

Stricken language would be deleted from and underlined language would be added to present law.
Act 944 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S4/7/25 S4/9/25

A Bill

HOUSE BILL 1797

By: Representative Beaty Jr.

By: Senator Gilmore

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO CLARIFY THE ROLE OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO TRANSFER THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY OUT OF THE DEPARTMENT OF COMMERCE; TO PROVIDE FOR THE INDEPENDENCE OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO EXEMPT THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY FROM CERTAIN STATE REGULATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 15-5-102, concerning legislative findings and the declaration of public necessity related to the Arkansas Development Finance Authority, is amended to add an additional subsection to read as follows:

(e) The General Assembly further finds that:

(1) The ongoing crisis in housing is limiting the ability of communities to improve and expand, hampering the state's economy and ability to compete for jobs and growth;

(2) A majority of states meet this challenge with a public finance agency that operates with lessened governmental regulation and



bureaucracy, resulting in increased efficiency with no cost to taxpayers;

(3) The authority currently operates without relying on tax revenues;

(4) Increased independence of the authority will improve the operations of the authority for the betterment of the state; and

(5) Shrinking the size and overreach of government will result in improved performance for the authority and the state.

SECTION 2. Arkansas Code § 15-5-104, concerning the construction of the Arkansas Development Finance Authority Act, is amended to add additional subsections to read as follows:

(e) This chapter is intended to aid the state by creating an independent instrumentality of the state that exercises essential functions of the state with the power to fulfill the duties of the authority.

(f) Except as expressly provided in this chapter:

(1) Action by the authority to conduct a proceeding, provide notice, or obtain approval is not required for the:

(A) Purchase of a mortgage loan;

(B) Making of a loan to a mortgage lender;

(C) Acquisition of a mortgage;

(D) Acquisition of or any dealing with respect to a mortgage property;

(E) Issuance of bonds;

(F) Execution of a mortgage, deed of trust, or trust indenture; or

(G) Exercise of any other power given to the authority under this chapter; and

(2) Rules adopted by the authority are exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(g) Upon request, the President of the Arkansas Development Finance Authority shall appear before the Legislative Council, or if the General Assembly is in session, the Joint Budget Committee, to report on any contract or procurement matter identified by the Legislative Council or the Joint Budget Committee.

(h) The authority and all records and other data of the authority are subject to inspection and audit by Arkansas Legislative Audit under § 10-4-

416.

SECTION 3. Arkansas Code Title 15, Chapter 5, Subchapter 1, is amended to add an additional section to read as follows:

15-5-107. Arkansas Development Finance Authority – Designation as independent instrumentality of state.

(a) The Arkansas Development Finance Authority is transferred from the Department of Commerce and shall operate independently from a cabinet-level department.

(b) All personnel employed by the authority before the transfer under this section are deemed to meet all employment standards and qualifications required by the authority and are granted employment at a rank and salary grade that is at least equal to their current rank and salary grade.

(c) The Department of Commerce and the Department of Shared Administrative Services shall grant access to and provide all information requested by the authority to accomplish the transfer of the authority under this section and the mission of the authority.

SECTION 4. Arkansas Code § 15-5-202(e), concerning the Board of Directors of the Arkansas Development Finance Authority, is amended to read as follows:

(e) The members of the board shall serve without compensation, but the authority may reimburse its board members for reasonable expenses in accordance with § 25-16-901 et seq incurred in the course of the board members' duties as members of the board.

SECTION 5. Arkansas Code § 15-5-207(b), concerning the powers of the Arkansas Development Finance Authority, is amended to add an additional subdivision to read as follows:

(45) To appoint and employ officers, agents, and employees, prescribe the duties of appointed or employed officers, agents, and employees, and set the compensation for each officer, agent, and employee appointed or employed by the authority.

SECTION 6. Arkansas Code § 15-5-209(a), concerning the disposition and use of funds by the Arkansas Development Finance Authority, is amended to

read as follows:

(a) All revenues received by the Arkansas Development Finance Authority, except revenues derived from appropriations, are: ~~specifically~~

- (1) Specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided in this subchapter and §§ 15-5-101 – 15-5-106 and 15-5-301 – 15-5-316;
- (2) Exempt from § 19-4-802; and
- (3) Not public funds under the Arkansas Procurement Law, § 19-11-201 et seq.

SECTION 7. Arkansas Code § 15-5-209(c), concerning the disposition and use of funds by the Arkansas Development Finance Authority, is amended to read as follows:

(c) All moneys received by the authority, other than moneys received by virtue of an appropriation, are: ~~specifically~~

- (1) Specifically declared to be cash funds restricted in their use and to be used solely as provided herein;
- (2) Exempt from § 19-4-802; and
- (3) Not public funds under the Arkansas Procurement Law, § 19-11-201 et seq.

SECTION 8. Arkansas Code § 15-5-212(a), concerning the approval of Legislative Council for certain matters of the Arkansas Development Finance Authority, is amended to read as follows:

(a) The Arkansas Development Finance Authority ~~or the Secretary of the Department of Commerce on behalf of the authority~~ shall not employ or select any investment banker, consultant, professional financial advisor, or attorney unless the selection criteria to be used in the selection have been submitted to the Legislative Council for review.

SECTION 9. Arkansas Code § 15-5-303 is amended to read as follows:

15-5-303. Exclusive issuer of revenue bonds for public facilities.

It is the intention of the General Assembly that the Arkansas Development Finance Authority shall be the exclusive issuer of revenue bonds for public facilities acquired or constructed for the benefit of state agencies, except the respective boards of trustees of state-supported

institutions of higher education, the Career Education and Workforce Development Board, the State Board of Finance, ~~and~~ the Arkansas Economic Development Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and 15-4-608, and the Industrial Development Guaranty Bond Act, § 15-4-701 et seq., and the Arkansas Natural Resources Commission when issuing bonds under § 15-22-301.

SECTION 10. Arkansas Code § 15-5-409(c), concerning the review of applications under the Arkansas Development Finance Authority Bond Guaranty Act of 1985, is amended to read as follows:

(c) Upon conclusion of the preliminary review of each request for a guaranty under this subchapter, if the request for guaranty is submitted to the authority with a recommendation that it be approved, ~~the application and all supporting documents, including the findings and~~ the recommendations resulting from the staff or review committee, shall be an open public record available for inspection during all regular business hours.

SECTION 11. Arkansas Code § 15-5-409(e), concerning the review of applications under the Arkansas Development Finance Authority Bond Guaranty Act of 1985, is amended to read as follows:

(e) The borrower shall be notified in writing of any staff or review committee determination that the application is not being submitted to the authority with a recommendation that it be approved. The notice shall advise the borrower that the application will be kept confidential unless the borrower shall file, within thirty (30) days from the date of receipt of the written notice, a petition with the authority requesting that the authority hold a hearing in regard to the application, in which event ~~the application and all supporting documents~~ recommendations resulting from the staff or review committee shall become public information available for public inspection.

SECTION 12. Arkansas Code § 19-4-801(2)(B), concerning the definition of "state agency" to be used in relation to the expenditure of cash funds, is amended to read as follows:

(B) "State agency" shall not include the:

(i) Governor;

- (ii) Secretary of State;
- (iii) Attorney General;
- (iv) Treasurer of State;
- (v) Auditor of State;
- (vi) Commissioner of State Lands;
- (vii) Supreme Court and its justices;
- (viii) Circuit courts and circuit judges;
- (ix) Prosecuting attorneys;
- (x) Arkansas State Game and Fish Commission;
- (xi) Arkansas Department of Transportation;
- (xii)(a) Office of the Arkansas Lottery.

(b) However, the office shall be considered a state agency for the purposes of § 19-4-810 et seq.;

(xiii) General Assembly; ~~and~~

(xiv) Arkansas Development Finance Authority; and

(xv) Respective staffs of the officers and agencies listed in this subdivision (2)(B).

SECTION 13. Arkansas Code § 19-9-606 is amended to read as follows:

19-9-606. Proclamation, order, etc., authorizing issuance of bonds.

(a) Whenever a governmental unit shall determine the need to issue revenue bonds for capital improvements of a public nature or industrial enterprise, the governing body shall authorize the issuance of those bonds by ~~proclamation, order, ordinance, or resolution~~ or by letter bearing the signature of the executive head of the governing body clearly stating the principal amount of and the purpose or purposes for which the bonds are to be issued.

(b) Only upon the ~~proclamation, order, ordinance, or resolution~~ or by letter bearing the signature of the executive head of the governing body shall the governmental unit be authorized to issue such bonds, provided that ~~no proclamation, an order, ordinance, or resolution, or a letter bearing the signature of the executive head of the governing body~~ shall not be required for the issuance of refunding bonds, including refunding bonds where the principal amount of the new bonds to be issued exceeds the outstanding principal amount of the prior bonds or notes to be refunded.

SECTION 14. Arkansas Code § 19-11-203(13), concerning the definitions to be used under the Arkansas Procurement Law, is amended to read as follows:

(13) “Exempt agencies” means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, ~~and~~ the Administrative Office of the Courts, and the Arkansas Development Finance Authority;

SECTION 15. Arkansas Code § 19-11-203(23), concerning the definitions to be used under the Arkansas Procurement Law, is amended to read as follows:

(23)(A) “Public funds” means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling.

(B) Without necessarily being limited thereto, “public funds” does not include:

(i) Grants, donations, research contracts, and revenues derived from self-supporting enterprises that are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury; ~~and~~

(ii) Revenue derived from patient care and self-supporting hospital enterprises of an academic medical center; and

(iii) Cash funds dedicated for use by the Arkansas Development Finance Authority under § 15-5-209(a) or by the Student Loan Authority Division of the Arkansas Development Finance Authority under § 15-5-1904(b);

SECTION 16. Arkansas Code § 21-4-203(12), concerning the definitions to be used under the Uniform Attendance and Leave Policy Act, is amended to read as follows:

(12) “State agencies” means all agencies, departments, boards, commissions, bureaus, councils, state-supported institutions of higher education, or other agencies except the following excluded agencies or positions within agencies:

(A) The elected constitutional officers of this state and their employees;

(B) The General Assembly and its employees, including employees of the Bureau of Legislative Research and Arkansas Legislative Audit;

(C) Members of the Supreme Court, members of the Court of Appeals, the Administrative Office of the Courts, circuit courts, and prosecuting attorneys, but not including deputy prosecuting attorneys;

(D) The Arkansas Department of Transportation; ~~and~~

(E) All administrative, academic, or other nonclassified employees of the state-supported institutions of higher education; and

(F) The Arkansas Development Finance Authority;

SECTION 17. Arkansas Code § 21-5-204(a), concerning exceptions to the Uniform Classification and Compensation Act, is amended to read as follows:

(a) Except as provided in subsection (b) of this section, this subchapter does not apply to:

(1) The employees of:

(A) Elected constitutional officers of this state;

(B) The General Assembly, including employees of the Bureau of Legislative Research and Arkansas Legislative Audit; and

(C) Members of the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(2) The Arkansas Department of Transportation;

(3) Federal military technicians, military training support personnel, federally funded personnel of the Arkansas National Guard, and other military personnel who are paid directly by the United States Government;

(4) The Arkansas State Game and Fish Commission; ~~and~~

(5) State-supported institutions of higher education; and

(6) The Arkansas Development Finance Authority.

SECTION 18. Arkansas Code § 21-5-410(a), concerning eligibility for the State and Public School Life and Health Insurance Program, is amended to read as follows:

(a) Individuals eligible to participate in the State and Public School Life and Health Insurance Program include:

- (1) All active state employees, active public school employees, or other eligible employees of a participating entity or participating institution;
- (2) Members of the General Assembly;
- (3) Elected constitutional officers;
- (4) Appointed or elected board and commission members who are on a full-time salaried basis; ~~and~~
- (5)(A) Those state contract employees hired by the Arkansas National Guard on a full-time basis in accordance with 10 U.S.C. § 2304.
(B) Program participation for contract employees of the Arkansas National Guard is conditioned upon the United States Government's contributing the employer's share to the Employee Benefits Division; and
- (6) Employees and staff of the Arkansas Development Finance Authority.

SECTION 19. Arkansas Code § 22-6-601(a)(1)(A), concerning the sale procedure for public property, is amended to read as follows:

(a)(1)(A) The several state boards or commissions having supervision of the affairs of the charitable, penal, correctional, educational, and other institutions of the State of Arkansas and all other state boards and commissions, except the State Highway Commission, the Arkansas State Game and Fish Commission, the Arkansas Natural Heritage Commission, the State Parks, Recreation, and Travel Commission, the Division of Higher Education, the Arkansas Development Finance Authority, and institutions of higher education, and the executive heads of all state offices, departments, divisions, and agencies, all referred to separately as "state agency", may sell or purchase, for cash in hand and upon compliance with the provisions of this section, the lands, in whole or in part, belonging to or under the supervision or control of the respective state agency or belonging to the state and held for the use or benefit of the state agency.

SECTION 20. Arkansas Code § 22-8-206, concerning the purchase of automobiles under the Automobile and Pickup Truck Acquisition Act for the State of Arkansas, is amended to add an additional subsection to read as follows:

(g) The Arkansas Development Finance Authority is exempt from this

section.

SECTION 21. Arkansas Code § 25-15-202(2)(C)(i), concerning the definition of "agency" to be used under the Administrative Procedure Act, is amended to read as follows:

(C)(i) Except as provided in subdivision (2)(C)(ii) of this section, the word "agency" shall not include the Arkansas Public Service Commission, the Arkansas Pollution Control and Ecology Commission, the Workers' Compensation Commission, ~~and~~ the Division of Workforce Services, and the Arkansas Development Finance Authority, as the existing laws governing those agencies provide adequate administrative procedures for those agencies.

SECTION 22. Arkansas Code § 25-16-702(a), concerning the representation of state agencies and officers by the Attorney General and the requirements for the employment of outside counsel, is amended to read as follows:

(a) ~~The~~ Except as provided in subsection (f) of this section, the Attorney General shall be the attorney for all state officials, departments, institutions, and agencies. Whenever any officer or department, institution, or agency of the state needs the services of an attorney, the matter shall be certified to the Attorney General for attention.

SECTION 23. Arkansas Code § 25-16-702, concerning the representation of state agencies and officers by the Attorney General and the requirements for the employment of outside counsel, is amended to add an additional subsection to read as follows:

(f) This section does not apply to the Arkansas Development Finance Authority.

SECTION 24. Arkansas Code § 25-43-302(a)(4), concerning the state entities transferred to the Department of Commerce, is repealed.

~~(4) The Arkansas Development Finance Authority, created under § 15-5-201,~~

SECTION 25. Arkansas Code § 26-51-1702(c), concerning the allowance and calculation of the Arkansas low-income housing tax credit by the Arkansas

Development Finance Authority, is amended to read as follows:

(c) The Arkansas low-income housing tax credit shall be taken against the state income or premium taxes due from the taxpayer. The credit authorized by this subchapter shall not be refundable. Any amount of credit that exceeds the tax due for a taxable year may be carried forward to any of the five (5) subsequent taxable years ~~or carried forward to any of the five (5) subsequent taxable years.~~

SECTION 26. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the state fiscal year is a twelve-month period that begins on July 1 each year; that the effectiveness of this act on July 1, 2025, is essential to the operation of the Arkansas Development Finance Authority; that the operations of the authority depend in part on reports and actions taken by the authority; that a delay in the effective date of this act beyond July 1, 2025, will impair the operations of the state and the authority; and that delaying the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2025.

/s/Beaty Jr.

APPROVED: 4/21/25