

74-8203. Kansas Venture Capital, Inc.; investment in by pooled money investment board and private sector investors; board of directors, composition; president; investment of funds in certain businesses and companies; redemption of the investment by the pooled money investment board.

The secretary of the department of commerce is authorized to certify investment in nonvoting preferred stock of Kansas Venture Capital, Inc. in a total not to exceed \$5,000,000 by the pooled money investment board as provided in K.S.A. 75-4205, and amendments thereto, under the following terms and conditions:

(a) When banks, savings and loan associations, individuals, corporations or other entities have invested \$3,500,000 of private, equity capital in voting common stock in Kansas Venture Capital, Inc., the pooled money investment board shall match that amount in nonvoting preferred stock. Subsequent investments by the pooled money investment board shall occur quarterly and shall equal the amount of additional common stock subscribed and called by Kansas Venture Capital, Inc. At no time shall the investment in preferred stock exceed the amount of investment in common stock, at no time shall the investment in preferred stock exceed \$5,000,000.

(b) The nonvoting preferred stock invested in by the pooled money investment board will receive the same rate of dividend and the same rate of capital appreciation at the same time on the same terms as the voting common stock invested in by banks, savings and loan associations, individuals, corporations or other entities.

(c) Every outstanding share representing the nonvoting preferred stock is assured of being fully repaid to the pooled money investment board before one share of the voting common stock is repaid to any bank, savings and loan association, individual, corporation or other entity. In the event that capital impairment compromises the ability of Kansas Venture Capital, Inc. to repay fully the nonvoting preferred stock, the pooled money investment board shall have the power to convert its shares to voting stock to protect its investment.

(d) Investments in common stock of Kansas Venture Capital, Inc. shall meet the terms and conditions of K.S.A. 74-8301 to 74-8311, inclusive, and amendments thereto, enacting the Kansas venture capital company act.

(e) The investments of voting common stock and nonvoting preferred stock shall be invested in ways which do not compromise the integrity of the small business association license approved under the small business investment act on June 17, 1977.

(f) Kansas Venture Capital, Inc. may invest in one or more Kansas venture capital companies located in Kansas which meet the requirements of K.S.A. 74-8301 to 74-8311, inclusive, and amendments thereto. Such investment shall not qualify for the tax credit allowed by K.S.A. 74-8304, and amendments thereto.

(g) A total of 15 board members to oversee the operations of Kansas Venture Capital, Inc. are elected by the voting common stock shareholders in accordance with the following terms and conditions:

(1) Eight are representatives of Kansas financial institutions. The eight shall represent a reasonable balance of relative proportion of investment in the common stock of Kansas Venture Capital, Inc. by Kansas commercial banks, savings and loan associations, insurance companies, and other appropriate financial intermediaries, and shall be recognized for outstanding knowledge and leadership in their fields.

(2) Two shall be venture capitalists or investment counselors familiar with the types of investments in which Kansas Venture Capital, Inc. will invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(3) Five shall represent the business sectors of special importance to the Kansas economy in which Kansas Venture Capital, Inc. shall be expected to invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(h) The board has conducted a national search and has selected a president for Kansas Venture Capital, Inc. who meets a national standard of experience, ability and initiative for similar chief executive positions for venture capital corporations investing high risk equity in firms which meet the purpose of this act.

(i) Funds invested by Kansas Venture Capital, Inc. shall be invested at 100% in Kansas businesses or in Kansas venture capital companies which invest 100% of the funds invested in such companies by Kansas Venture Capital, Inc., in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state.

(j) The pooled money investment board shall enter into an agreement with Kansas venture capital, inc., by which the board of Kansas venture capital, inc. will redeem and the pooled money investment board will sell the nonvoting preferred stock representing the board's investment in Kansas venture capital, inc. pursuant to this section. The agreement shall provide that the preferred stock shall be redeemed in exchange for total consideration of \$5,000,000. Such payment may be made in such installments as the board of Kansas venture capital, inc. deems appropriate. Kansas venture capital, inc. shall make an initial minimum payment of \$1,000,000 payable on or before July 31, 1998. Kansas venture capital, inc. shall continue to make minimum payments of \$1,000,000, or with respect to the final payment, such lesser amount as will permit full redemption of the stock on or before July 31st of each successive year until the entire amount of the stock is redeemed. The agreement shall further provide that the payment obligation of Kansas venture capital, inc. shall be deferred as to any scheduled payment or portion thereof in the event that the making of such payment would result in the corporation having a book value of less than \$10,000,000 or cause the corporation to be in violation of the minimum capital requirements or other provisions of the small business investment act of 1958, and amendments thereto, or the rules and regulations thereunder. Any deferred payment, subject to the deferral conditions contained herein, shall be payable on the next scheduled payment date, when such amount plus any scheduled payment shall either be paid in full, further deferred to the next payment date or paid in part to the extent that such deferred payment would not result in further deferral of the combined payment. After each installment payment is received, a percentage of the nonvoting preferred stock shall be redeemed proportionally to the percentage of the \$5,000,000 payment to be made by the corporation. All such redemption payments shall be made to the pooled money investment board. The pooled money investment board shall remit all moneys received by or for it from Kansas venture capital, inc. for the redemption of the nonvoting preferred stock to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the public water supply loan fund.

History: L. 1986, ch. 332, § 3; L. 1987, ch. 319, § 2; L. 1988, ch. 312, § 1; L. 1998, ch. 108, § 1; L. 2001, ch. 5, § 340; July 1.