

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2381

4
5 By: Representative Thomas
6
7

For An Act To Be Entitled

9 AN ACT TO REPEAL THE COUNTY AND REGIONAL
10 INDUSTRIAL DEVELOPMENT COMPANY ACT; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 TO REPEAL THE COUNTY AND REGIONAL
15 INDUSTRIAL DEVELOPMENT COMPANY ACT.
16
17

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

20 SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 12 is
21 repealed.

22 ~~15-4-1201. Title.~~

23 ~~This subchapter shall be referred to and may be cited as the "County~~
24 ~~and Regional Industrial Development Company Act".~~
25

26 ~~15-4-1202. Definitions.~~

27 ~~As used in this subchapter, unless the context clearly requires~~
28 ~~otherwise:~~

29 ~~(1) "Bank Commissioner" means the Bank Commissioner of the State~~
30 ~~of Arkansas;~~

31 ~~(2) "Board" means the State Banking Board;~~

32 ~~(3) "Company" means a county or regional industrial development~~
33 ~~corporation or limited liability company authorized to be organized under the~~
34 ~~provisions of this subchapter;~~

35 ~~(4) "Financial institution" means any banking corporation or~~
36 ~~institution, trust company, savings bank, savings and loan association,~~



1 ~~insurance company, or related corporation, partnership, foundation, or other~~
 2 ~~institution engaged in lending or investing funds;~~

3 ~~(5) "Impaired" means, for the purposes of § 15-4-1228, that the~~
 4 ~~capital of the company has been reduced to fifty thousand dollars (\$50,000)~~
 5 ~~or less;~~

6 ~~(6) "Loan limit" means, for any member, the maximum amount~~
 7 ~~permitted to be outstanding at any one (1) time on loans made by such member~~
 8 ~~to the company, as determined under § 15-4-1218;~~

9 ~~(7) "Member" means any financial institution authorized to do~~
 10 ~~business in the State of Arkansas which may undertake to lend money to a~~
 11 ~~company upon its call and in accordance with the provisions of § 15-4-1218;~~

12 ~~(8) "Person" includes all natural persons and legal entities;~~

13 ~~(9) "Region" means any compact area composed of no fewer than~~
 14 ~~three (3) nor more than fifteen (15) contiguous counties within the State of~~
 15 ~~Arkansas;~~

16 ~~(10) "Securities Commissioner" means the Securities Commissioner~~
 17 ~~of the State of Arkansas; and~~

18 ~~(11) "Unit of interest" means a participation in the profits~~
 19 ~~interests of a limited liability company so that the total of all the units~~
 20 ~~of interest in a limited liability company shall equal one hundred percent~~
 21 ~~(100%) of the profits interests in the limited liability company.~~

22
 23 ~~15-4-1203. Liberal construction.~~

24 ~~(a) This subchapter shall be construed liberally.~~

25 ~~(b) The enumeration of any object, purpose, power, manner, method, or~~
 26 ~~thing shall not be deemed to exclude like or similar objects, purposes,~~
 27 ~~powers, manners, methods, or things.~~

28 ~~15-4-1204. Application for preliminary approval.~~

29 ~~Any five (5) or more qualified natural persons who shall be bona fide~~
 30 ~~residents of the same county or region in this state to be served by the~~
 31 ~~proposed company and who desire to associate themselves for the purpose of~~
 32 ~~establishing and operating a company may subscribe, acknowledge, and file~~
 33 ~~with the Bank Commissioner for preliminary approval proposed articles of~~
 34 ~~incorporation in the case of a corporation and articles of organization and~~
 35 ~~an operating agreement in the case of a limited liability company, in~~
 36 ~~duplicate, as authorized by § 15-4-1211.~~

1
2
3
4
5
6
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
36

~~15-4-1205. Preliminary approval.~~

~~(a) If the Bank Commissioner is satisfied that the applicants are bona fide residents of the county or region to be served by the proposed company, that the applicants have the confidence of their respective communities, that, in the case of a regional company, the proposed region constitutes a reasonably compact area with similar economic development needs, that public convenience and necessity require a company, and that the proposed articles of incorporation or articles of organization and operating agreement conform to the provisions of § 15-4-1211, the commissioner shall issue his or her certificate approving the articles of incorporation or articles of organization and operating agreement and authorizing the applicants to proceed with the organization of the company.~~

~~(b)(1) The commissioner shall not refuse a certificate to a regional company solely because one (1) or more county companies have been approved for the counties comprising the region.~~

~~(2) Provided, however, only one (1) county industrial development company may be organized to serve in each individual county.~~

~~15-4-1206. Organization.~~

~~Upon receipt of such certificate of preliminary approval, the applicants may proceed to complete the organization of the company, to obtain subscriptions for and payment of its stock or limited liability units of interest, and to do all other things necessarily incidental to its transacting business.~~

~~15-4-1207. Liability of directors, officers, managers, and members.~~

~~The directors and officers of a corporation organized under the provisions of this subchapter and the managers and members of a limited liability company organized under the provisions of this subchapter shall not be responsible for losses of assets of the company unless the losses shall have been occasioned by the willful misconduct of such directors, officers, managers, or members.~~

~~15-4-1208. Certificate of organization.~~

~~(a) When the applicants have completed the organization of the~~

1 ~~proposed company, they shall file with the Bank Commissioner a certificate of~~
 2 ~~organization executed by the chief executive officer of the company, attested~~
 3 ~~by its chief financial officer, and with its seal affixed thereto,~~
 4 ~~certifying:~~

5 ~~(1) The names and addresses of all of its subscribers of stock~~
 6 ~~or units of interest of a limited liability company, the number of shares~~
 7 ~~subscribed or the amount of units of interest subscribed in the case of a~~
 8 ~~limited liability company, and the number of shares fully paid for by each in~~
 9 ~~the case of a corporation or the amount of units of interest fully paid for~~
 10 ~~by each in the case of a limited liability company;~~

11 ~~(2) The total number of shares of stock or units of interest of~~
 12 ~~a limited liability company subscribed, but not fully paid for;~~

13 ~~(3) The total number of shares of stock or units of interest~~
 14 ~~paid in full;~~

15 ~~(4) The name and address of the depository or the names and~~
 16 ~~addresses of the depositories, if more than one (1), holding on deposit the~~
 17 ~~funds of the company; and~~

18 ~~(5) The names and addresses of the officers, directors, and~~
 19 ~~members of the executive committee, if any, of a corporation and the names~~
 20 ~~and addresses of the managers and members of the management committee of a~~
 21 ~~limited liability company.~~

22 ~~(b) The certificate of organization of applicant shall be accompanied~~
 23 ~~by the certificate of the named depository or by the certificates of the~~
 24 ~~named depositories, if more than one (1), certifying the amount of the funds~~
 25 ~~on deposit to the credit of the company.~~

26 ~~(c) The certificate of organization shall also be accompanied by any~~
 27 ~~bylaws or by any regulations which may have been adopted by the directors of~~
 28 ~~a corporation or the operating agreement of a limited liability company.~~

29
 30 ~~15-4-1209. Final investigation and approval by the board.~~

31 ~~(a)(1) Immediately upon the filing of the certificate of organization~~
 32 ~~by the applicants, the Bank Commissioner shall submit to the State Banking~~
 33 ~~Board the proposed articles of incorporation, articles of organization and~~
 34 ~~operating agreement, as appropriate, and the certificate of organization of~~
 35 ~~the applicants.~~

36 ~~(2) As soon as practicable thereafter, if the board shall~~

1 ~~determine from the best sources of information at its command that:~~

2 ~~(A) Public convenience and necessity continue to require~~
 3 ~~the company;~~

4 ~~(B) The holders of the fully paid common stock of a~~
 5 ~~corporation or units of interest of a limited liability company are at least~~
 6 ~~twenty (20) in number;~~

7 ~~(C) Not less than one hundred thousand dollars (\$100,000)~~
 8 ~~of common stock or units of interest have been subscribed and fully paid for;~~

9 ~~(D) No single stockholder nor related group of~~
 10 ~~stockholders owns more than ten percent (10%) of the voting stock in the case~~
 11 ~~of a corporation or no single member nor related group of members owns more~~
 12 ~~than ten percent (10%) of the units of interest in the case of a limited~~
 13 ~~liability company; and~~

14 ~~(E) The bylaws submitted, if any, or the operating~~
 15 ~~agreement is in conformity with the articles of incorporation or articles of~~
 16 ~~organization and the provisions of this subchapter, is not contrary to the~~
 17 ~~laws of the state, and is otherwise satisfactory; the board shall direct the~~
 18 ~~commissioner to issue to the applicants a certificate of incorporation or~~
 19 ~~certificate of organization in such form as it may prescribe.~~

20 ~~(b)(1) The commissioner shall also return to the applicants one (1) of~~
 21 ~~the copies of the articles of incorporation or the articles of organization~~
 22 ~~theretofore submitted to the commissioner by the applicants, upon which copy~~
 23 ~~he shall have endorsed the fact of the issuance by him of such certificate of~~
 24 ~~incorporation or certificate of organization.~~

25 ~~(2) If the bylaws, regulations, or the operating agreement are~~
 26 ~~submitted and are found to be satisfactory by the board, the commissioner~~
 27 ~~shall also issue his certificate of approval.~~

28
 29 ~~15-4-1205. Preliminary approval.~~

30 ~~(a) If the Bank Commissioner is satisfied that the applicants are bona~~
 31 ~~fide residents of the county or region to be served by the proposed company,~~
 32 ~~that the applicants have the confidence of their respective communities,~~
 33 ~~that, in the case of a regional company, the proposed region constitutes a~~
 34 ~~reasonably compact area with similar economic development needs, that public~~
 35 ~~convenience and necessity require a company, and that the proposed articles~~
 36 ~~of incorporation or articles of organization and operating agreement conform~~

1 to the provisions of § 15-4-1211, the commissioner shall issue his or her
 2 certificate approving the articles of incorporation or articles of
 3 organization and operating agreement and authorizing the applicants to
 4 proceed with the organization of the company.

5 (b)(1) The commissioner shall not refuse a certificate to a regional
 6 company solely because one (1) or more county companies have been approved
 7 for the counties comprising the region.

8 (2) Provided, however, only one (1) county industrial
 9 development company may be organized to serve in each individual county.

10
 11 ~~15-4-1206. Organization.~~

12 Upon receipt of such certificate of preliminary approval, the applicants may
 13 proceed to complete the organization of the company, to obtain subscriptions
 14 for and payment of its stock or limited liability units of interest, and to
 15 do all other things necessarily incidental to its transacting business.

16
 17 ~~15-4-1207. Liability of directors, officers, managers, and members.~~

18 The directors and officers of a corporation organized under the provisions of
 19 this subchapter and the managers and members of a limited liability company
 20 organized under the provisions of this subchapter shall not be responsible
 21 for losses of assets of the company unless the losses shall have been
 22 occasioned by the willful misconduct of such directors, officers, managers,
 23 or members.

24
 25 ~~15-4-1208. Certificate of organization.~~

26 (a) When the applicants have completed the organization of the
 27 proposed company, they shall file with the Bank Commissioner a certificate of
 28 organization executed by the chief executive officer of the company, attested
 29 by its chief financial officer, and with its seal affixed thereto,
 30 certifying:

31 (1) The names and addresses of all of its subscribers of stock
 32 or units of interest of a limited liability company, the number of shares
 33 subscribed or the amount of units of interest subscribed in the case of a
 34 limited liability company, and the number of shares fully paid for by each in
 35 the case of a corporation or the amount of units of interest fully paid for
 36 by each in the case of a limited liability company;

1 ~~(2) The total number of shares of stock or units of interest of~~
 2 ~~a limited liability company subscribed, but not fully paid for;~~

3 ~~(3) The total number of shares of stock or units of interest~~
 4 ~~paid in full;~~

5 ~~(4) The name and address of the depository or the names and~~
 6 ~~addresses of the depositories, if more than one (1), holding on deposit the~~
 7 ~~funds of the company; and~~

8 ~~(5) The names and addresses of the officers, directors, and~~
 9 ~~members of the executive committee, if any, of a corporation and the names~~
 10 ~~and addresses of the managers and members of the management committee of a~~
 11 ~~limited liability company.~~

12 ~~(b) The certificate of organization of applicant shall be accompanied~~
 13 ~~by the certificate of the named depository or by the certificates of the~~
 14 ~~named depositories, if more than one (1), certifying the amount of the funds~~
 15 ~~on deposit to the credit of the company.~~

16 ~~(c) The certificate of organization shall also be accompanied by any~~
 17 ~~bylaws or by any regulations which may have been adopted by the directors of~~
 18 ~~a corporation or the operating agreement of a limited liability company.~~

19
 20 ~~15-4-1209. Final investigation and approval by the board.~~

21 ~~(a)(1) Immediately upon the filing of the certificate of organization~~
 22 ~~by the applicants, the Bank Commissioner shall submit to the State Banking~~
 23 ~~Board the proposed articles of incorporation, articles of organization and~~
 24 ~~operating agreement, as appropriate, and the certificate of organization of~~
 25 ~~the applicants.~~

26 ~~(2) As soon as practicable thereafter, if the board shall~~
 27 ~~determine from the best sources of information at its command that:~~

28 ~~(A) Public convenience and necessity continue to require~~
 29 ~~the company;~~

30 ~~(B) The holders of the fully paid common stock of a~~
 31 ~~corporation or units of interest of a limited liability company are at least~~
 32 ~~twenty (20) in number;~~

33 ~~(C) Not less than one hundred thousand dollars (\$100,000)~~
 34 ~~of common stock or units of interest have been subscribed and fully paid for;~~

35 ~~(D) No single stockholder nor related group of~~
 36 ~~stockholders owns more than ten percent (10%) of the voting stock in the case~~

1 of a corporation or no single member nor related group of members owns more
 2 than ten percent (10%) of the units of interest in the case of a limited
 3 liability company; and

4 (E) The bylaws submitted, if any, or the operating
 5 agreement is in conformity with the articles of incorporation or articles of
 6 organization and the provisions of this subchapter, is not contrary to the
 7 laws of the state, and is otherwise satisfactory; the board shall direct the
 8 commissioner to issue to the applicants a certificate of incorporation or
 9 certificate of organization in such form as it may prescribe.

10 (b)(1) The commissioner shall also return to the applicants one (1) of
 11 the copies of the articles of incorporation or the articles of organization
 12 theretofore submitted to the commissioner by the applicants, upon which copy
 13 he shall have endorsed the fact of the issuance by him of such certificate of
 14 incorporation or certificate of organization.

15 (2) If the bylaws, regulations, or the operating agreement are
 16 submitted and are found to be satisfactory by the board, the commissioner
 17 shall also issue his certificate of approval.

18
 19 15-4-1210. Commencement and continuation of existence.

20 (a) Upon the issuance of the certificate of incorporation or
 21 certificate of organization by the Bank Commissioner, the existence of the
 22 company shall begin.

23 (b) The certificate of incorporation or certificate of organization
 24 shall be conclusive evidence, except as against the state, that all
 25 conditions precedent required to be performed by the applicants have been
 26 complied with and that the company has been organized under this subchapter.

27 (c) A copy of the articles of incorporation or articles of
 28 organization so endorsed by the commissioner, as prescribed in § 15-4-1209,
 29 shall be filed for recordation in the office of the county clerk in the
 30 county in which the principal office of the company is located and a copy
 31 shall be delivered to the Director of the Department of Finance and
 32 Administration.

33 (d) The company shall pay to the commissioner in semiannual billings
 34 four hundred dollars (\$400) per year to establish and continue its existence
 35 and good standing under this subchapter.

~~15-4-1211. Articles of incorporation or articles of organization.~~

~~(a) The articles of incorporation for any corporation or the articles of organization of any limited liability company organized under the provisions of this subchapter shall state:~~

~~(1) The name of the company, which shall include the words "County Industrial Development Company" if the proposed company is to serve a single county, or "Regional Industrial Development Company" if the proposed company is to serve a region larger than a single county, and such designation as may be appropriate to distinguish it from any subsequent company which may be organized under the provisions of this subchapter, and the name shall be such as to distinguish it from any other corporation, limited liability company, limited partnership, limited liability partnership, and limited liability limited partnership organized and existing under the laws of the State of Arkansas as evidenced by the Secretary of State in writing;~~

~~(2) The purpose for which the company is formed;~~

~~(3) The period of duration of the company, which for a corporation may be perpetual or limited, but which for a limited liability company must be for a stated term;~~

~~(4) The address of the principal office of the company and the name and address of its agent upon whom process may be served;~~

~~(5) The total number of shares of common stock that the corporation is authorized to issue, which number shall be not less than one hundred (100) shares of common stock, each share having a par value of one hundred dollars (\$100) in the case of a corporation or the total units of interest in the limited liability company that the limited liability company is authorized to issue, which number shall not be less than one hundred (100) units of interest, each unit of interest having a stated value of one hundred dollars (\$100);~~

~~(6) The total number of shares of stock of any other class or distinction which a corporation is authorized to issue and its par value, if any, in the case of a corporation or the total number of units of other interests in a limited liability company that a limited liability company is authorized to issue and its stated value and preferences or limitations, if any;~~

~~(7) A provision stating that no stockholder or member shall have~~

1 preemptive rights with respect to any additional equity issued by the company
 2 or with respect to any debt issued by the company;

3 (8) A provision stating that no stockholder shall be entitled to
 4 own more than ten percent (10%) of the total number of shares of voting stock
 5 issued at any time or that no member shall be entitled to own more than ten
 6 percent (10%) of the total units of interest of a limited liability company
 7 issued at any time;

8 (9)(A) In the case of a corporation, the number of directors,
 9 not less than six (6) nor more than fifteen (15), to be elected at the annual
 10 meeting of the holders of stock entitled to vote for the election of
 11 directors;

12 (B) The requirement, in the case of a regional
 13 corporation, that at least one (1) director shall be a resident of each
 14 county comprising the region and a prohibition of more than one third (1/3)
 15 of the directors being residents of any single county;

16 (C) The terms of office of the directors; and

17 (D) Any provisions desirable for staggering their terms of
 18 office, except that the terms of office of directors and other matters
 19 pertaining to the directors may be provided in the bylaws of the corporation;

20 (10)(A) In the case of a limited liability company, the number
 21 of members of the management committee, not less than six (6) nor more than
 22 fifteen (15), to be elected at the annual meeting of the members of the
 23 limited liability company entitled to vote for the election of the members of
 24 the management committee;

25 (B) The requirement, in the case of a regional limited
 26 liability company, that at least one (1) member of the management committee
 27 shall be a resident of each county comprising the region and a prohibition of
 28 more than one third (1/3) of the members of the management committee being
 29 residents of any single county;

30 (C) The terms of office of the members of the management
 31 committee; and

32 (D) Any provisions desirable for staggering their terms of
 33 office, except that the terms of office of members of the management
 34 committee and other matters pertaining to the members of the management
 35 committee may be provided in the operating agreement of the limited liability
 36 company;

1 ~~(11) The names and addresses of the incorporators or organizers~~
2 ~~who shall constitute the board of directors or the management committee and~~
3 ~~manage the affairs of the company until the first meeting of the holders of~~
4 ~~the common stock or until the first meeting of the members of the limited~~
5 ~~liability company;~~

6 ~~(12)(A) In the case of a limited liability company, such entity~~
7 ~~shall be a manager managed limited liability company and shall be governed by~~
8 ~~a management committee elected by the holders of the units of interest of the~~
9 ~~limited liability company.~~

10 ~~(B) The management committee shall appoint a chief~~
11 ~~operating officer, a chief financial officer, and such other officers as it~~
12 ~~deems appropriate;~~

13 ~~(13)(A) In the case of a corporation, the shares of the~~
14 ~~corporation shall be issued at such prices and with such rights and~~
15 ~~preferences as stated in the articles of incorporation, the bylaws, and as~~
16 ~~stated by the board of directors.~~

17 ~~(B) In the case of a limited liability company, the~~
18 ~~ownership of the limited liability company shall be represented by units of~~
19 ~~interest that shall be issued at such prices and with such rights and~~
20 ~~preferences as stated in the articles of organization, the operating~~
21 ~~agreement, or as stated by the management committee of the limited liability~~
22 ~~company.~~

23 ~~(C)(i) Stock and units of interest may be issued for~~
24 ~~consideration consisting of money paid, labor done, or property actually~~
25 ~~received, but neither promissory notes nor the promise of future services~~
26 ~~shall constitute valid consideration.~~

27 ~~(ii) In all cases, shares or units of interest shall~~
28 ~~be issued at not less than the par value of one hundred dollars (\$100) per~~
29 ~~share or the stated value of one hundred dollars (\$100) per unit of interest;~~
30 ~~and~~

31 ~~(14) Any provisions not inconsistent with law which the~~
32 ~~incorporators or organizers may choose to insert for the regulation of the~~
33 ~~business and the conduct of the affairs of the company.~~

34 ~~(b) It shall not be necessary to set forth in the articles of~~
35 ~~incorporation or the articles of organization or the operating agreement any~~
36 ~~of the company powers enumerated in this subchapter.~~

1
2 ~~15-4-1212. Amendment to articles of incorporation or articles of~~
3 ~~organization.~~

4 ~~(a) A company organized under the provisions of this subchapter may~~
5 ~~amend its articles of incorporation or its articles of organization by a~~
6 ~~majority vote of the common stock in the case of a corporation or by a~~
7 ~~majority vote of the units of interest of a limited liability company~~
8 ~~represented in person or by proxy at any regular meeting or at any special~~
9 ~~meeting of the holders of the common stock or members of the limited~~
10 ~~liability company called for that purpose.~~

11 ~~(b) The power to amend shall include the power to accomplish any~~
12 ~~desired change in the provisions of the articles of incorporation or articles~~
13 ~~of organization and to include any purpose, power, or provision authorized to~~
14 ~~be included in the original articles of incorporation or articles of~~
15 ~~organization or by later amendment to this subchapter.~~

16 ~~(c)(1) Articles of amendment signed by the chief executive officer and~~
17 ~~attested by the secretary, an assistant secretary, or another manager~~
18 ~~certifying to such amendment and its lawful adoption shall be executed,~~
19 ~~acknowledged, and filed with the Bank Commissioner and, when approved by the~~
20 ~~State Banking Board, recorded with the certificate of the commissioner~~
21 ~~approving the articles of amendment in the same manner as the original~~
22 ~~articles of incorporation or articles of organization.~~

23 ~~(2) As soon as the commissioner shall issue his or her~~
24 ~~certificate of amendment, the amendment or amendments shall be in effect.~~

25
26 ~~15-4-1213. Management of company.~~

27 ~~(a)(1) Only the holders of common stock, through the board of~~
28 ~~directors, shall manage the affairs of a corporation.~~

29 ~~(2) Only holders of units of interest in a limited liability~~
30 ~~company shall manage the affairs of a limited liability company.~~

31 ~~(3) Each holder of common stock or each holder of a unit of~~
32 ~~interest in the limited liability company shall be entitled to one (1) vote,~~
33 ~~in person or by proxy, for each share of common stock or each unit of~~
34 ~~interest held by him and, in voting for the directors or management committee~~
35 ~~of the company, shall be entitled to exercise the right of cumulative voting.~~

36 ~~(b)(1)(A) In the event of the transfer of shares of common stock or~~

~~units of interest, whether by act of the holder or by operation of law, the name or names of the proposed transferees shall be submitted to the directors of the corporation or to the management committee of the limited liability company and the directors or the management committee may refuse to approve the transfer, in which event the company shall have the option to purchase the shares of common stock or the units of interest at par or stated value.~~

~~(B) Shares of common stock or units of interest so purchased shall be cancelled, and shares or units in lieu thereof may be reissued and sold by the company.~~

~~(2) In the event that the directors or the management committee do not purchase the shares of common stock or the units of interest subject to transfer, the shares of common stock or the units of interest then may be transferred without the approval of the directors or the management committee.~~

~~History. Acts 1991, No. 1029, § 11; 1999, No. 37, § 12.~~

~~15-4-1214. Powers of the company.~~

~~(a) The purposes of each company organized under the provisions of this subchapter shall be:~~

~~(1)(A) To promote, stimulate, develop, and advance the business prosperity and economic welfare of the county or region where it is located and its citizens;~~

~~(B) To encourage and assist through loans, investments, or other business transactions in the location of new business and industry in that county or region, and to assist the growth and expansion of existing business and industry; and~~

~~(C) To stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of the county or region, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of that county or region;~~

~~(2) To cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, technological, scientific, commercial, agricultural, and recreational development in that county or region; and~~

~~(3) To provide venture financing for the promotion, development,~~

1 ~~and conduct of all kinds of business activity in that county or region on~~
 2 ~~terms and conditions that would not otherwise be available from existing~~
 3 ~~financial institutions.~~

4 ~~(b) In furtherance of such purposes, each company organized under this~~
 5 ~~subchapter shall have the power:~~

6 ~~(1) To sue and be sued and to complain and defend in its~~
 7 ~~corporate or limited liability company name;~~

8 ~~(2) To have perpetual succession, in the case of corporations,~~
 9 ~~unless a limited period of duration is stated in its articles of~~
 10 ~~incorporation;~~

11 ~~(3) To adopt a company seal, which may be altered at pleasure,~~
 12 ~~and to use it or a facsimile thereof as permitted by law;~~

13 ~~(4) Within the limitations imposed in this subchapter and in the~~
 14 ~~manner prescribed in this subchapter, to borrow money and otherwise contract~~
 15 ~~indebtedness, to issue its bonds, notes, debentures, or other obligations~~
 16 ~~with or without security, and, if with security, to secure the payment~~
 17 ~~thereof by mortgage, pledge, or deed of trust on all or any part of its~~
 18 ~~property, assets, revenues, or income;~~

19 ~~(5) To purchase, receive, lease as lessee, or in any other~~
 20 ~~manner acquire, own, hold, maintain, sell, exchange, and use any and all real~~
 21 ~~and personal property or any interest therein;~~

22 ~~(6) To sell and convey, mortgage, pledge, lease as lessor, and~~
 23 ~~otherwise dispose of all or any part of its property or assets;~~

24 ~~(7) To make loans to any qualifying person within its county or~~
 25 ~~region and to establish and regulate the terms and conditions with respect to~~
 26 ~~those loans and the charges for interest and service connected with those~~
 27 ~~loans, consistent with the provisions of this subchapter;~~

28 ~~(8) To purchase, hold, sell, assign, transfer, mortgage, pledge,~~
 29 ~~or otherwise to dispose of bonds, securities, or evidences of indebtedness~~
 30 ~~created by any other corporation or corporations of this state or any other~~
 31 ~~state or government or created by any individual, unincorporated association,~~
 32 ~~limited liability company, limited partnership, general partnership, limited~~
 33 ~~liability partnership, limited liability limited partnership, trust estate,~~
 34 ~~improvement district, municipality, or governmental or municipal agency of~~
 35 ~~any character;~~

36 ~~(9) To purchase, hold, sell, assign, transfer, mortgage, pledge,~~

~~1 or otherwise dispose of shares of the capital stock of any other corporation
 2 or corporations of this or any other state or government, subject to such
 3 restrictions and limitations, if any, as may be imposed by the laws of this
 4 or any other state in which the corporation may do business, and, while owner
 5 of such stock, to exercise all the rights, powers, and privileges of
 6 ownership, including the right to vote that stock;~~

~~7 (10) To purchase, hold, sell, assign, transfer, mortgage,
 8 pledge, or otherwise dispose of the units of interest of limited liability
 9 companies, partnerships, joint ventures, or other business entities of this
 10 or any other state or government, subject to such restrictions and
 11 limitations, if any, as may be imposed by the laws of this or any other state
 12 in which the business entity may do business, and, while owner of such units
 13 of interest, to exercise all the rights, powers, and privileges of ownership,
 14 including the right to vote those units of interest;~~

~~15 (11) To make any and all contracts necessary or convenient for
 16 the exercise of the powers granted in this subchapter;~~

~~17 (12) To elect or appoint officers, agents, and employees of the
 18 company and to define their duties and fix their compensation;~~

~~19 (13) To conduct its business and to have officers within or
 20 without the state;~~

~~21 (14) To accept gifts or grants of money, service, or property,
 22 real or personal;~~

~~23 (15) With the approval of the board of directors or the
 24 management committee by action of those persons, to make and alter bylaws and
 25 regulations not inconsistent with the articles of incorporation or the
 26 articles of organization and operating agreement or with the laws of this
 27 state for the administration and regulation of the affairs of the company;~~

~~28 (16) To encourage and promote the cultural, industrial,
 29 technological, scientific, economic, and recreational development of the
 30 county or region where it is located;~~

~~31 (17)(A) To assist minority businesses in obtaining loans or
 32 other means of financial assistance.~~

~~33 (B) The terms and conditions of such loans or financial
 34 assistance, including the charges for interest and other services, will be
 35 consistent with the provisions of this subchapter.~~

~~36 (C) Efforts must be made to solicit for review and~~

1 analysis proposed minority business ventures.

2 (D) Be it further provided that basic loan underwriting
 3 standards will not be changed to inconsistently favor or disfavor minority
 4 persons or businesses, or both, from the intent of the company's lending
 5 practices; and

6 (18) To do and perform any and all acts and things and to have
 7 and exercise any and all powers as may be necessary, convenient, or
 8 appropriate to effectuate the purpose for which the company is organized.

9
 10 ~~15-4-1215. Dividends and distributions.~~

11 (a) The directors of a corporation, subject to such limitations as may
 12 be set forth in the articles of incorporation or bylaws of the corporation,
 13 may declare dividends to the holders of its stock and make partial
 14 distribution of its capital surplus pursuant to the provisions of the
 15 Arkansas Business Corporation Act of 1987, § 4-27-101 et seq.

16 (b) The management committee of a limited liability company, subject
 17 to such limitations as may be set forth in the articles of organization or
 18 the operating agreement, may declare distributions to the holders of the
 19 units of interest in the limited liability company consistent with the
 20 provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et
 21 seq.

22
 23 ~~15-4-1216. Bonds and notes of the company.~~

24 (a)(1) From time to time as the conduct of its business requires, any
 25 company organized under the provisions of this subchapter may issue and sell
 26 at such price and on such terms as the board of directors or the management
 27 committee shall determine its bonds and notes not to exceed in a total
 28 aggregate amount outstanding at any one (1) time ten (10) times the total
 29 amount of its fully paid common stock or units of interest, its fully paid
 30 issued and outstanding preferred stock, if any, and the amount of its earned
 31 surplus in excess of a reserve set aside therefrom equal in amount to five
 32 percent (5%) of the aggregate total amount of loans of the company
 33 outstanding at any one (1) time.

34 (2) Provided, however, that the validity of the bonds and notes
 35 of the company valued at the time of issuance and delivery shall not
 36 thereafter be affected if in excess of such ratio.

1 ~~(b) The bonds and notes of the company shall be in such form and~~
 2 ~~denominations, shall have such dates and maturities, shall bear interest~~
 3 ~~payable at such times and places within or without the state, shall contain~~
 4 ~~such provisions as to registration of ownership, if registration is deemed~~
 5 ~~desirable, all as the directors of a corporation or the management committee~~
 6 ~~of a limited liability company shall determine in conformity with the~~
 7 ~~provisions of this subchapter, and shall be executed by the chief executive~~
 8 ~~officer and chief financial officer of the company and be sealed with the~~
 9 ~~company seal. In the event any of the officers whose signatures appear on any~~
 10 ~~obligation shall cease to be officers before the delivery of those~~
 11 ~~obligations, those signatures, nevertheless, shall be valid and sufficient~~
 12 ~~for all purposes, the same as if they had remained in office until the~~
 13 ~~delivery.~~

14 ~~(c) All bonds and notes of a company issued under the provisions of~~
 15 ~~this subchapter, unless otherwise limited by the express provisions thereof~~
 16 ~~and irrespective of the date of issue, shall be on a parity as to security~~
 17 ~~and shall be secured by a lien on the entire assets of the company, which~~
 18 ~~lien shall be a first lien and superior to all other debts and to all other~~
 19 ~~encumbrances of whatsoever nature on all of the assets of the company.~~

20 ~~(d) The earned surplus of a corporation, in whole or in part, in the~~
 21 ~~discretion of the directors of the corporation, may be invested as provided~~
 22 ~~in the bylaws of the corporation and retained in reserve to meet losses and~~
 23 ~~contingencies of the corporation.~~

24 ~~(e) The undistributed earnings of a limited liability company, in~~
 25 ~~whole or in part, in the discretion of the management committee of a limited~~
 26 ~~liability company, may be invested as provided in the operating agreement of~~
 27 ~~the limited liability company and retained in reserves to meet losses and~~
 28 ~~contingencies of the limited liability company.~~

29
 30 ~~15-4-1217. Authority of other corporations and financial institutions.~~

31 ~~Notwithstanding any rule at common law or any provision of law or any~~
 32 ~~provision in their respective articles of incorporation:~~

33 ~~(1) All domestic corporations, including nonprofit corporations~~
 34 ~~and associations, organized for the purpose of carrying on business within~~
 35 ~~this state, including, without implied limitation, any public utility, and~~
 36 ~~all trusts, are hereby authorized to acquire, purchase, hold, sell, assign,~~

1 ~~transfer, mortgage, pledge, or otherwise dispose of any bonds, notes,~~
 2 ~~securities, or other evidences of indebtedness created pursuant to this~~
 3 ~~subchapter or the shares of the common stock or the units of interest of a~~
 4 ~~company organized under this subchapter and, while owners of the stock or~~
 5 ~~units of interest, to exercise all the rights, powers, and privileges of~~
 6 ~~ownership, including the right to vote thereon, all without the approval of~~
 7 ~~any regulatory authority of the state;~~

8 ~~(2) All financial institutions are hereby authorized to become~~
 9 ~~members of the company and to make loans to the company as provided in this~~
 10 ~~subchapter;~~

11 ~~(3) A financial institution which does not become a member of~~
 12 ~~the company shall not be permitted to acquire any shares of the common stock~~
 13 ~~or units of interest of the company; and~~

14 ~~(4)(A)(i) Each financial institution which becomes a member of~~
 15 ~~the company is hereby authorized to acquire, purchase, hold, sell, assign,~~
 16 ~~transfer, mortgage, pledge, or otherwise dispose of any bonds, notes,~~
 17 ~~securities, or other evidences of indebtedness created pursuant to this~~
 18 ~~subchapter or the shares of the common stock or the units of interest of the~~
 19 ~~company and, while owners of the stock or units of interest, to exercise all~~
 20 ~~the rights, powers, and privileges of ownership, including the right to vote~~
 21 ~~thereon, all without the approval of any regulatory authority of the state.~~

22 ~~(ii) Provided, however, that the amount of the~~
 23 ~~common stock of a corporation or the units of interest of a limited liability~~
 24 ~~company which may be acquired by any member pursuant to the authority granted~~
 25 ~~in this section shall not exceed ten percent (10%) of the loan limit of each~~
 26 ~~member.~~

27 ~~(B) The common stock or the units of interest of a company~~
 28 ~~organized under this subchapter which any member is authorized to acquire~~
 29 ~~pursuant to the authority granted in this section is in addition to the~~
 30 ~~amount of common stock in corporations or units of interest in other business~~
 31 ~~entities which the member may otherwise be authorized to acquire.~~

32
 33 ~~15-4-1218. Member financial institutions—Loan limits.~~

34 ~~(a) Any financial institution may request membership in the company by~~
 35 ~~making application to the board of directors or the management committee on~~
 36 ~~such form and in such manner as the board of directors or the management~~

1 ~~committee may require, and membership shall become effective upon the~~
2 ~~acceptance of the application by the board of directors or the management~~
3 ~~committee.~~

4 ~~(b) Each member of the company may make loans to the company as and~~
5 ~~when called upon by it to do so on such terms and other conditions as shall~~
6 ~~be approved from time to time by the board of directors or the management~~
7 ~~committee, subject to the following conditions:~~

8 ~~(1) All loan limits shall be established at the thousand-dollar~~
9 ~~amount nearest to the amount computed in accordance with the provisions of~~
10 ~~this section;~~

11 ~~(2) No loan to a company organized under this subchapter shall~~
12 ~~be made by members pursuant to call made by the company if immediately~~
13 ~~thereafter the total amount of the loans will exceed ten (10) times the~~
14 ~~amount then paid in on the outstanding stock or the units of interest of the~~
15 ~~company plus ten (10) times the earned surplus of a corporation less reserves~~
16 ~~or ten (10) times the undistributed earnings of a limited liability company~~
17 ~~less reserves;~~

18 ~~(3) The total amount outstanding on loans to a company made by~~
19 ~~any member at any one (1) time, when added to the amount of the investment in~~
20 ~~the capital stock or the units of interest of the company then held by that~~
21 ~~member, shall not exceed the limitation on loans established by law or~~
22 ~~regulation applicable to the member or, in the absence of any limitation, the~~
23 ~~amount approved by the board of directors or the management committee for~~
24 ~~that member;~~

25 ~~(4)(A) Each call made by the company may be prorated among~~
26 ~~members of a company in substantially the same proportion that the adjusted~~
27 ~~loan limit of each member bears to the aggregate of the adjusted loan limits~~
28 ~~of all members.~~

29 ~~(B) The adjusted loan limit of a member shall be the~~
30 ~~amount of the member's loan limit, reduced by the balance of outstanding~~
31 ~~loans made by the member to the company and the investment in capital stock~~
32 ~~of a corporation or units of interest in a limited liability company held by~~
33 ~~the member at the time of the call, and further reduced, in the case of a~~
34 ~~member who has assumed the obligation of a financial institution withdrawn~~
35 ~~from membership pursuant to § 15-4-1219(a)(2), by the balance of outstanding~~
36 ~~loans made to the company by the financial institution; and~~

1 ~~(5) All loans to a company by members shall be evidenced by~~
 2 ~~bonds, debentures, notes, or other evidence of indebtedness of the company~~
 3 ~~which shall be freely transferable at all times and which shall bear interest~~
 4 ~~at a rate which may be adjusted from time to time in a manner determined by~~
 5 ~~the board of directors or the management committee, which rate shall not be~~
 6 ~~less than one quarter of one percent (0.25%) in excess of the prime or base~~
 7 ~~rate of interest prevailing at the time of the adjustment for commercial~~
 8 ~~banks in the City of Little Rock on unsecured commercial loans.~~

9
 10 ~~15-4-1219. Withdrawal of members.~~

11 ~~(a)(1) Membership in a company shall be for an indeterminate period~~
 12 ~~not to exceed the termination date of the company stated in its articles of~~
 13 ~~incorporation or articles of organization.~~

14 ~~(2) Provided, however, that:~~

15 ~~(A) Upon written notice given to a company five (5) years~~
 16 ~~in advance, a member may withdraw from membership in the company at the~~
 17 ~~expiration date of the notice; or~~

18 ~~(B)(i) In the event that a member, herein called a~~
 19 ~~"constituent member", shall consolidate with, merge into, or sell all or~~
 20 ~~substantially all of its property and assets to another financial~~
 21 ~~institution, herein called the "continuing institution", the board of~~
 22 ~~directors or the management committee may permit, in such manner as it~~
 23 ~~determines, the withdrawal of the constituent member from membership in the~~
 24 ~~company if the continuing institution at the time of the withdrawal is a~~
 25 ~~member and has assumed any obligation of the constituent member to make loans~~
 26 ~~to the company.~~

27 ~~(ii) If the continuing institution is not a member~~
 28 ~~prior to the consolidation, merger, or sale, the assumed obligation shall be~~
 29 ~~discharged at the time the continuing institution becomes a member.~~

30 ~~(b) A member shall not be obligated to make any loans to the company~~
 31 ~~pursuant to calls made either before or after the withdrawal of the member.~~

32
 33 ~~15-4-1220. Exemption for securities.~~

34 ~~(a)(1) The stock, units of interest, notes, debentures, bonds, and all~~
 35 ~~other securities or obligations issued by any company organized and existing~~
 36 ~~under the provisions of this subchapter shall be exempt from the provisions~~

1 of the Arkansas Securities Act, § 23-42-101 et seq.

2 (2) ~~Provided, however, that any company organized and existing~~
 3 ~~under the provisions of this subchapter shall not be exempt from the~~
 4 ~~following:~~

5 (A) ~~The antifraud provisions of the Arkansas Securities~~
 6 ~~Act, § 23-42-507;~~

7 (B) ~~The criminal provisions for violation of the~~
 8 ~~provisions found in § 23-42-104(a); and~~

9 (C) ~~The civil remedies available for violation of the~~
 10 ~~provisions found in § 23-42-106.~~

11 (b)(1) ~~Notwithstanding the provisions of subsection (a) of this~~
 12 ~~section, no company may offer its stock, units of interest, notes,~~
 13 ~~debentures, bonds, or other securities or obligations without filing a notice~~
 14 ~~with the Securities Commissioner before the first offer of the securities to~~
 15 ~~be sold.~~

16 (2)(A) ~~The filing shall state the terms of the offer and how the~~
 17 ~~company intends to comply with the antifraud provisions of the Arkansas~~
 18 ~~Securities Act, § 23-42-101 et seq., and shall be accompanied by copies of~~
 19 ~~any sales materials the company will use in the offer of the securities.~~

20 (B) ~~The filing shall be effective upon deposit with the~~
 21 ~~Securities Commissioner.~~

22 (C) ~~This filing requirement shall be applicable to the~~
 23 ~~initial capitalization of the company and any subsequent offer of stock,~~
 24 ~~units of interest, notes, debentures, bonds or other securities or~~
 25 ~~obligations or series thereof.~~

26 (c) ~~Failure of a company to make the filing required by subsection (b)~~
 27 ~~of this section shall be a basis for imposition of all remedies available to~~
 28 ~~the Securities Commissioner for the offer and sale of unregistered and~~
 29 ~~nonexempt securities under the Arkansas Securities Act, § 23-42-101 et seq.~~

30 15-4-1221. Obligations as negotiable instruments.

31 All bonds, notes, debentures, and other obligations of a company
 32 authorized under and issued in compliance with the provisions of this
 33 subchapter shall be, shall have, and are hereby declared to have all the
 34 qualities and incidents of negotiable instruments under the negotiable
 35 instruments laws of the state.
 36

1
2
3
4
5
6
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
36

~~15-4-1222. Eligibility for certain investments.~~

~~Any city or town in this state or any board, commission, or other authority duly established by ordinance of any such city or town or the boards of trustees, respectively, of the firemen's relief and pension fund and the policemen's pension and relief fund of any such city or town may invest any of its funds not immediately needed for its purposes in the bonds and notes of any company organized under the provisions of this subchapter.~~

~~15-4-1223. Exemption from certain taxes.~~

~~(a)(1) County or regional industrial development companies shall be exempt from taxation under the Income Tax Act of 1929, § 26-51-101 et seq., and from the payment of any other income taxes levied by a county or a municipality.~~

~~(2) Dividends on stock or distributions with respect to units of interest of any such company pursuant to § 15-4-1215 shall be exempt from all state, county, or municipal income tax.~~

~~(3) Interest on bonds, notes, or other obligations of any company issued under and in accordance with the provisions of this subchapter shall be exempt from all state, county, or municipal income taxes.~~

~~(b) Corporations and limited liability companies shall file income tax returns each year at the time provided for the filing of corporate or partnership income tax returns, respectively.~~

~~(c) A company claiming exemption from income tax under this section shall attach to the return required in subsection (b) of this section a certification from the Bank Commissioner stating that the company has been incorporated or organized and is operating as a corporation or limited liability company in accordance with the provisions of this subchapter.~~

~~15-4-1224. Tax credit.~~

~~(a)(1) The original purchaser of common stock of a corporation or a unit of interest of a limited liability company shall be entitled to a credit against any Arkansas income tax liability or premium tax liability which may be imposed on such purchaser for any tax year commencing on or after January 1, 1999, for common stock purchased from a corporation or units of interest of a limited liability company and retained during any of the calendar years~~

1 ~~1999-2003.~~

2 ~~(2) The credit shall be determined in the following manner:~~

3 ~~(A)(i)(a) The credit is an amount equal to thirty three~~
 4 ~~and one third percent (33 1/3%) of the actual purchase price paid for the~~
 5 ~~stock of a corporation to the corporation or for the units of interest of a~~
 6 ~~limited liability company to the limited liability company, which shall~~
 7 ~~include any fees or commissions to underwriters or sales agents paid by the~~
 8 ~~company.~~

9 ~~(b) Provided, however, that the total amount~~
 10 ~~of fees and commissions to underwriters or sales agents for which a credit~~
 11 ~~may be taken shall not exceed fifteen percent (15%) of the actual purchase~~
 12 ~~price. Any fees or commissions in excess of fifteen percent (15%) of the~~
 13 ~~total purchase price shall not be considered in calculating the amount of the~~
 14 ~~credit determined in this section.~~

15 ~~(ii) If any shares or units of interest, once~~
 16 ~~purchased from the company, are then sold or otherwise disposed of prior to~~
 17 ~~five (5) years elapsing from the date of purchase, the maximum amount of any~~
 18 ~~credit shall be reduced a pro rata amount. In addition, any distribution from~~
 19 ~~the company to the holder of the common stock or the unit of interest that is~~
 20 ~~not a dividend or distribution within the meaning of § 15-4-1215 shall be~~
 21 ~~deemed a sale of that portion of the original purchase price of the common~~
 22 ~~stock or unit of interest on the date of such distribution for application of~~
 23 ~~the credit reduction calculated under subdivision (a)(2)(A) of this section;~~

24 ~~(B) In any one (1) tax year, the credit allowed by this~~
 25 ~~section shall not exceed fifty percent (50%) of the net Arkansas state income~~
 26 ~~tax or premium tax liability of the taxpayer after all other credits and~~
 27 ~~reductions in tax have been calculated;~~

28 ~~(C)(i) Any credit in excess of the amount allowed by~~
 29 ~~subdivision (a)(2)(B) of this section for any one (1) tax year may be carried~~
 30 ~~forward and applied against Arkansas state income tax or premium tax for the~~
 31 ~~next succeeding tax year and annually thereafter for a total period of three~~
 32 ~~(3) years next succeeding the year in which the credit arose, subject to the~~
 33 ~~provisions of subdivision (a)(2)(B) of this section, or until the credit is~~
 34 ~~exhausted, whichever occurs first.~~

35 ~~(ii) Provided, however, that any credit arising~~
 36 ~~under the County and Regional Industrial Development Company Act, § 15-4-1201~~

1 ~~et seq., shall be allowed to be carried forward to years past December 31,~~
 2 ~~1999, subject to the three year carry forward rules of subdivision (a)(2)(C)~~
 3 ~~of this section.~~

4 ~~(iii) In no event will the credit allowed by this~~
 5 ~~section be allowed for any tax year ending after December 31, 2006; and~~

6 ~~(D) Any original purchaser of common stock or units of~~
 7 ~~interest who seeks to qualify for and maintain the income tax credit or~~
 8 ~~premium tax credit provided in this section must obtain and attach to its~~
 9 ~~annual income tax or premium tax return a certified statement from the~~
 10 ~~company issuing the common stock or units of interest stating:~~

11 ~~(i) The name and address of the original purchaser;~~

12 ~~(ii) The number of shares or units of interest~~
 13 ~~purchased;~~

14 ~~(iii) The amount paid by the original purchaser for~~
 15 ~~the common stock or units of interest, specifying what portion of the~~
 16 ~~original purchase price consisted of fees or commissions to the underwriter~~
 17 ~~or sales agent;~~

18 ~~(iv) The date of purchase of the common stock or~~
 19 ~~units of interest;~~

20 ~~(v) The number of shares or units of interest of the~~
 21 ~~original purchase still owned by the original purchaser; and~~

22 ~~(vi) The amount and date of distributions made from~~
 23 ~~the company to the purchaser and whether or not such distributions are ones~~
 24 ~~made pursuant to § 15-4-1215.~~

25 ~~(b)(1) For the purpose of ascertaining the gain or loss from the sale~~
 26 ~~or other disposition of common stock in a corporation or units of interest in~~
 27 ~~a limited liability company, the original purchaser of the common stock or~~
 28 ~~the units of interest shall reduce his basis in the stock or units by the~~
 29 ~~amount of the tax credits previously deducted under this section.~~

30 ~~(2)(A) The original purchaser's basis in the stock or the units~~
 31 ~~shall be further reduced by ten percent (10%) of the original purchase price~~
 32 ~~for any shares of stock or any units of interest sold or otherwise disposed~~
 33 ~~of before five (5) years has elapsed from the date of purchase.~~

34 ~~(B) This reduced basis shall be used by the original~~
 35 ~~purchaser when calculating tax due under the Income Tax Act of 1929, § 26-51-~~
 36 ~~101 et seq.~~

1
2
3
4
5
6
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
36

~~15-4-1225. Loan policy.~~

~~(a) A company organized under the provisions of this subchapter shall not lend money when credit is readily available with comparable terms elsewhere. Before granting a loan, the directors of a corporation or the management committee of a limited liability company shall endeavor so far as is reasonably possible to ascertain that reasonable opportunity to grant the loan has been given to the financial institutions of the state.~~

~~(b) No company organized under the provisions of this subchapter shall receive money on deposit.~~

~~(c) The company shall not deposit any of its funds in any banking institution unless the institution has been designated as a depository by a vote of a majority of the directors or a majority of the management committee present at an authorized meeting of the directors or the management committee, exclusive of any director or any member of the management committee who is an officer or director of the depository so designated.~~

~~15-4-1226. Supervision of companies.~~

~~(a)(1) Each company organized under the provisions of this subchapter shall be subject to the general supervision and control of the Bank Commissioner.~~

~~(2) In addition to the other duties imposed upon them by law, the powers of the Bank Commissioner are to:~~

~~(A) Make reasonable rules and regulations which may be necessary to regulate the safety and soundness of the companies for making this subchapter effective;~~

~~(B) Conduct investigations which may be necessary to determine whether any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this subchapter or of the laws of this state;~~

~~(C) Conduct any examinations, investigations, and hearings which may be necessary and proper for the efficient administration of the county and regional industrial development company laws of this state and to charge the company for the expense of such examination, investigation, or hearing at the rate of two hundred twenty five dollars (\$225) per examiner per day or partial day; and~~

1 ~~(D)(i) Within the Bank Commissioner's discretion, classify~~
 2 ~~as confidential certain records and information obtained by the State Bank~~
 3 ~~Department when such matters are obtained from an investigation or~~
 4 ~~examination by the department's staff.~~

5 ~~(ii) However, applications shall be public~~
 6 ~~documents.~~

7 ~~(b) With respect to § 15-4-1220, each company organized under the~~
 8 ~~provisions of this subchapter shall be subject to the specific regulation and~~
 9 ~~control of the Securities Commissioner, who shall have the authority to:~~

10 ~~(1) Make reasonable rules and regulations which may be necessary~~
 11 ~~for making § 15-4-1220 effective;~~

12 ~~(2) Conduct investigations and hearings which may be necessary~~
 13 ~~to determine whether any person has engaged in or is about to engage in any~~
 14 ~~act or practice constituting a violation of § 15-4-1220 and to charge the~~
 15 ~~company for the expense of such investigation or hearing at the rate of two~~
 16 ~~hundred twenty five dollars (\$225) per investigator per day or partial day;~~

17 ~~(3) Conduct any examinations, investigations, and hearings which~~
 18 ~~may be necessary and proper for the efficient administration and application~~
 19 ~~of § 15-4-1220 to county and regional industrial development companies; and~~

20 ~~(4) Within the Securities Commissioner's discretion, classify as~~
 21 ~~confidential certain records and information obtained by the Securities~~
 22 ~~Commissioner when such matters are obtained from an investigation or~~
 23 ~~examination by the State Bank Department's staff.~~

24
 25 ~~15-4-1227. Dissolution of company.~~

26 ~~(a) Any company organized under this subchapter, after the payment in~~
 27 ~~full and cancellation of all its notes, bonds, and other obligations issued~~
 28 ~~under the provisions of this subchapter or after the deposit in trust with~~
 29 ~~the respective trustees designated in any deeds of trust given to secure the~~
 30 ~~payment of any such obligations of a sum of money sufficient for the purpose,~~
 31 ~~may dissolve by a vote of a majority of the common stock of a corporation or~~
 32 ~~by a vote of a majority of the units of interest of a limited liability~~
 33 ~~company, represented in person or by proxy, at any regular meeting or at any~~
 34 ~~special meeting of the holders of the common stock of a corporation or the~~
 35 ~~holders of the units of interest of a limited liability company called for~~
 36 ~~that purpose.~~

1 ~~(b) A certificate of dissolution shall be signed by the chief~~
 2 ~~executive officer and attested by the chief financial officer certifying to~~
 3 ~~such dissolution and stating that they have been authorized to execute and~~
 4 ~~file such certificate by a vote cast in person or by proxy by holders of a~~
 5 ~~majority of the common stock of a corporation or by holders of a majority of~~
 6 ~~the units of interest of a limited liability company.~~

7 ~~(c) The certificate of dissolution shall be executed, acknowledged,~~
 8 ~~and filed and recorded in the same manner as the original articles of~~
 9 ~~incorporation or articles of organization, and as soon as the Bank~~
 10 ~~Commissioner shall have accepted and endorsed on the certificate of~~
 11 ~~dissolution his approval thereof, the company shall be deemed to be~~
 12 ~~dissolved.~~

13 ~~(d)(1) However, the company shall be continued for the purposes of:~~

14 ~~(A) Paying, satisfying, and discharging any other existing~~
 15 ~~liabilities or obligations;~~

16 ~~(B) Collecting or liquidating its assets; and~~

17 ~~(C) Doing all other acts required to adjust and conclude~~
 18 ~~its business and affairs.~~

19 ~~(2) The company may sue and be sued in its corporate or limited~~
 20 ~~liability company name.~~

21 ~~(e) Any assets remaining after all liabilities or other obligations of~~
 22 ~~the company have been satisfied or discharged shall be distributed pro rata~~
 23 ~~first among the then holders, if any, of any stock of a corporation or the~~
 24 ~~then holders, if any, of any units of interest of a limited liability company~~
 25 ~~entitled to a preference, and the remaining assets of the company shall then~~
 26 ~~be distributed pro rata among the then holders of the common stock of a~~
 27 ~~corporation or among the then holders of the units of interest of a limited~~
 28 ~~liability company not entitled to any such preferences.~~

29 ~~(f) A copy of the certificate of dissolution as accepted and endorsed~~
 30 ~~by the commissioner, as prescribed in subsection (c) of this section, shall~~
 31 ~~be filed for recordation in the office of the county clerk in the county in~~
 32 ~~which the principal office of the company is located and a copy shall be~~
 33 ~~delivered to the Director of the Department of Finance and Administration.~~

34
 35 ~~15-4-1228. Investigations by Bank Commissioner or Securities~~
 36 ~~Commissioner — Injunctions.~~

1 ~~(a) The Bank Commissioner may investigate, either upon complaint or~~
 2 ~~otherwise, when it appears that a county or regional industrial development~~
 3 ~~company is conducting its business in an unsafe and injurious manner or in~~
 4 ~~violation of this subchapter or the regulations promulgated under this~~
 5 ~~subchapter by the Bank Commissioner or when it appears that any person is~~
 6 ~~engaging in the business without being approved under the provisions of this~~
 7 ~~subchapter.~~

8 ~~(b) The Securities Commissioner may investigate, either upon complaint~~
 9 ~~or otherwise, when it appears that a county or regional industrial~~
 10 ~~development company is offering its securities in violation of § 15-4-1220 or~~
 11 ~~is otherwise violating the provisions of Arkansas law that come under the~~
 12 ~~jurisdiction of the Securities Commissioner.~~

13 ~~(c)(1) Subject to the jurisdictional provisions of subsections (a) and~~
 14 ~~(b) of this section, whenever it appears upon sufficient grounds or evidence~~
 15 ~~satisfactory to the Bank Commissioner or the Securities Commissioner that any~~
 16 ~~county or regional industrial development company has engaged in or is about~~
 17 ~~to engage in any act or practice in violation of this subchapter or any rule~~
 18 ~~or regulation or order under this subchapter, or the assets or capital of any~~
 19 ~~county or regional industrial development company is impaired or the county~~
 20 ~~or regional industrial development company's affairs are in an unsafe~~
 21 ~~condition, the Bank Commissioner or the Securities Commissioner may:~~

22 ~~(A) Refer the evidence which is available concerning~~
 23 ~~violations of this subchapter or any rule, regulation, or order under this~~
 24 ~~subchapter to the appropriate agency, which may institute the appropriate~~
 25 ~~corrective action or proceedings with or without the reference; or~~

26 ~~(B)(i) Summarily order the county or regional industrial~~
 27 ~~development company to cease and desist from the act or practice during the~~
 28 ~~time the Bank Commissioner or the Securities Commissioner may apply to the~~
 29 ~~Pulaski County Chancery Court to enjoin the act or practice and to enforce~~
 30 ~~compliance with this subchapter or any rule, regulation, or order under this~~
 31 ~~subchapter.~~

32 ~~(ii) However, the Bank Commissioner or the~~
 33 ~~Securities Commissioner may apply directly to the Pulaski County Chancery~~
 34 ~~Court for injunctive relief without issuing a cease and desist order.~~

35 ~~(2) Upon a proper showing, a permanent or temporary injunction,~~
 36 ~~restraining order, or writ of mandamus shall be granted and a receiver or~~

~~conservator may be appointed for the county or regional industrial
development company or its assets.~~

~~(3) The court may not require the Bank Commissioner or the
Securities Commissioner to post a bond.~~

~~(4) In addition to any other remedy provided in this subchapter
or under applicable law, the costs of the Bank Commissioner or the Securities
Commissioner incurred in successfully prosecuting violations of this
subchapter may be imposed by the court as additional damages payable by the
company.~~

~~(d) A copy of all reports of the investigation or other proceedings
conducted pursuant to this section shall be forwarded to the Director of the
Department of Finance and Administration.~~

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36