

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

State of Arkansas
93rd General Assembly
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As Engrossed: S3/22/21
A Bill

SENATE BILL 475

By: Senator D. Sullivan

By: Representatives Vaught, M. Gray, B. Smith

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 THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY MAY HIRE CERTAIN PROFESSIONALS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW GOVERNING THE BOARD OF DIRECTORS OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; AND TO MODIFY THE MANNER IN WHICH THE AUTHORITY DISTRIBUTES CERTAIN TAX CREDITS AND HIRES CERTAIN PERSONS.

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, subject to confirmation by the Senate in the manner stated under § 10-2-113;

(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, subject to confirmation by the Senate in the manner stated under § 10-2-113; 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 that they represent 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, affordable housing, 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 at the time of the public members' appointments.

~~(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.~~

(4) When assessing a potential appointee under subdivision (b)(1)(A) of this section, the appointor may give additional consideration to whether the potential appointee is:

(A) Part of the state's subset of people who are at least sixty (60) years of age and have fully or partially retired from an agribusiness enterprise;

(B) Actively engaged in the agribusiness enterprise industry; or

(C) A professional who is actively engaged in the profession of public housing or community development.

~~(6)(5) 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 in a manner that is substantially equal, 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 may be immediately allocated to the use of one (1) or more applications in other congressional districts.

(3) The authority shall develop and implement a plan to educate potential applicants about the tax credits available under § 26-51-1701 et seq. and the application process to obtain those tax credits.

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 § 15-5-706, concerning the administration of the Arkansas Development Finance Authority Small Business Act of 1989, is amended to add an additional subsection to read as follows:

(c)(1) In awarding Arkansas Development Finance Authority loans under this subchapter, the authority shall award the Arkansas Development Finance Authority loans in a manner that is substantially equal, 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 from a given congressional district to use the amount of Arkansas Development Finance Authority loans allocated to that congressional district for that year, then the unused amount may be immediately allocated to the use of one (1) or more qualifying applications in other congressional districts.

(3) The authority shall develop and implement a plan to educate potential applicants for the Arkansas Development Finance Authority loans about the moneys available and the application process to obtain those moneys.

SECTION 6. 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 ($\frac{1}{2}$) 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.

SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE.

(a) Within thirty (30) days after the effective date of this act, the appointors under § 15-5-202(b) in Section 1 of this act shall each appoint four (4) new public members of the Board of Directors of the Arkansas Development Finance Authority who meet the criteria stated under § 15-5-202(b)(2)-(5) of Section 1 of this act.

(b)(1) The twelve (12) appointees under subsection (a) of this section shall take office on January 14, 2022.

(2) The appointees shall draw for initial staggered terms as follows:

(A) Six (6) appointees shall draw for terms of two (2) years; and

(B) Six (6) appointees shall draw for terms of four (4) years.

(c) The board shall dissolve on January 13, 2022 and shall be

reconstituted on January 14, 2022 in accordance with this act.

/s/D. Sullivan