

As Amended by House Committee

Session of 2003

HOUSE BILL No. 2409

By Committee on Taxation

2-21

10 AN ACT establishing the individual development account program and  
11 individual development account reserve fund; prescribing certain du-  
12 ties and responsibilities on the Kansas development finance authority;  
13 amending K.S.A. 74-8904 and repealing the existing section of the  
14 **department of revenue.**

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. This act shall be known and may be cited as the  
18 individual development account program act.

19 New Sec. 2. As used in this act:

20 (a) "Account holder" means a person who is the owner of an individ-  
21 ual development account.

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

24 ~~(e)~~ "Community-based organization" means any religious or charita-  
25 ble association, **technical college foundation** or tribal entity that is ap-  
26 proved by the ~~authority~~ **department** to implement the individual devel-  
27 opment account reserve fund.

28 (c) "**Department**" means **the department of revenue.**

29 (d) "Federal poverty level" means the most recent poverty income  
30 guidelines published in the calendar year by the United States depart-  
31 ment of health and human services.

32 (e) "Financial institution" means any bank, trust company, savings  
33 bank, credit union or savings and loan association or any other financial  
34 institution regulated by the state of Kansas, any agency of the United  
35 States or other state with an office in Kansas which is approved by the  
36 ~~authority~~ **department** to create and maintain the necessary financial in-  
37 struments setting up individual development accounts for eligible families  
38 or individuals to implement this program.

39 (f) "Individual development account" means a financial instrument  
40 established in section 3, and amendments thereto.

41 (g) "Individual development account reserve fund" means the fund  
42 created by an approved community-based organization for the purposes  
43 of funding the costs incurred in the administration of the program by the

- 1 financial institutions and the community-based organizations and for pro-  
2 viding matching funds for moneys in individual development accounts.
- 3 (h) “Matching funds” means the moneys designated for contribution  
4 from an individual development account reserve fund to an individual  
5 development account by a community-based organization at a one-to-one  
6 ratio up to a three-to-one ratio.
- 7 (i) “Program” means the Kansas individual development account pro-  
8 gram established in sections 1 through 7, and amendments thereto.
- 9 (j) “Program contributor” means a person or entity who makes a con-  
10 tribution to an individual development account reserve fund.
- 11 New Sec. 3. (a) There is hereby established within the ~~authority de-~~  
12 **partment** a program to be known as the individual development account  
13 program. The program shall provide eligible families and individuals with  
14 an opportunity to establish special savings accounts for moneys which may  
15 be used by such families and individuals for the purposes enumerated by  
16 section 4, and amendments thereto.
- 17 (b) The ~~authority~~ **department** shall adopt rules and regulations and  
18 policies to implement and administer the provisions of sections 1 through  
19 7, and amendments thereto.
- 20 (c) The ~~authority~~ **department** shall enter into contracts as deemed  
21 appropriate to carry out the provisions of this act.
- 22 (d) The ~~authority~~ **department** shall prepare a request for proposals  
23 from community-based organizations seeking to administer an individual  
24 development account reserve fund on a not-for-profit basis. The com-  
25 munity-based organization proposals shall include:
- 26 (1) A requirement that the community-based organization make  
27 matching contributions to the development account of an individual ac-  
28 count holder’s or family’s contributions to the individual development  
29 account;
- 30 (2) a process for including account holders in decision making re-  
31 garding the investment of funds in the accounts;
- 32 (3) specifications of the population or populations targeted for pri-  
33 ority participation in the program;
- 34 (4) a requirement that the individual account holder or the family of  
35 the account holder attend economic education seminars;
- 36 (5) a process for including economic education seminars in the in-  
37 dividual development account program; and
- 38 (6) a process for regular evaluation and review of individual devel-  
39 opment accounts to ensure program compliance by account holders.
- 40 (e) A notice of the request for proposals shall be published once a  
41 week for two consecutive weeks in a newspaper having general circulation  
42 in the community at least 30 days before any action thereon. The request  
43 for proposals shall also be posted on readily accessible bulletin boards in

1 all offices of the ~~authority~~ **department** and sent elsewhere as the ~~au-~~  
2 ~~thority~~ **department** deems best.

3 (f) In reviewing the proposals of community-based organizations, the  
4 ~~authority~~ **department** shall consider the following factors:

- 5 (1) The not-for-profit status of such organization;
- 6 (2) the fiscal accountability of the community-based organization;
- 7 (3) the ability of the community-based organization to provide or  
8 raise moneys for matching contributions;
- 9 (4) the ability of the community-based organization to establish and  
10 administer a reserve fund account which shall receive all contributions  
11 from program contributors; and
- 12 (5) the significance and quality of proposed auxiliary services, includ-  
13 ing economic education seminars and their relationship to the goals of  
14 the individual development account program.

15 (g) ~~No~~ **Not** more than 20% of all funds in the reserve fund account  
16 may be used for administrative costs of the program in the first and second  
17 years of the program, and ~~no~~ **not** more than 15% of such funds may be  
18 used for administrative costs in any subsequent year. Funds deposited by  
19 account holders shall not be used for administrative costs.

20 New Sec. 4. A family or individual whose household income is less  
21 than or equal to 200% of the federal poverty level may open an individual  
22 development account for the purpose of accumulating and withdrawing  
23 moneys for specified expenditures. The account holder may withdraw  
24 moneys from the account on the approval of the community-based or-  
25 ganization, without penalty, for any of the following expenditures:

- 26 (a) Educational costs for any family member at **a technical college**  
27 **or** an accredited institution of higher education;
- 28 (b) job training costs for any family member 18 years of age or older,  
29 at an accredited or licensed training program;
- 30 (c) purchase of a primary residence;
- 31 (d) major repairs or improvements to a primary residence; or
- 32 (e) start-up capitalization of a small business for any family member  
33 18 year of age or older.

34 New Sec. 5. (a) Financial institutions seeking to create and maintain  
35 individual development accounts approved by the ~~authority~~ **department**  
36 shall be permitted to establish individual development accounts pursuant  
37 to sections 1 through 7, and amendments thereto. The financial institution  
38 shall certify to the ~~authority~~ **department**, on forms prescribed by the  
39 ~~authority~~ **department** and accompanied by any documentation required  
40 by the ~~authority~~ **department**, that such accounts have been established  
41 pursuant to this act and that deposits have been made on behalf of the  
42 account holder.

- 43 (b) A financial institution establishing an individual development ac-

1 count shall:

- 2 (1) Keep the account in the name of the account holder;
- 3 (2) permit deposits to be made in the account by the following, sub-  
4 ject to the indicated conditions:
- 5 (A) The account holder; or
- 6 (B) a community-based organization on behalf of the account holder.
- 7 Such a deposit may include moneys to match the account holder's de-  
8 posits, up to a three-to-one match ratio;
- 9 (3) require the account to earn at least the market rate of interest;
- 10 and
- 11 (4) permit the account holder to withdraw moneys upon approval of  
12 a community-based organization from the account for any of the purposes  
13 listed in subsections (a) through (e) of section 4, and amendments thereto.
- 14 (c) The total of all deposits by the account holder into an individual  
15 development account in a calendar year shall not exceed \$4,000. The total  
16 balance in an individual development account at any time shall not exceed  
17 \$50,000.
- 18 New Sec. 6. (a) Account holders who withdraw moneys from an in-  
19 dividual development account not in accordance with subsections (a)  
20 through (e) of section 4, and amendments thereto, shall forfeit all match-  
21 ing moneys in the account.
- 22 (b) All moneys forfeited by an account holder pursuant to subsection  
23 (a) shall be returned to the individual development account reserve fund  
24 of the contributing community-based organization.
- 25 (c) In the event of an account holder's death, the account may be  
26 transferred to the ownership of a contingent beneficiary. An account  
27 holder shall name contingent beneficiaries at the time the account is  
28 established and may change such beneficiaries at any time. If the named  
29 beneficiary is deceased or otherwise cannot accept the transfer, the mon-  
30 eys shall be transferred to the individual development account reserve  
31 fund of the contributing community-based organization.
- 32 New Sec. 7. (a) Moneys deposited in an individual development ac-  
33 count by an account holder, pursuant to section 4, and amendments  
34 thereto, shall be exempt from income taxation imposed under the Kansas  
35 income tax act unless withdrawn for an unapproved use.
- 36 (b) Earnings by any financial institution attributable to its individual  
37 development accounts shall be exempt from privilege taxation imposed  
38 by article 11 of chapter 79 of the Kansas Statutes Annotated, and amend-  
39 ments thereto.
- 40 (c) Interest earned by an individual development account shall be  
41 exempt from taxation under the Kansas income tax act.
- 42 (d) Any funds in an individual development account, including ac-  
43 crued interest, shall be disregarded when determining eligibility to re-

1 ceive, or the amount of, any public assistance or benefits.

2 (e) A program contributor shall be allowed a credit against state in-  
3 come tax imposed under the Kansas income tax act in an amount not to  
4 exceed \$50,000 per program contributor or 50% of the contribution  
5 amount, whichever is less.

6 (f) The ~~authority~~ **department** shall verify all tax credit claims by con-  
7 tributors. The administration of the community-based organization, with  
8 the cooperation of the participating financial institutions, shall submit the  
9 names of contributors and the total amount each contributor contributes  
10 to the individual development account reserve fund for the calendar year.  
11 The ~~authority~~ **department** shall determine the date by which such in-  
12 formation shall be submitted to the ~~authority~~ **department** by the local  
13 administrator. ~~The authority shall submit verification of qualified tax cred-~~  
14 ~~its pursuant to sections 1 through 7, and amendments thereto, to the~~  
15 ~~department of revenue.~~

16 (g) The total tax credits authorized pursuant to this section shall not  
17 exceed \$500,000 in any fiscal year.

18 (h) The provisions of this section shall be applicable to all taxable  
19 years commencing after December 31, ~~2002~~ **2003**.

20 ~~Sec. 8. K.S.A. 74-8904 is hereby amended to read as follows: 74-~~  
21 ~~8904. Except as otherwise limited by this act, the authority shall have the~~  
22 ~~following powers to:~~

23 ~~—(a) sue and be sued;~~

24 ~~—(b) have a seal and alter such seal;~~

25 ~~—(c) make and alter bylaws for its organization and internal~~  
26 ~~management;~~

27 ~~—(d) adopt such rules and regulations as may be necessary to carry out~~  
28 ~~the purposes of this act;~~

29 ~~—(e) acquire, hold and dispose of real and personal property for its~~  
30 ~~corporate purposes;~~

31 ~~—(f) appoint officers, agents and employees, prescribe their duties and~~  
32 ~~qualifications and fix their compensation;~~

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

37 ~~—(h) purchase notes or participations in notes evidencing loans which~~  
38 ~~are secured by mortgages or security interests and to enter into contracts~~  
39 ~~in that regard;~~

40 ~~—(i) make secured or unsecured loans for any of the purposes for which~~  
41 ~~bonds of the authority may be issued under this act or to low and mod-~~  
42 ~~erate income multifamily rental housing projects participating in pro-~~  
43 ~~grams established in section 42 of the federal internal revenue code, and~~

- 1 provide financing for housing projects and programs in participation with  
2 programs established by the United States department of housing and  
3 urban development or the Kansas department of commerce and housing;  
4 except as otherwise provided in this subsection, nothing in this act shall  
5 be construed to authorize the authority to make loans directly to individ-  
6 uals to finance housing developments;
- 7 —(j) ~~sell mortgages and security interests at public or private sale, to~~  
8 ~~negotiate modifications or alterations in mortgage and security interests,~~  
9 ~~to foreclose on any mortgage or security interest in default or commence~~  
10 ~~any action to protect or enforce any right conferred upon it by any law,~~  
11 ~~mortgage, security agreement, contract or other agreement, and to bid~~  
12 ~~for and purchase property which was the subject of such mortgage or~~  
13 ~~security interest at any foreclosure or at any other sale, to acquire or take~~  
14 ~~possession of any such property, and to exercise any and all rights as~~  
15 ~~provided by law for the benefit or protection of the authority or mortgage~~  
16 ~~holders;~~
- 17 —(k) ~~collect fees and charges in connection with its loans, bond guar-~~  
18 ~~antees, commitments and servicing, including, but not limited to, reim-~~  
19 ~~bursment of costs of financing as the authority shall determine to be~~  
20 ~~reasonable and as shall be approved by the authority;~~
- 21 —(l) ~~make and execute contracts for the servicing of mortgages ac-~~  
22 ~~quired by the authority pursuant to this act, and to pay the reasonable~~  
23 ~~value of services rendered to the authority pursuant to those contracts;~~
- 24 —(m) ~~enter into agreements with and accept gifts, grants, loans and~~  
25 ~~other aid from the federal government, the state, any state agency, any~~  
26 ~~political subdivision of the state, or any person or corporation, foundation~~  
27 ~~or legal entity, and to agree to and comply with any conditions attached~~  
28 ~~to federal and state financial assistance not inconsistent with the provi-~~  
29 ~~sions of this act;~~
- 30 —(n) ~~invest moneys of the authority not required for immediate use,~~  
31 ~~including proceeds from the sale of any bonds, in such manner as the~~  
32 ~~board shall determine, subject to any agreement with bondholders stated~~  
33 ~~in the authorizing resolution providing for the issuance of bonds;~~
- 34 —(o) ~~procure insurance against any loss in connection with its pro-~~  
35 ~~grams, property and other assets;~~
- 36 —(p) ~~provide technical assistance and advice to the state or political~~  
37 ~~subdivisions of the state and to enter into contracts with the state or~~  
38 ~~political subdivisions of the state to provide such services. The state or~~  
39 ~~political subdivisions of the state are hereby authorized to enter into con-~~  
40 ~~tracts with the authority for such services and to pay for such services as~~  
41 ~~may be provided them;~~
- 42 —(q) ~~establish accounts in one or more depositories;~~
- 43 —(r) ~~lease, acquire, construct, sell and otherwise deal in and contract~~

1 concerning any facilities;  
2 ~~—(s) have and exercise all of the powers granted to the public housing~~  
3 ~~authorities by the state, except that the authority shall not have the power~~  
4 ~~of eminent domain;~~  
5 ~~—(t) do any and all things necessary or convenient to carry out purposes~~  
6 ~~of the authority and exercise the powers given and granted in this act;~~  
7 ~~—(u) assist minority businesses in obtaining loans or other means of~~  
8 ~~financial assistance. The terms and conditions of such loans or financial~~  
9 ~~assistance, including the charges for interest and other services, will be~~  
10 ~~consistent with the provisions of this act. In order to comply with this~~  
11 ~~requirement, efforts must be made to solicit for review and analysis pro-~~  
12 ~~posed minority business ventures. Basic loan underwriting standards will~~  
13 ~~not be waived to inconsistently favor minority persons or businesses from~~  
14 ~~the intent of the authority's lending practices, and~~  
15 ~~—(v) form one or more subsidiary corporations under K.S.A. 17-6001~~  
16 ~~*et seq.*, and amendments thereto, in accordance with the procedures~~  
17 ~~therein contained. Each subsidiary corporation shall be subject to the~~  
18 ~~same restrictions and limitations as to the powers and purposes to which~~  
19 ~~the authority is subject. The authority may delegate any of its powers,~~  
20 ~~obligations and duties to any subsidiary corporation by inclusion of such~~  
21 ~~powers, obligations and duties in the articles of incorporation of the sub-~~  
22 ~~subsidiary corporation. Subsidiary corporations so formed shall constitute~~  
23 ~~legal entities separate and distinct from each other, the authority and the~~  
24 ~~state. The authority shall not be liable for the debts or obligations or for~~  
25 ~~any actions or inactions of its subsidiary corporations unless the authority~~  
26 ~~expressly agrees otherwise in writing. The authority may make loans or~~  
27 ~~grants to a subsidiary corporation from time to time to enable the sub-~~  
28 ~~subsidiary corporation to carry out its purposes. The members of the au-~~  
29 ~~thority shall constitute all of the directors of each subsidiary corporation;~~  
30 ~~*and*~~  
31 ~~—(w) do any and all things necessary to carry out the provisions of~~  
32 ~~section 1 *et seq.*, and amendments thereto.~~  
33 ~~—The state, any municipality or any state commission, public authority,~~  
34 ~~agency, officer, department, board or division authorized and empowered~~  
35 ~~to enter into agreements with, to grant, convey, lease or otherwise transfer~~  
36 ~~any property to, or to otherwise transact business with the authority, shall~~  
37 ~~have the same authorization and power to engage in these activities with~~  
38 ~~each subsidiary corporation of the authority.~~  
39 ~~—One or more such subsidiary corporation may be formed for purposes~~  
40 ~~of establishing state tax credit equity funds to assist in the development~~  
41 ~~of low-income and middle-income housing and obtain financing through~~  
42 ~~participation in the program established in section 42 of the federal in-~~  
43 ~~ternal revenue code.~~

- 1 — ~~Actions of the authority or any subsidiary corporation relating to hous-~~
- 2 ~~ing pursuant to this subsection (v) shall be carried out in accordance with~~
- 3 ~~any terms, conditions and limitations relating to policy issues regarding~~
- 4 ~~housing, as established by the secretary of commerce and housing.~~
- 5 — ~~One or more such subsidiary corporations may be formed for purposes~~
- 6 ~~of acquiring or conveying on behalf of the state and pursuant to this act~~
- 7 ~~a project of statewide as well as local importance, issuing bonds on behalf~~
- 8 ~~of the state pursuant to this act to finance a project of statewide as well~~
- 9 ~~as local importance or otherwise financing on behalf of the state pursuant~~
- 10 ~~to this act a project of statewide as well as local importance. The Kansas~~
- 11 ~~statewide projects development corporation is hereby created in accord-~~
- 12 ~~ance with this section.~~
- 13 — ~~Sec. 9. K.S.A. 74-8904 is hereby repealed.~~
- 14     Sec. ~~10~~ **8**. This act shall take effect and be in force from and after
- 15 its publication in the Kansas register.