

## CHAPTER 53

HOUSE BILL No. 2140

(Amended by Chapter 186)

AN ACT concerning the procedure for redevelopment districts to finance investigation and remediation of flood-plain conditions; qualifications; amending K.S.A. 2004 Supp. 12-1770a and 12-1771e and repealing the existing sections.

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

Sec. 1. K.S.A. 2004 Supp. 12-1770a is hereby amended to read as follows: 12-1770a. As used in the bioscience development act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

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

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

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

(A) A substantial number of deteriorated or deteriorating structures;  
(B) predominance of defective or inadequate street layout;  
(C) unsanitary or unsafe conditions;  
(D) deterioration of site improvements;  
(E) tax or special assessment delinquency exceeding the fair market value of the real property;

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

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

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) *a majority of the property is a 100-year flood-plain area; or*

(4) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.

(d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

(1) Dilapidation, obsolescence or deterioration of the structures;

(2) illegal use of individual structures;

(3) the presence of structures below minimum code standards;

(4) building abandonment;

(5) excessive vacancies;

(6) overcrowding of structures and community facilities; or

(7) inadequate utilities and infrastructure.

(e) "De minimus" means an amount less than 15% of the land area within a redevelopment district.

(f) "Developer" means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) "Eligible area" means a blighted area, conservation area, enter-

prise zone, historic theater, major tourism area or a major commercial entertainment and tourism area or bioscience development area as determined by the secretary.

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) "Environmental increment" means the increment determined pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) "Feasibility study" means a study which shows whether a redevelopment project's, special bond project's or bioscience development project's benefits and tax increment revenue and other available revenues under K.S.A. 12-1774 (a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment or special bond or bioscience development project costs and the effect, if any, the redevelopment project costs or special bond project will have on any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto.

(l) "Historic theater" means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

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

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

(o) "Real property taxes" means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, "real property taxes" does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.

(p) "Redevelopment project area" or "project area" means an area designated by a city within a redevelopment district.

(q) "Redevelopment project costs" means those costs necessary to implement a redevelopment plan or a bioscience development project plan, including, but not limited to costs incurred for:

- (1) Acquisition of property within the redevelopment project area;
- (2) payment of relocation assistance;
- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) all related expenses to redevelop and finance the redevelopment project.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the “redevelopment project costs” shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or is in a redevelopment district including some or all of the land and buildings comprising a state mental institution closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of Kansas.

(r) “Redevelopment district” means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.

(s) “Redevelopment district plan” or “district plan” means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

(t) “Redevelopment project” means the approved project to implement a project plan for the development of the established redevelopment district.

(u) “Redevelopment project plan” or “project plan” means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

(v) “Secretary” means the secretary of commerce.

(w) “Substantial change” means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

(x) “Tax increment” means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(y) “Taxing subdivision” means the county, city, unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district including a bioscience development district.

(z) “Special bond project” means a redevelopment project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues or for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget the secretary finds the project meets the requirements of subsection (g) and would be of regional or statewide importance, but a “special bond project” shall not include a project for a gambling casino.

(aa) “Marketing study” means a study conducted to examine the impact of the redevelopment project or special bond project upon similar businesses in the projected market area.

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

(cc) “River walk canal facilities” means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.

(dd) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

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

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

(gg) “Bioscience” means the use of compositions, methods and organisms in cellular and molecular research, development and manufac-

turing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

(hh) “Bioscience development area” means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company; or

(3) includes a bioscience facility.

(ii) “Bioscience development district” means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

(jj) “Bioscience development project” means an approved project to implement a project plan in a bioscience development district.

(kk) “Bioscience development project plan” or “project plan” means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ll) “Bioscience facility” means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(mm) “Bioscience project area” or “project area” means an area designated by the authority within a bioscience development district.

(nn) “Biotechnology” means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) “Board” means the board of directors of the Kansas bioscience authority.

(pp) “Life sciences” means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(qq) “Revenue increase” means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(rr) “Taxpayer” means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 *et seq.*, and amendments thereto.

(ss) “Flood-plain increment” means the increment determined pursuant to subsection (b) of K.S.A. 2004 Supp. 12-1771e, and amendments thereto.

(tt) “100-year flood-plain area” means an area of land existing in a 100-year flood-plain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

Sec. 2. K.S.A. 2004 Supp. 12-1771e is hereby amended to read as follows: 12-1771e. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

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

(2) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of a flood-plain within such a district.

(b) A flood-plain increment, established after a city has found that

the conditions described in subsection (c) of K.S.A. 12-1770a, and amendments thereto, exist, shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct cost of investigation and remediation of the flood-plain condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation of flooding. Each year's flood-plain increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

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

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

(e) A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of flooding in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(f) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto, which may include part or all of the real property included in the district established under this section.

(g) Redevelopment projects relating to flooding investigation and remediation under this section, shall be completed within 20 years.

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

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

(j) The provisions of this section shall be effective on and after July 1, 2004.

Sec. 3. K.S.A. 2004 Supp. 12-1770a and 12-1771e are hereby repealed.

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