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2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S3/22/21

A Bill

SENATE BILL 475

5 By: Senator D. Sullivan
6 By: Representatives Vaught, M. Gray, B. Smith
7

For An Act To Be Entitled

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

Subtitle

21 TO AMEND THE LAW GOVERNING THE BOARD OF
22 DIRECTORS OF THE ARKANSAS DEVELOPMENT
23 FINANCE AUTHORITY; AND TO MODIFY THE
24 MANNER IN WHICH THE AUTHORITY DISTRIBUTES
25 CERTAIN TAX CREDITS AND HIRES CERTAIN
26 PERSONS.
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30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

35 (a)~~(1)~~ The Board of Directors of the Arkansas Development Finance
36 Authority shall consist of the Secretary of the Department of Finance and



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

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

9 (i) Four (4) members shall be appointed by the
 10 Governor, subject to confirmation by the Senate in the manner stated under §
 11 10-2-113;

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

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

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

19 (i) The Speaker of the House of Representatives
 20 shall appoint a public member;

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

23 (iii) The Governor shall appoint a public member,
 24 subject to confirmation by the Senate in the manner stated under § 10-2-113;
 25 and

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

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

31 (A) ~~residents~~ Residents of the state and congressional
 32 district that they represent and shall have been qualified electors ~~therein~~
 33 in the congressional district for at least one (1) year preceding the time of
 34 appointment; and

35 (B) shall be ~~recognized~~ Recognized by their peers as
 36 outstanding in the field of economic development, affordable housing, or

1 *development finance.*

2 (3) Each congressional district in the state shall be
3 represented by at least ~~one (1)~~ three (3) public ~~member~~ members of the board
4 at the time of the public members' appointments.

5 ~~(4)(A) One (1) public member of the board shall be a
6 representative of the agricultural business enterprise industry.~~

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

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

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

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

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

16 ~~(ii) Full voting members of the Arkansas Development
17 Finance Authority.~~

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

22 (4) When assessing a potential appointee under subdivision
23 (b)(1)(A) of this section, the appointor may give additional consideration to
24 whether the potential appointee is:

25 (A) Part of the state's subset of people who are at least
26 sixty (60) years of age and have fully or partially retired from an
27 agribusiness enterprise;

28 (B) Actively engaged in the agribusiness enterprise
29 industry; or

30 (C) A professional who is actively engaged in the
31 profession of public housing or community development.

32 ~~(6)(5) In addition to the other members of the board, the
33 Treasurer of State or his or her designee, who shall serve during the
34 Treasurer of State's absence, shall serve as an ex officio voting member of
35 the board.~~

36 ~~(b) The Governor shall appoint public members of the board to terms of~~

1 ~~four (4) years.~~

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

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

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

10
11 SECTION 2. Arkansas Code § 15-5-202(d)(1), concerning the composition
12 of and process of appointment to the Board of Directors of the Arkansas
13 Development Finance Authority, is amended to read as follows:

14 (d)(1) Each appointed public board member may be removed from office
15 by the ~~Governor~~ original appointing entity for cause after a public hearing
16 and may be suspended by the ~~Governor~~ original appointing entity pending the
17 completion of the public hearing.

18
19 SECTION 3. Arkansas Code § 15-5-209, concerning the disposition and
20 use of funds by the Arkansas Development Finance Authority, is amended to add
21 an additional subsection to read as follows:

22 (i)(1) In awarding a federal low-income housing tax credit under § 26-
23 51-1701 et seq., the authority shall award the tax credits in a manner that
24 is substantially equal, to the extent possible, among Arkansas's four (4)
25 congressional districts each year.

26 (2) If, in a given allocation year, there are not enough
27 applications in a given congressional district to use the amount of tax
28 credits allocated to that congressional district for that year, then the
29 unused tax credits may be immediately allocated to the use of one (1) or more
30 applications in other congressional districts.

31 (3) The authority shall develop and implement a plan to educate
32 potential applicants about the tax credits available under § 26-51-1701 et
33 seq. and the application process to obtain those tax credits.

34
35 SECTION 4. Arkansas Code § 15-5-212(a), concerning the approval of the
36 Legislative Council for certain matters, is amended to read as follows:

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

6
7 SECTION 5. Arkansas Code § 15-5-706, concerning the administration of
8 the Arkansas Development Finance Authority Small Business Act of 1989, is
9 amended to add an additional subsection to read as follows:

10 (c)(1) In awarding Arkansas Development Finance Authority loans under
11 this subchapter, the authority shall award the Arkansas Development Finance
12 Authority loans in a manner that is substantially equal, to the extent
13 possible, among Arkansas's four (4) congressional districts each year.

14 (2) If, in a given allocation year, there are not enough
15 applications from a given congressional district to use the amount of
16 Arkansas Development Finance Authority loans allocated to that congressional
17 district for that year, then the unused amount may be immediately allocated
18 to the use of one (1) or more qualifying applications in other congressional
19 districts.

20 (3) The authority shall develop and implement a plan to educate
21 potential applicants for the Arkansas Development Finance Authority loans
22 about the moneys available and the application process to obtain those
23 moneys.

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25 SECTION 6. Arkansas Code § 15-5-1304(a), concerning the tax credits
26 certified by the Arkansas Development Finance Authority for approved
27 proposals for affordable housing assistance activities, is amended to read as
28 follows:

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

32 (2) Any tax credit not used in the period for which the credit
33 was approved may be carried forward to any of the five (5) subsequent taxable
34 years until the full credit has been allowed.

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

1 (A) ~~not~~ Not exceed seven hundred fifty thousand dollars
2 (\$750,000) in any taxable year; and

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

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

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

17 (C) Applications for tax credits shall be awarded to the
18 highest-scoring applicant in each congressional district according to the
19 scoring criteria in the authority's most recent Qualified Allocation Plan.
20

21 SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE.

22 (a) Within thirty (30) days after the effective date of this act, the
23 appointors under § 15-5-202(b) in Section 1 of this act shall each appoint
24 four (4) new public members of the Board of Directors of the Arkansas
25 Development Finance Authority who meet the criteria stated under § 15-5-
26 202(b)(2)-(5) of Section 1 of this act.

27 (b)(1) The twelve (12) appointees under subsection (a) of this section
28 shall take office on January 14, 2022.

29 (2) The appointees shall draw for initial staggered terms as
30 follows:

31 (A) Six (6) appointees shall draw for terms of two (2)
32 years; and

33 (B) Six (6) appointees shall draw for terms of four (4)
34 years.

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36 (c) The board shall dissolve on January 13, 2022 and shall be

1 reconstituted on January 14, 2022 in accordance with this act.

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/s/D. Sullivan