

As Amended by House Committee

Session of 2023

SENATE BILL No. 34

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning housing; ~~relating to the Kansas rural housing~~
2 ~~incentive district act; expanding the availability of such districts to~~
3 ~~certain cities and the~~ use of bond proceeds **under the Kansas rural**
4 **housing incentive district act; transferability of income, privilege**
5 **and premium tax credits issued under the Kansas housing investor**
6 **tax credit act; enacting the Kansas urban housing incentive district**
7 **act; amending K.S.A. 12-5241, ~~12-5242~~ and 12-5249 and K.S.A. 2022**
8 **Supp. 79-32,313 and** repealing the existing sections.
9

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

11 New Section 1. (a) The governing body of any city ~~that satisfies the~~
12 ~~definition of such term under K.S.A. 12-5242(a)(2), and amendments~~
13 ~~thereto,~~ is hereby authorized to designate ~~rural~~ **urban** housing incentive
14 districts within such city subject to the limitations of this section. Such
15 **urban housing incentive districts designated by such** city shall be
16 subject to the provisions of K.S.A. 12-5244 through 12-5252, and
17 amendments thereto, **except as specifically provided in this section.**

18 (b) (1) The governing body of a city establishing ~~a rural~~ **an urban**
19 housing incentive district under this section shall not:

20 (A) Designate more than 100 units within such district as for-sale
21 units in one year or more than 100 units within such district as for-rent
22 units in one year; and

23 (B) designate more than 50 units within such district associated with
24 a single project as for-sale units in one year or more than 50 units within
25 such district associated with a single project as for-rent units in one year.

26 (2) Units designated as for-sale units may be redesignated as for-rent
27 units by the governing body if such units have not been sold within six
28 months after the certificate of occupancy is granted.

29 (3) The governing body may designate for-sale and for-rent units for
30 succeeding years as part of a proposed multi-phased, multi-year
31 development plan adopted pursuant to K.S.A. 12-5246, and amendments
32 thereto.

33 (c) The average size of each residence constructed within ~~a rural~~ **an**
34 **urban** housing incentive district established under this section shall not
35 exceed 1,650 square feet. The square footage shall be calculated excluding
36 any garage area or other exterior area, such as porches, patios or

1 unattached storage buildings.

2 (d) The provisions of this section shall be ~~a part of and supplemental~~
3 ~~to the Kansas rural~~ known and may be cited as the Kansas urban
4 housing incentive district act.

5 (e) For purposes of this section, "city" means any city
6 incorporated in accordance with Kansas law with a population of
7 60,000 or more, as certified to the secretary of state by the director of
8 the budget on the previous July 1 in accordance with K.S.A. 11-201,
9 and amendments thereto, except the city of Topeka.

10 Sec. 2. K.S.A. 12-5241 is hereby amended to read as follows: 12-
11 5241. ~~This act~~ *The provisions of K.S.A. 12-5241 through 12-5256, and*
12 *amendments thereto, and section 1, and amendments thereto,* shall be
13 known and may be cited as the Kansas rural housing incentive district act.

14 ~~Sec. 3. K.S.A. 12-5242 is hereby amended to read as follows: 12-~~
15 ~~5242. Except as otherwise provided, as used in K.S.A. 12-5241 through~~
16 ~~12-5251, and amendments thereto, and K.S.A. 12-5252 through 12-5258,~~
17 ~~and amendments thereto:~~

18 (a) ~~"City" means the city of Topeka or any city incorporated in~~
19 ~~accordance with Kansas law:~~

20 (1) ~~With a population of less than 60,000, as certified to the secretary~~
21 ~~of state by the director of the division of the budget on the previous July 1~~
22 ~~in accordance with K.S.A. 11-201, and amendments thereto; or~~

23 (2) ~~for purposes of a project subject to section 1, and amendments~~
24 ~~thereto, with a population of 60,000 or more, as certified to the secretary~~
25 ~~of state by the director of the division of the budget on the previous July 1~~
26 ~~in accordance with K.S.A. 11-201, and amendments thereto, except the city~~
27 ~~of Topeka; or~~

28 (3) ~~for purposes of a project as defined in K.S.A. 12-5249(a)(11), and~~
29 ~~amendments thereto, within a qualified census tract, "city" includes any~~
30 ~~city with a qualified census tract located within the city:~~

31 (b) ~~"City housing authority" means any agency of a city created~~
32 ~~pursuant to the municipal housing law, K.S.A. 17-2337 et seq., and~~
33 ~~amendments thereto:~~

34 (c) ~~"Corporation" means the Kansas housing resources corporation:~~

35 (d) ~~"County" means any county organized in accordance with K.S.A.~~
36 ~~18-101 et seq., and amendments thereto:~~

37 (1) ~~With a population of less than 80,000, as certified to the secretary~~
38 ~~of state by the director of the division of the budget on the previous July 1st~~
39 ~~in accordance with K.S.A. 11-201, and amendments thereto; or~~

40 (2) ~~for purposes of a project as defined in K.S.A. 12-5249(a)(11), and~~
41 ~~amendments thereto, within a qualified census tract, "county" includes any~~
42 ~~county with a qualified census tract located within the county:~~

43 (e) ~~"Developer" means the person, firm or corporation responsible~~

1 ~~under an agreement with the governing body to develop housing or related~~
2 ~~public facilities in a district.~~

3 ~~(f) "District" means a rural housing incentive district established in~~
4 ~~accordance with this act.~~

5 ~~(g) "Governing body" means the board of county commissioners of~~
6 ~~any county or the mayor and council, mayor and commissioners or board~~
7 ~~of commissioners, as the laws affecting the organization and status of~~
8 ~~cities affected may provide.~~

9 ~~(h) "Housing development activities" means the construction or~~
10 ~~rehabilitation of infrastructure necessary to support construction of new~~
11 ~~residential dwellings and the actual construction of such residential~~
12 ~~dwellings, if such construction is conducted by a city housing authority.~~

13 ~~(i) "Secretary" means the secretary of commerce of the state of~~
14 ~~Kansas.~~

15 ~~(j) "Qualified census tract" means an economically distressed urban~~
16 ~~area that is a qualified census tract as defined and designated by the United~~
17 ~~States department of housing and urban development.~~

18 ~~(k) "Real property taxes" means and includes all taxes levied on an ad~~
19 ~~valorem basis upon land and improvements thereon.~~

20 ~~(l) "Taxing subdivision" means the county, the city, the unified school~~
21 ~~district, and any other taxing subdivision levying real property taxes, the~~
22 ~~territory or jurisdiction of which includes any currently existing or~~
23 ~~subsequently created rural housing incentive district.~~

24 ~~Sec. 4. 3.~~ K.S.A. 12-5249 is hereby amended to read as follows: 12-
25 5249. (a) Any city or county that has established a rural housing incentive
26 district may use the proceeds of special obligation bonds issued under
27 K.S.A. 12-5248, and amendments thereto, or any uncommitted funds
28 derived from those sources of revenue set forth in K.S.A. 12-5248(a)(1),
29 and amendments thereto, to implement specific projects identified within
30 the rural housing incentive district plan including, without limitation:

31 (1) Acquisition of property within the specific project area or areas as
32 provided in K.S.A. 12-5247, and amendments thereto;

33 (2) payment of relocation assistance;

34 (3) site preparation;

35 (4) sanitary and storm sewers and lift stations;

36 (5) drainage conduits, channels and levees;

37 (6) street grading, paving, graveling, macadamizing, curbing,
38 guttering and surfacing;

39 (7) street lighting fixtures, connection and facilities;

40 (8) underground gas, water, heating, and electrical services and
41 connections located within the public right-of-way;

42 (9) sidewalks;

43 (10) water mains and extensions; ~~and~~

1 (11) renovation of buildings or other structures more than 25 years of
2 age primarily for residential use located in a central business district or in a
3 business or commercial district within a qualified census tract as approved
4 by the secretary of commerce. Certification of the age of the building or
5 other structure shall be submitted to the secretary by the governing body of
6 the city or county with the resolution as provided by K.S.A. 12-5244, and
7 amendments thereto. Eligible residential improvements shall include only
8 improvements made to the second or higher floors of a building or other
9 structure. Improvements for commercial purposes shall not be eligible;
10 *and*

11 (12) *renovation or construction of residential dwellings, multi-family*
12 *units or buildings or other structures exclusively for residential use*
13 *located on existing lots if:*

14 (A) *The infrastructure, including streets, sewer, water and utilities,*
15 *has been in existence for at least 10 years; or*

16 (B) *the existing lot has been subject to any tax assessment levied*
17 *pursuant to chapter 12, article 6a or chapter 19, article 27 of the Kansas*
18 *Statutes Annotated, and amendments thereto, because such lot is located*
19 *in an improvement district established pursuant to chapter 12, article 6a*
20 *or chapter 19, article 27 of the Kansas Statutes Annotated, and*
21 *amendments thereto.*

22 (b) None of the proceeds from the sale of special obligation bonds
23 issued under K.S.A. 12-5248, and amendments thereto, shall be used for
24 the construction of buildings or other structures to be owned by or to be
25 leased to any developer of a residential housing project within the district,
26 except for buildings or other structures located in a central business district
27 or in a business or commercial district within a qualified census tract as
28 approved by the secretary of commerce.

29 **Sec. 4. K.S.A. 2022 Supp. 79-32,313 is hereby amended to read as**
30 **follows: 79-32,313. (a) (1) For tax year 2022 and all tax years**
31 **thereafter, a credit against the income tax liability imposed pursuant**
32 **to the Kansas income tax act, the privilege tax liability imposed upon**
33 **any national banking association, state bank, trust company or**
34 **savings and loan association pursuant to article 11 of chapter 79 of the**
35 **Kansas Statutes Annotated, and amendments thereto, or the premium**
36 **tax liability imposed upon an insurance company pursuant to K.S.A.**
37 **40-252, and amendments thereto, shall be allowed to:**

38 (A) **A qualified investor for a cash investment in a qualified**
39 **housing project that has been approved and issued a tax credit by the**
40 **director. The tax credit may be claimed in its entirety in the taxable**
41 **year the cash investment is made; and**

42 (B) **a project builder or developer of a qualified housing project**
43 **that has been approved and issued a tax credit by the director.**

1 **(2) To claim such tax credit, the qualified investor~~or~~, project**
2 **builder or developer *or transferee* shall provide all information or**
3 **documentation in the form and manner required by the secretary of**
4 **revenue. If the amount of the credit exceeds the taxpayer's tax liability**
5 **in any one taxable year, the remaining portion of the credit may be**
6 **carried forward in the succeeding taxable years until the total amount**
7 **of the credit is used, except that no credit may be claimed after four**
8 **taxable years next succeeding the taxable year that such credit was**
9 **issued, and any remaining credit shall be forfeited. *Any portion of the***
10 ***credit that is carried forward may be transferred pursuant to subsection***
11 ***(d) and claimed by the transferee in the same manner as the transferor.***

12 **(b) (1) Tax credits may be issued by the director for a qualified**
13 **housing project as follows:**

14 **(A) For qualified housing projects located in a county with a**
15 **population of not more than 8,000, in an amount not to exceed \$35,000**
16 **per residential unit;**

17 **(B) for qualified housing projects located in a county with a**
18 **population of more than 8,000 but not more than 25,000, in an amount**
19 **not to exceed \$32,000 per residential unit; and**

20 **(C) for all other qualified housing projects, in an amount not to**
21 **exceed \$30,000.**

22 **(2) A qualified housing project shall be limited to a total of 40**
23 **such residential units per year for both single-family and multi-family**
24 **dwellings.**

25 **(3) Tax credits may be issued to a qualified investor in the amount**
26 **of a cash investment of up to the total amount that may be issued by**
27 **the director under this subsection for the qualified housing project, or**
28 **as provided in the agreement required by K.S.A. 2022 Supp. 79-**
29 **32,312, and amendments thereto. Project builders or developers may**
30 **apply to the director each year for tax credits for additional units or**
31 **phases of a project. Qualified investors may be issued tax credits for**
32 **cash investments in multiple qualified housing projects. Project**
33 **builders or developers may apply and be approved for multiple**
34 **qualified housing projects in the same tax year.**

35 **(4) The aggregate amount of tax credits that may be issued under**
36 **this section shall not exceed \$13,000,000 each tax year, except that if**
37 **the director issues an aggregate amount of tax credits in one tax year**
38 **that is less than \$13,000,000, then the director may carry forward the**
39 **difference and issue such amount of tax credits in the immediately**
40 **succeeding tax year in addition to the statutory amount that may be**
41 **issued under this section. Of the aggregate amount of tax credits**
42 **issued in one tax year, the director shall allocate:**

43 **(A) Not less than \$2,500,000 in tax credits for qualified housing**

1 projects located in counties with a population of not more than 8,000;

2 (B) not less than \$2,500,000 in tax credits for qualified housing
3 projects located in counties with a population of more than 8,000 but
4 not more than 25,000; and

5 (C) up to \$8,000,000 in tax credits for qualified housing projects
6 located in counties with a population of more than 25,000 but not
7 more than 75,000.

8 (c) A cash investment in a qualified housing project shall be
9 deemed to have been made on the date of acquisition of the qualified
10 security, as such date is determined by the director.

11 (d) Any qualified investor ~~without a current tax liability at the time~~
12 ~~of the investment in a qualified housing project that does not reasonably~~
13 ~~believe such investor will owe any such tax for the current taxable year~~
14 ~~and who receives a tax credit pursuant to this section shall be deemed~~
15 ~~to acquire an interest in the nature of a transferable credit limited to~~
16 ~~the amount of the credit issued to the qualified investor by the~~
17 ~~director. This interest~~ *All or a portion of such credit may be transferred*
18 *by the qualified investor or any subsequent transferee to any person one*
19 *or more persons whether or not such person transferee is then a*
20 *qualified investor and be claimed by the transferee as a credit against*
21 *the transferee's Kansas tax liability in the same manner as the*
22 *transferor beginning in the year the credit is transferred. The credit*
23 *may be carried forward as permitted by subsection (a). There shall be*
24 *no limit on the number of times a credit or any portion thereof can be*
25 *transferred. No person shall be entitled to a refund for any interest on*
26 *such tax credit that may be created under this section. Only the full*
27 *amount of the tax credit for any one qualified housing project investment*
28 *may be transferred and may only be transferred one time. A credit*
29 *acquired by transfer shall be subject to the limitations prescribed in*
30 *this section. Any such transferee succeeds to all remaining rights and*
31 *restrictions of the transferor with respect to the credit being transferred on*
32 *the date of such transfer. Documentation of any credit acquired by*
33 *transfer shall be provided by the taxpayer claiming such credit in the*
34 *manner required by the secretary of revenue. The qualified investor*
35 *or subsequent transferee transferring such credit shall provide the*
36 *director and the secretary of revenue with the name, address and*
37 *taxpayer identification number of each person to whom tax credits*
38 *have been transferred and such other information as may be required*
39 *by the director or the secretary of revenue. The provisions of this*
40 *subsection shall apply to credits issued for tax year 2022 and all tax years*
41 *thereafter.*

42 (e) The secretary of revenue may adopt rules and regulations as
43 necessary to implement and administer the provisions of this act.

1 (f) *For purposes of calculating any tax due under K.S.A. 40-253, and*
2 *amendments thereto, the credit allowed by this section shall be treated as*
3 *a tax paid under K.S.A. 40-252, and amendments thereto.*

4 Sec. 5. K.S.A. 12-5241, ~~12-5242~~ and 12-5249 **and K.S.A. 2022**
5 **Supp. 79-32,313** are hereby repealed.

6 Sec. 6. This act shall take effect and be in force from and after its
7 publication in the ~~statute book~~ **Kansas register**.