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Section 1. Citation and Special Definition

This Title may be cited as the Kickapoo Industrial Development Banking Act of 1985. As used in this Title, the term “reservation” means all Indian Country subject to the jurisdiction of the Kickapoo Nation wherever located.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 2. Establishment and Purpose of the Kickapoo Industrial Development Bank

(a) Establishment and General Purposes.

(1) It being determined by the Kickapoo Business Committee to be in the public interest, and essential to Tribal self-determination, the general welfare, and the provision of essential governmental functions to persons within the jurisdiction of the Tribe, the Kickapoo Nation shall engage in the business of banking, and for that purpose shall maintain a system of banking owned, controlled, and operated by it, under the name of the “KICKAPOO INDUSTRIAL DEVELOPMENT BANK” which shall be a body corporate and politic, and an essential governmental agency, of the Kickapoo Nation.

(2) The public need for such Bank is hereby declared as a matter of legislative determination, and such Bank is declared to exercise essential governmental functions of the Kickapoo Nation through its activities encouraging the creation of a tribal tax base, the earning of income which can be used to support essential functions of the Tribal Government, and the provision of credit through which economic activity can be encouraged, and the effect such activity is intended to have upon the health, welfare, and economic security of the Kickapoo Nation its members, and other residents of the tribal jurisdiction.

(b) Specified Purposes.

In addition to the general purposes expressed in Subsection (a) of this Section, the Kickapoo Industrial Development Bank is intended to be an agency of the Kickapoo Nation and, through its activities, further the general purposes expressed as well as the following specific Tribal and Federal purposes.

(1) the purpose of encouraging and promoting agriculture, commerce, and industry, for creating a fund to be known as the real estate bond payment and purchase fund to be used for the acquisition of real property for economic development and other purposes, including the purposes of providing land to landless members of the Kickapoo nation and other eligible persons, for the provision of income and the creation of a sound economic and industrial tax base for the support of the Government of the Kickapoo Nation as guaranteed to the Kickapoo Nation in the various treaties between the United States and the

Kickapoo Nation and the rights of self-government and social advancement recognized and provided for by the laws of the United States.

(2) the purpose of providing land, borrowing money, and issuing loans for the acquisition of land for the Kickapoo Nation other Indian Tribes, and Individual Indians or groups of Indians pursuant to Section 5 of the Act of June 18, 1934, 48 Stat. 985 (25 U.S.C. § 465), to Section 1 and 2 of the Act of June 26, 1936, 49 Stat. 1967 (25 U.S.C. §§501, 502), the insurance of loans for such acquisitions pursuant to the Act of April 11, 1970 (25 U.S.C. §§488 et. Seq.) and other Federal laws providing for the acquisition of land for Indian individuals and Indian Tribes, and the providing of federal insurance for loans made to Indian Tribes, individuals, or others;

(3) the purpose of furthering Indian industry and labor and economic development within the Indian Country as provided for in the Act of June 25, 1910, 36 Stat. 861 (25 U.S.C. §47) Section 1 of the Act of May 9, 1938, 52 Stat. 302 (25 U.S.C. §306) and other Federal laws supporting the economic development of Indian Country;

(4) the purpose of furthering the investment of Indian tribal and individual funds as provided in the Act of June 24, 1938, 25 Stat. 1037 (25 U.S.C. §162a).

(5) the purpose of furthering any necessary irrigation projects within the Kickapoo Reservation needed to make agricultural land productive to complement the provisions of Chapter 11 of Title 25 of the United States Code;

(6) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to operate a Judicial and Law and Order system sufficient to meet the requirements of Title II of the Act of April 11, 1968, 82 Stat. 77 (25 U.S.C. §§1301 et. Seq.);

(7) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to further the purpose of Congress expressed in Section 2 of the Act of April 12, 1974, 88 Stat. 77 (25 U.S.C. §1451), and the balance of said Act. (Indian Financing Act);

(8) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to further the purpose of Congress expressed in Section 3 of the Act of September 30, 1976, 90 Stat. 1401 (25 U.S.C. §1602), and the balance of said Act. (Health Care);

(9) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to further the purpose of Congress expressed in Section 101 of the Act of October 17, 1978, 92 Stat. 1325 (25 U.S.C. §1802) and the balance of said Act. (Higher Education);

(10) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to further the policy of Congress expressed in Section 3 of the Act of November 8, 1978, 92 Stat. 3069 (25 U.S.C.1902) and the balance of said Act. (Child and Family Service Program);

(11) the purpose of providing funds for the further Tribal development of Indian owned mineral resources pursuant to the Act of December 22, 1982, 96 Stat. 1938 (25 U.S.C. §§2101 et. Seq.);

(12) the purpose of providing funds for Indian Land Consolidation pursuant to the Act of January 12, 1983, 96 Stat. 2517 (25 U.S.C. §§2201 et. Seq.);

(13) the purpose of providing income and a taxable economic and industrial base in order for the Kickapoo Nation to further the policy of Congress expressed in the Act of January 4, 1975, 88 Stat. 2206 (25 U.S.C. §§450 et. seq.) and particularly in Section 102 of Title I of that Act 925 U.S.C. §450f) (Indian Self-Determination) and the Act of November 2, 1921, 42 Stat. 208 (25 U.S.C. §13) (Snyder Act)

and the exercise of each and every essential governmental function reasonably necessary or proper to further such purposes and policies.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 3. Industrial Development Commission to Operate Bank, Business of Industrial Development Bank

The Kickapoo Industrial Development Commission shall operate, manage, and control the Kickapoo Industrial Development Bank, locate and maintain its places of business, of which the principal place shall be within the jurisdiction of the Kickapoo Nation and make and enforce orders, rules, regulations, and bylaws for the transaction of its business. Without in any way limiting or qualifying either the powers of the Kickapoo Industrial Development Commission granted by the Kickapoo Industrial Development Act of 1990 which may be exercised by the Commission for the benefit of the Bank, nor the functions of said Bank as defined in this Title, the business of the Bank, in addition to other matters specified in this Title, may include, subject to the rules and regulations of the Commission, the power:

(a) to continue perpetually as a body corporate and politic and governmental agency of the Kickapoo Nation,

(b) to make contracts in its own name,

(c) to bring suit in any court under the title “The Kickapoo Nation ex rel the Kickapoo Industrial Development bank”,

(d) to have a corporate seal incorporating the official logo of the Kickapoo Nation,

(e) to adopt and operate reasonable bonus, profit-sharing and pension plans for officers and employees,

(f) to act as escrow agent,

(g) to exercise all such incidental powers as shall be necessary to carry on the banking business; by buying, discounting and negotiating promissory notes, bonds, drafts, bills of exchange, foreign and domestic, and other evidence of debt; by receiving deposits of money upon which interest may or may not be paid; by buying and selling coin and bullion; by buying and selling exchange, foreign and domestic issuing letters of credit; and by loaning money on personal security or real estate as provided in this Title.

(h) to lease, hold, purchase, acquire in any manner, and convey any and all real estate, or any interest therein, to the same extent and in the same manner that a business corporation organized pursuant to the Kickapoo Tribal Business Corporation Act of 1990 may deal in real property, or as provided by this Title, and not otherwise,

(i) to issue preferred stock in return for actual value received equal to no less than the par value thereof to the same extent that a business corporation organized pursuant to the Kickapoo Tribal Business Corporation Act of 1990 may issue preferred stock in order to provide necessary capital for Bank purposes, provided, that such stock shall not be convertible to capital stock, nor shall the Bank issue any capital or common stock, all capital or common stock and full ownership equity being reserved to the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 4. Membership in Federal Reserve System

(a) As used in this Section:

(1) “Federal Reserve Act” means the Act of the Congress of the United States approved December 23, 1913 (38 Stat. 251) as amended,

(2) “Federal Reserve Board” means the Board of Governors of the Federal Reserve System created and described in the Federal Reserve Act, as amended,

(3) “Federal Reserve Bank” means the Federal Reserve banks created and organized under authority of the Federal Reserve Act,

(4) “Member bank” means any bank which becomes a member of the Federal Reserve system.

(b) The Kickapoo Industrial Development Bank, upon determination by the Kickapoo Industrial Development Commission that such action will be useful for the purpose for which the Bank is established and approval of the Business Committee of the Kickapoo Nation, may subscribe to the capital stock and become a member of the Federal Reserve System.

(c) If the Kickapoo Industrial Development Bank becomes a member of the Federal Reserve System, it shall thereafter be vested with all powers conferred upon member banks of the Federal Reserve System by the terms of the Federal Reserve Act as fully and completely as of such powers were specifically enumerated and described in this Title. All such powers shall be exercised subject to all restrictions and limitations imposed by the Federal Reserve Act, or by regulations of the Federal Reserve Board made pursuant thereto, and any specific restrictions and limitations imposed upon the Bank by this Title.

(d) Upon becoming a member of the Federal Reserve System, compliance with the reserve requirements of the Federal Reserve Act shall be deemed to be full compliance with the provisions of this Title requiring cash balances in the vaults of the Bank or with other banks.

(e) Upon becoming a member of the Federal Reserve System, the Bank shall continue to be subject to the supervision of the Kickapoo Industrial Development Commission and examination as provided in this Title, except that the Board of Governors of the Federal Reserve System shall then have the right, if it deems necessary, to make examinations.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 5. Federal Deposit Insurance Corporation Act

The Kickapoo Development Bank may do and perform and act or thing necessary or required under the terms of the Federal deposit Insurance Corporation Act, and any amendments thereto or any act substituted therefore, to secure the benefits of the deposit insurance and other advantages provided by such act, and any amendments thereto or any act substituted therefore applicable to non-federally chartered banks.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 6. Pledge of Assets Generally

The Kickapoo Industrial Development Bank may pledge its assets to:

(a) enable it to act as agent for the sale of obligations of the United States,

(b) secure borrowed funds,

(c) secure deposits when the depositor is required to obtain such security by the laws of the United States, by the terms of any intergovernmental cooperative agreement or compact, by the laws of any state or Indian tribe, or by order of a court of competent jurisdiction.

(d) otherwise comply with the provisions of this Title.

(History: PUBLIC LAW #KT 9014, February 6, 1990)

Section 7. Indemnification for Defending Suits

The banking rules and regulations of the Kickapoo Industrial Development Commission, or the bylaws enacted by it for the governance of the Bank, may provide that it shall indemnify every officer, director, and employee, his heirs, executors, and administrators, against judgments resulting from and the expenses reasonably incurred by him in connection with any action to which he may be made a party by reason of his being an officer, director or employee of the Bank, including any action based upon any alleged act or omission on his part as an officer, director or employee of the Bank, except in relation to matters as to which he shall be finally adjudged in such action to be liable for negligence or his willful misconduct, and except that, in the event of a settlement out of court, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Bank is advised by its counsel that the person to be indemnified was not liable for such negligence or misconduct in the professional opinion of counsel for the Bank. The foregoing rights of indemnification shall not be exclusive of other rights to which such officers, directors, and employees may be entitled.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 8. Property Acquisition

To accomplish the purpose of this Title, the Kickapoo Industrial Development Commission shall have the authority to acquire by purchase, gift, lease, or otherwise by any lawful means all requisite real and personal property and property rights, provided, that the Commission shall have the authority to request, and shall request that the United States accept any real property to be acquired by it within the reservation boundaries of the Kickapoo Nation in trust pursuant to 25 U.S.C. §465 or other applicable federal law in the name of the Kickapoo Nation. Such real property within the Kickapoo Reservation, when acquired in trust status or otherwise, shall, by force of this Section, be considered as assigned to the sole use and benefit of the Kickapoo Industrial Development Bank under the appropriate laws of the Kickapoo Nation and the Principal Chief and Secretary-Treasurer shall issue an original assignment of such property endorsed to "The Kickapoo Industrial Development Commission for the use and benefit of the Kickapoo Industrial Development Bank". The Commission shall have the

authority to acquire by eminent domain the full use title under tribal law to any land owned by the Kickapoo Nation and assigned to any person other than an agency of the Tribe upon paying the owner of the use thereof the full value of his assignment as determined by settlement between the parties or by the Courts of the Kickapoo Nation

Further, the Commission may construct, remodel, and repair buildings necessary for the purpose of this Title. It shall invest in furniture, fixtures, lands and buildings for office purposes only in accordance with legislative appropriation of the Tribe, or as may be provided for in any grant or contract from a non-tribal funding source approved by the Business Committee when the grant or contract contains an allocation for such purposes.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 9. Engagement of Officers and Employees

The Kickapoo Industrial Development Commission shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance, and operation of the Bank. To that end, it shall appoint a president, and may appoint subordinate officers and employees as it may judge expedient. It may constitute such president its general agent in respect to the functions of said Bank, but subject nevertheless, in such agency, to the supervision, limitation, and control of the Commission. It shall employ such contractors, architects, builders, attorneys, cashiers, tellers, clerks, accountants, and other experts, agents, and servants as in the judgment of the Commission the interest of the Tribe in the Bank require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such person so engaged. Subject to the control and regulation of the Commission, the president of the Bank shall appoint and employ such deputies, cashiers, tellers, and other subordinates, and such contractors, architects, builders, attorneys, clerks, accountants, and other experts, agents, and servants, as he, in his judgment, shall deem required by the interest of the Bank. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain within the appropriation lawfully available in each year for such purpose. All officers and employees of the Bank engaged upon its financial functions, before entering upon duties, shall furnish respectively good and sufficient bonds to the Kickapoo Nation in such amount and upon such conditions as the Commission may require and approve. The bond of ht president shall not be less than fifty thousand dollars, and such bond shall be filed with the Secretary-Treasurer.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 10. Removal and Discharge of Appointees

The Industrial Development Commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this Title, whether by the Commission or by the president of the Bank, and any such removal may be made whenever in the judgment of the Commission the public interests require it, and no

contract of employment may vary the terms of this section. All appointments and removals contemplated by this Title shall be made as the Commission shall deem fit to promote the efficiency of the public service.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 11. Capital of Industrial Development Bank

The Bank shall be opened and shall proceed to transact business whenever there shall be delivered to Kickapoo Industrial Development Commission bonds in the sum of two million dollars issued by the Kickapoo Nation as may be provided by law for such purpose. The fund procured by the negotiation and sale of such bonds hereby is designated and shall be known as the capital of said Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 12. Tribal Funds to be Deposited in the Kickapoo Industrial Development Bank

All tribal funds, and all funds of tribal agencies and departments to be invested at interest and not maintained in the treasury of the United States may be deposited in the Kickapoo Industrial Development Bank by the persons having control of such funds or shall be deposited in accordance with constitutional and statutory provisions.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 13. Nonliability of Officers and Sureties After Deposit

Whenever any of the public funds hereinbefore designated shall be deposited in the Kickapoo Industrial Development Bank, as hereinbefore provided, the official having control thereof and the sureties on the bond of every such official shall be exempt from all liability by reason of loss of any such funds while so deposited.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 14. Deposits may be Received From Any Source

The Kickapoo Industrial Development Bank may receive deposits from any source, including the United States government, and any foreign or domestic individual, corporation, association, municipality, bank, or government.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 15. Deposits to Credit of Other Banks

Funds may be deposited to the credit of the Kickapoo Industrial Development Bank in any bank or agency approved by the Kickapoo Industrial Development Commission.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 16. Guaranty of Deposits – Exemption from Taxation

All deposits in the Kickapoo Industrial Development Bank are guaranteed by the Kickapoo Tribe to the extent of all property, real or personal, held by the Kickapoo Industrial Development Commission. Such deposits shall be exempt from taxes of the Kickapoo Nation of any and all kinds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 17. Tribal Bank Deposits in Kickapoo Industrial Development Bank Constitute Available Funds – Investment Bank a Clearing House

Funds deposited by banks incorporated pursuant to the laws of the Kickapoo Nation shall be deemed “available funds” within the meaning of that term as used in Tribal banking law. For banks that make the Kickapoo Industrial Development Bank a reserve depository, it may perform the functions and render the services of a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on such terms as the Commission shall provide.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 18. Interest Rate – Time Deposits – Limitations – Charges

The Commission, unless otherwise limited by law, from time to time shall fix the rates of interest allowed and received in transactions of the Bank. Such rates shall be as nearly uniform and constant as practicable, and shall not be fixed or changed to work any discrimination against or in favor of any person, corporation, or other depositor or borrower. In respect to time deposits received by the Bank, transactions may be reasonably classified as to the amounts and the duration of time involved, and a reasonable differentiation of interest rates based on such classification may be allowed. When interest is allowed on any deposits the interest rate thereon shall not be more than the amounts allowed by any restriction contained in tribal banking law. The Commission also shall fix reasonable charges, without unjust discrimination, for any and all services rendered by the Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 19. Deposits May be Made in Any Bank

The Kickapoo Industrial Development Bank may deposit funds in any bank or banking association within or without the tribal jurisdiction upon such terms and conditions as the Commission shall determine.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 20. Bank May Make Loans

(a) The Kickapoo Industrial Development Bank may make loans to, and purchase securities issued by instrumentalities of the Kickapoo Nation and such loans shall be repaid with interest to the Bank. The Bank may make loans to tribal, state, or national banks, and may participate with tribal, state, or national banks, savings and loan associations, and credit unions, in loans being made by them, on such terms and under such rules and regulations as the Commission may determine, provided that the Bank shall not make any venture capital loans and all loans shall be sufficiently secured. The Bank may buy and sell federal funds, or excess reserves, bankers' acceptances, participation loans, and all securities issued by the United States government or its instrumentalities. The Kickapoo Industrial Development Bank may invest its funds in bonds, notes, or debentures of any corporation incorporated under the laws of any state of the United States or any Indian tribe within the United States rated at "A" or higher by a nationally recognized rating service approved by the Industrial Development Commission, provided that such investments shall not be made to exceed for anyone corporation, five percent of the combined capital and surplus of the Bank. The Bank may make loans or give its credit to any individual, association, or private corporation, except as otherwise authorized in this Title, and except that it may make uninsured loans to actual farmers and businesses who conduct a bonafide business within the jurisdiction of the Kickapoo Nation for the expansion of such business within the tribal jurisdiction in an amount not to exceed eight-five percent of the value of the security if such loans are secured by recorded mortgages giving the Kickapoo Industrial Development Bank a first lien on the title or use of real property within the jurisdiction of the Tribal Court, and except that loans insured and guaranteed by the United States as to principle and interest as specifically authorized by law may be made in an amount in which the uninsured principal and interest unpaid on said loan does not exceed fifteen percent of the total unpaid principal and interest of said loan. The Bank shall not loan more than fifty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security, excluding those loans insured or guaranteed by the United States or its agencies.

(b) The limitations imposed by Subsection (a) of this Section may be waived in writing by the Business Committee upon the application of the Kickapoo Industrial Development Commission on behalf of the Industrial Development Bank if, but only if, the loan or investment which would require waiver of any of the stated limitations is fully guaranteed or insured as to both principal and interest by the United States or a reputable insurance company or similar lender or surety company rated "A" or better by Best

Insurance Rating System or similar nationally recognized rating system. Such waivers are not favored, and will be granted only in the most extraordinary circumstances in the sole discretion of the Business Committee.

(History: PUBLIC LAW #KT February 6, 1990)

Section 21. Loans to Treasury Account Authorized

Upon application by the Tribal Secretary-Treasurer and the Director of the Tribal Accounting Department the Kickapoo Industrial Development Commission may direct the Kickapoo Industrial Development Bank to make loans in amount at no time exceeding the total sum of One Hundred Thousand Dollars to the tribal treasury account, for periods of time not exceeding nine months in duration, at such rates of interest as the Commission may prescribe, for the purpose of making money available to meet legislative appropriations from the treasury account during periods of seasonally low tax collections, periods in which high withdrawals or expenditures occur, or as may be necessary to provide for appropriations to maintain any grant or contract received from the federal government pending draw down of awarded and available grant or contract funds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 22. Investments in Government Sponsored Stocks

The Kickapoo Industrial Development Bank may invest in stock of United States government or Kickapoo tribal government sponsored corporations, whether publicly or privately held, but such investments shall not exceed two percent of the Bank's combined capital and surplus.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 23. Fund Transfers to Tribal Departments – How Credited

All funds transferred to other agencies, political subdivisions, departments, institutions, utilities, industries, enterprises, or projects of the Kickapoo Nation shall be placed to the credit of such agencies, political subdivisions, departments, institutions, utilities, industries, enterprises, or projects by the Secretary-Treasurer and the Tribal Accounting Office subject to their respective orders within the scope of their approved budgets.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 24. Warrants Against Transferred Funds

The department of accounting shall prepare and issue warrants signed by the Tribal accountant against money transferred by the Kickapoo Industrial Development Bank to other agencies, political subdivisions, departments, institutions, utilities, industries, enterprises, or projects of the Tribe in the manner provided for the transfer of funds derived from the payment of taxes or otherwise.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 25. Lease of Lands Acquired Through Foreclosure – Oil & Gas

(a) The Principal Chief, as trustee, in an instrument which shall be attested by the Secretary-Treasurer, through the Kickapoo Industrial Development Bank, acting as his agent for the negotiation of such contracts, and with the written approval of the Kickapoo Industrial Development Commission, may make a valid lease of any portion of the lands to which title is acquired by foreclosure of mortgages taken by the Kickapoo Industrial Development Bank and certified to him as suitable for leasing under this Title. Such leases shall be for such time and upon such terms as the Kickapoo Industrial Development Commission shall direct, provided that the terms of all leases which are to be made pursuant to any federal law shall not exceed the terms allowed by such federal law, and provided, that leases which are to be made pursuant to any tribal law shall not exceed the terms allowed by such tribal law.

(b) The Principal Chief, as trustee, in an instrument which shall be attested by the Secretary-Treasurer, through the Kickapoo Industrial Development Bank, acting as his agent for the negotiation of such contracts, and with the written approval of the Kickapoo Industrial Development Commission, shall have the power, as such trustee, and when so directed, to make separate leases thereof covering mineral or oil and gas rights on such land subject to the provisions of the Kickapoo Tribal Mineral Leasing Act of 1982 as now or hereafter amended, and any federal law allowing mineral or oil and gas leasing of Indian tribal lands.

(c) Any sales of, or tribal assignment patents issued to, such lands thereafter made shall be made subject to any leases so granted. Unless otherwise provided by federal or tribal law, as may be applicable to any particular case, surface leases and leases for the subsurface storage of minerals, including oil and gas and related hydrocarbon substances shall not exceed ten years, unless significant improvements are to be made as determined by the Kickapoo Industrial Development Commission in which case the term shall not exceed thirty years, and mineral or oil and gas mining leases shall not exceed the maximum term for leases of tribal lands as provided in the Kickapoo Mineral Leasing Act of 1990 as now or hereafter amended and the provisions of any federal law relative thereto not in excess of the terms allowed by the Kickapoo Mineral Leasing Act of 1990.

(d) The net proceeds of rentals and royalties accruing from such leases shall accrue to the real estate bond payment and purchase fund and shall be used exclusively

for the purchase of real property to be held in trust by the United States of America for the use and benefit of the Kickapoo Nation or to be held by the Kickapoo Nation subject to a restriction upon alienation imposed by some law of the United States.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 26. Assignment Patent and Sales of Land Acquired Through Foreclosure

(a) All lands acquired by the Kickapoo Industrial Development Bank by foreclosure of mortgages taken by the Kickapoo Industrial Development Bank shall be either:

(1) with the consent of the Secretary of the Interior or his authorized agents or representatives, taken in trust by the United States of America for the use and benefit of the Kickapoo Nation pursuant to 25U.S.C. §465, and shall thereafter be patented to the Kickapoo Industrial Development Bank pursuant to the tribal law relating to assignment patents, or, if declared by the Bank with the approval of the Kickapoo Industrial Development Commission to be excess to the needs of the Bank due regard being made for the payment of the Bank's obligations, such patent may be withheld and sold as provided in the laws relative to such assignment patents, or

(2) lands which the Secretary of the Interior refuses to accept in trust for the Tribe, if within the exterior boundaries of the Kickapoo Nation shall be taken in the name of the Kickapoo Nation and shall thereafter be patented to the Kickapoo Industrial Development Bank pursuant to the tribal law relating to assignment patents, or, if declared by the Bank with the approval of the Kickapoo Industrial Development Commission to be excess to the needs of the Bank due regard being made for the payment of the Bank's obligations, such patent may be withheld and sold as provided in the laws relative to such assignment patents, or

(3) lands which the Secretary of the Interior refuses to accept in trust for the Tribe, if without the exterior boundaries of the Kickapoo Reservation, shall be taken in the name of the Kickapoo Nation and shall thereafter be patented to the Kickapoo Industrial Development Bank pursuant to the tribal law relating to assignment patents, or, if declared by the Bank with the approval of the Kickapoo Industrial Development Commission to be excess to the needs of the Bank due regard being made for the payment of the Bank's obligations, such patent may be withheld and sold as provided in the laws relative to such assignment patents, or in lieu of issuance of an assignment patent or upon acquisition of the use rights to said property conveyed by tribal law to the patentee, his heirs, or assigns, the land may be sold pursuant to the terms and conditions of the Indian Land Consolidation Act as now or hereafter amended, codified at 25 U.S.C. §§2201, et seq. for the purpose of consolidating Tribal land holdings within the tribal reservation area.

(b) All sales of lands to be made pursuant to subparagraph 3 of subsection “a” of this section shall be explicitly authorized by appropriate action of the Business Committee of the Kickapoo Nation.

(c) The net proceeds of the sale of assignment patents as herein provided shall accrue to the real estate bond payment and purchase fund and shall be used exclusively for the purchase of real property to be held in trust by the United States of America for the use and benefit of the Kickapoo Nation or to be held by the Kickapoo Nation subject to a restriction upon alienation imposed by some law of the United States.

(d) The net proceeds of the sale of lands made pursuant to the Indian Land Consolidation Act shall be held by the Secretary of the Interior in the special account mentioned in that act and shall be used exclusively for the purchase of real property to be held in trust by the United States of America for the use and benefit of the Kickapoo Nation or to be held by the Kickapoo Nation subject to a restriction upon alienation imposed by some law of the United States.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 27. Name in Which Business Conducted – Execution of Instruments

(a) All business of the Bank except as otherwise provided in this Title shall be conducted under the name of the “Kickapoo Industrial Development Bank” which shall be designated on all documents produced by the Bank as a body corporate and politic of the Kickapoo Nation. Title to property pertaining to the operation of the Bank shall be obtained and conveyed in the name of the Kickapoo Industrial Development Bank, except that title to real property to be used in the operation of the Bank, with the consent of the Secretary of the Interior, shall be taken in trust by the United States pursuant to 25 U.S.C. §465, otherwise to be taken in the name of the Kickapoo Nation, and thereafter patented by the Tribe to the Bank.

(b) Written instruments of the Bank shall be executed in the name of the Bank by two members of the Kickapoo Industrial Development Commission, or by the president of the Kickapoo Industrial Development bank or his designate within the scope of his authority so to do, including specific authority to delegate such responsibility to lesser officials, as defined by the written rules, regulations and policies of the Kickapoo Industrial Development Commission.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 28. Civil Actions Against Bank

Civil actions may be brought against the Kickapoo Industrial Development bank on account of causes of action claimed to have arisen out of transactions connected with the operation of the Kickapoo Industrial Development Bank upon condition the provisions of this section are complied with, and the Kickapoo Industrial Development

Bank shall otherwise be immune from any civil suit whether arising in law or in equity. The Kickapoo Nation shall not be, and the Kickapoo Industrial Development Commission need not be named as parties in such actions. Service of process in such actions shall be made upon the president of the Kickapoo Industrial Development Bank, and a true copy of all process including all pleadings and other papers filed therein shall be mailed by certified mail, return receipt requested, to the Principal Chief of the Kickapoo Nation the chairman of the Kickapoo Industrial Development Commission and the Tribal attorney whose address may at times be determined by contacting the Kickapoo Nation administrative offices. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions. Such action shall be brought, however, exclusively in the Courts of the Kickapoo Nation as now or hereafter constituted, with the right to appeal as in other civil actions.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 29. Surety not Required for Bank in Civil Actions

All provisions of law requiring that a surety or sureties be given on undertakings in actions on appeal, attachment, claim and delivery, executions and stays thereof, and other cases in which an undertaking or surety is required, shall not be applicable to the Kickapoo Industrial Development Bank as the party seeking any such relief. The Bank shall be required and shall give its own undertaking without surety and to reimburse the adverse party when required by law.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 30. No Execution on Bank Property

All property of the Bank shall be exempt from levy and sale by virtue of any execution and no execution or other judicial process shall issue against the same nor shall any judgment against the Bank be a charge or lien upon its property; provided that nothing contained in this Section shall apply to or limit the rights of the holder of any bonds, notes, or deposits to pursue any remedy for the enforcement of any pledge or lien given by the Bank on its revenues or other moneys. Real property and personal property, other than unobligated cash on hand and future revenues, may be pledged or a lien allowed thereon only with the specific prior written consent of the Business Committee upon the request of the Industrial Development Commission. Such consent will not be granted except in the most extraordinary of circumstances in the sole discretion of the Business Committee.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 31. Audit of Banks Accounts and Records

The Kickapoo Industrial Development Commission shall be responsible for contracting with a nongovernment certified public accounting firm to annually audit the Kickapoo Industrial Development Bank in accordance with generally accepted auditing standards, which shall include inspection and verification of the assets in its possession and under its control with sufficient thoroughness to ascertain with reasonable certainty whether the valuations are carried correctly on its books. The auditor so hired shall audit the Bank's methods of operation and accounting, shall report the results to the Kickapoo Industrial Development Commission as soon as practicable, and shall furnish one certified copy thereof to the Business Committee and one certified copy thereof to the Secretary-Treasurer for the use of the Kickapoo Nation and the official tribal records. The costs of such audit shall be paid for by the Kickapoo Industrial Development Bank. The Kickapoo accounting department shall be responsible for an annual examination of the Kickapoo Industrial Development Bank and for any investigation of the fiscal affairs of the Bank which may be necessary. The results of this examination, and any necessary investigation, shall be reported to the Kickapoo Industrial Development Commission and the Business Committee. If such examination or investigation has indicated that criminal wrongdoing may have occurred, the report thereof shall also be delivered to the tribal Attorney General and the Tribal Attorney. Fees for such examinations shall be charged by the accounting department for the examinations in the section provided at a daily rate to be established by the accounting department with the consent of the Business Committee. Such fees shall be charged for the time used by the tribal accountant or other person designated by him in supervising, filing, and corresponding in connection with such report or investigation and for the time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examinations or investigations herein provided for.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 32. Electronic Fund Transfer Systems

The Kickapoo Industrial Development Bank may establish, under such rules and regulations as may be adopted by the Kickapoo Industrial Development Commission, a system to provide fund transfer services to its customers and to the customers of tribal, state, and federally chartered banks located within the exterior boundaries of the Kickapoo Indian Reservation, and to other financial institutions otherwise authorized to utilize the services of electronic fund transfer systems, and to make such reasonable charges for services rendered to other banks and customers as may be established by the Kickapoo Industrial Development Commission.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 33. Indian Financing Act Authorizations

The Kickapoo Industrial Development Bank within the Kickapoo Industrial Development Commission, the Bond Bank established by this Title, and the Kickapoo Industrial Development Commission are hereby recognized by the Kickapoo Nation as "Organization(s)" as defined in Section 3(f) of the Indian Financing Act of 1974, as amended, Act of April 12, 1974, P.L. 93-262, 88 Stat. 77 25 U.S.C. §1452(f), and parts 80, 91, and 93 of Title 25 of the Code of Federal Regulations (1981) as amended, superceded, or redesignated, and are declared by the Kickapoo Nation to be authorized agencies of the Tribe for the purpose of the Act and regulations promulgated thereunder, and are hereby authorized by the Tribe to borrow money from the Indian Revolving Loan Fund, to relend or otherwise invest said borrowed funds pursuant to Section 102 of said Act, 25 U.S.C. §1462, to obtain insurance and interest subside on loans of Tribal funds and Commission or Bank funds made pursuant to this Title, to obtain business grants, and to request and receive management and technical assistance all as provided by the Indian Financing Act.

The Bank, the Bond Bank, and the Kickapoo Industrial Development Commission are likewise designated as official agencies of the Tribe, and are authorized to borrow and relend or invest money from any other loan or grant fund for economic development purposes administered by the Federal government when the Kickapoo Tribe would be eligible to borrow or receive such funds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

CHAPTER ONE**UTILIZATION OF BANK IN
INDUSTRIAL DEVELOPMENT****Section 101. Declaration and Finding of Public Purpose**

The legislature of the Kickapoo Nation hereby declares and adopts a policy of enlisting the help of private enterprises to create more employment, production, and purchasing power for its citizens and all persons within the tribal jurisdiction, and an enlarged tax base in order to promote the public health and welfare and tribal government as expressed in this Title, and finds that it is and has been its purpose in authorizing and adopting the provisions of this Title, and particularly this Chapter, to sanction and authorize the expansion of the activities of the Kickapoo Industrial Development Bank and to encourage active use of the purposes for which the Kickapoo Industrial Development Bank is created.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 102. Banking Advisory Board

The Principal Chief of the Kickapoo Nation with the advise and consent of the Business Committee of the Kickapoo Nation may appoint an advisory board to the Kickapoo Industrial Development Bank which shall be known as the “Industrial Development Bank Advisory Board”. The Industrial Development Bank Advisory Board shall be composed of five persons knowledgeable in banking and finance and in motivating the expansion of industry within and without the jurisdiction of the Kickapoo Nation. The Principal Chief shall appoint a chairman, vice-chairman, and secretary of such board and shall define their duties. Terms of such appointment shall be for a stated period from one to four years. The Kickapoo Industrial Development Commission shall fix compensation for the board on a daily or monthly basis.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 103. Authority of Board – Capital Pool Created

The Industrial Development Bank Advisory Board of the Kickapoo Industrial Development Bank shall formulate recommendations to the Kickapoo Industrial Development Commission relative to the establishment of additional objectives for the operation of the Kickapoo Industrial Development Bank, including the sponsoring, coordination, and assistance to the activities of public officials and private individuals and persons in creating a long-term first mortgage industrial development capital pool or revolving fund of one hundred million dollars or more; and such advisory board shall act

in behalf of the Kickapoo Industrial Development Bank in such other capacity as may be approved by the Kickapoo Industrial Development Commission.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 104. Minimum Standards for Loans From Capital Pool

The Kickapoo Industrial Development Bank is hereby authorized to sponsor, in cooperation where possible of private or public lenders, a reservation wide program for the expansion or creation of additional enterprises engaged in or to be engaged in the assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured product or any combination thereof through the granting of first mortgage loans to companies or sponsoring parent corporations or other legal associations who have been in business for at least five years and who can furnish certified balance sheets and profit and loss statements showing an operating profit for at least three consecutive years prior to the date of the loan application. With the prior written consent of the Kickapoo Business Committee, loans for such purposes may be made without the reservation boundaries anywhere within the State of Kansas.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 105. Mortgage Program Administration

The Kickapoo Industrial Development Bank shall administer an industrial building and agricultural development mortgage program as provided in this Chapter.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 106. Purpose

It is declared that a reservation wide need exists for agricultural developments; and for industrial and office buildings and expansion of existing industrial and office buildings and complexes, including service or recreation oriented industries. It is also declared that it is in the interest of the public welfare and purpose to promote the expansion and diversification of agriculture and industry, to increase employment, and to provide a larger taxable base for the economy of the Kickapoo Nation. Therefore, the industrial building and agricultural development mortgage program is created to encourage the making of mortgage loans for the purpose of furthering industrial expansion and agricultural development within the Kickapoo reservation and the surrounding communities, and thus improve the welfare of the public for the foregoing reasons and, by the stimulation of a larger flow of private investment funds from banks, building and loan associations, credit unions, savings and loan associations, insurance companies, and other financial institutions, including pension, retirement, and profit sharing funds, meet the needs of agricultural development and industrial plant creation and expansion.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 107. Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another meaning or intent:

(a) “Bank” shall mean the Kickapoo Industrial Development Bank,

(b) “Cost of project” shall mean the cost or fair market value of construction, excavation, lands, equipment, property rights, easements, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies, and other expenses as may be necessary or incident to the development, construction, equipping, financing, and placing in operation of an industrial or an industrial or agricultural development project.

(c) “Federal agency” shall mean and include the United States of America, the President of the United States of America, any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America,

(d) “Industrial project” shall mean any building, whether or not the Bank has already insured mortgage payments under a mortgage on any such building in accordance with this chapter, or other real estate improvement within the reservation of the Kickapoo Nation or without said reservation upon approval of the project by the Business Committee, and, if a part thereof, the land upon which such building or other real estate improvement may be located, provided that such building or other real estate improvement is to be used:

(1) By any industry for the manufacturing, processing, or assembling of raw materials or manufactured products; or

(2) By any industry for the provision of services to the public or other industry, or for the wholesale or retail sale of personal property; or

(3) For the providing of research or warehousing facilities for the benefit of any such industry;

and provided further, that the Bank has determined that such building or other real estate improvement will tend to provide gainful employment for the people of the Kickapoo Reservation and surrounding communities, increase the tax base of the Kickapoo Nation, and diversify and expand industry so that periods of large scale unemployment and distressed times may be avoided.

(e) “Agricultural development project” shall mean any irrigation construction or irrigation equipment purchase, agricultural building construction, purchase of agricultural equipment, or other improvement to agricultural real estate, whether or not the Bank has already insured mortgage payments under a mortgage on any land, building, or equipment referred to above, provided that the construction, purchases, or improvements referred to above are for the purpose of growing, raising, processing, or furthering the growth, raising, or processing of livestock, poultry, or agricultural crops.

(f) “Maturity date” shall mean the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payment provided for in the mortgage.

(g) “Mortgage” shall mean a first mortgage or security agreement on an industrial or agricultural development project, or part thereof, together with the credit instruments thereby secured and creating and constituting a first lien of record; provided however, a “first mortgage” shall include a second or subsequent mortgage or security agreement on an industrial or agricultural development project if:

(1) The Bank is already the holder of a first mortgage or security agreement on the industrial or agricultural development project and there is no intervening mortgage or security interest held by any person or entity other than the Bank, except a holder as described in subparagraph 2 of this subsection.

(2) The holder of such second or subsequent mortgage or security agreement is also the holder of a prior mortgage or security agreement on the industrial or agricultural development project under which prior mortgage or security agreement the Bank is already insuring mortgage payments.

(3) No other person or legal entity holds an intervening mortgage, security interest, or lien on such industrial or agricultural development project prior to such second or subsequent mortgage or security interest.

(h) “Mortgagee” shall mean the original lender approved by the Bank under a mortgage, and its successors and assigns, and may include all insurance companies, trust companies, banks, building and loan associations, credit unions, savings and loan associations, investment companies, savings banks, individuals, executors, administrators, guardians, conservators, trustees, and other fiduciaries, including pension, retirement, and profit sharing funds.

(i) “Mortgagor” shall mean an individual, corporation, or other legal entity which obtains a loan under the provisions of this chapter and which pledges property as security for such loan as provided in this chapter.

(j) “Mortgage payments” shall mean periodic payments by the mortgagor to the mortgagee required by the mortgage or loan agreement secured by the mortgage, and may include interest, installments of principal, taxes and assessments, land lease rentals,

mortgage insurance premiums, and hazard insurance premiums, or any of them in any combination as the Bank may prescribe.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 108. Powers

In carrying out the provisions of this chapter, the Bank is authorized and empowered:

(a) To insure the payment of mortgage loans secured by industrial buildings, or agricultural buildings, lands, equipment, or improvements consistent with the terms and limitations expressed in this chapter.

(b) To accept from a federal agency, loans or grants for use in carrying out its purposes, and to enter into agreements with such agency respecting any such loans or grants.

(c) In its discretion in connection with the insuring of payments of any industrial project mortgage, to request for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality in which the industrial project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project.

(d) To enter into agreements with prospective mortgages and mortgagors for the purpose of planning, designing, constructing, acquiring, altering, and financing industrial and agricultural development projects.

(e) To acquire, purchase, manage and operate, and hold and dispose of, real and personal property, to take assignments of rentals and leases, and make and enter into all contracts, leases, agreements, mortgages, security agreements, and other arrangements necessary or incidental to the performance of its duties.

(f) When in the opinion of the Bank it is necessary or advisable, in order to further the purposes of this chapter, or to safeguard the mortgage insurance fund or other Bank assets, to purchase, acquire, take assignments of notes, mortgages, and other forms of security and evidences of indebtedness, to purchase, acquire, attach, seize, accept or take title to, any industrial or agricultural development project, or mortgaged part thereof, by conveyance or, when an insured mortgage or mortgage held by the Bank on such property is clearly in default, by foreclosure in a Court of competent jurisdiction, and to sell, lease, or rent an industrial project as otherwise provided in this Title.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 109. Default by Mortgagors

When a mortgagor does not meet mortgage payments insured or held by the Bank by reason of its industrial or agricultural development project, the Bank, for the purpose of maintaining income from industrial or agricultural development projects on which mortgage loans have been insured or made by the Bank, and for the purpose of safeguarding the mortgage insurance fund or other Bank assets, may grant the mortgagor permission to lease or rent the property to a tenant for a use other than that specified in this Chapter as an eligible use for such projects, such lease or rental to be temporary in nature and subject to such conditions as the Bank may prescribe.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 110. Mortgage Insurance Fund

There is hereby created an industrial building and agricultural development mortgage insurance fund, hereinafter in this chapter referred to as the “fund” which shall be used by the Bank as a nonlapsing, revolving fund for carrying out the provisions of this Chapter. To this fund shall be charged any and all expenses of the Bank for this purpose, including mortgage payments required by loan defaults, and to the fund shall be credited all mortgage insurance premiums and proceeds from the sale, disposal, lease, or rental or real or personal property which the Bank may hold as a result of insuring the mortgage upon such property, and any amounts of the Bank surplus which the Kickapoo Industrial Development Commission directs to be credited to such account to maintain the account in sound fiscal condition.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 111. Insurance of Mortgages

The Bank, as the administrator of the fund created in this chapter, is authorized, upon application of the proposed mortgagee, to insure mortgage payments required by a mortgage on any industrial or agricultural development project, or mortgaged part thereof, upon such terms and conditions as the Bank may prescribe, and subject to the limitations of this chapter, provided the aggregate amount of all mortgages so insured outstanding at any one time shall not exceed five million dollars, provided, that sums reinsured with other mortgage insurance companies shall not be counted in calculating the five million dollar limit. To be eligible for insurance under the provision of this chapter, a mortgage shall:

- (a) Be one which is made to and held by a mortgage approved by the Bank.
- (b) Involve a principal obligation, including initial service charges and appraisal, inspection, and other fees approved by the Bank, not to exceed ninety percent of the cost of any project.

(c) Have a maturity date satisfactory to the Bank, but in no case later than thirty years from the date of the mortgage for any project.

(d) Contain complete amortization provisions satisfactory to the Bank requiring periodic payments, costs of tribal or other locally applicable property taxes and assessments, land lease rentals, if any, and hazard insurance on the property and such mortgage insurance premiums as are required under the next succeeding section, as the Bank shall from time to time prescribe or approve.

(e) Be in such form and contain such terms and provisions, with respect to property, insurance, repairs, alterations, payment of taxes and assessments, restrictions as to location of machinery and equipment, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the Bank may prescribe.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 112. Mortgage Insurance Premiums

The Bank is authorized to fix mortgage insurance premiums for the insurance of mortgage payments under the provisions of this chapter, such premiums to be computed as a percentage, which shall not exceed five percent per annum, of the principal obligation of the mortgage in such manner in each case as the Bank shall determine on the basis of all pertinent available data. Such premiums shall be payable by the mortgagors or the mortgages in such manner as shall be prescribed by the Bank. The amount of premium need not be uniform among the various loans insured.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 113. Expenses

The Bank, subject to the approval of the Kickapoo Industrial Development Commission, may expend out of the fund such moneys as may be necessary for any expenses of the Bank in carrying out the provisions of this chapter, including administrative, legal, actuarial, and other services.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 114. Mortgages Eligible for Investment

Mortgages insured by the Bank under this chapter and participations therein are hereby made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, building and loan associations, credit unions, savings and loan associations, executors, administrators, guardians, conservators, trustees and other fiduciaries, pension, profit sharing, and retirement funds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 115. Limitations – Credit of Bank and Tribe Not Pledged

Nothing in this chapter shall be construed to authorize or permit the Bank or any officer thereof to create any indebtedness of the Bank or of the Kickapoo Nation, or to incur any obligation of any kind or nature, except such as shall be payable solely and exclusively from the fund created in this chapter and the revenues appropriated and accumulated therein. Nothing herein shall be construed to require the appropriation of any funds of the Kickapoo Industrial Development Commission or the Kickapoo Nation for the fund.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

CHAPTER TWO**IRRIGATION DEVELOPMENT DEBENTURES****Section 201. Declaration Of Intent And Findings**

It is declared that a reservation wide need exists for a program of irrigation development within the reservation of the Kickapoo Nation. It is also declared that it is in the public interest to promote the expansion and diversification of agriculture, to increase employment, and to provide a larger taxable base for the economy of the Tribe. The Business Committee, as the Tribal legislative assembly, further finds that there is a need to provide additional capital sources for farmers who wish to convert to irrigation farming, particularly young farmers and small operators who would otherwise be unable to obtain sufficient credit through usual commercial channels.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 202. Debentures May Be Issued

The Kickapoo Industrial Development Commission, acting through the Kickapoo Industrial Development Bank, may issue debentures in amounts not to exceed a total of ten million dollars to provide capital for loans to enable residents of the Kickapoo Reservation or other persons owning an interest in lands within the reservation to purchase and finance irrigation distribution systems and related agricultural facilities and enterprises to be used exclusively within the reservation. Such loans shall, where possible, be made on a participating basis with other banks and lending agencies. The Commission shall prescribe procedures, within the authority granted and subject to limitations imposed by Chapter Four of the Industrial Development Act of 1983, for the preparation, issuance, delivery, and liquidation of debentures issued pursuant to the provisions of this Chapter. Such debentures shall be secured solely by, and any recourse shall be limited to, the real and personal property of the Kickapoo Industrial Development Bank and shall not be an obligation of the Kickapoo Industrial Development Commission or the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 203. Debentures Exempt From Taxation – Exception

Debentures issued pursuant to this Chapter, and the income therefrom, shall be exempt from any taxes imposed by the Tribe, except inheritance, estate, and transfer taxes.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

CHAPTER THREE**TRIBAL MUNICIPAL BOND BANK****Section 301. Title**

This Chapter shall be known as the “Kickapoo Municipal Bond Bank Act”.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 302. Legislative Policy

It is declared to be the policy of the Kickapoo Nation to foster and promote the provision of adequate capital markets and facilities for borrowing money by the Kickapoo Nation and the political subdivisions thereof authorized so to do, as well as other Indian Tribes upon approval by the Business Committee of the Kickapoo Nation for the financing of their respective public improvements. It is in the public interest to encourage such political entities to continue their independent undertakings of public improvements and the financing thereof by making funds available at reduced interests costs, especially during period of restricted credit or money supply. Current credit and municipal bond market conditions require the exercise of the powers of the Tribe to further and implement such policies by authorizing a tribal instrumentality to be created to borrow money and to issue its bonds to make funds available at reduced rates and/or favorable terms for borrowing by Tribes and their political subdivisions through the purchase of the bonds of such political entities in fully marketable form and by granting broad powers to accomplish and to carry out the policies of the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 303. Definitions

In this Chapter, unless the context or subject matter otherwise requires:

- (a) “Bond Bank” means the Kickapoo Municipal Bond Bank created by this Chapter.
- (b) “Bondholder” or “Holder” or any similar term when used with reference to a bond or note of the bank means any person who shall be the bearer of any outstanding bond or note of the bank.
- (c) “Bonds” or “Bond” means bonds, notes, or other evidence of indebtedness of the Bond Bank issued pursuant to this Chapter.

(d) “Fully marketable form” means a municipal security duly executed and accompanied by an approving legal opinion of a bond counsel whose opinions are generally accepted by purchasers of municipal bonds.

(e) “Municipal Security” means a bond or evidence of debt issued by a political subdivision and payable from taxes or from rates, rents, charges, or assessments.

(f) “Political Subdivision” or Political Entity” means the Kickapoo Nation, municipal corporations organized and chartered pursuant to the laws of the Kickapoo Nation, all agencies, commissions, authorities, or other instrumentalities of the Kickapoo Nation who are specifically authorized by Tribal legislation to issue bonds or debentures or evidences of indebtedness. Upon request of the Bond Bank transmitted through appropriate channels, and written approval by the Business Committee, other federally recognized Indian Tribes and their instrumentalities may be individually recognized as political entities or subdivisions for the purpose of this Chapter.

(g) “Required debt service reserve” means the amount required to be on deposited in the reserve fund.

(h) “Reserve Fund” means the Kickapoo Municipal Bond Bank Reserve Fund created by the provisions of this Chapter.

(i) “Revenues” means all fees, charges, moneys, profits, rents, payments of principal of, or interest on, municipal securities and other investments, appropriations and all other income derived or to be derived by the Bond Bank under this Chapter.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 304. Creation of Bank

A Bond Bank is hereby established within the Kickapoo Industrial Development Bank to be known as the “Kickapoo Municipal Bond Bank”. The Bond Bank is constituted as an instrumentality of the Kickapoo Nation exercising public and governmental functions, and the exercise by the Bond Bank of the powers conferred by this Chapter shall be deemed and held to be an essential governmental function of the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 305. Participation Voluntary

Participation by a political subdivision is entirely voluntary and no political subdivision shall be required to sell its bond issues to the Bond Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 306. Lending and Borrowing Powers Generally

The Bond Bank is authorized to lend money to political subdivisions through the purchase of municipal securities of political subdivisions in fully marketable form which, in the opinion of the Attorney General in reliance on the opinion of bond counsel determines to be legally sufficient. The Bond Bank may hold such bonds for any length of time it finds to be necessary. The Bond Bank, for the purposes authorized by this Chapter, is authorized to issue its bonds payable solely from the funds available to the Bond Bank which may be authorized or pledged for payment of Bond Bank obligations, and to otherwise assist political subdivisions as provided in this Chapter.

Bonds of the Bond Bank issued under this Chapter shall not be in any way a debt or liability of the Kickapoo Nation, the Kickapoo Industrial Development Commission, or the Kickapoo Industrial Development Bank and shall not constitute a loan of the credit of the Kickapoo Nation, the Kickapoo Industrial Development Commission, or the Kickapoo Industrial Development Bank, or create any or debt or debts, or liability or liabilities on behalf of the said entities, but all such bonds shall be payable solely from revenues or funds pledged or available for their payment as authorized in this Chapter. Each bond shall contain on its face a statement to the effect that the Bond Bank is solely obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the Kickapoo Nation is pledged to the payment of the principal of, or the interest on such bonds. Specific funds pledged to fulfill the Bond Bank's obligations are obligations of the Bond Bank.

All expenses incurred in carrying out the purposes of this Chapter shall be payable solely from revenues or funds provided or to be provided under this Chapter and nothing in this Chapter shall be construed to authorize the Bond Bank to incur any indebtedness or liability on behalf of or payable by the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 307. Powers

The Bond Bank shall have the following powers:

(a) To sue in its own name, and, in the Kickapoo Tribal Court only, to be sued in its own name upon the same notice and conditions as the Kickapoo Industrial Development Bank may be sued.

(b) To make and enforce bylaws, rules, and regulations for the conduct of its affairs and business and for use of its services;

(c) To acquire, hold, use, and dispose of its income, revenue, funds and moneys in accordance with law, this Chapter, or legislative appropriations;

(d) To acquire, rent, lease, hold, use, and dispose of other personal property for its purposes;

(e) To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof and to provide for the rights and the holders thereof, and to purchase, hold, and dispose of any of its bonds.

(f) To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;

(g) To do and perform any acts and things authorized by this Chapter under, through, or by means of its officers, agents, or employees or by contracts with any person, firm, or corporation;

(h) To make, enter into, and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the Bond Bank or pertaining to any loan to a political subdivision or any purchase or sale of municipal securities or other investments or to the performance of its duties and execution or carrying out of any of its powers under this Chapter.

(i) To purchase and hold municipal securities of political subdivisions at such prices and in such manner as the Bond Bank shall deem advisable, and to sell municipal securities acquired or held by it at such prices without relation to cost and in such manner as the Bond Bank shall deem advisable.

(j) To invest any funds or moneys of the Bond Bank not then required for loan to political subdivision and for the purchase of municipal securities in the same manner as permitted for investment of funds belonging to the Kickapoo Nation or the Kickapoo Industrial Development Bank.

(k) To fix and prescribe any form of application, or procedure to be required of a political subdivision for the purpose of any loan or the purchase of its municipal securities, and to fix the terms and conditions of such loan or purchase and to enter into agreements with political subdivisions with respect to any such loan or purchase;

(l) To consider the need, desirability, or eligibility of such loan, the ability of such political subdivision to secure borrowed money from other sources and the costs thereof, and the municipal securities to be purchased by the Bond Bank;

(m) To impose and collect charges from a political subdivision for its costs and services in review or consideration of any proposed loan to a political subdivision or purchase of municipal securities of such political subdivision, and to impose and collect charges therefor whether or not such loan shall have been made of such municipal securities shall have been made or such municipal securities shall have been purchased;

(n) To fix and establish any and all terms and provisions with respect to any purchase of municipal securities by the Bond Bank, including dates and maturities of such bonds, provisions as to redemption or payment prior to maturity, and any and all other matters which in connection therewith are necessary, desirable, or advisable in the judgment of the Bond Bank;

(o) To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable, and to pay the premiums of such insurance.

(p) To the extent permitted under its contracts with the holders of bonds of the Bond Bank, to consent to any modification with respect to rates of interests, time, and payment of any installment of principal or interest, security, or any other term of bond, contract, or agreement of any kind to which the Bond Bank is a party; and

(q) To do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this Chapter.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 308. Bond of the Bond Bank

Bonds of the Bond Bank shall be authorized by resolution of the Kickapoo Industrial Development Commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the tribal jurisdiction and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds of the Bond Bank may be sold at public or private sale at such time or times and at such price or prices as the Bond Bank shall determine.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 309. Pledges To Secure Bonds

Any pledge of revenue or other moneys made by the Kickapoo Industrial Commission shall be valid and binding from time to time when the pledge is made. The Industrial Development Commission may also pledge other assets of the Kickapoo Industrial Development Bank as security for its bonds. The revenues or other moneys so pledged and thereafter received by the Bond Bank shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Bond Bank, regardless of whether such parties

have notice thereof. Neither the resolution nor any other instrument by which the pledge is created need be filed or recorded, except in the records of the Bond Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 310. Reserve Fund

(a) The Bond Bank shall establish and maintain a reserve fund in which there shall be deposited all moneys appropriated by the Tribe for the purpose of such fund, all proceeds of bonds required to be deposited therein by terms of any contract between the Bond Bank and its bond holders or any resolution of the Bank with respect to such proceeds of bonds any other moneys or funds of the Bond Bank which it determines to deposit therein, and any other moneys made available to the Bond Bank only for the purposes of such fund from any other source or sources. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same shall become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve funds shall not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the Bank are not then available in accordance with the terms of any such contract. Required debt service reserved shall be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the Bond Bank and its bond holders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds, and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds.

(b) Moneys in said fund at any time in excess of the required debt service or in excess of the amount permissible under Section 103(d) of the Federal Internal Revenue Code, if applicable, may be withdrawn at any time by the Bond Bank and transferred to any other fund or account of the Bond Bank.

(c) No bonds shall be issued by the Bond Bank unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued. Nothing in this Chapter shall prevent or preclude the Bond Bank from satisfying the foregoing requirement by depositing so much of the proceeds of the bond to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The Bond Bank may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the Bond bank with respect to such fund.

(d) In order to assure the maintenance of the required debt service reserve, there may be appropriated by the Business Committee in its discretion and paid to the Bond Bank for deposit in said fund, such sum if any, as shall be certified by the Industrial Development Commission as necessary to restore said fund to an amount equal to the required debt service reserve.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 311. Additional Reserves and Funds

The Bond Bank may establish such additional and further reserves or such other funds or accounts as may be, in its discretion, necessary, desirable, or convenient to further the accomplishment of the purposes of the Bond Bank, or to comply with the provisions of any agreement made by or any resolution of the Bond Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 312. Personal Liability

Neither the members of the Industrial Development Commission nor any person executing bonds or notes issued pursuant to this Chapter shall be liable personally on such bonds or notes by reason of the issuance thereof.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 313. Purchase of Bonds of Bond Bank

The Bond Bank shall have power to purchase bonds of the Bond Bank out of any funds or money of the bank available therefor. The Bond Bank may hold, cancel, or resell such bonds or notes subject to and in accordance with holders of its bonds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 314. Bonds as Legal Investments and Security

Notwithstanding any restrictions contained in any other law, the Kickapoo Nation and all public officers, boards, and agencies, and political subdivision and agencies thereof, all national banking associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan association, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued by the Bond Bank pursuant to this Chapter, and such bonds shall be authorized security for any and all public deposits.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 315. Tax exemptions

All property of the Bond Bank and all bonds issued under this Chapter shall be deemed to be serving essential public and governmental purposes and such property and such bonds and notes so issued, their transfer and the income therefrom, including any profits made on the sale thereof shall at all times be exempt from taxation by the Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 316. Exemption of Property From Execution Sale

All property of the Bond Bank shall be exempt from levy and sale by virtue of any execution and no execution or other judicial process shall issue against the same nor shall any judgment against the Bond Bank be a charge or lien upon its property; provided that nothing contained in this Chapter shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other moneys. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the Bond Bank under this Chapter or to obtain any relief upon the ground that such resolution is invalid must be commenced within ten days after the adoption of said resolution by the Bond Bank. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such resolution or any of its provisions shall be asserted nor shall the validity of such resolution or any of its provisions be open to question in any court on any ground whatever.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 317. Insurance or Guaranty

The Bond Bank is authorized and empowered to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for, the payment of repayment of, interest or principal, or both, or any part thereof, on any bonds or notes issued by the Bond Bank, or on any municipal securities of governmental units purchased or held by the Bond Bank, pursuant to this Chapter; and to enter into any agreement or contract with respect to any such insurance or guaranty and pay any required fee, unless the same would impair or interfere with the ability of the Bond Bank to fulfill the terms of any agreement made with the holders of its bonds.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 318. Remedies on Default of Municipal Securities

In the event of default by a political subdivision in the payment of interest on or principal of any municipal securities owned or held by the Bond Bank, the Bond Bank shall proceed to enforce payment, pursuant to applicable provisions of law, of such interest or principal or other amount then due and payable.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 319. Form of Municipal Securities and Investments

All municipal securities or other investments of moneys of the Bond Bank permitted or provided for under this Chapter shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the Bond Bank. All municipal securities at any time purchased, held, or owned by the Bond Bank shall, upon delivery to the Bond Bank, be accompanied by documentation, including approving legal opinion of a bond counsel whose opinions are generally accepted by purchasers of municipal bonds, certifications, and guaranty as to signatures, and certification as to absence of litigation, and such other further documentation as shall from time to time be required in the municipal bond market.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 320. Presumption of Validity

After issuance, all bonds or notes of the Bond Bank shall be conclusively presumed to be fully authorized and issued under the laws of the Kickapoo Nation and any person or governmental unit shall be stopped from questioning their authorization, sale, issuance, execution, or delivery by the Bond Bank.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)