40 (q) “Project of statewide as well as local importance” means a project  
41 as to which the secretary of commerce and housing has made a finding  
42 that at least: (i) Capital improvements costing not less than \$300,000,000  
43 or, if constructed in a county which according to the 1990 decennial

1 census contained a population of 25,000 or less, costing not less than  
2 \$5,000,000 will be built in the state for such project; (ii) not less than  
3 1,500 or, if created in a county which according to the 1990 decennial  
4 census contained a population of 25,000 or less, not less than 150 per-  
5 manent and seasonal employment positions as defined by K.S.A. 74-  
6 50,114, and amendments thereto, will be created in the state by such  
7 project; (iii) is located outside of the city limits of any city at the time of  
8 such finding; and (iv) is to be located at a site designated as a federal  
9 enclave as of January 1, 1998.

10 (r) “State” means the state of Kansas.

11 (s) “State agency” means any office, department, board, commission,  
12 bureau, division, public corporation, agency or instrumentality of this  
13 state.

14 (t) “Home” means (1) (A) a one to four family residence;

15 (B) a condominium as defined in K.S.A. 58-3102, and amendments  
16 thereto;

17 (C) a manufactured home, as defined by K.S.A. 58-4202, and amend-  
18 ments thereto; or

19 (D) a mobile **or modular** home, as defined by K.S.A. 58-4202, and  
20 amendments thereto, having a permanent foundation which may not be  
21 removed intact from the land; and

22 (2) consists of the land and improvements thereon, which is either  
23 owned and occupied or is owned and is to be occupied by the mortgagor,  
24 and in the case of a two to four family residence one unit of the residence,  
25 shall be either owned and occupied or is owned and is to be occupied by  
26 the mortgagor.

27 (u) “Home mortgage loan” means a loan to a mortgagor evidenced by  
28 a promissory note and secured by a mortgage, purchased or originated  
29 by the authority made for the purpose of acquiring, constructing or im-  
30 proving a home.

31 (v) “Lending institution” means any bank, bank holding company,  
32 credit union, trust company, savings bank, national banking association,  
33 savings and loan association, building and loan association, mortgage  
34 banker or other financial institution which customarily originates or serv-  
35 ices home mortgages.

36 (w) “Mortgagor” means any person of low or moderate income who  
37 has received or qualifies to receive a home mortgage loan on a home.

38 (x) “Persons of low or moderate income” means a person or family,  
39 consisting of one or more persons all of whom occupy or will occupy the  
40 home, whose aggregate gross income shall not exceed a maximum amount  
41 to be established by the authority, determined in accordance with appro-  
42 priate criteria, rules and regulations and approved by the authority in  
43 connection with the implementation of a residential housing finance plan.

1     (y) “Residential housing finance plan” means a program implemented  
2 under this act by the authority to assist persons of low or moderate income  
3 in acquiring safe, decent and sanitary housing. Such plan shall include  
4 provisions allowing each lending institution with an office located within  
5 the state, an equal opportunity to participate in accordance with the stan-  
6 dards and requirements established by the authority. Nothing in this sec-  
7 tion shall preclude the use of out-of-state master servicers.

8     Sec. 2. K.S.A. 74-8904 is hereby amended to read as follows: 74-  
9 8904. Except as otherwise limited by this act, the authority shall have the  
10 following powers to:

- 11     (a) Sue and be sued;
- 12     (b) have a seal and alter such seal;
- 13     (c) make and alter bylaws for its organization and internal  
14 management;
- 15     (d) adopt such rules and regulations as may be necessary to carry out  
16 the purposes of this act;
- 17     (e) acquire, hold and dispose of real and personal property for its  
18 corporate purposes;
- 19     (f) appoint officers, agents and employees, prescribe their duties and  
20 qualifications and fix their compensation;
- 21     (g) borrow money and to issue notes, bonds and other obligations  
22 pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the  
23 interest on which is subject to federal income taxation, and to provide for  
24 the rights of the lenders or holders thereof;
- 25     (h) purchase notes or participations in notes evidencing loans which  
26 are secured by mortgages or security interests and to enter into contracts  
27 in that regard;
- 28     (i) make secured or unsecured loans for any of the purposes for which  
29 bonds of the authority may be issued under this act or to low and mod-  
30 erate income multifamily rental housing projects participating in pro-  
31 grams established in section 42 of the federal internal revenue code, and  
32 provide financing for housing projects and programs in participation with  
33 programs established by the United States department of housing and  
34 urban development or the Kansas department of commerce and housing;  
35 ~~except as otherwise provided in this subsection, nothing in this act shall~~  
36 ~~be construed to authorize the authority to make loans directly to individ-~~  
37 ~~uals to finance housing developments; **except as otherwise provided in**~~  
38 **this subsection, the authority shall not be authorized to make loans**  
39 **directly to individuals to (1) originate home mortgage loans secured**  
40 **by a first lien in competition with private lending institutions or (2)**  
41 **originate home mortgage loans secured by a junior lien in compe-**  
42 **tion with private lending institutions unless such home mortgage**  
43 **loans secured by junior lien are made only to pay all or a portion**

1 ***of a mortgagor's required down payment or closing costs in con-***  
2 ***nection with the acquisition of a home;***

3 (j) sell mortgages and security interests at public or private sale, to  
4 negotiate modifications or alterations in mortgage and security interests,  
5 to foreclose on any mortgage or security interest in default or commence  
6 any action to protect or enforce any right conferred upon it by any law,  
7 mortgage, security agreement, contract or other agreement, and to bid  
8 for and purchase property which was the subject of such mortgage or  
9 security interest at any foreclosure or at any other sale, to acquire or take  
10 possession of any such property, and to exercise any and all rights as  
11 provided by law for the benefit or protection of the authority or mortgage  
12 holders;

13 (k) collect fees and charges in connection with its loans, bond guar-  
14 antees, commitments and servicing, including, but not limited to, reim-  
15 bursement of costs of financing as the authority shall determine to be  
16 reasonable and as shall be approved by the authority;

17 (l) make and execute contracts for the servicing of mortgages ac-  
18 quired by the authority pursuant to this act, and to pay the reasonable  
19 value of services rendered to the authority pursuant to those contracts;

20 (m) enter into agreements with and accept gifts, grants, loans and  
21 other aid from the federal government, the state, any state agency, any  
22 political subdivision of the state, or any person or corporation, foundation  
23 or legal entity, and to agree to and comply with any conditions attached  
24 to federal and state financial assistance not inconsistent with the provi-  
25 sions of this act;

26 (n) invest moneys of the authority not required for immediate use,  
27 including proceeds from the sale of any bonds, in such manner as the  
28 board shall determine, subject to any agreement with bondholders stated  
29 in the authorizing resolution providing for the issuance of bonds;

30 (o) procure insurance against any loss in connection with its pro-  
31 grams, property and other assets;

32 (p) provide technical assistance and advice to the state or political  
33 subdivisions of the state and to enter into contracts with the state or  
34 political subdivisions of the state to provide such services. The state or  
35 political subdivisions of the state are hereby authorized to enter into con-  
36 tracts with the authority for such services and to pay for such services as  
37 may be provided them;

38 (q) establish accounts in one or more depositories;

39 (r) lease, acquire, construct, sell and otherwise deal in and contract  
40 concerning any facilities;

41 (s) have and exercise all of the powers granted to the public housing  
42 authorities by the state, except that the authority shall not have the power  
43 of eminent domain;

1 (t) do any and all things necessary or convenient to carry out purposes  
2 of the authority and exercise the powers given and granted in this act;

3 (u) assist minority businesses in obtaining loans or other means of  
4 financial assistance. The terms and conditions of such loans or financial  
5 assistance, including the charges for interest and other services, will be  
6 consistent with the provisions of this act. In order to comply with this  
7 requirement, efforts must be made to solicit for review and analysis pro-  
8 posed minority business ventures. Basic loan underwriting standards will  
9 not be waived to inconsistently favor minority persons or businesses from  
10 the intent of the authority's lending practices; ~~and~~

11 (v) form one or more subsidiary corporations under K.S.A. 17-6001  
12 *et seq.*, and amendments thereto, in accordance with the procedures  
13 therein contained. Each subsidiary corporation shall be subject to the  
14 same restrictions and limitations as to the powers and purposes to which  
15 the authority is subject. The authority may delegate any of its powers,  
16 obligations and duties to any subsidiary corporation by inclusion of such  
17 powers, obligations and duties in the articles of incorporation of the sub-  
18 sidiary corporation. Subsidiary corporations so formed shall constitute  
19 legal entities separate and distinct from each other, the authority and the  
20 state. The authority shall not be liable for the debts or obligations or for  
21 any actions or inactions of its subsidiary corporations unless the authority  
22 expressly agrees otherwise in writing. The authority may make loans or  
23 grants to a subsidiary corporation from time to time to enable the sub-  
24 sidiary corporation to carry out its purposes. The members of the au-  
25 thority shall constitute all of the directors of each subsidiary corporation.

26 The state, any municipality or any state commission, public authority,  
27 agency, officer, department, board or division authorized and empowered  
28 to enter into agreements with, to grant, convey, lease or otherwise transfer  
29 any property to, or to otherwise transact business with the authority, shall  
30 have the same authorization and power to engage in these activities with  
31 each subsidiary corporation of the authority.

32 One or more such subsidiary corporation may be formed for purposes  
33 of establishing state tax credit equity funds to assist in the development  
34 of low-income and middle-income housing and obtain financing through  
35 participation in the program established in section 42 of the federal in-  
36 ternal revenue code.

37 Actions of the authority or any subsidiary corporation relating to hous-  
38 ing pursuant to this subsection (v) shall be carried out in accordance with  
39 any terms, conditions and limitations relating to policy issues regarding  
40 housing, as established by the secretary of commerce and housing.

41 One or more such subsidiary corporations may be formed for purposes  
42 of acquiring or conveying on behalf of the state and pursuant to this act  
43 a project of statewide as well as local importance, issuing bonds on behalf

1 of the state pursuant to this act to finance a project of statewide as well  
2 as local importance or otherwise financing on behalf of the state pursuant  
3 to this act a project of statewide as well as local importance. The Kansas  
4 statewide projects development corporation is hereby created in accord-  
5 ance with this section;

6 *(w) participate in, administer, coordinate and enter into any agree-*  
7 *ments to facilitate or to provide any financings as may be related to any*  
8 *tax credit programs which from time to time may be authorized by the*  
9 *federal or state government; and*

10 *(x) with respect to home mortgage loans, in addition to other powers*  
11 *of the authority pursuant to this act:*

12 *(1) to acquire, and to contract and enter into advance commitments*  
13 *to acquire, home mortgage loans owned by lending institutions at such*  
14 *prices and upon such other terms and conditions determined by the au-*  
15 *thority or such other person as it may designate as its agent;*

16 *(2) to make and execute contracts with lending institutions for the*  
17 *origination and servicing of home mortgage loans on behalf of the au-*  
18 *thority and to pay the reasonable value of services rendered in accordance*  
19 *with such contracts;*

20 *(3) to establish, by rules and regulations, by resolution relating to any*  
21 *issuance of bonds or in any financing documents relating to such issuance,*  
22 *such standards and requirements applicable to the purchase of home*  
23 *mortgage loans or the origination of home mortgage loans as the authority*  
24 *deems necessary or desirable to effectuate the public purposes of this act;*

25 *(4) to authorize the sale or other disposition of any home mortgage*  
26 *loan, in whole or in part, upon such terms, at such prices and times, and*  
27 *from time to time, as may be deemed appropriate and necessary;*

28 *(5) to pledge any revenues and receipts to be received from or in*  
29 *connection with any home mortgage loans to the punctual payment of*  
30 *bonds therefore, and the interest and redemption premiums, if any,*  
31 *thereon; and*

32 *(6) to pledge or grant security interests in any home mortgage loans,*  
33 *notes, revenues therefrom or other property in favor of the holder or*  
34 *holders of bonds issued therefore.*

35 Sec. 3. K.S.A. 74-8905 is hereby amended to read as follows: 74-  
36 8905. (a) The authority may issue bonds, either for a specific activity or  
37 on a pooled basis for a series of related or unrelated activities or projects  
38 duly authorized by a political subdivision or group of political subdivisions  
39 of the state in amounts determined by the authority for the purpose of  
40 financing projects of statewide as well as local importance as defined  
41 pursuant to K.S.A. ~~42-1744~~ 74-8902, and amendments thereto, capital  
42 improvement facilities, educational facilities, health care facilities and  
43 housing developments. Nothing in this act shall be construed to authorize

1 the authority to issue bonds or use the proceeds thereof to:

2 (1) Purchase, condemn or otherwise acquire a utility plant or distri-  
3 bution system owned or operated by a regulated public utility;

4 (2) finance any capital improvement facilities, educational facilities or  
5 health care facilities which may be financed by the issuance of general  
6 obligation or utility revenue bonds of a political subdivision, except that  
7 the acquisition by the authority of general obligation or utility revenue  
8 bonds issued by political subdivisions with the proceeds of pooled bonds  
9 shall not violate the provisions of the foregoing; or

10 (3) purchase, acquire, construct, reconstruct, improve, equip, fur-  
11 nish, repair, enlarge or remodel property for any swine production facility  
12 on agricultural land which is owned, acquired, obtained or leased by a  
13 corporation, limited liability company, limited partnership, corporate  
14 partnership or trust.

15 Nothing in this subsection (a) shall prohibit the issuance of bonds by  
16 the authority when any statute specifically authorizes the issuance of  
17 bonds by the authority or approves any activity or project of a state agency  
18 for purposes of authorizing any such issuance of bonds in accordance with  
19 this section and provides an exemption from the provisions of this sub-  
20 section (a).

21 (b) The authority may issue bonds for activities and projects of state  
22 agencies as requested by the secretary of administration. No bonds may  
23 be issued pursuant to this act for any activity or project of a state agency  
24 unless the activity or project either has been approved by an appropriation  
25 or other act of the legislature or has been approved by the state finance  
26 council acting on this matter which is hereby characterized as a matter  
27 of legislative delegation and subject to the guidelines prescribed in sub-  
28 section (c) of K.S.A. 75-3711c, and amendments thereto. When requested  
29 to do so by the secretary of administration, the authority may issue bonds  
30 for the purpose of refunding, whether at maturity or in advance of ma-  
31 turity, any outstanding bonded indebtedness of any state agency. The  
32 revenues of any state agency which are pledged as security for any bonds  
33 of such state agency which are refunded by refunding bonds of the au-  
34 thority may be pledged to the authority as security for the refunding  
35 bonds.

36 (c) The authority may issue bonds for the purpose of financing in-  
37 dustrial enterprises, agricultural business enterprises, educational facili-  
38 ties, health care facilities and housing developments, or any combination  
39 of such facilities, or any interest in facilities, including without limitation  
40 leasehold interests in and mortgages on such facilities. No less than 30  
41 days prior to the issuance of any bonds authorized under this act with  
42 respect to any project or activity which is to be undertaken for the direct  
43 benefit of any person or entity which is not a state agency or a political



1 subdivision, written notice of the intention of the authority to provide  
2 financing and issue bonds therefor shall be given by the president of the  
3 authority to the governing body of the city in which the project or activity  
4 is to be located. If the project or activity is not proposed to be located  
5 within a city, such notice shall be given to the governing body of the  
6 county. No bonds for the financing of the project or activity shall be issued  
7 by the authority for a one-year period if, within 15 days after the giving  
8 of such notice, the governing body of the political subdivision in which  
9 the project or activity is proposed to be located shall have adopted an  
10 ordinance or resolution stating express disapproval of the project or ac-  
11 tivity and shall have notified the president of the authority of such  
12 disapproval.

13 (d) The authority may issue bonds for the purpose of establishing and  
14 funding one or more series of venture capital funds in such principal  
15 amounts, at such interest rates, in such maturities, with such security, and  
16 upon such other terms and in such manner as is approved by resolution  
17 of the authority. The proceeds of such bonds not placed in a venture  
18 capital fund or used to pay or reimburse organizational, offering and ad-  
19 ministrative expenses and fees necessary to the issuance and sale of such  
20 bonds shall be invested and reinvested in such securities and other in-  
21 struments as shall be provided in the resolution under which such bonds  
22 are issued. Moneys in a venture capital fund shall be used to make venture  
23 capital investments in new, expanding or developing businesses, includ-  
24 ing, but not limited to, equity and debt securities, warrants, options and  
25 other rights to acquire such securities, subject to the provisions of the  
26 resolution of the authority. The authority shall establish an investment  
27 policy with respect to the investment of the funds in a venture capital  
28 fund not inconsistent with the purposes of this act. The authority shall  
29 enter into an agreement with a management company experienced in  
30 venture capital investments to manage and administer each venture cap-  
31 ital fund upon terms not inconsistent with the purposes of this act and  
32 such investment policy. The authority may establish an advisory board to  
33 provide advice and consulting assistance to the authority and the man-  
34 agement company with respect to the management and administration of  
35 each venture capital fund and the establishment of its investment policy.  
36 All fees and expenses incurred in the management and administration of  
37 a venture capital fund not paid or reimbursed out of the proceeds of the  
38 bonds issued by the authority shall be paid or reimbursed out of such  
39 venture capital fund.

40 (e) The authority may issue bonds in one or more series for the pur-  
41 pose of financing a project of statewide as well as local importance in  
42 connection with a redevelopment plan that is approved by the authority  
43 in accordance with K.S.A. 74-8921 and 74-8922, and amendments

1 thereto.

2 (f) After receiving and approving the feasibility study required pur-  
3 suant to K.S.A. 74-8936, and amendments thereto, the authority may  
4 issue bonds in one or more series for the purpose of financing a multi-  
5 sport athletic project in accordance with K.S.A. 74-8936 through 74-8938,  
6 and amendments thereto. If the project is to be constructed in phases, a  
7 similar feasibility study shall be performed prior to issuing bonds for the  
8 purpose of financing each subsequent phase.

9 (g) The authority may issue bonds for the purpose of financing resort  
10 facilities, as defined in subsection (a) of K.S.A. 32-867, and amendments  
11 thereto, in an amount or amounts not to exceed \$30,000,000 for any one  
12 resort. The bonds and the interest thereon shall be payable solely from  
13 revenues of the resort and shall not be deemed to be an obligation or  
14 indebtedness of the state within the meaning of section 6 of article 11 of  
15 the constitution of the state of Kansas. The authority may contract with  
16 a subsidiary corporation formed pursuant to subsection (v) of K.S.A. 74-  
17 8904, and amendments thereto, or others to lease or operate such resort.  
18 The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-873 and 32-  
19 874a through 32-874d, and amendments thereto, shall apply to resorts  
20 and bonds issued pursuant to this subsection.

21 (h) *The authority may issue bonds for the purpose of financing, ac-*  
22 *quiring or originating home mortgage loans. **Except as provided in***  
23 ***K.S.A. 74-8904, and amendments thereto, any moneys derived by***  
24 ***the authority from the issuance of bonds under this subsection (h)***  
25 ***and not used directly to finance, acquire or originate home mort-***  
26 ***gage loans shall be used by the authority to support programs or***  
27 ***activities related to low or moderate income housing.***

28 ~~(h)~~ (i) The authority may use the proceeds of any bond issues herein  
29 authorized, together with any other available funds, for venture capital  
30 investments or for purchasing, leasing, constructing, restoring, renovat-  
31 ing, altering or repairing facilities as herein authorized, for making loans,  
32 purchasing mortgages or security interests in loan participations and pay-  
33 ing all incidental expenses therewith, paying expenses of authorizing and  
34 issuing the bonds, paying interest on the bonds until revenues thereof are  
35 available in sufficient amounts, purchasing bond insurance or other credit  
36 enhancements on the bonds, and funding such reserves as the authority  
37 deems necessary and desirable. All moneys received by the authority,  
38 other than moneys received by virtue of an appropriation, are hereby  
39 specifically declared to be cash funds, restricted in their use and to be  
40 used solely as provided herein. No moneys of the authority other than  
41 moneys received by appropriation shall be deposited with the state  
42 treasurer.

43 ~~(i)~~ (j) Any time the authority is required to publish a notification pur-

1 suant to the tax equity and fiscal responsibility act of 1982, the authority  
2 shall further publish such notification in the Kansas register.

3 ~~(j)~~ (k) Any time the authority issues *private activity* bonds pursuant  
4 to this section, *other than bonds issued pursuant to subsection (h)* the  
5 authority shall publish notification of such issuance at least 14 days prior  
6 to any bond hearing in the official county newspaper of the county in  
7 which the project or activity financed by such bonds are located and in  
8 the Kansas register.

9 Sec. 4. K.S.A. 74-8912 is hereby amended to read as follows: 74-  
10 8912. Bonds may be issued for the purpose of refunding, either at ma-  
11 turity or in advance of maturity, any bonds issued under this act *and any*  
12 *bonds issued by a political subdivision pursuant to the local residential*  
13 *housing finance law, K.S.A. 12-5219 et seq., and amendments thereto, or*  
14 *for any other purpose for which bonds may be issued under this act.* Such  
15 refunding bonds may either be sold or delivered in exchange for the bonds  
16 being refunded. If sold, the proceeds may either be applied to the pay-  
17 ment of the bonds being refunded or deposited in trust and there main-  
18 tained in cash or investments for the retirement of the bonds being re-  
19 funded, as shall be specified by the authority and the authorizing  
20 resolution or trust indenture securing such refunding bonds. The au-  
21 thORIZING resolution or trust indenture securing the refunding bonds may  
22 provide that the refunding bonds shall have the same security for their  
23 payment as provided for the bonds being refunded. Refunding bonds  
24 shall be sold and secured in accordance with the provisions of this act  
25 pertaining to the sale and security of the bonds.

26 ~~New Sec. 5. The authority shall be the exclusive governmental issuer~~  
27 ~~or sponsor within the state of programs involving the issuance of bonds,~~  
28 ~~notes or other evidences of indebtedness, trust certificates, and partner-~~  
29 ~~ship interests and other evidences of equity participations that finance,~~  
30 ~~or are payable in whole or in part from, home mortgage loans, and any~~  
31 ~~mortgage credit certificates program, including the refunding or refi-~~  
32 ~~nancing of any such programs, provided that the authority may issue~~  
33 ~~bonds to refund bonds, notes or other evidences of indebtedness issued~~  
34 ~~by a political subdivision prior to the effective date of this section to~~  
35 ~~finance, which are payable in whole or in part from, home mortgage loans~~  
36 ~~only pursuant to an agreement between the authority and such political~~  
37 ~~subdivision with respect to refunding such bonds, notes or other evi-~~  
38 ~~dences of indebtedness and, absent such agreement, such political sub-~~  
39 ~~division may refund such bonds, notes or other evidences of indebtedness.~~

40 ~~—Sec. 6. K.S.A. 12-5233 is hereby amended to read as follows: 12-~~  
41 ~~5233. The powers conferred by this act are in addition and supplemental~~  
42 ~~to, and the limitations imposed by this act shall not affect, the powers~~  
43 ~~conferred upon municipalities under the provisions of the constitution or~~

1 laws of the state of Kansas. Home mortgage loans may be acquired, pur-  
2 chased and financed, and, *subject only to new section 5, and amendments*  
3 *thereto*, bonds may be issued under this act for such purposes, notwith-  
4 standing that any other law may provide for the acquisition, purchase and  
5 financing of like home mortgage loans, or the issuance of bonds for like  
6 purposes, and such home mortgage loans may be made upon such terms  
7 and conditions and contain such provisions as the governing body of the  
8 city or county determines consistent with the provisions of this act not-  
9 withstanding and without regard to the requirements, restrictions, limi-  
10 tations or other provisions contained in any law or any other resolution.  
11 Nothing in this act shall be deemed or construed to prohibit the exercise  
12 of the powers conferred upon municipalities in connection with the fi-  
13 nancing of federally assisted housing for persons of low and moderate  
14 income.

15 ***New Sec. 5. Programs funded with proceeds of bonds issued un-***  
16 ***der subsection (h) of K.S.A. 74-8905, and amendments thereto, shall***  
17 ***not be restricted by the authority to prevent such programs from***  
18 ***being available in all counties of the state and the authority shall***  
19 ***adopt policies to facilitate the financing of home mortgage loans in***  
20 ***those areas of the state which are not included in any metropolitan***  
21 ***statistical area. For a period of at least 90 days following the iss-***  
22 ***uance of bonds under subsection (h) of K.S.A. 74-8905, and amend-***  
23 ***ments thereto, the authority shall reserve for use in financing home***  
24 ***mortgage loans in those areas of the state which are not included***  
25 ***in any metropolitan statistical area a minimum of 20% of the***  
26 ***amount of the proceeds of such bonds that are available to finance***  
27 ***home mortgage loans.***

28 ***Sec. 6. K.S.A. 74-8903 is hereby amended to read as follows:***  
29 ***74-8903. (a) There is hereby created, with such duties and powers***  
30 ***as are hereinafter set forth to carry out the provisions of this act, a***  
31 ***public body politic and corporate, with corporate succession, to be***  
32 ***an independent instrumentality of this state exercising essential***  
33 ***public functions, and to be known as the Kansas development fi-***  
34 ***nance authority.***

35 ***[(b) The provisions of the Kansas governmental operations ac-***  
36 ***countability law apply to the Kansas development finance authority***  
37 ***and the authority is subject to audit, review and evaluation under***  
38 ***such law.]***

39 ***~~(b)~~ [(c) The board of directors of the authority shall consist of***  
40 ***the ~~five~~ seven members to be appointed by the governor. Two of such***  
41 ***members shall be individuals with housing expertise, as determined by***  
42 ***the governor. Not less than ~~three~~ four voting members of such board***  
43 ***shall be representative of the general public and not more than ~~three~~***

1 *four voting members shall be members of the same political party.*

2 ~~(e)~~ [(d)] *Members appointed by the governor shall be subject to*  
3 *confirmation by the senate as provided by K.S.A. 75-4315b, and*  
4 *amendments thereto. Except as provided by K.S.A. 46-2601, and*  
5 *amendments thereto, no person appointed to the board, whose ap-*  
6 *pointment is subject to confirmation shall exercise any power, duty*  
7 *or function as a member of the authority until confirmed by the*  
8 *senate. Except as provided by subsection (d), such members shall*  
9 *serve for terms of four years and until their successors are ap-*  
10 *pointed and confirmed. Any vacancy in the board occurring other*  
11 *than by expiration of term shall be filled by the appointment of the*  
12 *governor, but for the unexpired term only.*

13 ~~(e)~~ [(e)] *The terms of members who are appointed by the gov-*  
14 *ernor and who are serving on the authority on the effective date of*  
15 *this act shall expire on January 15, of the year in which such mem-*  
16 *ber's term would have expired under the provisions of this section*  
17 *prior to amendment by this act. Thereafter, members shall be ap-*  
18 *pointed for terms of four years and until their successors are ap-*  
19 *pointed and confirmed.*

20 ~~(e)~~ [(f)] *The governor shall designate the chairperson and vice-*  
21 *chairperson of the board from the members of such board.*

22 ~~(f)~~ [(g)] *The authority shall have such rights, powers and priv-*  
23 *ileges and shall be subject to such duties as provided by this act.*

24 (g)[(h)] *The governor shall appoint a president who shall serve*  
25 *at the will of the governor. The president shall appoint and employ*  
26 *such additional officers, accountants, financial advisors or experts,*  
27 *bond counsel or other attorneys, agents and employees as it may*  
28 *require and shall determine their qualifications, duties and com-*  
29 *penensation subject to the approval of the board of directors. The*  
30 *president shall be an ex officio nonvoting member of the board and*  
31 *may be elected secretary of the board. The powers of the authority*  
32 *shall be vested in the members of the board of directors and ~~three~~*  
33 *four members of the board shall constitute a quorum at any meeting*  
34 *thereof. Action may be taken and motions and resolutions adopted*  
35 *by the board at any meeting thereof by the affirmative vote of a*  
36 *majority of present and voting board members. Any motion and*  
37 *resolution to authorize an issue of bonds, to approve a loan appli-*  
38 *cation, to authorize a lease transaction or to approve a bond guar-*  
39 *anty shall have the affirmative vote of at least ~~three~~ four board*  
40 *members.*

41 ~~(h)~~ [(i)] *Before the issuance of any bonds, each member of the*  
42 *board of directors of the authority shall execute a surety bond in*  
43 *the penal sum of \$250,000 and the president of the authority shall*

1 *execute a surety bond in the penal sum of \$250,000, each surety*  
2 *bond to be conditioned upon the faithful performance of the duties*  
3 *of the office by such board member or president, as the case may*  
4 *be, to be executed by a surety company authorized to transact busi-*  
5 *ness in the state of Kansas, as surety, and to be approved by the*  
6 *attorney general. At all times after the issuance of any bonds by the*  
7 *authority, each member of the board of directors of the authority*  
8 *shall maintain such surety bonds in full force and effect. All costs*  
9 *of such surety bonds shall be borne by the authority.*

10 ~~(j)~~ *[(j)] The members of the board of directors of the authority*  
11 *shall serve without compensation, but the authority may reimburse*  
12 *its board members for mileage and subsistence expenses incurred*  
13 *in the discharge of their official duties as provided by subsections*  
14 *(b) and (c) of K.S.A. 75-3223, and amendments thereto.*

15 ~~(k)~~ *[(k)] No part of the funds of the authority shall inure to the*  
16 *benefit of, or be distributed to, its employees, officers or board of*  
17 *directors, except that the authority shall be authorized and empow-*  
18 *ered to pay its employees reasonable compensation.*

19 ~~(l)~~ *[(l)] The authority may be dissolved by act of the legislature*  
20 *on condition that the authority has no debts or obligations outstand-*  
21 *ing or provision has been made for the payment or retirement of*  
22 *such debts or obligations. Upon any such dissolution of the author-*  
23 *ity, all property, funds and assets thereof shall be vested in the state.*

24 *[New Sec. 7. Prior to July 1, 2003, the secretary shall prepare*  
25 *and submit proposed rules and regulations to the joint committee*  
26 *on administrative rules and regulations setting forth and objective*  
27 *scoring matrix for the purpose of allocating housing tax credits pur-*  
28 *suant to this act. The secretary shall use and apply such objective*  
29 *scoring matrix in the allocation of such housing tax credits. The*  
30 *provisions of this section shall be part of and supplemental to the*  
31 *Kansas private activity bond allocation act, K.S.A. 74-5058 et seq.,*  
32 *and amendments thereto.*

33 *[New Sec. 8. The Kansas development finance authority, cre-*  
34 *ated by K.S.A. 74-8903, and amendments thereto, shall be audited*  
35 *under the Kansas governmental operations accountability law, and*  
36 *shall be reviewed and evaluated during the 2004 regular session of*  
37 *the legislature, or such other regular session of the legislature des-*  
38 *ignated by the legislative post audit committee in accordance with*  
39 *the provisions of subsection (c) of K.S.A. 74-7285, and amendments*  
40 *thereto.]*

41 ~~Sec. 7[9].~~ *K.S.A. ~~12-5233~~, 74-8902, 74-8903, 74-8904, 74-8905 and*  
42 *74-8912 are hereby repealed.*

1       Sec. ~~§~~ **[10]**. This act shall take effect and be in force from and after  
2 its publication in the statute book.  
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