



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 13, 1978

ATTORNEY GENERAL OPINION NO. 78-227

Mr. Sherman A. Parks, Jr.
Deputy Assistant Secretary of State
Office of the Secretary of State
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: Corporations--Annual Reports--Exemptions

Synopsis: A development credit corporation organized under K.S.A. 2328 *et seq.* is not a banking corporation, and is not exempt under K.S.A. 17-7512 from the filing of annual reports and payment of franchise taxes applicable to domestic corporations under K.S.A. 17-7501 *et seq.*

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Dear Mr. Parks:

You inquire whether the Kansas Development Credit Corporation, a corporation organized pursuant to K.S.A. 17-2328 *et seq.* is exempt from the filing of annual reports and payment of annual franchise taxes which are required of domestic corporations under K.S.A. 17-7503 and -7504.

K.S.A. 17-2328 provides that corporations organized thereunder such as the Kansas Development Credit Corporation, organizations to provide development credit, "are authorized to be created under the general corporation laws of the state, with all of the powers, privileges and immunities conferred on corporations by such laws." The purpose of the corporation is described by K.S.A. 17-2329, to promote and aid, through the efforts of its member institutions and corporations, the development and advancement of the industrial and business prosperity of the state, in particular, by encouraging

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new industries and to stimulate and provide assistance to expand all kinds of business ventures which tend to promote the growth of the state. It is authorized to

"furnish for approved and deserving applicants ready and required money for the carrying on and development of every kind of business or industrial undertaking whereby a medium of credit is established not otherwise readily available therefor"

Toward this end, it is authorized to borrow money from any bank or insurance company which shall be a member of the corporation, and from other specified sources, and to lend money to qualified applicants. Membership in a corporation organized thereunder is limited to banks, banking institutions and insurance companies which apply to the corporation to lend money to it. K.S.A. 17-2335 subjects the corporation to the oversight of the state bank commissioner:"

"Such corporation shall be . . . subject to the examination, supervision and control of the bank commissioner and shall make such report of its condition from time to time as the bank commissioner shall require."

It is urged that the development corporation is exempt from the filing of annual reports and the payment of corporate franchise taxes by K.S.A. 17-7512 which states thus in pertinent part:

"The provisions of this act [the general corporation code] relating to the filing of annual reports and the payment of franchise taxes shall not apply to *banking*, insurance or savings and loan *corporations* or associations" [Emphasis supplied.]

Because the development credit corporation operates under the supervision of the bank commissioner, and must file such reports with that officer as he may require, it certainly may be argued,

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as a matter of policy, that the development credit corporation should be relieved of duplicative reporting under the general corporation code. However, as a matter of statutory construction, K.S.A. 17-7512, insofar as pertinent here, exempts only banking corporations from the reporting and franchise tax requirements. The development credit corporation is not a banking corporation, and does not engage in the business of banking. See K.S.A. 9-702. For that reason, and that reason alone, it is not exempt by K.S.A. 17-7512 from the filing of annual reports and the payment of franchise taxes required of domestic corporations.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj