

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 471

By: Senator D. Sullivan

## For An Act To Be Entitled

AN ACT TO REGULATE THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO ALTER THE BOARD OF DIRECTORS OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY IN COMPOSITION, NUMBER, AND APPOINTMENT PROCESS; TO AMEND THE MANNER OF DISTRIBUTING THE FEDERAL LOW-INCOME HOUSING TAX CREDIT AND AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDIT; TO REQUIRE CONSENT OF LEGISLATIVE COUNCIL BEFORE ARKANSAS DEVELOPMENT FINANCE AUTHORITY MAY HIRE CERTAIN PROFESSIONALS; AND FOR OTHER PURPOSES.

## Subtitle

TO REGULATE THE NUMBER, COMPOSITION, AND APPOINTMENT PROCESS FOR THE BOARD OF DIRECTORS OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; AND TO MODIFY THE MANNER IN WHICH AUTHORITY DISTRIBUTES CERTAIN TAX CREDITS.

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

SECTION 1. Arkansas Code § 15-5-202(a)-(c), concerning the composition of and process of appointment to the Board of Directors of the Arkansas Development Finance Authority, are amended to read as follows:

(a)~~(1)~~ The Board of Directors of the Arkansas Development Finance Authority shall consist of the Secretary of the Department of Finance and Administration or his or her designee, who shall serve during the Secretary



of the Department of Finance and Administration's absence, ~~eleven (11)~~ twelve (12) public members to be appointed ~~by the Governor with the advice and consent of the Senate~~ under subsection (b) of this section, and the Secretary of the Department of Commerce, who shall serve as a nonvoting member.

(b)(1)(A) The twelve (12) public members of the board shall meet the criteria under subdivision (b)(2) of this section, be appointed for terms of four (4) years to end on January 14, and be appointed as follows:

(i) Four (4) members shall be appointed by the Governor;

(ii) Four (4) members shall be appointed by the President Pro Tempore of the Senate; and

(iii) Four (4) members shall be appointed by the Speaker of the House of Representatives.

(B) Vacancies that arise on the board due to the expiration of the term of public members shall be filled in the following order:

(i) The Speaker of the House of Representatives shall appoint a public member;

(ii) The President Pro Tempore of the Senate shall appoint a public member;

(iii) The Governor shall appoint a public member;

and

(iv) After the appointment under subdivision (b)(1)(B)(iii) of this section, the sequence of appointments under subdivisions (b)(1)(B)(i)-(iii) of this section shall repeat.

(2) The public members appointed ~~by the Governor~~ to the board shall be:

(A) ~~residents~~ Residents of the state and congressional district in which they serve and shall have been qualified electors therein in the congressional district for at least one (1) year preceding the time of appointment; and

(B) shall be ~~recognized~~ Recognized by their peers as outstanding in the field of economic development or development finance.

(3) Each congressional district in the state shall be represented by at least ~~one (1)~~ three (3) public member members of the board.

~~(4)(A) One (1) public member of the board shall be a~~

~~representative of the agricultural business enterprise industry.~~

~~(B) One (1) public member shall be a representative of the state's elderly population who is:~~

~~(i) Sixty (60) years of age or older; and~~

~~(ii) Not actively engaged in or retired from the operation of an agricultural business enterprise.~~

~~(C) The public members appointed under subdivisions (a)(4)(A) and (B) of this section shall be:~~

~~(i) Selected from the state at large subject to confirmation by the Senate; and~~

~~(ii) Full voting members of the Arkansas Development Finance Authority.~~

~~(5) The additional public member added by this section shall be a public housing or community development professional actively engaged in that profession, and that person must not be a member of any public housing board.~~

~~(6)(4) In addition to the other members of the board, the Treasurer of State or his or her designee, who shall serve during the Treasurer of State's absence, shall serve as an ex officio voting member of the board.~~

~~(b) The Governor shall appoint public members of the board to terms of four (4) years.~~

(c)(1) Each board member shall hold office for the term of his or her appointment and until his or her successor ~~shall have been~~ is appointed and qualified.

(2) ~~Any vacancy in~~ A vacancy on the board occurring other than by expiration of term shall be filled in the same manner as the original appointment ~~by appointment by the Governor~~, but for the unexpired term only.

~~(3) The terms of the members of the board shall expire on January 14.~~

SECTION 2. Arkansas Code § 15-5-202(d)(1), concerning the composition of and process of appointment to the Board of Directors of the Arkansas Development Finance Authority, is amended to read as follows:

(d)(1) Each appointed public board member may be removed from office by the ~~Governor~~ original appointing entity for cause after a public hearing

and may be suspended by the ~~Governor~~ original appointing entity pending the completion of the public hearing.

SECTION 3. Arkansas Code § 15-5-209, concerning the disposition and use of funds by the Arkansas Development Finance Authority, is amended to add an additional subsection to read as follows:

(i)(1) In awarding a federal low-income housing tax credit under § 26-51-1701 et seq., the authority shall award the tax credits equally, to the extent possible, among Arkansas's four (4) congressional districts each year.

(2) If, in a given allocation year, there are not enough applications in a given congressional district to use the amount of tax credits allocated to that congressional district for that year, then the unused tax credits shall be carried forward to use in that congressional district for one year before being allocated to any other congressional district at the discretion of the authority.

(3) Applications for tax credits shall be awarded to the highest-scoring applicant in each congressional district according to the scoring criteria in the authority's most recent Qualified Allocation Plan.

SECTION 4. Arkansas Code § 15-5-212(a), concerning the approval of the Legislative Council for certain matters, 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 and consent.

SECTION 5. Arkansas Code § 15-5-1304(a), concerning the tax credits certified by the Arkansas Development Finance Authority for approved proposals for affordable housing assistance activities, is amended to read as follows:

(a)(1) For proposals approved under § 15-5-1303, the amount of the tax credit shall not exceed thirty percent (30%) of the total amount invested in affordable housing assistance activities by a business firm.

(2) Any tax credit not used in the period for which the credit was approved may be carried forward to any of the five (5) subsequent taxable

years until the full credit has been allowed.

(3) The total amount of tax credits granted for programs approved under § 15-5-1303 shall:

(A) ~~not~~ Not exceed seven hundred fifty thousand dollars (\$750,000) in any taxable year; and

(B) Be evenly distributed across each of the state's congressional districts.

~~(4)(A) For taxable year 1997, at least one half (½) of the tax credits shall be designated by the Arkansas Development Finance Authority to the affordable housing assistance activities in counties declared disaster areas by the Governor~~ In awarding tax credits under this subchapter, the authority shall award the tax credits equally, to the extent possible, among Arkansas's four (4) congressional districts each year.

(B) If, in a given allocation year, there are not enough applications in a given congressional district to use the amount of tax credits allocated to that congressional district for that year, then the unused credits shall be carried forward to use in that congressional district for one (1) year before being allocated to any other congressional district at the discretion of the authority.

(C) Applications for tax credits shall be awarded to the highest-scoring applicant in each congressional district according to the scoring criteria in the authority's most recent Qualified Allocation Plan.