

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senators Keet, *Brown, and Russ***

A Bill

ACT 1329 OF 1995
SENATE BILL 839

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE SECTIONS 15-5-701, ET SEQ.
9 TO ALLOW THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY TO
10 MAKE QUALIFIED INVESTMENTS IN SMALL BUSINESSES IN
11 ARKANSAS; TO DEFINE QUALIFIED INVESTMENT; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "AN ACT TO AMEND ARKANSAS CODE SECTIONS
16 15-5-701, ET SEQ. (THE ARKANSAS
17 DEVELOPMENT FINANCE AUTHORITY SMALL
18 BUSINESS ACT OF 1989) TO ALLOW ARKANSAS
19 DEVELOPMENT FINANCE AUTHORITY TO MAKE
20 QUALIFIED INVESTMENTS."

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

24 SECTION 1. Arkansas Code 15-5-702(a) is amended by inserting three
25 additional subsections at the end thereof to read as follows:

26 "(3) That there exists a need to leverage private capital, to import
27 capital into Arkansas, and to expand the permanent presence of investment
28 talent in Arkansas;

29 (4) That the state needs to forge strong co-investment relationships
30 with regional and national investors that best address market inefficiencies
31 in Arkansas;

32 (5) There exists a need to attract venture capital pools, companies or
33 partnerships and to expand the range and variety of capital products available
34 through these entities to Arkansas small businesses;"

36 SECTION 2. Arkansas Code 15-5-702(e) is amended by inserting an

1 additional subsection to read as follows:

2 "(e) It is the purpose of this subchapter to establish programs under
3 which the state of Arkansas through the Arkansas Development Finance Authority
4 will provide fiscal resources to assist small business capital development and
5 to assist Arkansas financial institutions to overcome obstacles and
6 constraints in meeting the full range of economically sound financing needs of
7 Arkansas small businesses."

8

9 SECTION 3. Arkansas Code 15-5-703 is amended by inserting four
10 additional subsections at the end thereof to read as follows:

11 "(18) Direct Fund shall mean the total dollar amount of cash funds of
12 the authority dedicated and made available by the Board for Qualified
13 Investments, to invest exclusively in Arkansas small businesses preferably as
14 a co-investor with other professional venture investors;

15 (19) Qualified Investment shall mean an investment, in whatever form,
16 in the capital structure of a small business through the Direct Fund or
17 through cooperation with other investment entities;

18 (20) Small Business shall mean business enterprises with fewer than
19 five hundred (500) employees and less than eighty million dollars
20 (\$80,000,000) in gross sales or receipts. This definition shall be subject to
21 change by standards and regulations promulgated by the authority;

22 (21) Small Business Person shall mean an individual, firm,
23 partnership, limited liability company, corporation or any other business
24 entity in any form which owns and operates a small business."

25

26 SECTION 4. Arkansas Code 15-5-704 is amended to read as follows:

27 "§ 15-5-704. Duty of authority.

28 The authority, in addition to all the duties and functions defined in
29 the Arkansas Development Finance Authority Act, §§ 15-5-101 - 15-5-106,
30 15-5-201 - 15-5-211, 15-5-213, and 15-5-301 - 15-5-316, is hereby empowered to
31 approve or deny by majority vote of the board of directors of the authority
32 the applications for direct loans and guaranties of obligations and qualified
33 investments, except that, at the discretion of the board, approvals for loans
34 up to any limit the board shall specify may be approved by the Small Business
35 Loan Committee. The Small Business Loan Committee shall report all such

1 actions taken at the next meeting of the board."

2 SECTION 5. Arkansas Code 15-5-706 is amended to read as follows:

3 "§ 15-5-706. Evaluation of small-business persons.

4 (a) The authority shall promulgate standards and regulations for the
5 evaluation of the financial condition and business history of the
6 small-business person, and may require the attachment to each application for
7 a loan or guaranty or qualified investment under this subchapter a financial
8 report and evaluation by an independent certified public accountant firm, in
9 addition to such examination and evaluation as the authority may make, in
10 determining whether the small-business person meets prescribed minimum
11 standards and qualifications before entering into any guaranty under this
12 subchapter.

13 (b) The authority shall also be empowered to promulgate rules and
14 regulations for the handling of disbursements from and payments to the Small
15 Business Revolving Loan Fund, and the Direct Fund and for the management and
16 implementation of programs provided in this subchapter specifically including
17 the establishment of amounts to be made available for small businesses in
18 rural areas."

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20 SECTION 6. Arkansas Code 15-5-708 is amended to read as follows:

21 "§ 15-5-708. Applications - Supporting documents.

22 Each small-business person requesting a loan or guaranty or qualified
23 investment hereunder shall submit to the Arkansas Development Finance
24 Authority an application, supporting documents, and instruments as may be
25 required by the rules and regulations promulgated by the authority pursuant to
26 this subchapter and approved by a majority vote of the board of directors of
27 the authority."

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29 SECTION 7. Subchapter 7 of Chapter 5 of Title 7 of the Arkansas Code is
30 amended by adding an additional section at the end thereof to read as follows:

31 "15-5-713. Funding of qualified investments.

32 The authority is authorized to make, from cash funds held by the
33 authority for such purpose, qualified investments upon such terms and
34 conditions and for such periods of time as shall be recommended by its
35 president and approved by its board. Before approving a qualified investment

1 the board shall determine that the making of the qualified investment furthers
2 the purposes of this act as included in § 15-5-702 and is in the best interest
3 of the state. The authority shall not make qualified investments in any one
4 small business, in the aggregate, exceeding five hundred thousand dollars
5 (\$500,000) or ten percent (10%) of the Direct Fund, whichever is smaller."
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7 SECTION 8. All provisions of this act of a general and permanent
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
9 Code Revision Commission shall incorporate the same in the Code.

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11 SECTION 9. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 10. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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21 /s/Keet

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24 APPROVED: 4-14-95

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