

HOUSE Substitute for SENATE BILL No. 222

By Committee on Economic Development

3-9

9 AN ACT concerning housing; relating to the Kansas development fi-
10 nance authority; authorizing the issuance of mortgage revenue bonds;
11 amending K.S.A. 74-8903 and 74-8912 and K.S.A. 2003 Supp. 74-8902,
12 74-8904 and 74-8905 and repealing the existing sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2003 Supp. 74-8902 is hereby amended to read as
16 follows: 74-8902. The following words or terms used in this act shall have
17 the following meanings unless a different meaning clearly appears from
18 the context:

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

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

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

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

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

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

40 (g) "Capital improvements" means any physical public betterment or
41 improvement or any preliminary plans, studies or surveys relative thereto;
42 land or rights in land, including, without limitations, leases, air rights,
43 easements, rights-of-way or licenses; and any furnishings, machinery, ve-

1 hicles, apparatus or equipment for any public betterment or
2 improvement.

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

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

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

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

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

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

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

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

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

38 (q) “State” means the state of Kansas.

39 (r) “State agency” means any office, department, board, commission,
40 bureau, division, public corporation, agency or instrumentality of this
41 state.

42 (s) “Home” means (1)(A) a one to four family residence;

43 (B) a condominium as defined in K.S.A. 58-3102, and amendments

1 *thereto;*

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

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

7 (2) *consists of the land and improvements thereon, which is either*
8 *owned and occupied or is owned and is to be occupied by the mortgagor,*
9 *and in the case of a two to four family residence one unit of the residence,*
10 *shall be either owned and occupied or is owned and is to be occupied by*
11 *the mortgagor.*

12 (t) *“Home mortgage loan” means a loan to a mortgagor evidenced by*
13 *a promissory note and secured by a mortgage, purchased or financed by*
14 *the authority made for the purpose of acquiring, constructing or improv-*
15 *ing a home.*

16 (u) *“Lending institution” means any bank, bank holding company,*
17 *credit union, trust company, savings bank, national banking association,*
18 *savings and loan association, building and loan association, mortgage*
19 *banker or other financial institution which customarily originates or serv-*
20 *ices home mortgages.*

21 (v) *“Mortgagor” means any person of low or moderate income who*
22 *has received or qualifies to receive a home mortgage loan on a home.*

23 (w) *“Persons of low or moderate income” means a person or family,*
24 *consisting of one or more persons all of whom occupy or will occupy the*
25 *home, whose aggregate gross income shall not exceed a maximum amount*
26 *to be established by the authority, determined in accordance with appro-*
27 *priate criteria, rules and regulations and approved by the authority in*
28 *connection with the implementation of a residential housing finance plan.*

29 (x) *“Residential housing finance plan” means a program implemented*
30 *under this act by the authority to assist persons of low or moderate income*
31 *in acquiring safe, decent and sanitary housing. Such plan shall include*
32 *provisions allowing each lending institution with an office located within*
33 *the state, an equal opportunity to participate in accordance with the stan-*
34 *dards and requirements established by the authority. Nothing in this sec-*
35 *tion shall preclude the use of out-of-state master servicers.*

36 Sec. 2. K.S.A. 2003 Supp. 74-8904 is hereby amended to read as
37 follows: 74-8904. Except as otherwise limited by this act, the authority
38 shall have the following powers to:

39 (a) Sue and be sued;

40 (b) have a seal and alter such seal;

41 (c) make and alter bylaws for its organization and internal
42 management;

43 (d) adopt such rules and regulations as may be necessary to carry out

1 the purposes of this act;

2 (e) acquire, hold and dispose of real and personal property for its
3 corporate purposes;

4 (f) appoint officers, agents and employees, prescribe their duties and
5 qualifications and fix their compensation;

6 (g) borrow money and to issue notes, bonds and other obligations
7 pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the
8 interest on which is subject to federal income taxation, and to provide for
9 the rights of the lenders or holders thereof;

10 (h) purchase notes or participations in notes evidencing loans which
11 are secured by mortgages or security interests and to enter into contracts
12 in that regard;

13 (i) make secured or unsecured loans for any of the purposes for which
14 bonds of the authority may be issued under this act or to low and mod-
15 erate income multifamily rental housing projects participating in pro-
16 grams established in section 42 of the federal internal revenue code, and
17 provide financing for housing projects and programs in participation with
18 programs established by the United States department of housing and
19 urban development or the division of housing in the Kansas development
20 finance authority; ~~except as otherwise provided in this subsection, nothing~~
21 ~~in this act shall be construed to authorize the authority to make loans~~
22 ~~directly to individuals to finance housing developments; provided that~~
23 ~~nothing in this act shall be construed to authorize the authority to make~~
24 ~~loans directly to individuals to finance housing developments or home~~
25 ~~mortgage loans except that the authority is authorized to contract with~~
26 ~~lending institutions to originate, on behalf of or in the name of the au-~~
27 ~~thority home mortgage loans secured by a junior lien made only to pay~~
28 ~~all or a portion of a mortgagor's required down payment or closing costs~~
29 ~~in connection with the acquisition of a home;~~

30 (j) sell mortgages and security interests at public or private sale, to
31 negotiate modifications or alterations in mortgage and security interests,
32 to foreclose on any mortgage or security interest in default or commence
33 any action to protect or enforce any right conferred upon it by any law,
34 mortgage, security agreement, contract or other agreement, and to bid
35 for and purchase property which was the subject of such mortgage or
36 security interest at any foreclosure or at any other sale, to acquire or take
37 possession of any such property, and to exercise any and all rights as
38 provided by law for the benefit or protection of the authority or mortgage
39 holders;

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

- 1 (l) make and execute contracts for the servicing of mortgages ac-
2 quired by the authority pursuant to this act, and to pay the reasonable
3 value of services rendered to the authority pursuant to those contracts;
- 4 (m) enter into agreements with and accept gifts, grants, loans and
5 other aid from the federal government, the state, any state agency, any
6 political subdivision of the state, or any person or corporation, foundation
7 or legal entity, and to agree to and comply with any conditions attached
8 to federal and state financial assistance not inconsistent with the provi-
9 sions of this act;
- 10 (n) invest moneys of the authority not required for immediate use,
11 including proceeds from the sale of any bonds, in such manner as the
12 board shall determine, subject to any agreement with bondholders stated
13 in the authorizing resolution providing for the issuance of bonds;
- 14 (o) procure insurance against any loss in connection with its pro-
15 grams, property and other assets;
- 16 (p) provide technical assistance and advice to the state or political
17 subdivisions of the state and to enter into contracts with the state or
18 political subdivisions of the state to provide such services. The state or
19 political subdivisions of the state are hereby authorized to enter into con-
20 tracts with the authority for such services and to pay for such services as
21 may be provided them;
- 22 (q) establish accounts in one or more depositories;
- 23 (r) lease, acquire, construct, sell and otherwise deal in and contract
24 concerning any facilities;
- 25 (s) have and exercise all of the powers granted to the public housing
26 authorities by the state, except that the authority shall not have the power
27 of eminent domain;
- 28 (t) do any and all things necessary or convenient to carry out purposes
29 of the authority and exercise the powers given and granted in this act;
- 30 (u) assist minority businesses in obtaining loans or other means of
31 financial assistance. The terms and conditions of such loans or financial
32 assistance, including the charges for interest and other services, will be
33 consistent with the provisions of this act. In order to comply with this
34 requirement, efforts must be made to solicit for review and analysis pro-
35 posed minority business ventures. Basic loan underwriting standards will
36 not be waived to inconsistently favor minority persons or businesses from
37 the intent of the authority's lending practices; ~~and~~
- 38 (v) form one or more subsidiary corporations under K.S.A. 17-6001
39 *et seq.*, and amendments thereto, in accordance with the procedures
40 therein contained. Each subsidiary corporation shall be subject to the
41 same restrictions and limitations as to the powers and purposes to which
42 the authority is subject. The authority may delegate any of its powers,
43 obligations and duties to any subsidiary corporation by inclusion of such

1 powers, obligations and duties in the articles of incorporation of the sub-
2 subsidiary corporation. Subsidiary corporations so formed shall constitute
3 legal entities separate and distinct from each other, the authority and the
4 state. The authority shall not be liable for the debts or obligations or for
5 any actions or inactions of its subsidiary corporations unless the authority
6 expressly agrees otherwise in writing. The authority may make loans or
7 grants to a subsidiary corporation from time to time to enable the sub-
8 subsidiary corporation to carry out its purposes. The members of the au-
9 thority shall constitute all of the directors of each subsidiary corporation.

10 The state, any municipality or any state commission, public authority,
11 agency, officer, department, board or division authorized and empowered
12 to enter into agreements with, to grant, convey, lease or otherwise transfer
13 any property to, or to otherwise transact business with the authority, shall
14 have the same authorization and power to engage in these activities with
15 each subsidiary corporation of the authority.

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

21 Actions of the authority or any subsidiary corporation relating to hous-
22 ing pursuant to this subsection (v) shall be carried out in accordance with
23 any terms, conditions and limitations relating to policy issues regarding
24 housing, as established by the director of housing in the Kansas devel-
25 opment finance authority.

26 One or more such subsidiary corporations may be formed for purposes
27 of acquiring or conveying on behalf of the state and pursuant to this act
28 a project of statewide as well as local importance, issuing bonds on behalf
29 of the state pursuant to this act to finance a project of statewide as well
30 as local importance or otherwise financing on behalf of the state pursuant
31 to this act a project of statewide as well as local importance. The Kansas
32 statewide projects development corporation is hereby created in accord-
33 ance with this section;

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

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

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

1 (2) *to make and execute contracts with lending institutions for the*
2 *origination and servicing of home mortgage loans on behalf of the au-*
3 *thority and to pay the reasonable value of services rendered in accordance*
4 *with such contracts, provided that a lending institution shall have the*
5 *option to retain servicing on conventional home mortgage loans originated*
6 *by such lending institution. The authority shall not:*

7 (A) *Select an out-of-state master servicer who does not originate a*
8 *minimum of 50 home mortgage loans for the authority each year;*

9 (B) *contract with a master servicer without such master servicer go-*
10 *ing through the bidding process. Such contract shall not be in effect for*
11 *a period longer than three years without going through the bidding pro-*
12 *cess for the next three-year servicing contract period. A master servicer*
13 *who obtains the three-year servicing contract may service all newly orig-*
14 *inated home mortgage loans made on behalf of the authority during such*
15 *contract period for the life of the loans;*

16 (3) *to establish, by rules and regulations, by resolution relating to any*
17 *issuance of bonds or in any financing documents relating to such issuance,*
18 *such standards and requirements applicable to the purchase of home*
19 *mortgage loans or the origination of home mortgage loans as the authority*
20 *deems necessary or desirable to effectuate the public purposes of this act.*
21 *Such standards and requirements shall be consistent with standards and*
22 *requirements with which nongovernmental entities engaged in the pur-*
23 *chase of home mortgage loans or the origination of home mortgage loans*
24 *must comply, and shall not confer a competitive advantage on the*
25 *authority;*

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

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

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

36 Sec. 3. K.S.A. 2003 Supp. 74-8905 is hereby amended to read as
37 follows: 74-8905. (a) The authority may issue bonds, either for a specific
38 activity or on a pooled basis for a series of related or unrelated activities
39 or projects duly authorized by a political subdivision or group of political
40 subdivisions of the state in amounts determined by the authority for the
41 purpose of financing projects of statewide as well as local importance ~~as~~
42 ~~defined pursuant to K.S.A. 12-1744, and amendments thereto,~~ capital
43 improvement facilities, educational facilities, health care facilities and

1 housing developments. Nothing in this act shall be construed to authorize
2 the authority to issue bonds or use the proceeds thereof to:

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

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

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

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

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

37 (c) The authority may issue bonds for the purpose of financing in-
38 dustrial enterprises, agricultural business enterprises, educational facili-
39 ties, health care facilities and housing developments, or any combination
40 of such facilities, or any interest in facilities, including without limitation
41 leasehold interests in and mortgages on such facilities. No less than 30
42 days prior to the issuance of any bonds authorized under this act with
43 respect to any project or activity which is to be undertaken for the direct

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

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

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

1 ments thereto, or by Johnson or Labette county in accordance with the
2 provisions of this act.

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

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

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

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

1 ~~(j)~~ (j) Any time the authority is required to publish a notification pur-
2 suant to the tax equity and fiscal responsibility act of 1982, *or any time*
3 *that the authority issues bonds pursuant to subsection (h)* the authority
4 shall further publish such notification in the Kansas register.

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

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

28 New Sec. 5. Programs funded with proceeds of bonds issued under
29 subsection (h) of K.S.A. 74-8905, and amendments thereto, shall not be
30 restricted by the authority to prevent such programs from being available
31 in all counties of the state and the authority shall adopt policies to facilitate
32 the financing of home mortgage loans in those areas of the state which
33 are not included in any metropolitan statistical area. For a period of at
34 least 90 days following the issuance of bonds under subsection (h) of
35 K.S.A. 74-8905, and amendments thereto, the authority shall reserve for
36 use in financing home mortgage loans in those areas of the state which
37 are not included in any metropolitan statistical area a minimum of 20%
38 of the amount of the proceeds of such bonds that are available to finance
39 home mortgage loans.

40 Sec. 6. K.S.A. 74-8903 is hereby amended to read as follows: 74-
41 8903. (a) There is hereby created, with such duties and powers as are
42 hereinafter set forth to carry out the provisions of this act, a public body
43 politic and corporate, with corporate succession, to be an independent

1 instrumentality of this state exercising essential public functions, and to
2 be known as the Kansas development finance authority.

3 *(b) The provisions of the Kansas governmental operations accounta-*
4 *bility law apply to the Kansas development finance authority and the*
5 *authority is subject to audit, review and evaluation under such law.*

6 ~~(b)~~ *(c) The board of directors of the authority shall consist of the five*
7 *seven members to be appointed by the governor. Two of such members*
8 *shall be individuals with housing expertise, as determined by the gover-*
9 *nor. Not less than three four voting members of such board shall be*
10 *representative of the general public and not more than three four voting*
11 *members shall be members of the same political party.*

12 ~~(c)~~ *(d) Members appointed by the governor shall be subject to con-*
13 *firmation by the senate as provided by K.S.A. 75-4315b, and amendments*
14 *thereto. Except as provided by K.S.A. 46-2601, and amendments thereto,*
15 *no person appointed to the board, whose appointment is subject to con-*
16 *firmation shall exercise any power, duty or function as a member of the*
17 *authority until confirmed by the senate. Except as provided by subsection*
18 ~~(d)~~ *(e), such members shall serve for terms of four years and until their*
19 *successors are appointed and confirmed. Any vacancy in the board oc-*
20 *curring other than by expiration of term shall be filled by the appointment*
21 *of the governor, but for the unexpired term only.*

22 ~~(d)~~ *(e) The terms of members who are appointed by the governor*
23 *and who are serving on the authority on the effective date of this act shall*
24 *expire on January 15, of the year in which such member's term would*
25 *have expired under the provisions of this section prior to amendment by*
26 *this act. Thereafter, members shall be appointed for terms of four years*
27 *and until their successors are appointed and confirmed.*

28 ~~(e)~~ *(f) The governor shall designate the chairperson and vice-chair-*
29 *person of the board from the members of such board.*

30 ~~(f)~~ *(g) The authority shall have such rights, powers and privileges and*
31 *shall be subject to such duties as provided by this act.*

32 ~~(g)~~ *(h) The governor shall appoint a president who shall serve at the*
33 *will of the governor. The president shall appoint and employ such addi-*
34 *tional officers, accountants, financial advisors or experts, bond counsel or*
35 *other attorneys, agents and employees as it may require and shall deter-*
36 *mine their qualifications, duties and compensation subject to the approval*
37 *of the board of directors. The president shall be an ex officio nonvoting*
38 *member of the board and may be elected secretary of the board. The*
39 *powers of the authority shall be vested in the members of the board of*
40 *directors and three four members of the board shall constitute a quorum*
41 *at any meeting thereof. Action may be taken and motions and resolutions*
42 *adopted by the board at any meeting thereof by the affirmative vote of a*
43 *majority of present and voting board members. Any motion and resolution*

1 to authorize an issue of bonds, to approve a loan application, to authorize
2 a lease transaction or to approve a bond guaranty shall have the affirmative
3 vote of at least ~~three~~ *four* board members.

4 ~~(h)~~ (i) Before the issuance of any bonds, each member of the board
5 of directors of the authority shall execute a surety bond in the penal sum
6 of \$250,000 and the president of the authority shall execute a surety bond
7 in the penal sum of \$250,000, each surety bond to be conditioned upon
8 the faithful performance of the duties of the office by such board member
9 or president, as the case may be, to be executed by a surety company
10 authorized to transact business in the state of Kansas, as surety, and to
11 be approved by the attorney general. At all times after the issuance of
12 any bonds by the authority, each member of the board of directors of the
13 authority shall maintain such surety bonds in full force and effect. All
14 costs of such surety bonds shall be borne by the authority.

15 ~~(i)~~ (j) The members of the board of directors of the authority shall
16 serve without compensation, but the authority may reimburse its board
17 members for mileage and subsistence expenses incurred in the discharge
18 of their official duties as provided by subsections (b) and (c) of K.S.A. 75-
19 3223, and amendments thereto.

20 ~~(j)~~ (k) No part of the funds of the authority shall inure to the benefit
21 of, or be distributed to, its employees, officers or board of directors,
22 except that the authority shall be authorized and empowered to pay its
23 employees reasonable compensation.

24 ~~(k)~~ (l) The authority may be dissolved by act of the legislature on
25 condition that the authority has no debts or obligations outstanding or
26 provision has been made for the payment or retirement of such debts or
27 obligations. Upon any such dissolution of the authority, all property, funds
28 and assets thereof shall be vested in the state.

29 New Sec. 7. Prior to July 1, 2005, the secretary shall prepare and
30 submit proposed rules and regulations to the joint committee on admin-
31 istrative rules and regulations setting forth an objective scoring matrix for
32 the purpose of allocating housing tax credits pursuant to this act. The
33 secretary shall use and apply such objective scoring matrix in the alloca-
34 tion of such housing tax credits. The provisions of this section shall be
35 part of and supplemental to the Kansas private activity bond allocation
36 act, K.S.A. 74-5058 et seq., and amendments thereto.

37 New Sec. 8. The Kansas development finance authority, created by
38 K.S.A. 74-8903, and amendments thereto, shall be audited under the
39 Kansas governmental operations accountability law, and shall be reviewed
40 and evaluated during the 2006 regular session of the legislature, or such
41 other regular session of the legislature designated by the legislative post
42 audit committee in accordance with the provisions of subsection (c) of
43 K.S.A. 74-7285, and amendments thereto.

- 1 Sec. 9. K.S.A. 74-8903 and 74-8912 and K.S.A. 2003 Supp. 74-8902,
- 2 74-8904 and 74-8905 are hereby repealed.
- 3 Sec. 10. This act shall take effect and be in force from and after its
- 4 publication in the statute book.