

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

As Engrossed: H2/3/97 S2/6/97

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

A Bill

HOUSE BILL 1311

4
5 *By: Representatives Wilkinson, Malone, Faris, and Cunningham*
6 *By: Senator Harriman*
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 15-4-1226 TO
10 PROVIDE FOR THE SUPERVISION AND REGULATION OF COUNTY AND
11 REGIONAL INDUSTRIAL DEVELOPMENT CORPORATIONS; AND FOR
12 OTHER PURPOSES."
13

Subtitle

14
15 "TO PROVIDE FOR THE SUPERVISION AND
16 REGULATION OF COUNTY AND REGIONAL
17 INDUSTRIAL DEVELOPMENT CORPORATIONS"
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Annotated § 15-4-1226 is amended to read as
22 follows:

23 "15-4-1226. Supervision of corporations.

24 ~~Each corporation organized under the provisions of this subchapter shall~~
25 ~~be subject to the supervision, examination, and control of the commissioner in~~
26 ~~the same manner, so far as applicable, as provided in §§ 23-32-1101 and~~
27 ~~23-32-1108, jointly with such supervision, examination, and control of the~~
28 ~~State Board of Finance, and shall make such reports of its condition to the~~
29 ~~commissioner and to the State Board of Finance as they shall prescribe, but~~
30 ~~such corporation shall not be deemed a banking institution, nor be required to~~
31 ~~pay any fee or other charge for any such supervision or examination.~~

32 Each corporation organized under the provisions of this subchapter shall
33 be subject to the general supervision and control of the commissioner and the
34 State Board of Finance. In addition to the other duties imposed upon them by
35 law, the powers of the commissioner or the State Board of Finance are to:

36 (1) Make reasonable rules and regulations which may be necessary for

1 making this chapter effective;

2 (2) Conduct investigations which may be necessary to determine whether
3 any person has engaged in, or is about to engage in, any act or practice
4 constituting a violation of any provision of the chapter or of the laws of
5 this state;

6 (3) Conduct any examinations, investigations, and hearings which may be
7 necessary and proper for the efficient administration of the county and
8 regional industrial development corporation laws of this state;

9 (4) Classify as confidential certain records and information obtained
10 by the State Bank Department or State Board of Finance when such matters are
11 obtained from an investigation or examination by the department's staff;
12 however, applications shall be public documents."

13

14 SECTION 2. Investigations by commissioner or State Board of Finance -
15 Injunctions.

16 (a) The commissioner or State Board of Finance may investigate, either
17 upon complaint or otherwise, when it appears that a county or regional
18 industrial development corporation is conducting its business in an unsafe and
19 injurious manner or in violation of this chapter, or the regulations
20 promulgated thereunder by the commissioner or the State Board of Finance, or
21 when it appears that any person is engaging in the business without being
22 approved under the provisions of this chapter.

23 (b)(1) Whenever it appears, upon sufficient grounds or evidence
24 satisfactory to the commissioner or the State Board of Finance, that any
25 county or regional industrial development corporation has engaged in or is
26 about to engage in any act or practice in violation of this chapter or any
27 rule or regulation or order hereunder, or the assets or capital of any county
28 or regional industrial development corporation is impaired or the county or
29 regional industrial development corporations affairs are in an unsafe
30 condition, the commissioner or State Board of Finance may:

31 (A) Refer the evidence which is available concerning
32 violations of this chapter or any rule, regulation, or order hereunder, to the
33 appropriate prosecuting attorney, who may, with or without such reference,
34 institute the appropriate criminal proceedings;

35 (B) Summarily order the county or regional industrial
36 development corporation to cease and desist from the act or practice, during

1 the time the commissioner or State Board of Finance may apply to the Chancery
2 Court of Pulaski County to enjoin the act or practice and to enforce
3 compliance with this chapter or any rule, regulation, or order hereunder.
4 However, the commissioner or State Board of Finance may, without issuing a
5 cease and desist order, apply directly to the Chancery Court of Pulaski County
6 for injunctive relief.

7 (2) Upon proper showing, a permanent or temporary injunction,
8 restraining order, or writ of mandamus shall be granted, and a receiver or
9 conservator may be appointed for the county or regional industrial development
10 corporation or its assets.

11 (3) The court may not require the commissioner or State Board of
12 Finance to post a bond.

13

14 SECTION 3. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17

18 SECTION 4. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23

24 SECTION 5. All laws and parts of laws in conflict with this act are
25 hereby repealed.

26

27 SECTION 6. EMERGENCY. It is found and determined by the General
28 Assembly of the State of Arkansas that county and regional industrial
29 development corporations are in need of additional regulatory protection;
30 that, in order to protect Arkansas citizens that invest in these corporations,
31 it is necessary that these corporations be required to operate in a safe and
32 sound manner and in accordance with the laws of this state; and that it is
33 necessary that this protection begin immediately. Therefore an emergency is
34 declared to exist and this act being immediately necessary for the
35 preservation of the public peace, health and safety shall become effective on
36 the date of its approval by the Governor. If the bill is neither approved nor

1 vetoed by the Governor, it shall become effective on the expiration of the
2 period of time during which the Governor may veto the bill. If the bill is
3 vetoed by the Governor and the veto is overridden, it shall become effective
4 on the date the last house overrides the veto.

5

6 /s/Rep. Wilkinson, et al

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35