

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 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

SENATE BILL 396

5 By: Senators Elliott, Bryles  
6 By: Representatives W. Lewellen, Rainey  
7

## For An Act To Be Entitled

10 AN ACT TO CREATE THE ARKANSAS HOUSING TRUST FUND;  
11 TO CREATE A HOUSING TRUST FUND ADVISORY  
12 COMMITTEE; TO PROVIDE FOR THE ADMINISTRATION OF  
13 THE HOUSING TRUST FUND BY THE ARKANSAS  
14 DEVELOPMENT FINANCE AUTHORITY; AND FOR OTHER  
15 PURPOSES.

## Subtitle

18 TO CREATE THE ARKANSAS HOUSING TRUST  
19 FUND.  
20  
21

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

24 SECTION 1. Arkansas Code Title 15, Chapter 5, is amended to add an  
25 additional subchapter to read as follows:

26 15-5-1701. Title.

27 This subchapter shall be known and may be cited as the "Arkansas  
28 Housing Trust Fund Act of 2009".

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30 15-5-1702. Legislative intent.

31 The General Assembly finds:

32 (a) That current economic conditions, the lack of affordable housing,  
33 and declining resources at all levels of government adversely affect the  
34 ability of the citizens of Arkansas to obtain safe, decent, and affordable  
35 housing;

36 (b) That the lack of affordable housing affects the abilities of



1 communities to maintain and develop viable and stable economies; and

2 (c) That the establishment of the Arkansas Housing Trust Fund is  
3 intended:

4 (1) To provide a flexible source of funds for communities to  
5 address their affordable housing needs;

6 (2) To help families attain economic stability;

7 (3) To revitalize distressed neighborhoods and build healthy,  
8 vibrant communities by developing high-quality affordable housing;

9 (4) To leverage additional private investment in Arkansas  
10 communities;

11 (5) To contribute to economic growth through increased housing  
12 production, employment, and tax revenues, thereby benefiting all the citizens  
13 of the state;

14 (6) To alleviate deficiencies in the supply of safe, accessible,  
15 and affordable housing for the citizens of the state most likely, because of  
16 low incomes, to suffer from these deficiencies, including without limitation  
17 persons who are homeless, disabled, elderly, or victims of domestic violence;  
18 and

19 (7) To alleviate deficiencies in the supply of safe, accessible,  
20 and affordable housing for the citizens of the state living in rural areas.

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22 15-5-1703. Definitions.

23 As used in this subchapter:

24 (1) "Advisory committee" means the Housing Trust Fund Advisory  
25 Committee created in § 15-5-1706;

26 (2) "Authority" means the Arkansas Development Finance Authority;

27 (3) "Board" means the Board of Directors of the Arkansas Development  
28 Finance Authority;

29 (4) "Eligible activities" means activities eligible for funding by the  
30 Arkansas Housing Trust Fund, as set forth in this subchapter;

31 (5) "Eligible applicants" means persons or entities eligible to  
32 receive funds from the housing trust fund, as set forth in this subchapter;

33 (6) "Housing trust fund" means the Arkansas Housing Trust Fund created  
34 in § 15-5-1704; and

35 (7) "Median household income" means state or area median household  
36 income, as defined and adjusted annually by the United States Department of

1 Housing and Urban Development.

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3 15-5-1704. Establishment of Arkansas Housing Trust Fund.

4 (a) There is established on the books of the Arkansas Development  
5 Finance Authority a special restricted fund to be known as the "Arkansas  
6 Housing Trust Fund", which shall be maintained and administered by the  
7 authority for the purposes stated in this subchapter.

8 (b) All moneys deposited into the housing trust fund under this  
9 subchapter are cash funds restricted in their use and shall not be deposited  
10 into the State Treasury or deemed to be a part of the State Treasury for the  
11 purposes of Article 5, § 29, Article 16, § 12, or Amendment 20 of the  
12 Arkansas Constitution or any other constitutional or statutory provisions but  
13 shall be held by the authority and used solely for the purposes stated under  
14 this subchapter.

15  
16 15-5-1705. Sources and deposits---Administration of Arkansas Housing  
17 Trust Fund--Responsibilities of the Arkansas Development Finance Authority.

18 (a) The following moneys shall be deposited into the Arkansas Housing  
19 Trust Fund:

20 (1) Money designated by the General Assembly or by the Governor  
21 for the purpose of funding the housing trust fund;

22 (2) Grants or other moneys from the federal government or  
23 federal agencies that can be used for the purpose of funding the housing  
24 trust fund;

25 (3) Any money received by the Arkansas Development Finance  
26 Authority or the state from private sources as a contribution, gift, or  
27 donation to the housing trust fund;

28 (4) Repayments of any loans made from the housing trust fund  
29 under this subchapter;

30 (5) Any interest or investment earnings on amounts held in the  
31 housing trust fund; and

32 (6) Any other money legally designated for the housing trust  
33 fund.

34 (b) The housing trust fund shall be maintained and administered by the  
35 authority. The authority is authorized and directed:

36 (1) To invest and reinvest all money held in the housing trust

1 fund in investments under the authority's investment policies, pending its  
2 use for the purposes described in this subchapter;

3 (2) To keep books and records relating to the investment,  
4 interest earnings, and uses of moneys deposited into the housing trust fund;

5 (3) To establish procedures for the withdrawal, allocation, and  
6 use of the moneys held in the housing trust fund for the purposes described  
7 in this subchapter;

8 (4) To cause to be prepared an annual independent audit of the  
9 housing trust fund;

10 (5) To enter into contracts and agreements in connection with  
11 the operation of the housing trust fund, including contracts and agreements  
12 with federal agencies, local governmental entities, community developers, and  
13 other persons, to implement this subchapter;

14 (6) To develop rules for the competitive evaluation of projects  
15 seeking to receive moneys from the housing trust fund and as needed to  
16 implement this subchapter; and

17 (7) To engage in ongoing efforts to increase funding sources for  
18 the housing trust fund, including any additional ongoing state-dedicated  
19 funding source.

20 (c) The authority shall seek the input of the Arkansas Housing Trust  
21 Fund Advisory Committee created by § 15-5-1706, but the Board of Directors of  
22 the Arkansas Development Finance Authority shall have the final decision-  
23 making authority on all matters relating to the housing trust fund and the  
24 programs administered under this subchapter.

25 (d)(1) To reimburse the authority for its services in administering  
26 the housing trust fund, the authority shall be periodically paid a reasonable  
27 fee from amounts deposited to the housing trust fund.

28 (2) On an annual basis, the authority shall not be paid in  
29 excess of six percent (6%) of the total annual deposits to the housing trust  
30 fund or the average outstanding balance of the assets of the housing trust  
31 fund, whichever is greater.

32  
33 15-5-1706. Creation of Arkansas Housing Trust Fund Advisory Committee.

34 (a)(1) There is created the Arkansas Housing Trust Fund Advisory  
35 Committee for the purpose of advising the Board of Directors and staff of the  
36 Arkansas Development Finance Authority with respect to the Arkansas Housing

1 Trust Fund.

2 (2) The members of the advisory committee shall be residents of  
 3 the state, and should, to the extent possible, reflect the demographics of  
 4 the state with respect to geography, race, gender, and urban-rural mix.

5 (3) Each member of the advisory committee should have a  
 6 demonstrated interest in the housing needs of individuals and families with  
 7 low or moderate incomes and the revitalization of distressed neighborhoods.

8 (b) The advisory committee shall consist of eleven (11) members with  
 9 the qualifications under § 15-5-1705 to be appointed by the Governor, the  
 10 Speaker of the House of Representatives, and the Senate President Pro  
 11 Tempore, as follows:

12 (1) A representative of the financial industry, appointed by the  
 13 Governor;

14 (2) A beneficiary of assistance in rental housing or home  
 15 ownership, appointed by the Governor;

16 (3) An advocate for the homeless, appointed by the Governor;

17 (4) A representative of the real estate industry, appointed by  
 18 the Governor;

19 (5) A representative from the economic development field,  
 20 appointed by the Governor;

21 (6) A developer of affordable housing, appointed by the  
 22 Governor;

23 (7) A citizen, appointed by the Governor;

24 (8) A consumer advocate with experience as a fair-housing  
 25 advocate, housing counselor, or affordable housing advocate, appointed by the  
 26 Speaker of the House of Representatives;

27 (9) A housing advocate representing the needs of rural  
 28 interests, appointed by the Speaker of the House of Representatives;

29 (10) A special needs housing advocate appointed by the Senate  
 30 President Pro Tempore; and

31 (11) An advocate for public housing, appointed by the Senate  
 32 President Pro Tempore.

33 (c)(1) A member of the advisory committee shall serve a term of four  
 34 (4) years.

35 (2) In order to stagger the terms of the members, the initial  
 36 members of the advisory committee shall draw lots as follows:

- 1                   (A) Two members will have an initial term of one (1) year;
- 2                   (B) Three members will have an initial term of two (2)
- 3 years;
- 4                   (C) Three members will have an initial term of three (3)
- 5 years; and
- 6                   (D) Three members will have an initial term of four (4)
- 7 years.
- 8                   (3) Members of the advisory committee may serve successive
- 9 terms.

10

11           15-5-1707. Roles and responsibilities of the Arkansas Housing Trust

12 Fund Advisory Committee.

13           (a) The Arkansas Housing Trust Fund Advisory Committee will operate

14 within the structure of the Arkansas Development Finance Authority and will

15 advise the Board of Directors of the Arkansas Development Finance Authority

16 on matters relating to the Arkansas Housing Trust Fund and its programs.

17           (b) The responsibilities of the advisory committee shall be to:

18                   (1) Collaborate with the staff of the authority in drafting

19 rules, compliance responsibilities, set-asides, and funding priorities for

20 the housing trust fund and the programs funded by the housing trust fund,

21 which rules and policies will be referred by the advisory committee to the

22 authority for its review and approval;

23                   (2) Review and advise the authority on housing trust fund

24 marketing efforts;

25                   (3) Review data on the use and impact of the housing trust fund

26 compiled by the staff of the authority which shall be provided to the

27 advisory committee not less frequently than one (1) time a year;

28                   (4) Prepare, working with the staff of the authority, an annual

29 review of the rules, compliance responsibilities, set-asides, funding

30 priorities, and funding decisions, including any recommended changes, which

31 review shall be presented to the board of directors of the authority for

32 final approval; and

33                   (5) Prepare an annual performance report for the housing trust

34 fund, including information about the housing trust fund's success in meeting

35 its intended purposes, which shall be provided to the Governor, the Speaker

36 of the House of Representatives and the Senate President Pro Tempore.

15-5-1708. Purposes and uses of the Arkansas Housing Trust Fund.

(a) Money held in the Arkansas Housing Trust Fund shall be used to provide assistance for eligible activities proposed by eligible applicants, including without limitation grants, loans, loan guarantees, and loan subsidies.

(b) Eligible activities may include without limitation the following:

(1) New construction or rehabilitation of housing developments;

(2) Construction of rental housing or housing designed for owner-occupancy;

(3) Rental assistance;

(4) Land acquisition;

(5) Predevelopment costs;

(6) Infrastructure;

(7) Transitional housing;

(8) Down payment assistance;

(9) Housing and foreclosure counseling; and

(10) Technical assistance.

(c) Eligible applicants of assistance from the housing trust fund shall include without limitation:

(1) Local governments;

(2) Public housing authorities, public housing agencies, and public housing facilities boards;

(3) Nonprofit organizations;

(4) Nonprofit housing developers; and

(5) For-profit housing developers.

15-5-1709. Minimum requirements; Distribution of funds; Application evaluation guidelines.

(a) In order for a proposal to be an activity eligible for support, the following minimum requirements must be present:

(1) Beneficiaries of the activity must have household incomes equal to or less than eighty percent (80%) of the median household income;

(2) Housing to be funded must meet the same requirements for duration of affordability as set forth in the rules of the Arkansas Development Finance Authority for its HOME Investment Partnership Program;

1           (3) Housing to be funded must adhere to the universal design  
2 criteria set forth in the rules and regulations of the authority; and

3           (4) No more than ten percent (10%) of the project budget may be  
4 spent on administrative costs.

5           (b)(1) Activities to be funded by the Arkansas Housing Trust Fund  
6 shall be selected through a competitive process under rules to be promulgated  
7 by the authority.

8           (2) The rules of the authority shall include incentives, set-  
9 asides, or inducements for the development of housing, including without  
10 limitation for the following:

11                   (A) Persons with very low income;

12                   (B) Persons living in rural areas;

13                   (C) Homeless persons;

14                   (D) Persons with disabilities;

15                   (E) Elderly persons; and

16                   (F) Victims of domestic violence.

17           (3) The rules of the authority shall also set forth evaluation  
18 criteria, which shall include without limitation the following:

19                   (A) The experience of the entity making the proposal,  
20 determined through consideration of the proposer's past history in completing  
21 activities of a similar scale and nature;

22                   (B) If rental housing is being proposed, an evaluation of  
23 the property management history of the developer and management agent;

24                   (C) The timeliness with which units will be developed or  
25 the activity implemented;

26                   (D) The number of years a development shall maintain units  
27 at affordable rental or sales prices and the strength of enforcement  
28 mechanisms to ensure long-term affordability;

29                   (E) The number of affordable units being made available to  
30 households with household incomes at or below thirty percent (30%) of area  
31 median household income;

32                   (F) The degree to which housing trust fund moneys are used  
33 to leverage additional funding, and the extent to which housing trust fund  
34 moneys will be returned through repayment;

35                   (G) The extent to which the activity will leverage or  
36 augment local community affordable housing goals or locally adopted



1 affordable housing plans such as revitalization areas or other geographic  
2 areas targeted for investment;

3 (H) The extent to which the activity will minimize  
4 negative impacts on existing tenants and community members, with particular  
5 emphasis on displacement;

6 (I) The extent to which the activity serves households  
7 with special needs, including persons who are elderly, disabled, mentally  
8 ill, homeless, or victims of domestic violence;

9 (J) The extent to which the activity adheres to energy  
10 efficiency and other environmental and sustainability standards;

11 (K) The extent to which housing will be located near  
12 transit, shopping, community services, and other amenities;

13 (L) The extent to which financial and home ownership  
14 counseling is provided to households served by the activity; and

15 (M) The amount of the activity budget spent on  
16 administrative costs.

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