

SENATE BILL No. 17

AN ACT concerning housing; expanding the use of bond proceeds under the Kansas reinvestment housing incentive district act; transferability of income, privilege and premium tax credits issued under the Kansas housing investor tax credit act; amending K.S.A. 12-5241, 12-5242, 12-5243, 12-5244, 12-5247, 12-5249 and 12-5252 and K.S.A. 2022 Supp. 79-32,313 and repealing the existing sections.

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

New Section 1. (a) The governing body of any city that satisfies the definition of such term under K.S.A. 12-5242(a)(2), and amendments thereto, is hereby authorized to designate reinvestment housing incentive districts within such city subject to the limitations of this section. Such city shall be subject to the provisions of K.S.A. 12-5244 through 12-5252, and amendments thereto.

(b) (1) The governing body of a city establishing a reinvestment housing incentive district under this section shall not:

(A) Designate more than 100 units within such district as for-sale units in one year or more than 100 units within such district as for-rent units in one year; and

(B) designate more than 50 units within such district associated with a single project as for-sale units in one year or more than 50 units within such district associated with a single project as for-rent units in one year.

(2) Units designated as for-sale units may be redesignated as for-rent units by the governing body if such units have not been sold within six months after the certificate of occupancy is granted.

(3) The governing body may designate for-sale and for-rent units for succeeding years as part of a proposed multi-phased, multi-year development plan adopted pursuant to K.S.A. 12-5246, and amendments thereto.

(c) The average size of each residence constructed per project within a reinvestment housing incentive district established under this section shall not exceed 1,650 square feet. The square footage shall be calculated excluding any garage area or other exterior area, such as porches, patios or unattached storage buildings.

(d) The provisions of this section shall be a part of and supplemental to the Kansas reinvestment housing incentive district act.

Sec. 2. K.S.A. 12-5241 is hereby amended to read as follows: 12-5241. ~~This act~~ *The provisions of K.S.A. 12-5241 through 12-5256, and amendments thereto, and section 1, and amendments thereto, shall be known and may be cited as the Kansas ~~rural~~ reinvestment housing incentive district act.*

Sec. 3. K.S.A. 12-5242 is hereby amended to read as follows: 12-5242. Except as otherwise provided, as used in K.S.A. 12-5241 through 12-5251, and amendments thereto, and K.S.A. 12-5252 through 12-5258, and amendments thereto:

(a) "City" means the city of Topeka or any city incorporated in accordance with Kansas law:

(1) With a population of less than 60,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto; ~~or~~

(2) *for the purposes of a project subject to section 1, and amendments thereto, with a population of 60,000 or more, as certified to the secretary of state by the director of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto, except the city of Topeka; or*

(3) for purposes of a project as defined in K.S.A. 12-5249(a)(11), and amendments thereto, within a qualified census tract, "city" includes any city with a qualified census tract located within the city.

(b) "City housing authority" means any agency of a city created pursuant to the municipal housing law, K.S.A. 17-2337 et seq., and

amendments thereto.

(c) "Corporation" means the Kansas housing resources corporation.

(d) "County" means any county organized in accordance with K.S.A. 18-101 et seq., and amendments thereto:

(1) With a population of less than ~~80,000~~ 85,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1<sup>st</sup> in accordance with K.S.A. 11-201, and amendments thereto; or

(2) for purposes of a project as defined in K.S.A. 12-5249(a)(11), and amendments thereto, within a qualified census tract, "county" includes any county with a qualified census tract located within the county.

(e) "Developer" means the person, firm or corporation responsible under an agreement with the governing body to develop housing or related public facilities in a district.

(f) "District" means a ~~rural~~ *reinvestment* housing incentive district established in accordance with this act.

(g) "Governing body" means the board of county commissioners of any county or the mayor and council, mayor and commissioners or board of commissioners, as the laws affecting the organization and status of cities affected may provide.

(h) "Housing development activities" means the construction or rehabilitation of infrastructure necessary to support construction of new residential dwellings and the actual construction of such residential dwellings, if such construction is conducted by a city housing authority.

(i) "Secretary" means the secretary of commerce of the state of Kansas.

(j) "Qualified census tract" means an economically distressed urban area that is a qualified census tract as defined and designated by the United States department of housing and urban development.

(k) "Real property taxes" means and includes all taxes levied on an ad valorem basis upon land and improvements thereon.

(l) "Taxing subdivision" means the county, the city, the unified school district, and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created ~~rural~~ *reinvestment* housing incentive district.

Sec. 4. K.S.A. 12-5243 is hereby amended to read as follows: 12-5243. It is hereby declared to be the purpose of this act to encourage the development and renovation of housing in ~~the rural~~ cities and counties of Kansas by authorizing cities and counties to assist directly in the financing of public improvements that will support such housing in ~~rural~~ areas of Kansas ~~which~~ *that* experience a shortage of housing.

Sec. 5. K.S.A. 12-5244 is hereby amended to read as follows: 12-5244. (a) The governing body of any city or county is hereby authorized to designate ~~rural~~ *reinvestment* housing incentive districts within such city or county. Any city governing body may designate one or more such districts in such city, and any county governing body may designate one or more such districts in any part of the unincorporated territory of such county. Prior to making such a designation, the governing body shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community. After conducting the analysis, the governing body shall adopt a resolution containing a legal description of the proposed district, a map depicting the existing parcels of real estate in the proposed district, and a statement of the following findings and determinations:

(1) There is a shortage of quality housing of various price ranges in the city or county despite the best efforts of public and private

housing developers;

(2) the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in such city or county;

(3) the shortage of quality housing is a substantial deterrent to the future economic growth and development of such city or county; and

(4) the future economic well-being of the city or county depends on the governing body providing additional incentives for the construction or renovation of quality housing in such city or county.

(b) The resolution containing the findings contained in subsection (a) shall be published at least once in the official newspaper of the city or county.

(c) Upon publication of the resolution as provided in subsection (b), the governing body shall send a certified copy of the resolution to the secretary, requesting that the secretary review the resolution and advise the governing body whether the secretary agrees with the findings contained therein. If the secretary advises the governing body in writing that the secretary agrees with each of the findings of the governing body, the governing body may proceed to establish the district as set forth in this act. If the secretary fails to agree with the findings, the secretary shall advise the governing body in writing of the specific reasons therefor.

Sec. 6. K.S.A. 12-5247 is hereby amended to read as follows: 12-5247. (a) Any governing body ~~which~~ *that* has established a ~~rural reinvestment~~ housing incentive district as provided in this act may purchase or otherwise acquire real property; however, the property may not be acquired through the exercise of the power of eminent domain. Relocation assistance payments shall be provided by the city or county in accordance with the provisions of K.S.A. 12-1777, and amendments thereto, to any tenants required to be relocated as a result of the acquisition of such property for any project in the district.

(b) Any property acquired by a city or county under this act may be sold or leased to any developer, in accordance with the ~~rural reinvestment~~ housing incentive plan and under such conditions as shall have been agreed to prior to the adoption of the plan. The city or county and the developer may agree to any additional terms and conditions, but if the developer requests to be released from any obligations agreed to and embodied in the plan, such release shall constitute a substantial change and subject to the requirements provided in ~~subsection (b) of~~ K.S.A. 12-5246(b), *and amendments thereto*.

Sec. 7. K.S.A. 12-5249 is hereby amended to read as follows: 12-5249. (a) Any city or county that has established a ~~rural reinvestment~~ housing incentive district may use the proceeds of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, or any uncommitted funds derived from those sources of revenue set forth in K.S.A. 12-5248(a)(1), and amendments thereto, to implement specific projects identified within the ~~rural reinvestment~~ housing incentive district plan including, without limitation:

(1) Acquisition of property within the specific project area or areas as provided in K.S.A. 12-5247, and amendments thereto;

(2) payment of relocation assistance;

(3) site preparation;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels and levees;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street lighting fixtures, connection and facilities;

(8) underground gas, water, heating, and electrical services and

connections located within the public right-of-way;

- (9) sidewalks;
- (10) water mains and extensions; ~~and~~

(11) renovation of buildings or other structures more than 25 years of age primarily for residential use located in a central business district or in a business or commercial district within a qualified census tract as approved by the secretary of commerce. Certification of the age of the building or other structure shall be submitted to the secretary by the governing body of the city or county with the resolution as provided by K.S.A. 12-5244, and amendments thereto. Eligible residential improvements shall include only improvements made to the second or higher floors of a building or other structure. Improvements for commercial purposes shall not be eligible; *and*

(12) *renovation or construction of residential dwellings, multi-family units or buildings or other structures exclusively for residential use located on existing lots if:*

(A) *The infrastructure, including streets, sewer, water and utilities, has been in existence for at least 10 years; or*

(B) *the existing lot has been subject to any tax assessment levied pursuant to chapter 12, article 6a or chapter 19, article 27 of the Kansas Statutes Annotated, and amendments thereto, because such lot is located in an improvement district established pursuant to chapter 12, article 6a or chapter 19, article 27 of the Kansas Statutes Annotated, and amendments thereto.*

(b) None of the proceeds from the sale of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, shall be used for the construction of buildings or other structures to be owned by or to be leased to any developer of a residential housing project within the district, except for buildings or other structures located in a central business district or in a business or commercial district within a qualified census tract as approved by the secretary of commerce.

Sec. 8. K.S.A. 12-5252 is hereby amended to read as follows: 12-5252. (a) Any city that prior to July 1, 2013, is located, in whole or in part, within the boundaries of a county designated by the United States federal emergency management agency under major disaster declaration FEMA-1711-DR or FEMA-1699, as eligible to receive individual or public assistance from the United States federal government that desires to designate a ~~rural~~ *reinvestment* housing incentive district pursuant to this act or such county shall be exempt from the provisions of ~~subsection (e) of~~ K.S.A. 12-5244(c), and amendments thereto, and may adopt a plan for a designated ~~rural~~ *reinvestment* housing incentive district without the approval of the secretary and without conducting a public hearing on such proposed plan.

(b) For any city in a county declared by the governor to be a state of disaster after January 1, 2008, or such county if the governor finds that such disaster resulted in the destruction of a significant amount of residential housing in such city or county the governor may designate such city or county to exercise the exemption authorized by subsection (a) for a period of five years from the date of the declaration of a state of disaster.

(c) Nothing in this section shall be construed so as to exempt a city or county from any other requirement set forth in this act, or to limit any of the rights, duties and privileges of a city or county under any other provisions of this act.

Sec. 9. K.S.A. 2022 Supp. 79-32,313 is hereby amended to read as follows: 79-32,313. (a) (1) For tax year 2022 and all tax years thereafter, a credit against the income tax liability imposed pursuant to the Kansas income tax act, the privilege tax liability imposed upon any

national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax liability imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, shall be allowed to:

(A) A qualified investor for a cash investment in a qualified housing project that has been approved and issued a tax credit by the director. The tax credit may be claimed in its entirety in the taxable year the cash investment is made; and

(B) a project builder or developer of a qualified housing project that has been approved and issued a tax credit by the director.

(2) To claim such tax credit, the qualified investor~~—or~~, project builder or developer *or transferee* shall provide all information or documentation in the form and manner required by the secretary of revenue. If the amount of the credit exceeds the taxpayer's tax liability in any one taxable year, the remaining portion of the credit may be carried forward in the succeeding taxable years until the total amount of the credit is used, except that no credit may be claimed after four taxable years next succeeding the taxable year that such credit was issued, and any remaining credit shall be forfeited. *Any portion of the credit that is carried forward may be transferred pursuant to subsection (d) and claimed by the transferee in the same manner as the transferor.*

(b) (1) Tax credits may be issued by the director for a qualified housing project as follows:

(A) For qualified housing projects located in a county with a population of not more than 8,000, in an amount not to exceed \$35,000 per residential unit;

(B) for qualified housing projects located in a county with a population of more than 8,000 but not more than 25,000, in an amount not to exceed \$32,000 per residential unit; and

(C) for all other qualified housing projects, in an amount not to exceed \$30,000.

(2) A qualified housing project shall be limited to a total of 40 such residential units per year for both single-family and multi-family dwellings.

(3) Tax credits may be issued to a qualified investor in the amount of a cash investment of up to the total amount that may be issued by the director under this subsection for the qualified housing project, or as provided in the agreement required by K.S.A. 2022 Supp. 79-32,312, and amendments thereto. Project builders or developers may apply to the director each year for tax credits for additional units or phases of a project. Qualified investors may be issued tax credits for cash investments in multiple qualified housing projects. Project builders or developers may apply and be approved for multiple qualified housing projects in the same tax year.

(4) The aggregate amount of tax credits that may be issued under this section shall not exceed \$13,000,000 each tax year, except that if the director issues an aggregate amount of tax credits in one tax year that is less than \$13,000,000, then the director may carry forward the difference and issue such amount of tax credits in the immediately succeeding tax year in addition to the statutory amount that may be issued under this section. Of the aggregate amount of tax credits issued in one tax year, the director shall allocate:

(A) Not less than \$2,500,000 in tax credits for qualified housing projects located in counties with a population of not more than 8,000;

(B) not less than \$2,500,000 in tax credits for qualified housing projects located in counties with a population of more than 8,000 but not more than 25,000; and

(C) up to \$8,000,000 in tax credits for qualified housing projects located in counties with a population of more than 25,000 but not more than 75,000.

(c) A cash investment in a qualified housing project shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined by the director.

~~(d) Any qualified investor without a current tax liability at the time of the investment in a qualified housing project that does not reasonably believe such investor will owe any such tax for the current taxable year and who receives a tax credit pursuant to this section shall be deemed to acquire an interest in the nature of a transferable credit limited to the amount of the credit issued to the qualified investor by the director. This interest~~ *All or a portion of such credit may be transferred by the qualified investor or any subsequent transferee to any person one or more persons whether or not such person transferee is then a qualified investor and be claimed by the transferee as a credit against the transferee's Kansas tax liability in the same manner as the transferor beginning in the year the credit is transferred. The credit may be carried forward as permitted by subsection (a). There shall be no limit on the number of times a credit or any portion thereof can be transferred.* No person shall be entitled to a refund for any interest on such tax credit that may be created under this section. ~~Only the full amount of the tax credit for any one qualified housing project investment may be transferred and may only be transferred one time.~~ A credit acquired by transfer shall be subject to the limitations prescribed in this section. *Any such transferee succeeds to all remaining rights and restrictions of the transferor with respect to the credit being transferred on the date of such transfer.* Documentation of any credit acquired by transfer shall be provided by the taxpayer claiming such credit in the manner required by the secretary of revenue. The qualified investor *or subsequent transferee* transferring such credit shall provide the director and the secretary of revenue with the name, address and taxpayer identification number of each person to whom ~~tax~~ credits have been transferred and such other information as may be required by the director or the secretary of revenue. *The provisions of this subsection shall apply to credits issued for tax year 2022 and all tax years thereafter.*

(e) The secretary of revenue may adopt rules and regulations as necessary to implement and administer the provisions of this act.

(f) *For purposes of calculating any tax due under K.S.A. 40-253, and amendments thereto, the credit allowed by this section shall be treated as a tax paid under K.S.A. 40-252, and amendments thereto.*

Sec. 10. K.S.A. 12-5241, 12-5242, 12-5243, 12-5244, 12-5247, 12-5249 and 12-5252 and K.S.A. 2022 Supp. 79-32,313 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*