

*[As Amended by Senate Committee of the Whole]*

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*As Amended by Senate Committee*

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*Session of 2004*

## HOUSE BILL No. 2539

By Committee on Higher Education

1-21

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12 AN ACT ~~relating to~~ **[concerning]** the Kansas development finance au-  
13 thority; ~~concerning~~ **[authorizing]** bonds for research facilities; **[the**  
14 **issuance of mortgage revenue bonds;]** **[funding out-of-state pro-**  
15 **jects;]** amending **[K.S.A. 74-8903 and 74-8912 and]** K.S.A. 2003  
16 Supp. 74-8902[, **74-8904]** and 74-8905 and repealing the existing  
17 sections.

18

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

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

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

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

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

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

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

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

1 authority pursuant to this act.

2 (g) “Capital improvements” means any physical public betterment or  
3 improvement or any preliminary plans, studies or surveys relative thereto;  
4 land or rights in land, including, without limitations, leases, air rights,  
5 easements, rights-of-way or licenses; and any furnishings, machinery, ve-  
6 hicles, apparatus or equipment for any public betterment or  
7 improvement.

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

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

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

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

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

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

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

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

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

43 (q) “*Research facilities*” means facilities for use in research and de-

1 *velopment activities, whether conducted for profit or not for profit, of an*  
2 *agricultural business enterprise, industrial enterprise or any other com-*  
3 *mercial enterprise or educational institution or health care institution.*

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

5 ~~(s)~~ (s) “State agency” means any office, department, board, commis-  
6 sion, bureau, division, public corporation, agency or instrumentality of  
7 this state.

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

9 **[(B) a condominium as defined in K.S.A. 58-3102, and amend-**  
10 **ments thereto;**

11 **[(C) a manufactured home, as defined by K.S.A. 58-4202, and**  
12 **amendments thereto; or**

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

16 **[(2) consists of the land and improvements thereon, which is**  
17 **either owned and occupied or is owned and is to be occupied by the**  
18 **mortgagor, and in the case of a two to four family residence one**  
19 **unit of the residence, shall be either owned and occupied or is**  
20 **owned and is to be occupied by the mortgagor.**

21 **[(u) “Home mortgage loan” means a loan to a mortgagor evi-**  
22 **denced by a promissory note and secured by a mortgage, purchased**  
23 **or financed by the authority made for the purpose of acquiring,**  
24 **constructing or improving a home.**

25 **[(v) “Lending institution” means any bank, bank holding com-**  
26 **pany, credit union, trust company, savings bank, national banking**  
27 **association, savings and loan association, building and loan asso-**  
28 **ciation, mortgage banker or other financial institution which cus-**  
29 **tomarily originates or services home mortgages.**

30 **[(w) “Mortgagor” means any person of low or moderate income**  
31 **who has received or qualifies to receive a home mortgage loan on a**  
32 **home.**

33 **[(x) “Persons of low or moderate income” means a person or**  
34 **family, consisting of one or more persons all of whom occupy or will**  
35 **occupy the home, whose aggregate gross income shall not exceed a**  
36 **maximum amount to be established by the authority, determined in**  
37 **accordance with appropriate criteria, rules and regulations and ap-**  
38 **proved by the authority in connection with the implementation of**  
39 **a residential housing finance plan.**

40 **[(y) “Residential housing finance plan” means a program im-**  
41 **plemented under this act by the authority to assist persons of low**  
42 **or moderate income in acquiring safe, decent and sanitary housing.**  
43 **Such plan shall include provisions allowing each lending institution**

1 *with an office located within the state, an equal opportunity to par-*  
2 *ticipate in accordance with the standards and requirements estab-*  
3 *lished by the authority. Nothing in this section shall preclude the*  
4 *use of out-of-state master servicers.*

5 *[Sec. 2. K.S.A. 74-8903 is hereby amended to read as follows:*  
6 *74-8903. (a) There is hereby created, with such duties and powers*  
7 *as are hereinafter set forth to carry out the provisions of this act, a*  
8 *public body politic and corporate, with corporate succession, to be*  
9 *an independent instrumentality of this state exercising essential*  
10 *public functions, and to be known as the Kansas development fi-*  
11 *nance authority.*

12 *[(b) The provisions of the Kansas governmental operations account-*  
13 *ability law apply to the Kansas development finance authority and the*  
14 *authority is subject to audit, review and evaluation under such law.*

15 *[(b) (c) The board of directors of the authority shall consist of*  
16 *the ~~five~~ seven members to be appointed by the governor. Two of such*  
17 *members shall be individuals with housing expertise, as determined by*  
18 *the governor. Not less than ~~three~~ four voting members of such board*  
19 *shall be representative of the general public and not more than ~~three~~*  
20 *four voting members shall be members of the same political party.*

21 *[(c) (d) Members appointed by the governor shall be subject to*  
22 *confirmation by the senate as provided by K.S.A. 75-4315b, and*  
23 *amendments thereto. Except as provided by K.S.A. 46-2601, and*  
24 *amendments thereto, no person appointed to the board, whose ap-*  
25 *pointment is subject to confirmation shall exercise any power, duty*  
26 *or function as a member of the authority until confirmed by the*  
27 *senate. Except as provided by subsection ~~(d)~~ (e), such members shall*  
28 *serve for terms of four years and until their successors are ap-*  
29 *pointed and confirmed. Any vacancy in the board occurring other*  
30 *than by expiration of term shall be filled by the appointment of the*  
31 *governor, but for the unexpired term only.*

32 *[(d) (e) The terms of members who are appointed by the gover-*  
33 *nor and who are serving on the authority on the effective date of*  
34 *this act shall expire on January 15, of the year in which such mem-*  
35 *ber's term would have expired under the provisions of this section*  
36 *prior to amendment by this act. Thereafter, members shall be ap-*  
37 *pointed for terms of four years and until their successors are ap-*  
38 *pointed and confirmed.*

39 *[(e) (f) The governor shall designate the chairperson and vice-*  
40 *chairperson of the board from the members of such board.*

41 *[(f) (g) The authority shall have such rights, powers and privi-*  
42 *leges and shall be subject to such duties as provided by this act.*

43 *[(g) (h) The governor shall appoint a president who shall serve*

1 *at the will of the governor. The president shall appoint and employ*  
2 *such additional officers, accountants, financial advisors or experts,*  
3 *bond counsel or other attorneys, agents and employees as it may*  
4 *require and shall determine their qualifications, duties and com-*  
5 *ensation subject to the approval of the board of directors. The*  
6 *president shall be an ex officio nonvoting member of the board and*  
7 *may be elected secretary of the board. The powers of the authority*  
8 *shall be vested in the members of the board of directors and ~~three~~*  
9 *four members of the board shall constitute a quorum at any meeting*  
10 *thereof. Action may be taken and motions and resolutions adopted*  
11 *by the board at any meeting thereof by the affirmative vote of a*  
12 *majority of present and voting board members. Any motion and*  
13 *resolution to authorize an issue of bonds, to approve a loan appli-*  
14 *cation, to authorize a lease transaction or to approve a bond guar-*  
15 *anty shall have the affirmative vote of at least ~~three~~ four board*  
16 *members.*

17 *~~(h)~~ (i) Before the issuance of any bonds, each member of the*  
18 *board of directors of the authority shall execute a surety bond in*  
19 *the penal sum of \$250,000 and the president of the authority shall*  
20 *execute a surety bond in the penal sum of \$250,000, each surety*  
21 *bond to be conditioned upon the faithful performance of the duties*  
22 *of the office by such board member or president, as the case may*  
23 *be, to be executed by a surety company authorized to transact busi-*  
24 *ness in the state of Kansas, as surety, and to be approved by the*  
25 *attorney general. At all times after the issuance of any bonds by the*  
26 *authority, each member of the board of directors of the authority*  
27 *shall maintain such surety bonds in full force and effect. All costs*  
28 *of such surety bonds shall be borne by the authority.*

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

34 *~~(j)~~ (k) No part of the funds of the authority shall inure to the*  
35 *benefit of, or be distributed to, its employees, officers or board of*  
36 *directors, except that the authority shall be authorized and empow-*  
37 *ered to pay its employees reasonable compensation.*

38 *~~(k)~~ (l) The authority may be dissolved by act of the legislature*  
39 *on condition that the authority has no debts or obligations outstand-*  
40 *ing or provision has been made for the payment or retirement of*  
41 *such debts or obligations. Upon any such dissolution of the author-*  
42 *ity, all property, funds and assets thereof shall be vested in the state.*

43 *[Sec. 3. K.S.A. 2003 Supp. 74-8904 is hereby amended to read*

1 *as follows: 74-8904. Except as otherwise limited by this act, the*  
2 *authority shall have the following powers to:*

3 *[(a) Sue and be sued;*

4 *[(b) have a seal and alter such seal;*

5 *[(c) make and alter bylaws for its organization and internal*  
6 *management;*

7 *[(d) adopt such rules and regulations as may be necessary to*  
8 *carry out the purposes of this act;*

9 *[(e) acquire, hold and dispose of real and personal property for*  
10 *its corporate purposes;*

11 *[(f) appoint officers, agents and employees, prescribe their du-*  
12 *ties and qualifications and fix their compensation;*

13 *[(g) borrow money and to issue notes, bonds and other obliga-*  
14 *tions pursuant to K.S.A. 74-8905, and amendments thereto, whether*  
15 *or not the interest on which is subject to federal income taxation,*  
16 *and to provide for the rights of the lenders or holders thereof;*

17 *[(h) purchase notes or participations in notes evidencing loans*  
18 *which are secured by mortgages or security interests and to enter*  
19 *into contracts in that regard;*

20 *[(i) make secured or unsecured loans for any of the purposes*  
21 *for which bonds of the authority may be issued under this act or to*  
22 *low and moderate income multifamily rental housing projects par-*  
23 *ticipating in programs established in section 42 of the federal in-*  
24 *ternal revenue code, and provide financing for housing projects and*  
25 *programs in participation with programs established by the United*  
26 *States department of housing and urban development or the divi-*  
27 *sion of housing in the Kansas development finance authority; except*  
28 *as otherwise provided in this subsection, nothing in this act shall be con-*  
29 *strued to authorize the authority to make loans directly to individuals to*  
30 *finance housing developments; Nothing in this act shall be construed to*  
31 *authorize the authority to make loans directly to individuals to finance*  
32 *housing developments or home mortgage loans except that the authority*  
33 *is authorized to contract with lending institutions to originate, on behalf*  
34 *of or in the name of the authority home mortgage loans secured by a*  
35 *junior lien made only to pay all or a portion of a mortgagor's required*  
36 *down payment or closing costs in connection with the acquisition of a*  
37 *home;*

38 *[(j) sell mortgages and security interests at public or private*  
39 *sale, to negotiate modifications or alterations in mortgage and se-*  
40 *curity interests, to foreclose on any mortgage or security interest in*  
41 *default or commence any action to protect or enforce any right con-*  
42 *ferred upon it by any law, mortgage, security agreement, contract*  
43 *or other agreement, and to bid for and purchase property which*

1 *was the subject of such mortgage or security interest at any fore-*  
2 *closure or at any other sale, to acquire or take possession of any*  
3 *such property, and to exercise any and all rights as provided by law*  
4 *for the benefit or protection of the authority or mortgage holders;*  
5 *[(k) collect fees and charges in connection with its loans, bond*  
6 *guarantees, commitments and servicing, including, but not limited*  
7 *to, reimbursement of costs of financing as the authority shall deter-*  
8 *mine to be reasonable and as shall be approved by the authority;*  
9 *[(l) make and execute contracts for the servicing of mortgages*  
10 *acquired by the authority pursuant to this act, and to pay the rea-*  
11 *sonable value of services rendered to the authority pursuant to*  
12 *those contracts;*  
13 *[(m) enter into agreements with and accept gifts, grants, loans*  
14 *and other aid from the federal government, the state, any state*  
15 *agency, any political subdivision of the state, or any person or cor-*  
16 *poration, foundation or legal entity, and to agree to and comply*  
17 *with any conditions attached to federal and state financial assis-*  
18 *tance not inconsistent with the provisions of this act;*  
19 *[(n) invest moneys of the authority not required for immediate*  
20 *use, including proceeds from the sale of any bonds, in such manner*  
21 *as the board shall determine, subject to any agreement with bond-*  
22 *holders stated in the authorizing resolution providing for the issu-*  
23 *ance of bonds;*  
24 *[(o) procure insurance against any loss in connection with its*  
25 *programs, property and other assets;*  
26 *[(p) provide technical assistance and advice to the state or po-*  
27 *litical subdivisions of the state and to enter into contracts with the*  
28 *state or political subdivisions of the state to provide such services.*  
29 *The state or political subdivisions of the state are hereby authorized*  
30 *to enter into contracts with the authority for such services and to*  
31 *pay for such services as may be provided them;*  
32 *[(q) establish accounts in one or more depositories;*  
33 *[(r) lease, acquire, construct, sell and otherwise deal in and con-*  
34 *tract concerning any facilities;*  
35 *[(s) have and exercise all of the powers granted to the public*  
36 *housing authorities by the state, except that the authority shall not*  
37 *have the power of eminent domain;*  
38 *[(t) do any and all things necessary or convenient to carry out*  
39 *purposes of the authority and exercise the powers given and granted*  
40 *in this act;*  
41 *[(u) assist minority businesses in obtaining loans or other means*  
42 *of financial assistance. The terms and conditions of such loans or*  
43 *financial assistance, including the charges for interest and other*

1 *services, will be consistent with the provisions of this act. In order*  
2 *to comply with this requirement, efforts must be made to solicit for*  
3 *review and analysis proposed minority business ventures. Basic*  
4 *loan underwriting standards will not be waived to inconsistently*  
5 *favor minority persons or businesses from the intent of the author-*  
6 *ity's lending practices; and*

7 *[(v) form one or more subsidiary corporations under K.S.A. 17-*  
8 *6001 et seq., and amendments thereto, in accordance with the pro-*  
9 *cedures therein contained. Each subsidiary corporation shall be*  
10 *subject to the same restrictions and limitations as to the powers and*  
11 *purposes to which the authority is subject. The authority may dele-*  
12 *gate any of its powers, obligations and duties to any subsidiary*  
13 *corporation by inclusion of such powers, obligations and duties in*  
14 *the articles of incorporation of the subsidiary corporation. Subsid-*  
15 *iary corporations so formed shall constitute legal entities separate*  
16 *and distinct from each other, the authority and the state. The au-*  
17 *thority shall not be liable for the debts or obligations or for any*  
18 *actions or inactions of its subsidiary corporations unless the au-*  
19 *thority expressly agrees otherwise in writing. The authority may*  
20 *make loans or grants to a subsidiary corporation from time to time*  
21 *to enable the subsidiary corporation to carry out its purposes. The*  
22 *members of the authority shall constitute all of the directors of each*  
23 *subsidiary corporation.*

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

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

36 *[Actions of the authority or any subsidiary corporation relating*  
37 *to housing pursuant to this subsection (v) shall be carried out in*  
38 *accordance with any terms, conditions and limitations relating to*  
39 *policy issues regarding housing, as established by the director of*  
40 *housing in the Kansas development finance authority.*

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



1 **issuing bonds on behalf of the state pursuant to this act to finance**  
2 **a project of statewide as well as local importance or otherwise fi-**  
3 **nanancing on behalf of the state pursuant to this act a project of state-**  
4 **wide as well as local importance. The Kansas statewide projects**  
5 **development corporation is hereby created in accordance with this**  
6 **section;**

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

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

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

17 [(2) to make and execute contracts with lending institutions for the  
18 origination and servicing of home mortgage loans on behalf of the au-  
19 thority and to pay the reasonable value of services rendered in accordance  
20 with such contracts, provided that a lending institution shall have the  
21 option to retain servicing on conventional home mortgage loans originated  
22 by such lending institution. The authority shall not:

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

25 [(B) contract with a master servicer without such master servicer  
26 going through the bidding process. Such contract shall not be in effect for  
27 a period longer than three years without going through the bidding pro-  
28 cess for the next three-year servicing contract period. A master servicer  
29 who obtains the three-year servicing contract may service all newly origi-  
30 nated home mortgage loans made on behalf of the authority during such  
31 contract period for the life of the loans;

32 [(3) to establish, by rules and regulations, by resolution relating to  
33 any issuance of bonds or in any financing documents relating to such  
34 issuance, such standards and requirements applicable to the purchase of  
35 home mortgage loans or the origination of home mortgage loans as the  
36 authority deems necessary or desirable to effectuate the public purposes  
37 of this act. Such standards and requirements shall be consistent with stan-  
38 dards and requirements with which nongovernmental entities engaged in  
39 the purchase of home mortgage loans or the origination of home mortgage  
40 loans must comply, and shall not confer a competitive advantage on the  
41 authority;

42 [(4) to authorize the sale or other disposition of any home mortgage  
43 loan, in whole or in part, upon such terms, at such prices and times, and

- 1 *from time to time, as may be deemed appropriate and necessary;*  
2 *[(5) to pledge any revenues and receipts to be received from or in*  
3 *connection with any home mortgage loans to the punctual payment of*  
4 *bonds therefore, and the interest and redemption premiums, if any,*  
5 *thereon; and*  
6 *[(6) to pledge or grant security interests in any home mortgage loans,*  
7 *notes, revenues therefrom or other property in favor of the holder or*  
8 *holders of bonds issued therefore.]*  
9 ***[Sec. 4. K.S.A. 2003 Supp. 74-8904 is hereby amended to read***  
10 ***as follows: 74-8904. Except as otherwise limited by this act, the***  
11 ***authority shall have the following powers to:***  
12 ***[(a) Sue and be sued;***  
13 ***[(b) have a seal and alter such seal;***  
14 ***[(c) make and alter bylaws for its organization and internal***  
15 ***management;***  
16 ***[(d) adopt such rules and regulations as may be necessary to***  
17 ***carry out the purposes of this act;***  
18 ***[(e) acquire, hold and dispose of real and personal property for***  
19 ***its corporate purposes;***  
20 ***[(f) appoint officers, agents and employees, prescribe their du-***  
21 ***ties and qualifications and fix their compensation;***  
22 ***[(g) borrow money and to issue notes, bonds and other obliga-***  
23 ***tions pursuant to K.S.A. 74-8905, and amendments thereto, whether***  
24 ***or not the interest on which is subject to federal income taxation,***  
25 ***and to provide for the rights of the lenders or holders thereof;***  
26 ***[(h) purchase notes or participations in notes evidencing loans***  
27 ***which are secured by mortgages or security interests and to enter***  
28 ***into contracts in that regard;***  
29 ***[(i) make secured or unsecured loans for any of the purposes***  
30 ***for which bonds of the authority may be issued under this act or to***  
31 ***low and moderate income multifamily rental housing projects par-***  
32 ***ticipating in programs established in section 42 of the federal in-***  
33 ***ternal revenue code, and provide financing for housing projects and***  
34 ***programs in participation with programs established by the United***  
35 ***States department of housing and urban development or the divi-***  
36 ***sion of housing in the Kansas development finance authority; except***  
37 ***as otherwise provided in this subsection, nothing in this act shall be***  
38 ***construed to authorize the authority to make loans directly to in-***  
39 ***dividuals to finance housing developments;***  
40 ***[(j) sell mortgages and security interests at public or private***  
41 ***sale, to negotiate modifications or alterations in mortgage and se-***  
42 ***curity interests, to foreclose on any mortgage or security interest in***  
43 ***default or commence any action to protect or enforce any right con-***

- 1 *ferred upon it by any law, mortgage, security agreement, contract*  
2 *or other agreement, and to bid for and purchase property which*  
3 *was the subject of such mortgage or security interest at any fore-*  
4 *closure or at any other sale, to acquire or take possession of any*  
5 *such property, and to exercise any and all rights as provided by law*  
6 *for the benefit or protection of the authority or mortgage holders;*  
7 *[(k) collect fees and charges in connection with its loans, bond*  
8 *guarantees, commitments and servicing, including, but not limited*  
9 *to, reimbursement of costs of financing as the authority shall deter-*  
10 *mine to be reasonable and as shall be approved by the authority;*  
11 *[(l) make and execute contracts for the servicing of mortgages*  
12 *acquired by the authority pursuant to this act, and to pay the rea-*  
13 *sonable value of services rendered to the authority pursuant to*  
14 *those contracts;*  
15 *[(m) enter into agreements with and accept gifts, grants, loans*  
16 *and other aid from the federal government, the state, any state*  
17 *agency, any political subdivision of the state, or any person or cor-*  
18 *poration, foundation or legal entity, and to agree to and comply*  
19 *with any conditions attached to federal and state financial assis-*  
20 *tance not inconsistent with the provisions of this act;*  
21 *[(n) invest moneys of the authority not required for immediate*  
22 *use, including proceeds from the sale of any bonds, in such manner*  
23 *as the board shall determine, subject to any agreement with bond-*  
24 *holders stated in the authorizing resolution providing for the issu-*  
25 *ance of bonds;*  
26 *[(o) procure insurance against any loss in connection with its*  
27 *programs, property and other assets;*  
28 *[(p) provide technical assistance and advice to the state or po-*  
29 *litical subdivisions of the state and to enter into contracts with the*  
30 *state or political subdivisions of the state to provide such services.*  
31 *The state or political subdivisions of the state are hereby authorized*  
32 *to enter into contracts with the authority for such services and to*  
33 *pay for such services as may be provided them;*  
34 *[(q) establish accounts in one or more depositories;*  
35 *[(r) lease, acquire, construct, sell and otherwise deal in and con-*  
36 *tract concerning any facilities;*  
37 *[(s) have and exercise all of the powers granted to the public*  
38 *housing authorities by the state, except that the authority shall not*  
39 *have the power of eminent domain;*  
40 *[(t) do any and all things necessary or convenient to carry out*  
41 *purposes of the authority and exercise the powers given and granted*  
42 *in this act;*  
43 *[(u) assist minority businesses in obtaining loans or other means*

1 of financial assistance. The terms and conditions of such loans or  
2 financial assistance, including the charges for interest and other  
3 services, will be consistent with the provisions of this act. In order  
4 to comply with this requirement, efforts must be made to solicit for  
5 review and analysis proposed minority business ventures. Basic  
6 loan underwriting standards will not be waived to inconsistently  
7 favor minority persons or businesses from the intent of the author-  
8 ity's lending practices; ~~and~~

9 [(v) form one or more subsidiary corporations under K.S.A. 17-  
10 6001 et seq., and amendments thereto, in accordance with the pro-  
11 cedures therein contained. Each subsidiary corporation shall be  
12 subject to the same restrictions and limitations as to the powers and  
13 purposes to which the authority is subject. The authority may del-  
14 egate any of its powers, obligations and duties to any subsidiary  
15 corporation by inclusion of such powers, obligations and duties in  
16 the articles of incorporation of the subsidiary corporation. Subsid-  
17 iary corporations so formed shall constitute legal entities separate  
18 and distinct from each other, the authority and the state. The au-  
19 thority shall not be liable for the debts or obligations or for any  
20 actions or inactions of its subsidiary corporations unless the au-  
21 thority expressly agrees otherwise in writing. The authority may  
22 make loans or grants to a subsidiary corporation from time to time  
23 to enable the subsidiary corporation to carry out its purposes. The  
24 members of the authority shall constitute all of the directors of each  
25 subsidiary corporation.

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

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

38 [Actions of the authority or any subsidiary corporation relating  
39 to housing pursuant to this subsection (v) shall be carried out in  
40 accordance with any terms, conditions and limitations relating to  
41 policy issues regarding housing, as established by the director of  
42 housing in the Kansas development finance authority.

43 [One or more such subsidiary corporations may be formed for

1 *purposes of acquiring or conveying on behalf of the state and pur-*  
 2 *suant to this act a project of statewide as well as local importance,*  
 3 *issuing bonds on behalf of the state pursuant to this act to finance*  
 4 *a project of statewide as well as local importance or otherwise fi-*  
 5 *ncancing on behalf of the state pursuant to this act a project of state-*  
 6 *wide as well as local importance. The Kansas statewide projects*  
 7 *development corporation is hereby created in accordance with this*  
 8 *section; and*

9 *[(w) assist, coordinate, administer and participate with out-of-state:*  
 10 *Governmental authorities, bodies, issuers and other public and private*  
 11 *entities; in connection with the issuance of bonds, notes or other evidence*  
 12 *of indebtedness for the purpose of financing any facilities whether such*  
 13 *facility is located within or outside of Kansas. In connection with such*  
 14 *financings which include out-of-state issuers, the authority is designated*  
 15 *as the only entity in Kansas which may conduct the public hearing of the*  
 16 *applicable governmental unit required by section 147 (f) of the federal*  
 17 *internal revenue code of 1986, as amended, and the governor of Kansas*  
 18 *is designated as the only entity in Kansas who may be the applicable*  
 19 *governmental unit pursuant to section 147 (f) of the federal internal rev-*  
 20 *enue code of 1986, as amended. Following such hearing the authority*  
 21 *shall determine whether such financing should proceed with respect to*  
 22 *facilities located within Kansas by an out-of-state issuer. If the authority*  
 23 *determines that the financing should not proceed, the financing shall not*  
 24 *proceed relative to the Kansas facilities.]*

25 Sec. ~~5~~ [5.] K.S.A. 2003 Supp. 74-8905 is hereby amended to read  
 26 as follows: 74-8905. (a) The authority may issue bonds, either for a specific  
 27 activity or on a pooled basis for a series of related or unrelated activities  
 28 or projects duly authorized by a political subdivision or group of political  
 29 subdivisions of the state in amounts determined by the authority for the  
 30 purpose of financing projects of statewide as well as local importance ~~as~~  
 31 ~~defined pursuant to K.S.A. 12-1744, and amendments thereto~~ **[defined**  
 32 **pursuant to K.S.A. 74-8902, and amendments thereto]**, capital im-  
 33 provement facilities, educational facilities, health care facilities and hous-  
 34 ing developments. Nothing in this act shall be construed to authorize the  
 35 authority to issue bonds or use the proceeds thereof to:

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

38 (2) finance any capital improvement facilities; **[or]** educational facil-  
 39 ities ~~or health care facilities~~ which ~~may be~~ **[are being]** financed by the  
 40 issuance of general obligation or utility revenue bonds of a political sub-  
 41 division, except that the acquisition by the authority of general obligation  
 42 or utility revenue bonds issued by political subdivisions with the proceeds  
 43 of pooled bonds shall not violate the provisions of the foregoing; or

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

6 Nothing in this subsection (a) shall prohibit the issuance of bonds by  
7 the authority when any statute specifically authorizes the issuance of  
8 bonds by the authority or approves any activity or project of a state agency  
9 for purposes of authorizing any such issuance of bonds in accordance with  
10 this section and provides an exemption from the provisions of this sub-  
11 section (a).

12 (b) The authority may issue bonds for activities and projects of state  
13 agencies as requested by the secretary of administration. *Research facil-*  
14 *ities of state educational institutions shall be subject to the provisions of*  
15 *this subsection (b).* No bonds may be issued pursuant to this act for any  
16 activity or project of a state agency unless the activity or project either  
17 has been approved by an appropriation or other act of the legislature or  
18 has been approved by the state finance council acting on this matter which  
19 is hereby characterized as a matter of legislative delegation and subject  
20 to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and  
21 amendments thereto. When requested to do so by the secretary of ad-  
22 ministration, the authority may issue bonds for the purpose of refunding,  
23 whether at maturity or in advance of maturity, any outstanding bonded  
24 indebtedness of any state agency. The revenues of any state agency which  
25 are pledged as security for any bonds of such state agency which are  
26 refunded by refunding bonds of the authority may be pledged to the  
27 authority as security for the refunding bonds.

28 (c) The authority may issue bonds for the purpose of financing in-  
29 dustrial enterprises, [**transportation facilities,**] agricultural business en-  
30 terprises, educational facilities, health care facilities ~~and~~, housing devel-  
31 opments, or any combination of such facilities *and research facilities*, or  
32 any interest in facilities, including without limitation leasehold interests  
33 in and mortgages on such facilities[, **whether located within or outside**  
34 **of Kansas**]. No less than 30 days prior to the issuance of any bonds  
35 authorized under this act with respect to any project or activity [**within**  
36 **Kansas**] which is to be undertaken for the direct benefit of any person  
37 or entity which is not a state agency or a political subdivision, written  
38 notice of the intention of the authority to provide financing and issue  
39 bonds therefor shall be given by the president of the authority to the  
40 governing body of the city in which the project or activity is to be located.  
41 If the project or activity is not proposed to be located within a city, such  
42 notice shall be given to the governing body of the county. No bonds for  
43 the financing of the project or activity shall be issued by the authority for

1 a one-year period if, within 15 days after the giving of such notice, the  
2 governing body of the political subdivision in which the project or activity  
3 **[within Kansas]** is proposed to be located shall have adopted an ordi-  
4 nance or resolution stating express disapproval of the project or activity  
5 and shall have notified the president of the authority of such disapproval.  
6 **[The authority shall not issue bonds for the purpose of financing a**  
7 **project or activity outside Kansas unless the authority has deter-**  
8 **mined that the issuance of such bonds provides a benefit to Kansas**  
9 **or its people and that the owner or operator thereof or an affiliate**  
10 **has a presence or impact in Kansas.]**

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

38 (e) The authority may issue bonds in one or more series for the pur-  
39 pose of financing a redevelopment plan project that is approved by the  
40 authority in accordance with K.S.A. 74-8921 and 74-8922, and amend-  
41 ments thereto, or by Johnson or Labette county in accordance with the  
42 provisions of this act.

43 (f) After receiving and approving the feasibility study required pur-

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

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

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

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

41 ~~(i)~~ **[(j)]** Any time the authority is required to publish a notification  
42 pursuant to the tax equity and fiscal responsibility act of 1982, **[or any**  
43 **time that the authority issues bonds pursuant to subsection (h),]** the



1 authority shall further publish such notification in the Kansas register **and**  
2 **on the Kansas development finance authority website.**

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

9 **[Sec. 5. K.S.A. 74-8912 is hereby amended to read as follows:**  
10 **74-8912. Bonds may be issued for the purpose of refunding, either**  
11 **at maturity or in advance of maturity, any bonds issued under this**  
12 **act and any bonds issued by a political subdivision pursuant to the local**  
13 **residential housing finance law, K.S.A. 12-5219 et seq., and amendments**  
14 **thereto, or for any other purpose for which bonds may be issued under**  
15 **this act. Such refunding bonds may either be sold or delivered in**  
16 **exchange for the bonds being refunded. If sold, the proceeds may**  
17 **either be applied to the payment of the bonds being refunded or**  
18 **deposited in trust and there maintained in cash or investments for**  
19 **the retirement of the bonds being refunded, as shall be specified by**  
20 **the authority and the authorizing resolution or trust indenture se-**  
21 **curing such refunding bonds. The authorizing resolution or trust**  
22 **indenture securing the refunding bonds may provide that the re-**  
23 **funding bonds shall have the same security for their payment as**  
24 **provided for the bonds being refunded. Refunding bonds shall be**  
25 **sold and secured in accordance with the provisions of this act per-**  
26 **taining to the sale and security of the bonds.**

27 **[New Sec. 6. Programs funded with proceeds of bonds issued**  
28 **under subsection (h) of K.S.A. 74-8905, and amendments thereto,**  
29 **shall not be restricted by the authority to prevent such programs**  
30 **from being available in all counties of the state and the authority**  
31 **shall adopt policies to facilitate the financing of home mortgage**  
32 **loans in those areas of the state which are not included in any met-**  
33 **ropolitan statistical area. For a period of at least 90 days following**  
34 **the issuance of bonds under subsection (h) of K.S.A. 74-8905, and**  
35 **amendments thereto, the authority shall reserve for use in financing**  
36 **home mortgage loans in those areas of the state which are not in-**  
37 **cluded in any metropolitan statistical area a minimum of 20% of**  
38 **the amount of the proceeds of such bonds that are available to fi-**  
39 **nance home mortgage loans.**

40 **[New Sec. 7. Prior to July 1, 2005, the secretary shall prepare**  
41 **and submit proposed rules and regulations to the joint committee**  
42 **on administrative rules and regulations setting forth an objective**  
43 **scoring matrix for the purpose of allocating housing tax credits pur-**

1 *suant to this act. The secretary shall use and apply such objective*  
2 *scoring matrix in the allocation of such housing tax credits. The*  
3 *provisions of this section shall be part of and supplemental to the*  
4 *Kansas private activity bond allocation act, K.S.A. 74-5058 et seq.,*  
5 *and amendments thereto.*

6 *[New Sec. 8. The Kansas development finance authority, cre-*  
7 *ated by K.S.A. 74-8903, and amendments thereto, shall be audited*  
8 *under the Kansas governmental operations accountability law, and*  
9 *shall be reviewed and evaluated during the 2006 regular session of*  
10 *the legislature, or such other regular session of the legislature des-*  
11 *ignated by the legislative post audit committee in accordance with*  
12 *the provisions of subsection (c) of K.S.A. 74-7285, and amendments*  
13 *thereto.]*

14 Sec. ~~3~~ [9.] K.S.A. [74-8903 and 74-8912 and K.S.A.] 2003 Supp.  
15 74-8902[, 74-8904] and 74-8905 are hereby repealed.

16 Sec. ~~4~~ [10] This act shall take effect and be in force from and after  
17 its publication in the statute book.