

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

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

A Bill

HOUSE BILL 2174

4
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."

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Subtitle

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

21

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

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

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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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