

HOUSE BILL No. 2891

By Committee on Taxation

2-17

9 AN ACT establishing procedure for redevelopment districts to finance
10 investigation and remediation of flood-plain conditions; tax increment
11 bonds; amending K.S.A. 2003 Supp. 12-1770a and repealing the ex-
12 isting section.

13

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

15 Section 1. K.S.A. 2003 Supp. 12-1770a is hereby amended to read
16 as follows: 12-1770a. As used in this act, unless the context clearly shows
17 otherwise:

18 (a) "Auto race track facility" means: (1) An auto race track facility and
19 facilities directly related and necessary to the operation of an auto race
20 track facility, including, but not limited to, grandstands, suites and viewing
21 areas, concessions, souvenir facilities, catering facilities, visitor and retail
22 centers, signage and temporary hospitality facilities, but excluding (2) ho-
23 tels, motels, restaurants and retail facilities, not directly related to or nec-
24 essary to the operation of such facility.

25 (b) "Base year assessed valuation" means the assessed valuation of all
26 real property within the boundaries of a redevelopment district on the
27 date the redevelopment district was established.

28 (c) "Blighted area" means an area which:

29 (1) Because of the presence of a majority of the following factors,
30 substantially impairs or arrests the development and growth of the mu-
31 nicipality or constitutes an economic or social liability or is a menace to
32 the public health, safety, morals or welfare in its present condition and
33 use:

34 (A) A substantial number of deteriorated or deteriorating structures;

35 (B) predominance of defective or inadequate street layout;

36 (C) unsanitary or unsafe conditions;

37 (D) deterioration of site improvements;

38 (E) tax or special assessment delinquency exceeding the fair market
39 value of the real property;

40 (F) defective or unusual conditions of title including but not limited
41 to cloudy or defective titles, multiple or unknown ownership interests to
42 the property;

43 (G) improper subdivision or obsolete platting or land uses;

- 1 (H) the existence of conditions which endanger life or property by
2 fire or other causes; or
- 3 (I) conditions which create economic obsolescence; or
- 4 (2) has been identified by any state or federal environmental agency
5 as being environmentally contaminated to an extent that requires a re-
6 medial investigation; feasibility study and remediation or other similar
7 state or federal action; or
- 8 (3) previously was found by resolution of the governing body to be a
9 slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments
10 thereto.
- 11 (d) “Conservation area” means any improved area comprising 15%
12 or less of the land area within the corporate limits of a city in which 50%
13 or more of the structures in the area have an age of 35 years or more,
14 which area is not yet blighted, but may become a blighted area due to
15 the existence of a combination of two or more of the following factors:
- 16 (1) Dilapidation, obsolescence or deterioration of the structures;
17 (2) illegal use of individual structures;
18 (3) the presence of structures below minimum code standards;
19 (4) building abandonment;
20 (5) excessive vacancies;
21 (6) overcrowding of structures and community facilities; or
22 (7) inadequate utilities and infrastructure.
- 23 (e) “De minimus” means an amount less than 15% of the land area
24 within a redevelopment district.
- 25 (f) “Developer” means any person, firm, corporation, partnership or
26 limited liability company, other than a city.
- 27 (g) “Eligible area” means a blighted area, conservation area, enter-
28 prise zone, historic theater, major tourism area or a major commercial
29 entertainment and tourism area as determined by the secretary.
- 30 (h) “Enterprise zone” means an area within a city that was designated
31 as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107
32 through 12-17,113, and amendments thereto, prior to its repeal and the
33 conservation, development or redevelopment of the area is necessary to
34 promote the general and economic welfare of such city.
- 35 (i) “Environmental increment” means the increment determined
36 pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.
- 37 (j) “Environmentally contaminated area” means an area of land hav-
38 ing contaminated groundwater or soil which is deemed environmentally
39 contaminated by the department of health and environment or the United
40 States environmental protection agency.
- 41 (k) “Feasibility study” means a study which shows whether a rede-
42 velopment or special bond project’s benefits and tax increment revenue
43 and other available revenues under K.S.A. 12-1774 (a)(1), and amend-

1 ments thereto, are expected to exceed or be sufficient to pay for the
2 redevelopment or special bond project costs and the effect, if any, the
3 redevelopment or special bond project will have on any outstanding spe-
4 cial obligation bonds as authorized pursuant to subsection (a)(1)(D) of
5 K.S.A. 12-1774, and amendments thereto.

6 (l) “Historic theater” means a building constructed prior to 1940
7 which was constructed for the purpose of staging entertainment, includ-
8 ing motion pictures, vaudeville shows or operas, that is operated by a
9 nonprofit corporation and is designated by the state historic preservation
10 officer as eligible to be on the Kansas register of historic places or is a
11 member of the Kansas historic theatre association.

12 (m) “Historic theater sales tax increment” means the amount of state
13 and local sales tax revenue imposed pursuant to K.S.A. 12-187 *et seq.*, 79-
14 3601 *et seq.* and 79-3701 *et seq.*, and amendments thereto, collected from
15 taxpayers doing business within the historic theater that is in excess of
16 the amount of such taxes collected prior to the designation of the building
17 as a historic theater for purposes of this act.

18 (n) “Major tourism area” means an area for which the secretary has
19 made a finding the capital improvements costing not less than
20 \$100,000,000 will be built in the state to construct an auto race track
21 facility.

22 (o) “Real property taxes” means all taxes levied on an ad valorem basis
23 upon land and improvements thereon.

24 (p) “Redevelopment project area” or “project area” means an area
25 designated by a city within a redevelopment district.

26 (q) “Redevelopment project costs” means those costs necessary to
27 implement a redevelopment plan, including, but not limited to costs in-
28 curred for:

- 29 (1) Acquisition of property within the redevelopment project area;
- 30 (2) payment of relocation assistance;
- 31 (3) site preparation including utility relocations;
- 32 (4) sanitary and storm sewers and lift stations;
- 33 (5) drainage conduits, channels, levees and river walk canal facilities;
- 34 (6) street grading, paving, graveling, macadamizing, curbing, gutter-
35 ing and surfacing;
- 36 (7) street light fixtures, connection and facilities;
- 37 (8) underground gas, water, heating and electrical services and con-
38 nections located within the public right-of-way;
- 39 (9) sidewalks and pedestrian underpasses or overpasses;
- 40 (10) drives and driveway approaches located within the public right-
41 of-way;
- 42 (11) water mains and extensions;
- 43 (12) plazas and arcades;

- 1 (13) parking facilities;
- 2 (14) landscaping and plantings, fountains, shelters, benches, sculp-
3 tures, lighting, decorations and similar amenities; and
- 4 (15) all related expenses to redevelop and finance the redevelopment
5 project.
- 6 Redevelopment project costs shall not include costs incurred in con-
7 nection with the construction of buildings or other structures to be owned
8 by or leased to a developer, however, the “redevelopment project costs”
9 shall include costs incurred in connection with the construction of build-
10 ings or other structures to be owned or leased to a developer which in-
11 cludes an auto race track facility or is in a redevelopment district including
12 some or all of the land and buildings comprising a state mental institution
13 closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of
14 Kansas.
- 15 (r) “Redevelopment district” means the specific area declared to be
16 an eligible area in which the city may develop one or more redevelopment
17 projects.
- 18 (s) “Redevelopment district plan” or “district plan” means the pre-
19 liminary plan that identifies all of the proposed redevelopment project
20 areas and identifies in a general manner all of the buildings, facilities and
21 improvements in each that are proposed to be constructed or improved
22 in each redevelopment project area.
- 23 (t) “Redevelopment project” means the approved project to imple-
24 ment a project plan for the development of the established redevelop-
25 ment district.
- 26 (u) “Redevelopment project plan” or “project plan” means the plan
27 adopted by a municipality for the development of a redevelopment pro-
28 ject or projects which conforms with K.S.A. 12-1772, and amendments
29 thereto, in a redevelopment district.
- 30 (v) “Secretary” means the secretary of commerce.
- 31 (w) “Substantial change” means, as applicable, a change wherein the
32 proposed plan or plans differ substantially from the intended purpose for
33 which the district plan or project plan was approved.
- 34 (x) “Tax increment” means that amount of real property taxes col-
35 lected from real property located within the redevelopment district that
36 is in excess of the amount of real property taxes which is collected from
37 the base year assessed valuation.
- 38 (y) “Taxing subdivision” means the county, city, unified school district
39 and any other taxing subdivision levying real property taxes, the territory
40 or jurisdiction of which includes any currently existing or subsequently
41 created redevelopment district.
- 42 (z) “Special bond project” means a redevelopment project with at
43 least a \$50,000,000 capital investment and \$50,000,000 in projected gross

1 annual sales revenues or for areas outside of metropolitan statistical areas,
2 as defined by the federal office of management and budget the secretary
3 finds the project meets the requirements of subsection (g) and would be
4 of regional or statewide importance, but a “special bond project” shall
5 not include a project for a gambling casino.

6 (aa) “Marketing study” means a study conducted to examine the im-
7 pact of the redevelopment or special bond project upon similar businesses
8 in the projected market area.

9 (bb) “Projected market area” means any area within the state in
10 which the redevelopment or special bond project is projected to have a
11 substantial fiscal or market impact upon businesses in such area.

12 (cc) “River walk canal facilities” means a canal and related water fea-
13 tures located adjacent to a river which flows through a major commercial
14 entertainment and tourism area and facilities related or contiguous
15 thereto, including, but not limited to pedestrian walkways and prome-
16 nades, landscaping and parking facilities.

17 (dd) “Commence work” means the manifest commencement of ac-
18 tual operations on the development site, such as, erecting a building,
19 excavating the ground to lay a foundation or a basement or work of like
20 description which a person with reasonable diligence can see and rec-
21 ognize as being done with the intention and purpose to continue work
22 until the project is completed.

23 (ee) “Major commercial entertainment and tourism area” may in-
24 clude, but not be limited to, a major multi-sport athletic complex.

25 (ff) “Major multi-sport athletic complex” means an athletic complex
26 that is utilized for the training of athletes, the practice of athletic teams,
27 the playing of athletic games or the hosting of events. Such project may
28 include playing fields, parking lots and other developments.

29 (gg) *“Flood-plain increment” means the increment determined pur-
30 suant to subsection (b) of section 2, and amendments thereto.*

31 (hh) *“100-year flood-plain area” means an area of land existing in a
32 100-year flood-plain as determined by either an engineering study of a
33 Kansas certified engineer or by the United States federal emergency man-
34 agement agency.*

35 New Sec. 2. (a) The governing body of a city may establish an incre-
36 ment in ad valorem taxes using the procedure set forth in subsection (b)
37 for projects that are initiated upon a finding that the area is a blighted
38 area as defined under K.S.A. 12-1770a, and amendments thereto, when
39 the following conditions exist:

40 (1) The proposed district has been identified by a Kansas certified
41 engineer or the United States federal emergency management agency as
42 a majority of property existing in the 100-year flood-plain; and

43 (2) the city intends to establish a redevelopment district pursuant to

1 K.S.A. 12-1771, and amendments thereto, to wholly finance or partially
2 finance the investigation and remediation of a flood-plain within such a
3 district.

4 (b) A flood-plain increment, established after a city has found that
5 the conditions described in subsection (c) of K.S.A. 12-1770a, and amend-
6 ments thereto, exist, shall be set on a yearly basis. For purposes of this
7 section, a yearly basis shall be a calendar year. Each year's increment shall
8 be an amount sufficient to pay the direct cost of investigation and re-
9 mediatioin of the flood-plain condition anticipated to be incurred that year
10 including principal and interest due on any special obligation bonds or
11 full faith and credit tax increment bonds issued to finance in whole or in
12 part the remediation and investigation, costs relating to remediation in-
13 vestigation and feasibility studies, operation and maintenance expenses
14 and other expenses relating directly to the investigation of flooding. Each
15 year's flood-plain increment shall not exceed 20% of the amount of taxes
16 that are produced by all taxing subdivisions within any currently existing
17 or subsequently created redevelopment district area in the year the re-
18 development district is first established, notwithstanding that such sub-
19 division was not required to receive notice of the establishment of the
20 district.

21 (c) The budget that established the yearly flood-plain increment shall
22 be certified by the city to the county clerk and county treasurer no later
23 than August 15th, preceding the calendar year for which the budget is
24 being set. Funds derived from a flood-plain increment established by this
25 section and interest on all funds derived from a flood-plain increment
26 established by this section may be used only for projects involving the
27 investigation and remediation of the flood-plain in the district.

28 (d) The real property taxes produced by the flood-plain increment
29 established under subsection (b) from a redevelopment district estab-
30 lished under the provisions of K.S.A. 12-1771, and amendments thereto,
31 and this section shall be allocated and paid by the county treasurer to the
32 treasurer of the city and deposited in a special separate fund of the city
33 to pay the direct cost of investigation and remediation of flooding in the
34 redevelopment district.

35 (e) A redevelopment district created under the provisions of this sec-
36 tion shall constitute a separate taxing district. If all costs for such inves-
37 tigation and remediation of flooding in the redevelopment district have
38 been paid and moneys remain in the special fund, such moneys shall be
39 remitted to each taxing subdivision which paid moneys into the special
40 fund on the basis of the proportion which the total amount of moneys
41 paid by such taxing subdivision into the special fund bears to the total
42 amount of all moneys paid by all taxing subdivisions into the fund.

43 (f) Nothing in this section shall prevent any city from establishing a

1 redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et*
2 *seq.*, and amendments thereto, which may include part or all of the real
3 property included in the district established under this section.

4 (g) Redevelopment projects relating to flooding investigation and re-
5 mediation under this section, shall be completed within 20 years.

6 (h) Nothing in this section shall be construed to affect the obligations
7 of the county to annually review the fair market value of property in
8 accordance with procedures set by law or to affect the right of any tax-
9 payer to protest and appeal the appraised or reappraised value of their
10 property in accordance with procedures set forth by law.

11 (i) For the purposes of this act, the governing body of a city may
12 pledge increments receivable in future years to pay costs directly relating
13 to the investigation and remediation of flood-plain areas. The provisions
14 in such contracts pertaining to pledging increments in future years shall
15 not be subject to K.S.A. 10-1101 *et seq.* or 79-2925 *et seq.*, and amend-
16 ments thereto.

17 Sec. 3. K.S.A. 2003 Supp. 12-1770a is hereby repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the statute book.