

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/17/97 H3/28/97

# A Bill

ACT 1331 OF 1997  
HOUSE BILL 2174

5 *By: Representatives Courtway, Stalnaker, Malone, Bennett, Booker, Broadway, Brown, Ferrell, Jones, Roberts, Judy Smith, Vess,*  
6 *Walker, and McGee*  
7 *By: Senators Gwatney, Argue, Edwards, Malone, Walker, and Wyrick*  
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## For An Act To Be Entitled

11 "AN ACT WHICH SHALL BE KNOWN AS THE AFFORDABLE  
12 NEIGHBORHOOD HOUSING TAX CREDIT ACT OF 1997 ; TO PROVIDE  
13 FOR AFFORDABLE HOUSING ASSISTANCE ACTIVITIES; AND FOR  
14 OTHER PURPOSES."

## Subtitle

16 "THE AFFORDABLE NEIGHBORHOOD HOUSING TAX  
17 CREDIT ACT OF 1997 ; TO PROVIDE FOR  
18 AFFORDABLE HOUSING ASSISTANCE  
19 ACTIVITIES."  
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. This Act shall be known and may be cited as the "Affordable  
25 Neighborhood Housing Tax Credit Act of 1997".  
26

27 SECTION 2. Definitions. As used in this Act, unless the context  
28 clearly requires otherwise, the following words and phrases shall mean:

29 (1) "Affordable Housing Assistance Activities" shall mean money, real  
30 or personal property expended or devoted to the construction or rehabilitation  
31 of affordable housing units developed by or in conjunction with any  
32 Governmental Unit or not-for-profit corporation, such costs to include related  
33 site and infrastructure costs and community and supportive services;

34 (2) "Affordable Housing Unit" shall mean, for purposes of rental  
35 units, a housing unit or units which have restricted rents that do not exceed  
36 thirty percent (30%) of median income for the metropolitan area or county in

1 which the project is located for (i) at least forty percent (40%) of its units  
2 which must be occupied by persons or families having incomes of sixty percent  
3 (60%) or less of the median income for the metropolitan area or county in  
4 which the project is located, or (ii) for at least twenty percent (20%) of its  
5 units which must be occupied by persons or families having incomes of fifty  
6 percent (50%) or less of the median income for the metropolitan area or county  
7 in which the project is located. In the case of owner occupied units, a  
8 housing unit which is sold to a purchaser whose family income does not exceed  
9 one hundred fifteen percent (115%) of the median income (adjusted for family  
10 size) of the county of SMSA at the time of the initial purchase contract, who  
11 has not owned a home for three (3) years prior to initial occupancy, and who  
12 will occupy the housing unit as the familys principal residence. In the case  
13 of rental units, the cost to the occupant shall be considered the amount of  
14 the gross rent. For purposes of owner occupied units, the Authority shall  
15 establish the requirements for an Affordable Housing Unit to be consistent  
16 with guidelines established under the federal HOME program

17 (3) "Authority" shall mean the Arkansas Development Finance Authority,  
18 or its successor agency;

19 (4) "Business Firm" shall mean a person, a general or limited  
20 partnership, a partner in such partnership, a corporation, a limited liability  
21 company, or a member thereof, or a shareholder in an S corporation subject to  
22 the state income tax imposed by provisions of Ark. Code Ann. § 26-51-101  
23 through 51-1510, or an insurance company paying an annual tax on its gross  
24 premium receipts in this state, or a financial institution paying income taxes  
25 to the State of Arkansas;

26 (5) "Director" shall mean the Director of the Arkansas Department of  
27 Finance and Administration;

28 (6) "Governmental Unit" shall mean the State of Arkansas; any county,  
29 municipality, or other political subdivision of the State of Arkansas; and any  
30 agency, board, commission, or instrumentality of any of the foregoing;

31 (7) "Neighborhood Organization" shall mean any organization performing  
32 community services or economic development activities in the State of Arkansas  
33 and; (a) holding a ruling from the Internal Revenue Service of the United  
34 States Department of Treasury that the organization is exempt from income  
35 taxation under the provisions of the Internal Revenue Code; or (b)  
36 incorporated in the State of Arkansas as a not-for-profit corporation; or (c)

1 designated as a community development corporation by the United States  
2 Government under the provisions of Title VII of the Economic Opportunity Act  
3 of 1964;

4 (8) "S Corporation" shall mean a corporation described in § 1361(a)(1)  
5 of the United States Internal Revenue Code of 1986, as amended.

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7 SECTION 3. Affordable Housing Assistance Activities and Affordable  
8 Housing Units; Business Firms Proposing to Provide, Procedure for Approval and  
9 Tax Credit. Any Business Firm which engages in providing Affordable Housing  
10 Assistance Activities in the State of Arkansas shall receive a tax credit as  
11 provided in Section 4 of this Act if the Authority or its delegate approves a  
12 proposal submitted by one or more Business Firms for the provision of  
13 Affordable Housing Units. The proposal shall set forth a program of  
14 affordable housing to be conducted, the location and number of Affordable  
15 Housing Units, the neighborhood area to be served, why the program is needed,  
16 the time period for which Affordable Housing Units shall be provided, the  
17 estimated amount to be invested in the program, plans for implementing the  
18 program and a list of the Business Firms proposing to provide Affordable  
19 Housing Assistance Activities which are a part of the proposal. In the case  
20 of rental units, all proposals approved by the Authority shall require a land  
21 use restriction agreement stating the provision of affordable housing on said  
22 property for a time period deemed reasonable by the Authority. In the case of  
23 owner occupied units, all proposals approved by the Authority shall require a  
24 land use restriction agreement for a time period deemed reasonable by the  
25 Authority requiring any subsequent owner, except a lender with a security  
26 interest in the property, to be an owner occupant whose income at the time of  
27 acquisition is at or below the level described in Section 2 of this Act, and  
28 further requiring that the acquisition price to any subsequent owner shall not  
29 exceed by more than a five percent (5%) annual appreciation the acquisition  
30 price to the original, eligible owner at the time tax credits are first  
31 claimed. The restriction shall be approved by the property owner and shall be  
32 binding on any subsequent owner of the property unless otherwise approved by  
33 the Authority. In approving a proposal, the Authority may authorize the use  
34 of tax credits by one or more of the Business Firms listed in the proposal and  
35 shall establish specific requirements regarding the degree of completion of  
36 Affordable Housing Assistance Activities necessary to be eligible for tax

1 credits provided under this Section. If, in the opinion of the Authority or  
2 its delegate, a Business Firm's investment can more consistently with the  
3 purposes of this Section be made through contributions to a Neighborhood  
4 Organization, tax credits may be allowed as provided in this Section. The  
5 Authority or its delegate is hereby authorized to promulgate rules and  
6 regulations for establishing criteria for evaluating such proposals by  
7 Business Firms for approval or disapproval, for establishing housing  
8 priorities for approval or disapproval of such proposals by Business Firms,  
9 and for the certification of eligibility for tax credits authorized under this  
10 section. The decision of the Authority or its delegate to approve or  
11 disapprove a proposal pursuant to this section shall be in writing, and if  
12 approved, the maximum credit allowable to the Business Firm shall be stated.  
13 A copy of the decision of the Authority or its delegate shall be transmitted  
14 to the Director and to the Governor. A copy of the certification approved by  
15 the Authority and a statement of the total amount of credits approved by the  
16 Authority, the amount of credits previously taken by the taxpayer and the  
17 amount being claimed for the current tax year shall be filed in a manner and  
18 form designated by the Director for any tax year in which a tax credit is  
19 being claimed.

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21 SECTION 4. Tax Credits Authorized, Amount Allowed Annually, Exceeded  
22 When - Upper Limits Set - Carry-Over Permitted.

23 (a) For proposals approved under Section 3 of this Act, the amount of  
24 the tax credit shall not exceed thirty percent (30%) of the total amount  
25 invested in Affordable Housing Assistance Activities by a Business Firm. Any  
26 tax credit not used in the period for which the credit was approved may be  
27 carried forward to any of the five subsequent taxable years until the full  
28 credit has been allowed. The total amount of tax credits granted for programs  
29 approved under Section 3 of this Act shall not exceed seven hundred fifty  
30 thousand dollars (\$750,000) in any taxable year. For taxable year 1997, at  
31 least one half of the tax credits shall be designated by the Authority to the  
32 Affordable Housing Assistant Activities in counties declared disaster areas by  
33 the Governor.

34 (b) For any year during the compliance period indicated in the land  
35 use restriction agreement, the owner of the Affordable Housing Rental Units  
36 for which a credit is being claimed shall certify to the Authority that all

1 tenants renting claimed units are income eligible for the Affordable Housing  
2 Units and that the rentals for each claimed unit are affordable in compliance  
3 with the provisions of Section 2 of this Act. The Authority is authorized in  
4 its discretion, to audit the records and the accounts of the owner to verify  
5 said certification.

6 (c) In the case of owner occupied Affordable Housing Units, the  
7 qualifying owner occupant shall, before the end of the first year in which  
8 credits are claimed, certify to the Authority that the occupant is income  
9 eligible during the preceding two (2) years and at the time of the initial  
10 purchase contract, but not thereafter. The qualifying owner occupant shall  
11 further certify to the Authority, before the end of the first year in which  
12 credits are claimed, that during the compliance period indicated in the land  
13 use restriction agreement, the cost of the Affordable Housing Unit to the  
14 occupant for the claimed unit can reasonably be projected to be in compliance  
15 with the provisions of Section 2 of this Act. Any succeeding owner occupant  
16 acquiring the Affordable Housing Unit during the compliance period indicated  
17 in the land use restriction agreement shall make the same certification.

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19 SECTION 5. Rules and Regulations. The Director and the Authority shall  
20 promulgate rules and regulations necessary to administer the provisions of  
21 this Act. No rule or portion of a rule promulgated under the authority of  
22 this Act shall become effective until it has been approved by the Director in  
23 accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann.  
24 §§ 25-13-201 et seq.

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26 SECTION 6. All provisions of this Act of a general and permanent nature  
27 are amendatory to the Arkansas Code Annotated of 1987 and the Arkansas Code  
28 Revision Commission shall incorporate the same in the code.

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30 SECTION 7. If any provision of this Act or the application thereof to  
31 any person or circumstance is held invalid such invalidity shall not affect  
32 other provisions or applications of the Act which can be effected without the  
33 invalid provisions or application, and to this end the provisions of this Act  
34 are declared to be severable.

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36 SECTION 8. All laws and parts of laws in conflict with this Act are

1 hereby repealed.

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*/s/Rep. Courtway et al*

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APPROVED: 4-10-97

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