

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 475

5 By: Senator D. Sullivan  
6

## For An Act To Be Entitled

8 AN ACT TO REGULATE THE ARKANSAS DEVELOPMENT FINANCE  
9 AUTHORITY; TO ALTER THE BOARD OF DIRECTORS OF THE  
10 ARKANSAS DEVELOPMENT FINANCE AUTHORITY IN  
11 COMPOSITION, NUMBER, AND APPOINTMENT PROCESS; TO  
12 AMEND THE MANNER OF DISTRIBUTING THE FEDERAL LOW-  
13 INCOME HOUSING TAX CREDIT AND AFFORDABLE NEIGHBORHOOD  
14 HOUSING TAX CREDIT; TO REQUIRE CONSENT OF LEGISLATIVE  
15 COUNCIL BEFORE THE ARKANSAS DEVELOPMENT FINANCE  
16 AUTHORITY MAY HIRE CERTAIN PROFESSIONALS; AND FOR  
17 OTHER PURPOSES.

## Subtitle

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20 TO AMEND THE LAW GOVERNING THE BOARD OF  
21 DIRECTORS OF THE ARKANSAS DEVELOPMENT  
22 FINANCE AUTHORITY; AND TO MODIFY THE  
23 MANNER IN WHICH THE AUTHORITY DISTRIBUTES  
24 CERTAIN TAX CREDITS AND HIRES CERTAIN  
25 PERSONS.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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31 SECTION 1. Arkansas Code § 15-5-202(a)-(c), concerning the composition  
32 of and process of appointment to the Board of Directors of the Arkansas  
33 Development Finance Authority, are amended to read as follows:

34 (a)~~(1)~~ The Board of Directors of the Arkansas Development Finance  
35 Authority shall consist of the Secretary of the Department of Finance and  
36 Administration or his or her designee, who shall serve during the Secretary



1 of the Department of Finance and Administration's absence, ~~eleven (11)~~ twelve  
2 (12) public members to be appointed ~~by the Governor with the advice and~~  
3 ~~consent of the Senate~~ under subsection (b) of this section, and the Secretary  
4 of the Department of Commerce, who shall serve as a nonvoting member.

5 (b)(1)(A) The twelve (12) public members of the board shall meet the  
6 criteria under subdivision (b)(2) of this section, be appointed for terms of  
7 four (4) years to end on January 14, and be appointed as follows:

8 (i) Four (4) members shall be appointed by the  
9 Governor;

10 (ii) Four (4) members shall be appointed by the  
11 President Pro Tempore of the Senate; and

12 (iii) Four (4) members shall be appointed by the  
13 Speaker of the House of Representatives.

14 (B) Vacancies that arise on the board due to the  
15 expiration of the term of public members shall be filled in the following  
16 order:

17 (i) The Speaker of the House of Representatives  
18 shall appoint a public member;

19 (ii) The President Pro Tempore of the Senate shall  
20 appoint a public member;

21 (iii) The Governor shall appoint a public member;  
22 and

23 (iv) After the appointment under subdivision  
24 (b)(1)(B)(iii) of this section, the sequence of appointments under  
25 subdivisions (b)(1)(B)(i)-(iii) of this section shall repeat.

26 (2) The public members appointed ~~by the Governor~~ to the board  
27 shall be:

28 (A) ~~residents~~ Residents of the state and congressional  
29 district in which they serve and shall have been qualified electors ~~therein~~  
30 in the congressional district for at least one (1) year preceding the time of  
31 appointment; and

32 (B) ~~shall be recognized~~ Recognized by their peers as  
33 outstanding in the field of economic development or development finance.

34 (3) Each congressional district in the state shall be  
35 represented by at least ~~one (1)~~ three (3) public ~~member~~ members of the board.

36 ~~(4)(A) One (1) public member of the board shall be a~~

1 ~~representative of the agricultural business enterprise industry.~~

2 ~~(B) One (1) public member shall be a representative of the~~  
3 ~~state's elderly population who is:~~

4 ~~(i) Sixty (60) years of age or older; and~~

5 ~~(ii) Not actively engaged in or retired from the~~  
6 ~~operation of an agricultural business enterprise.~~

7 ~~(C) The public members appointed under subdivisions~~  
8 ~~(a)(4)(A) and (B) of this section shall be:~~

9 ~~(i) Selected from the state at large subject to~~  
10 ~~confirmation by the Senate; and~~

11 ~~(ii) Full voting members of the Arkansas Development~~  
12 ~~Finance Authority.~~

13 ~~(5) The additional public member added by this section shall be~~  
14 ~~a public housing or community development professional actively engaged in~~  
15 ~~that profession, and that person must not be a member of any public housing~~  
16 ~~board.~~

17 ~~(6)(4)~~ In addition to the other members of the board, the  
18 Treasurer of State or his or her designee, who shall serve during the  
19 Treasurer of State's absence, shall serve as an ex officio voting member of  
20 the board.

21 ~~(b) The Governor shall appoint public members of the board to terms of~~  
22 ~~four (4) years.~~

23 (c)(1) Each board member shall hold office for the term of his or her  
24 appointment and until his or her successor ~~shall have been~~ is appointed and  
25 qualified.

26 (2) ~~Any vacancy in~~ A vacancy on the board occurring other than  
27 by expiration of term shall be filled in the same manner as the original  
28 appointment ~~by appointment by the Governor~~, but for the unexpired term only.

29 ~~(3) The terms of the members of the board shall expire on~~  
30 ~~January 14.~~

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32 SECTION 2. Arkansas Code § 15-5-202(d)(1), concerning the composition  
33 of and process of appointment to the Board of Directors of the Arkansas  
34 Development Finance Authority, is amended to read as follows:

35 (d)(1) Each appointed public board member may be removed from office  
36 by the ~~Governor~~ original appointing entity for cause after a public hearing

1 and may be suspended by the ~~Governor~~ original appointing entity pending the  
2 completion of the public hearing.

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4 SECTION 3. Arkansas Code § 15-5-209, concerning the disposition and  
5 use of funds by the Arkansas Development Finance Authority, is amended to add  
6 an additional subsection to read as follows:

7 (i)(1) In awarding a federal low-income housing tax credit under § 26-  
8 51-1701 et seq., the authority shall award the tax credits equally, to the  
9 extent possible, among Arkansas's four (4) congressional districts each year.

10 (2) If, in a given allocation year, there are not enough  
11 applications in a given congressional district to use the amount of tax  
12 credits allocated to that congressional district for that year, then the  
13 unused tax credits shall be carried forward to use in that congressional  
14 district for one year before being allocated to any other congressional  
15 district at the discretion of the authority.

16 (3) Applications for tax credits shall be awarded to the  
17 highest-scoring applicant in each congressional district according to the  
18 scoring criteria in the authority's most recent Qualified Allocation Plan.

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20 SECTION 4. Arkansas Code § 15-5-212(a), concerning the approval of the  
21 Legislative Council for certain matters, is amended to read as follows:

22 (a) The Arkansas Development Finance Authority or the Secretary of the  
23 Department of Commerce on behalf of the authority shall not employ or select  
24 any investment banker, consultant, professional financial advisor, or  
25 attorney unless the selection criteria to be used in the selection have been  
26 submitted to the Legislative Council for review and consent.

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28 SECTION 5. Arkansas Code § 15-5-1304(a), concerning the tax credits  
29 certified by the Arkansas Development Finance Authority for approved  
30 proposals for affordable housing assistance activities, is amended to read as  
31 follows:

32 (a)(1) For proposals approved under § 15-5-1303, the amount of the tax  
33 credit shall not exceed thirty percent (30%) of the total amount invested in  
34 affordable housing assistance activities by a business firm.

35 (2) Any tax credit not used in the period for which the credit  
36 was approved may be carried forward to any of the five (5) subsequent taxable

1 years until the full credit has been allowed.

2 (3) The total amount of tax credits granted for programs  
3 approved under § 15-5-1303 shall:

4 (A) ~~not~~ Not exceed seven hundred fifty thousand dollars  
5 (\$750,000) in any taxable year; and

6 (B) Be evenly distributed across each of the state's  
7 congressional districts.

8 ~~(4)(A) For taxable year 1997, at least one half (½) of the tax~~  
9 ~~credits shall be designated by the Arkansas Development Finance Authority to~~  
10 ~~the affordable housing assistance activities in counties declared disaster~~  
11 ~~areas by the Governor~~ In awarding tax credits under this subchapter, the  
12 authority shall award the tax credits equally, to the extent possible, among  
13 Arkansas's four (4) congressional districts each year.

14 (B) If, in a given allocation year, there are not enough  
15 applications in a given congressional district to use the amount of tax  
16 credits allocated to that congressional district for that year, then the  
17 unused credits shall be carried forward to use in that congressional district  
18 for one (1) year before being allocated to any other congressional district  
19 at the discretion of the authority.

20 (C) Applications for tax credits shall be awarded to the  
21 highest-scoring applicant in each congressional district according to the  
22 scoring criteria in the authority's most recent Qualified Allocation Plan.  
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24 SECTION 6. DO NOT CODIFY. TEMPORARY LANGUAGE.

25 (a)(1) Within thirty (30) days after the effective date of this act,  
26 the President Pro Tempore of the Senate shall appoint a public member to the  
27 additional seat on the Board of Directors of the Arkansas Development Finance  
28 Authority created under Section 1 of this act.

29 (2) After the appointment under subdivision (a)(1) of this  
30 section, any vacancy occurring on the board due to the expiration of the term  
31 of a member of the board shall be filled in the manner and sequence stated  
32 under subdivision (b)(1)(B) of Section 1 of this act.

33 (b)(1) A person who is a member of the board as of the effective date  
34 of this act may serve the remainder of his or her term.

35 (2) At the conclusion of the term under subdivision (b)(1) of  
36 this section, a vacancy shall exist on the board and shall be filled in the

1 manner stated under subsection (b) of Section 1 of this act.

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