

CHAPTER 109
SENATE BILL No. 4

AN ACT concerning the Kansas manufactured housing act; prescribing installation standards; providing for manufactured home installers' licenses; providing for apprentice installers' licenses; authorizing certain fees and civil penalties; amending K.S.A. 58-4205 and K.S.A. 2004 Supp. 58-4202, 74-8904 and 74-8959 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 58-4202 is hereby amended to read as follows: 58-4202. As used in the Kansas manufactured housing act, *unless the context clearly requires otherwise:*

(a) "Manufactured home" means a structure which:

~~(1)~~ is *subject to the federal act and which is* transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; ~~and~~

~~(2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403, and such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files with the United States department of housing and urban development a certification required by the secretary of housing and urban development and complies with the standards established under the federal act, except that such term shall not include any self-propelled recreational vehicle.~~

(b) "Mobile home" means a structure which:

~~(1)~~ is *not subject to the federal act and which is* transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; ~~and~~

~~(2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.~~

(c) "Modular home" means a structure which is: (1) Transportable in one or more sections; (2) ~~not constructed on a permanent chassis;~~ (3) designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and ~~(4)~~ (3) certified by its manufacturer as being constructed in accordance with a nationally recognized building code.

(d) "Factory-built home" means a mobile home, manufactured home or modular home.

(e) "Division" means the division of vehicles of the department of revenue.

(f) "Director" means the director of vehicles, either acting directly or through officers or agents of the division of vehicles of the department of revenue.

(g) "Manufactured home dealer" or "dealer" means any person who, for commission, money or other thing of value, is engaged in the business of:

(1) Buying, selling or offering or attempting to negotiate a sale of an interest in manufactured homes or mobile homes; or

(2) buying, selling or offering or attempting to negotiate a sale of an interest in manufactured homes or mobile homes for other persons as an agent, middleman or negotiator; or

(3) bringing together buyers and sellers of manufactured homes or mobile homes.

(h) "New manufactured home dealer" means any manufactured home dealer who is a party to a manufactured home sales agreement with a manufactured home manufacturer, which manufactured home sales agreement authorizes the manufactured home dealer to sell, exchange or transfer new manufactured homes or parts and accessories made or sold by such manufactured home manufacturer, and ~~obligates~~ *authorizes* the

manufactured home dealer to fulfill the warranty commitments of such manufactured home manufacturer.

(i) “Used manufactured home dealer” means any person actively engaged in the business of buying, selling or exchanging used manufactured homes or mobile homes.

(j) “Manufactured home manufacturer” or “*manufacturer*” means any person who manufactures, assembles and sells new manufactured homes, *subject to regulation pursuant to the federal act*, to new manufactured home dealers for resale in this state, *whether such person is located within or outside the state of Kansas*.

(k) “Salesperson” means any person who is employed as a salesperson by a manufactured home dealer to sell manufactured homes or mobile homes.

(l) “Factory representative” means a representative employed by a manufactured home manufacturer for the purpose of making or promoting the sale of its new manufactured homes to new manufactured home dealers, or for advertising or contacting its new manufactured *home* dealers with respect to the promotion and sale of manufactured homes and parts or accessories for the same.

(m) “Manufactured home sales agreement” means a contract between the manufacturer of manufactured homes and a new manufactured home dealer, by which the dealer is entitled to purchase new manufactured homes from the manufacturer for resale within this state.

(n) “Broker” means any person who, for commission, money or other thing of value, is engaged in the business of:

(1) Selling or buying manufactured homes or mobile homes for other persons as an agent, middleman or negotiator; or

(2) bringing together buyers and sellers of manufactured homes or mobile homes, but such term shall not include any person engaged in a business in which the acts described in this subsection are only incidentally performed.

(o) “Lending agency” means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a manufactured home or mobile home.

(p) “Established place of business” means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensee.

(q) “Supplemental place of business” means a business location other than that of the established place of business.

(r) “Licensee” means any person issued a valid license pursuant to the Kansas manufactured housing act.

(s) “Person” means any natural person, partnership, firm, corporation or association.

(t) “Electronic certificate of title” means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2003 Supp. 58-4204a, and amendments thereto.

(u) “*Apprentice installer*” means a person who is licensed as an apprentice installer pursuant to this act.

(v) “*Corporation*” means the Kansas housing resources corporation, a not-for-profit subsidiary of the Kansas development finance authority incorporated pursuant to K.S.A. 74-8904(v).

(w) “*Federal act*” means the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. §§ 5401 et seq., and amendments thereto), as constituted on the effective date of this act.

(x) “*Installation standards*” means the standards adopted by the corporation for the installation and siting of manufactured homes.

(y) “*Installer*” means a person engaged in the business of installing manufactured homes.

(z) “*Licensed installer*” means an installer who has met the requirements set forth in this act and rules and regulations promulgated hereunder and has been issued a manufactured home installer’s license by the president.

(aa) “*Municipality*” means any city or county in this state.

(bb) “President” means the president of the Kansas housing resources corporation.

Sec. 2. K.S.A. 58-4205 is hereby amended to read as follows: 58-4205. It is hereby declared to be the public policy of this state to provide for fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of manufactured homes or mobile homes *and the installation of manufactured homes*. The provisions of the Kansas manufactured housing act which are applicable to such activities shall be administered in such a manner as will continue to promote fair dealing and honesty in the manufactured home and mobile home industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of manufactured homes and mobile homes *and the installation of manufactured homes*, so as to insure protection against irresponsible vendors *and installers* and dishonest or fraudulent sales *and installation* practices.

New Sec. 3. (a) The purposes of sections 3 to 12, inclusive, and amendments thereto, are: (1) To ensure that manufactured homes installed in the state of Kansas are installed in accordance with the requirements and purposes of the federal act; (2) to ensure that persons installing manufactured homes in the state of Kansas are appropriately trained to do so; and (3) to provide for the promulgation of uniform standards which shall be applicable throughout the state to effect the foregoing.

(b) To accommodate realization of the purposes set forth in subsection (a) of this section, the legislature hereby declares its intent to exercise the exclusive power to regulate the installation of manufactured homes and the persons who install manufactured homes, except that municipalities may adopt standards for the installation of manufactured homes which are consistent with the installation standards promulgated pursuant to section 4, and amendments thereto.

New Sec. 4. (a) The corporation shall adopt rules and regulations to promulgate uniform installation standards. The installation standards promulgated shall take effect on January 1, 2006, or on and after the date which is six months from the date the standards promulgated pursuant to the federal act are published in the federal register, whichever is later. The installation standards shall establish reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home and installation of stabilization, support or anchoring systems. The standards so promulgated shall be reasonable and shall be consistent with the standards established by or pursuant to the federal act. The rules and regulations promulgating the installation standards shall be adopted in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto, after notice has been given and a hearing held in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto. The corporation may amend or alter the installation standards by duly adopted rules and regulations, but no person, other than the corporation, shall have authority to amend or alter the uniform standards so adopted.

(b) The president may enter into an agreement with the state department of revenue to have such department act as an agent of the corporation for the purposes of sections 3 through 11, and amendments thereto. The corporation and the state department of revenue may exchange information beneficial to the administration of sections 3 through 11, and amendments thereto.

(c) The president shall monitor the progress of standards promulgated pursuant to the federal act, shall determine whether the state of Kansas is in compliance with the federal standards and shall report such activity and recommend action necessary to bring Kansas into compliance with the federal act. Such report shall be delivered to the senate commerce committee and the house commerce and labor committee by February 1 of each year.

New Sec. 5. (a) Except as otherwise provided in this section, any person installing manufactured homes in this state on or after July 1, 2006, either shall hold a manufactured home installer’s license issued pursuant to this section or shall work under the supervision of a licensed installer. Each such license shall be valid for a term of three years and may be renewed. The fee for such license and for each renewal thereof shall be \$300, which shall be paid to the corporation by the applicant. From and after July 1, 2006, the manufactured home installer’s license issued pur-

suant to this section shall be the only authority required for the installation of manufactured homes within this state. The manufactured home installer's license shall entitle a licensed installer to install manufactured homes in this state, including the installation of heating and air conditioning systems and the hookup of electric, gas and water utilities from the utility meters to the manufactured home.

(b) On or after July 1, 2006, no municipality may impose any additional licensing requirements or require the payment of an additional or separate fee as a condition for the installation of a manufactured home within its boundaries by a licensed installer, except that nothing herein shall be construed as prohibiting a municipality from requiring a building permit as a condition precedent to the installation of a manufactured home and charging a fee in connection with such building permit, or prohibiting a municipality which provides for the inspection of manufactured homes installed in this state, from imposing a reasonable inspection fee.

(c) Nothing in this act shall be construed to require a person who installs a new or previously owned manufactured home on property owned by such person, for occupancy by such person, to obtain a manufactured home installer's license. However, none of the rights, remedies or causes of action provided under sections 3 to 9, inclusive, and amendments thereto, shall be available to any such person.

(d) Except as otherwise provided in subsection (i), in order to obtain a manufactured home installer's license, an applicant shall:

- (1) Be at least 18 years of age;
- (2) complete an installation training course approved by the president;
- (3) submit an application for a license on a form prescribed and furnished by the corporation;
- (4) submit with the license application the required license fee and an examination fee fixed by the corporation in an amount necessary to cover the costs of the examination, unless the examination fee is to be submitted directly to a person who administers an examination certified by the corporation, as provided in subsection (f) of this section;
- (5) pass the examination specified in this section as being designed to test the skills necessary to properly install manufactured homes and to ascertain that the applicant has adequate knowledge of the laws applicable to manufactured home installation contracting;
- (6) not have been found responsible in any administrative action by the division or corporation for any violation of the Kansas manufactured housing act or any rules or regulations promulgated thereunder;
- (7) submit with the license application proof satisfactory to the president that, within the three years preceding the date the license application is submitted to the corporation, the applicant has not less than two-years experience as an installer, except that for an applicant submitting an application during calendar year 2007, at least one year of the applicant's prior experience shall be as an apprentice installer; and for an applicant submitting an application thereafter, both years of the applicant's prior experience shall be as an apprentice installer; and
- (8) carry liability insurance in an amount determined by the corporation pursuant to duly adopted rules and regulations, but such liability insurance shall have limits of not less than \$100,000, and such liability insurance must insure the licensed installer and any apprentice installer working under the supervision of the licensed installer.

(e) Except as otherwise provided in subsection (f), the corporation shall establish a standard examination for determining the competency of applicants to become licensed installers, based upon codes and standards in effect on the effective date of the installation standards under section 4 and amendments thereto.

(f) In lieu of developing a standard examination pursuant to subsection (e), the president may certify one or more examinations developed by persons recognized in the industry either for testing persons to determine their qualifications to install manufactured homes, for having developed installation standards or for having provided courses or programs to educate installers regarding installation of manufactured homes in compliance with installation standards.

An applicant for a manufactured home installer's license shall be furnished by the corporation with a list of the examinations which have been certified by the president pursuant to this subsection. The list shall in-

clude all of the information necessary to take each of the certified examinations, including the amount of the examination fee to be paid directly to the person administering the examination by the applicant for a manufactured home installer's license. The applicant must successfully complete one of the certified examinations on the list.

(g) On and after July 1, 2006, a person engaged by a licensed installer to assist in the installation of a manufactured home, including an apprentice installer, at all times shall work under the supervision of a licensed installer. A licensed installer shall be present at the site where the manufactured home is being installed at such times as may be necessary for the licensed installer to ensure that the manufactured home is being installed in accordance with the installation standards. The licensed installer shall be responsible for all acts or omissions of apprentice installers and other persons working under the licensed installer's supervision in the installation of a manufactured home.

(h) A person may obtain a license as an apprentice installer from the corporation. In order to obtain an apprentice installer's license, an applicant:

- (1) Must be at least 18 years of age;
- (2) must complete an installation training course approved by the president;
- (3) must submit an application for a license on a form prescribed and furnished by the corporation;
- (4) must submit with the license application a license application fee in the amount of \$75; and
- (5) must not have been found responsible in any administrative action by the corporation for any violation of the Kansas manufactured housing act or any rules or regulations promulgated thereunder.

An apprentice installer's license shall be valid for two years, but may be renewed upon application to the president on a form prescribed by the corporation and payment of a renewal license fee of \$75.

(i) An applicant for a manufactured home installer's license as a licensed installer shall not be required to take the examination required by this section in order to obtain a manufactured home installer's license, if the president finds that all three of the following conditions apply: (1) The applicant is licensed as an installer by a municipality on the effective date of this act; (2) prior to July 1, 2006, the applicant had successfully completed an examination administered by any municipality that is designed to test the skills necessary to properly install manufactured homes; and (3) within the three years preceding the date the applicant submitted a license application to the corporation, the applicant had not less than two-years experience either as an installer licensed by any municipality or working under the supervision of an installer licensed by any municipality or as an apprentice installer working under the supervision of a licensed installer.

(j) On and after January 1, 2007, upon a specific written finding of good cause by the president the president may waive the requirement that some or all of an applicant's prior experience be obtained as an apprentice installer.

New Sec. 6. From and after July 1, 2006, a municipality may inspect or cause to be inspected by qualified individuals any manufactured home installed within the municipality's jurisdiction. Any such inspection shall be limited to a determination that the installation of the manufactured home complies with the installation standards prescribed by the duly adopted rules and regulations of the corporation, or the standards promulgated by the municipality in accordance with section 3, and amendments thereto. A municipality may impose a reasonable fee to cover the costs of such inspection.

New Sec. 7. (a) No licensed installer, apprentice installer or applicant for a manufactured home installer's license or apprentice installer's license shall:

- (1) Violate any lawful order of the president;
- (2) obtain a manufactured home installer's license by fraud or misrepresentation;
- (3) be convicted of or enter a plea of nolo contendere to a crime in any jurisdiction which directly relates to the installation of manufactured homes or the ability to install manufactured homes in that jurisdiction; or
- (4) commit fraud or deceit in the practice of manufactured home

installation contracting.

(b) Any person who violates any provision of subsection (a) shall be subject to any of the following actions by the president or the president's designee:

- (1) License revocation;
- (2) license suspension;
- (3) a civil penalty not to exceed \$1,000 per violation;
- (4) a requirement to take and pass, or retake and pass, the examination approved by the president;
- (5) a notice of non-compliance; or
- (6) refusal of license application.

New Sec. 8. (a) From and after July 1, 2006, no person shall:

- (1) Falsely represent such person or any other person as a licensed installer or licensed apprentice installer;
- (2) falsely impersonate a licensed installer or licensed apprentice installer;
- (3) present as such person's own the manufactured home installer's license or apprentice installer's license of another;
- (4) knowingly give false evidence to the corporation;
- (5) use or attempt to use any manufactured home installer's license or apprentice installer's license that has been suspended or revoked, or that has expired or is otherwise invalid; or
- (6) engage in the business of or act in the capacity of a licensed installer or licensed apprentice installer without being a licensed installer or licensed apprentice installer, as the case may be.

(b) Any person who violates any of the provisions of subsection (a) shall be subject to a civil penalty of not to exceed \$1,000 per violation. If the president or the president's designee determines that any person violating any provision of subsection (a) is not licensed under section 5, and amendments thereto, and is not working under the supervision of a licensed installer, the president or the president's designee may request the attorney general to file an action in a court of competent jurisdiction, to enjoin that person from engaging in unauthorized activities.

New Sec. 9. From and after July 1, 2006, whenever the president or the president's designee has reason to believe that a licensed installer, an apprentice installer or an applicant for a manufactured home installer's license or apprentice installer's license is in violation of any provision contained in sections 3 to 8, inclusive, and amendments thereto, or any rule or regulation adopted thereunder, the president or the president's designee, either upon the president's or such designee's own motion or upon complaint, may hold a hearing for the purpose of determining whether any of the actions authorized by subsection (b) of section 7, and amendments thereto, is warranted. The hearing shall be conducted and any action taken by the president or the president's designee pursuant to the hearing shall be in accordance with the provisions of the Kansas administrative procedure act.

New Sec. 10. (a) If the owner of a manufactured home which is installed on or after July 1, 2006, believes that the manufactured home is not in compliance with the installation standards or the federal act, the owner may file within the one-year period of completion of installation an application with the corporation for an inspection of the manufactured home by a qualified inspector. The application shall be submitted on a form prescribed by the corporation and shall be accompanied by a non-refundable application fee of \$100. Upon receipt of the application and fee, the president shall designate a qualified inspector to conduct an inspection of the manufactured home, to determine the validity of the owner's complaint, and the president, within three days thereafter, shall give to all parties involved in the dispute, written notice of the filing of the owner's application and the designation of the qualified inspector.

(b) The corporation shall adopt such rules and regulations as may be necessary to provide for the inspection of a manufactured home pursuant to this section and to otherwise provide for the implementation of this section.

(c) All parties involved in the dispute shall be given an opportunity to be present during the inspection of the home. At the completion of the inspection, the inspector shall prepare a written report of the inspector's findings of defects, if any. The report shall be submitted to the president, and copies of the report shall be given at the same time to all parties involved in the dispute. Within 10 days of receipt of the inspector's

report, any party involved in the dispute may file with the president written objections to the inspector's report. A copy of any party's written objections shall, at the same time, be provided to the other parties.

(d) Upon review of the inspector's report, together with any written statement of objections filed by any of the parties, the president shall issue an order directing the action, if any, to be taken by the parties involved. The order shall assess the costs of the inspection to the non-prevailing party or parties. If no party prevails on all issues, the president shall assess the costs to the parties in such proportion as the president deems just and equitable.

(e) Any party aggrieved by the president's order may file a written request for a hearing within 10 days of the date of the order. The hearing shall be conducted and any action taken by the president or the president's designee pursuant to the hearing shall be in accordance with the provisions of the Kansas administrative procedure act.

New Sec. 11. The corporation may adopt rules and regulations as necessary for the implementation of sections 3 through 10, and amendments thereto.

New Sec. 12. Any civil penalties or fees paid to the president or corporation pursuant to sections 3 to 11, inclusive, and amendments thereto, shall be remitted to the state treasurer in accordance with 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 state housing trust fund.

Sec. 13. K.S.A. 2004 Supp. 74-8959 is hereby amended to read as follows: 74-8959. (a) There is hereby established in the state treasury the state housing trust fund. All moneys credited to the state housing trust fund shall be used for the purposes of housing programs and services including, but not limited to, the provision of financial programs for the repair, rehabilitation and improvement of existing residential housing, accessibility modifications, rental subsidies ~~and~~ the provision of housing services and assistance to persons having low or moderate income and disabled persons *and costs and expenditures incurred in implementing sections 3 through 10, and amendments thereto, of the Kansas manufactured housing act.*

(b) The state housing trust fund shall be administered by the division of housing in the Kansas development finance authority.

(c) The division of housing and the Kansas development finance authority are hereby authorized to apply for and receive available public or private grants, gifts and donations for the purposes of housing programs and services. All such grants, gifts and donations shall be remitted to the division of housing in the Kansas development finance authority.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state housing trust fund interest earnings based on:

(1) The average daily balance of moneys in the state housing trust fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

New Sec. 14. Sections 3 to 12, inclusive, and amendments thereto, shall be a part of and supplemental to the Kansas manufactured housing act.

Sec. 15. K.S.A. 2004 Supp. 74-8904 is hereby amended to read as follows: 74-8904. Except as otherwise limited by this act, the authority shall have the following powers to:

(a) Sue and be sued;

(b) have a seal and alter such seal;

(c) make and alter bylaws for its organization and internal management;

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

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

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

(g) borrow money and to issue notes, bonds and other obligations pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the interest on which is subject to federal income taxation, and to provide for

the rights of the lenders or holders thereof;

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

(i) make secured or unsecured loans for any of the purposes for which bonds of the authority may be issued under this act or to low and moderate income multifamily rental housing projects participating in programs established in section 42 of the federal internal revenue code, and provide financing for housing projects and programs in participation with programs established by the United States department of housing and urban development or the division of housing in the Kansas development finance authority; except as otherwise provided in this subsection, nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments;

(j) sell mortgages and security interests at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;

(k) collect fees and charges in connection with its loans, bond guarantees, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;

(l) make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this act, and to pay the reasonable value of services rendered to the authority pursuant to those contracts;

(m) enter into agreements with and accept gifts, grants, loans and other aid from the federal government, the state, any state agency, any political subdivision of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act;

(n) invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such manner as the board shall determine, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds;

(o) procure insurance against any loss in connection with its programs, property and other assets;

(p) provide technical assistance and advice to the state or political subdivisions of the state and to enter into contracts with the state or political subdivisions of the state to provide such services. The state or political subdivisions of the state are hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(q) establish accounts in one or more depositories;

(r) lease, acquire, construct, sell and otherwise deal in and contract concerning any facilities;

(s) have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(t) do any and all things necessary or convenient to carry out purposes of the authority and exercise the powers given and granted in this act;

(u) assist minority businesses in obtaining loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures. Basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices;

(v) form one or more subsidiary corporations under K.S.A. 17-6001 *et seq.*, and amendments thereto, in accordance with the procedures therein contained. Each subsidiary corporation shall be subject to the same restrictions and limitations as to the powers and purposes to which

the authority is subject. The authority may delegate any of its powers, obligations and duties to any subsidiary corporation by inclusion of such powers, obligations and duties in the articles of incorporation of the subsidiary corporation. Subsidiary corporations so formed shall constitute legal entities separate and distinct from each other, the authority and the state *except that for purposes of sections 3 to 12, inclusive, and amendments thereto, the Kansas housing resources corporation shall constitute an instrumentality of the state.* The authority shall not be liable for the debts or obligations or for any actions or inactions of its subsidiary corporations unless the authority expressly agrees otherwise in writing. The authority may make loans or grants to a subsidiary corporation from time to time to enable the subsidiary corporation to carry out its purposes. The members of the authority shall constitute all of the directors of each subsidiary corporation.

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

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

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

One or more such subsidiary corporations may be formed for purposes of acquiring or conveying on behalf of the state and pursuant to this act a project of statewide as well as local importance, issuing bonds on behalf of the state pursuant to this act to finance a project of statewide as well as local importance or otherwise financing on behalf of the state pursuant to this act a project of statewide as well as local importance. The Kansas statewide projects development corporation is hereby created in accordance with this section; and

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

Sec. 16. K.S.A. 58-4205 and K.S.A. 2004 Supp. 58-4202, 74-8904 and 74-8959 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 12, 2005.

Published in the *Kansas Register* April 21, 2005.
