

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1797

5 By: Representative Beaty Jr.
6 By: Senator Gilmore
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE LAW CONCERNING THE ARKANSAS
10 DEVELOPMENT FINANCE AUTHORITY; TO CLARIFY THE ROLE OF
11 THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO
12 TRANSFER THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY
13 OUT OF THE DEPARTMENT OF COMMERCE; TO PROVIDE FOR THE
14 INDEPENDENCE OF THE ARKANSAS DEVELOPMENT FINANCE
15 AUTHORITY; TO EXEMPT THE ARKANSAS DEVELOPMENT FINANCE
16 AUTHORITY FROM CERTAIN STATE REGULATIONS; TO AMEND A
17 PORTION OF THE ARKANSAS CODE THAT RESULTED FROM
18 INITIATED ACT 1 OF 2000; TO DECLARE AN EMERGENCY; AND
19 FOR OTHER PURPOSES.
20
21

Subtitle

22
23 TO AMEND THE LAW CONCERNING THE ARKANSAS
24 DEVELOPMENT FINANCE AUTHORITY; TO AMEND
25 A PORTION OF THE ARKANSAS CODE THAT
26 RESULTED FROM INITIATED ACT 1 OF 2000;
27 AND TO DECLARE AN EMERGENCY.
28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 15-5-102, concerning legislative findings
32 and the declaration of public necessity related to the Arkansas Development
33 Finance Authority, is amended to add an additional subsection to read as
34 follows:

35 (e) The General Assembly further finds that:

36 (1) The ongoing crisis in housing is limiting the ability of



1 communities to improve and expand, hampering the state's economy and ability
 2 to compete for jobs and growth;

3 (2) A majority of states meet this challenge with a public
 4 finance agency that operates with lessened governmental regulation and
 5 bureaucracy, resulting in increased efficiency with no cost to taxpayers;

6 (3) The authority currently operates without relying on tax
 7 revenues;

8 (4) Increased independence of the authority will improve the
 9 operations of the authority for the betterment of the state; and

10 (5) Shrinking the size and overreach of government will result
 11 in improved performance for the authority and the state.

12
 13 SECTION 2. Arkansas Code § 15-5-104, concerning the construction of
 14 the Arkansas Development Finance Authority Act, is amended to add additional
 15 subsections to read as follows:

16 (e) This chapter is intended to aid the state by creating an
 17 independent instrumentality of the state that exercises essential functions
 18 of the state with the power to fulfill the duties of the authority.

19 (f) Except as expressly provided in this chapter:

20 (1) Action by the authority to conduct a proceeding, provide
 21 notice, or obtain approval is not required for the:

22 (A) Purchase of a mortgage loan;

23 (B) Making of a loan to a mortgage lender;

24 (C) Acquisition of a mortgage;

25 (D) Acquisition of or any dealing with respect to a
 26 mortgage property;

27 (E) Issuance of bonds;

28 (F) Execution of a mortgage, deed of trust, or trust
 29 indenture; or

30 (G) Exercise of any other power given to the authority
 31 under this chapter; and

32 (2) Rules adopted by the authority are exempt from the Arkansas
 33 Administrative Procedure Act, § 25-15-201 et seq.

34
 35 SECTION 3. Arkansas Code Title 15, Chapter 5, Subchapter 1, is amended
 36 to add an additional section to read as follows:

1 15-5-107. Arkansas Development Finance Authority – Designation as
 2 independent instrumentality of state.

3 (a) The Arkansas Development Finance Authority is transferred from the
 4 Department of Commerce and shall operate independently from a cabinet-level
 5 department.

6 (b) The authority shall use the benefits and retirement systems in
 7 effect on July 1, 2025, for the authority and shall establish a salary and
 8 grade structure.

9 (c) All personnel employed by the authority before the transfer under
 10 this section are deemed to meet all employment standards and qualifications
 11 required by the authority and are granted employment at a rank and salary
 12 grade that is at least equal to their current rank and salary grade.

13 (d) This section does not limit any right that an employee of the
 14 authority has under any civil service or merit system.

15 (e) The Department of Commerce and the Department of Shared
 16 Administrative Services shall grant access to and provide all information
 17 requested by the authority to accomplish the transfer of the authority under
 18 this section and the mission of the authority.

19
 20 SECTION 4. Arkansas Code § 15-5-202(e), concerning the Board of
 21 Directors of the Arkansas Development Finance Authority, is amended to read
 22 as follows:

23 (e) The members of the board shall serve without compensation, but the
 24 authority may reimburse its board members for reasonable expenses ~~in~~
 25 ~~accordance with § 25-16-901 et seq~~ incurred in the course of the board
 26 members' duties as members of the board.

27
 28 SECTION 5. Arkansas Code § 15-5-207(b), concerning the powers of the
 29 Arkansas Development Finance Authority, is amended to add an additional
 30 subdivision to read as follows:

31 (45) To appoint and employ officers, agents, and employees,
 32 prescribe the duties of appointed or employed officers, agents, and
 33 employees, and set the compensation for each officer, agent, and employee
 34 appointed or employed by the authority.

35
 36 SECTION 6. Arkansas Code § 15-5-212(a), concerning the approval of

1 Legislative Council for certain matters of the Arkansas Development Finance
2 Authority, is amended to read as follows:

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

8

9 SECTION 7. Arkansas Code § 15-5-303 is amended to read as follows:

10 15-5-303. Exclusive issuer of revenue bonds for public facilities.

11 It is the intention of the General Assembly that the Arkansas
12 Development Finance Authority shall be the exclusive issuer of revenue bonds
13 for public facilities acquired or constructed for the benefit of state
14 agencies, except the respective boards of trustees of state-supported
15 institutions of higher education, the Career Education and Workforce
16 Development Board, the State Board of Finance, ~~and~~ the Arkansas Economic
17 Development Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and
18 15-4-608, and the Industrial Development Guaranty Bond Act, § 15-4-701 et
19 seq., and the Arkansas Natural Resources Commission when issuing bonds under
20 § 15-22-301.

21

22 SECTION 8. Arkansas Code § 15-5-409(c), concerning the review of
23 applications under the Arkansas Development Finance Authority Bond Guaranty
24 Act of 1985, is amended to read as follows:

25 (c) Upon conclusion of the preliminary review of each request for a
26 guaranty under this subchapter, if the request for guaranty is submitted to
27 the authority with a recommendation that it be approved, ~~the application and~~
28 ~~all supporting documents, including the findings and~~ the recommendations
29 resulting from the staff or review committee, shall be an open public record
30 available for inspection during all regular business hours.

31

32 SECTION 9. Arkansas Code § 15-5-409(e), concerning the review of
33 applications under the Arkansas Development Finance Authority Bond Guaranty
34 Act of 1985, is amended to read as follows:

35 (e) The borrower shall be notified in writing of any staff or review
36 committee determination that the application is not being submitted to the

1 authority with a recommendation that it be approved. The notice shall advise
 2 the borrower that the application will be kept confidential unless the
 3 borrower shall file, within thirty (30) days from the date of receipt of the
 4 written notice, a petition with the authority requesting that the authority
 5 hold a hearing in regard to the application, in which event the ~~application~~
 6 ~~and all supporting documents~~ recommendations resulting from the staff or
 7 review committee shall become public information available for public
 8 inspection.

9
 10 SECTION 10. Arkansas Code § 19-4-801(2)(B), concerning the definition
 11 of "state agency" to be used in relation to the expenditure of cash funds, is
 12 amended to read as follows:

13 (B) "State agency" shall not include the:

- 14 (i) Governor;
- 15 (ii) Secretary of State;
- 16 (iii) Attorney General;
- 17 (iv) Treasurer of State;
- 18 (v) Auditor of State;
- 19 (vi) Commissioner of State Lands;
- 20 (vii) Supreme Court and its justices;
- 21 (viii) Circuit courts and circuit judges;
- 22 (ix) Prosecuting attorneys;
- 23 (x) Arkansas State Game and Fish Commission;
- 24 (xi) Arkansas Department of Transportation;
- 25 (xii)(a) Office of the Arkansas Lottery.

26 (b) However, the office shall be considered a
 27 state agency for the purposes of § 19-4-810 et seq.;

28 (xiii) General Assembly; ~~and~~

29 (xiv) Arkansas Development Finance Authority; and

30 (xv) Respective staffs of the officers and agencies
 31 listed in this subdivision (2)(B).

32
 33 SECTION 11. Arkansas Code § 19-4-803(a), resulting from Initiated Act
 34 1 of 2000 and concerning exemptions from the laws relating to the expenditure
 35 of cash funds, is amended to read as follows:

36 (a) The following are exempt from this subchapter:

1 (1) Funds required by the terms of a bond indenture to be held
2 by paying agents for the payment of interest and principal on such bonds;

3 (2) Petty cash funds held by the various state agencies;

4 (3) Memorials, endowments, bequests, gifts, and donations made
5 to any state agency other than for normal operation of the agency;

6 (4) Canteen funds of state agencies other than institutions of
7 higher education, wherein the profits earned are used for the benefit of the
8 people served by that agency through the purchase of services or goods other
9 than normal salary or maintenance expenses of the agency;

10 (5) The Benefit Fund of the Division of Workforce Services;

11 (6) The Revenue Bond Guaranty Reserve Account of the Arkansas
12 Economic Development Council;

13 (7) The Illegal Drug Purchase Account and the Confidential
14 Accounts of the Division of Arkansas State Police;

15 (8) Patient funds, when the institution is acting in a trust
16 capacity or when the funds are utilized for patient activities other than
17 normal agency-provided services;

18 (9) The State Treasury Money Management Trust; ~~and~~

19 (10) Cash funds and accounts established and limited in use
20 under § 15-5-209(a) or § 15-5-1904(b); and

21 (11) Any other funds determined by the Chief Fiscal Officer of
22 the State or the General Assembly, to be held in trust and on deposit in a
23 financial institution other than the State Treasury.

24
25 SECTION 12. Arkansas Code § 19-9-606 is amended to read as follows:

26 19-9-606. Proclamation, order, etc., authorizing issuance of bonds.

27 (a) Whenever a governmental unit shall determine the need to issue
28 revenue bonds for capital improvements of a public nature or industrial
29 enterprise, the governing body shall authorize the issuance of those bonds by
30 ~~proclamation,~~ order, ordinance, or resolution or by letter bearing the
31 signature of the executive head of the governing body clearly stating the
32 principal amount of and the purpose or purposes for which the bonds are to be
33 issued.

34 (b) Only upon the ~~proclamation,~~ order, ordinance, or resolution or by
35 letter bearing the signature of the executive head of the governing body
36 shall the governmental unit be authorized to issue such bonds, provided that

1 ~~no proclamation, an~~ order, ordinance, or resolution, or a letter bearing the
 2 signature of the executive head of the governing body shall not be required
 3 for the issuance of refunding bonds, including refunding bonds where the
 4 principal amount of the new bonds to be issued exceeds the outstanding
 5 principal amount of the prior bonds or notes to be refunded.

6
 7 SECTION 13. Arkansas Code § 19-11-203(13), concerning the definitions
 8 to be used under the Arkansas Procurement Law, is amended to read as follows:

9 (13) "Exempt agencies" means the constitutional departments of
 10 the state, the elected constitutional offices of the state, the General
 11 Assembly, including the Legislative Council and the Legislative Joint
 12 Auditing Committee and supporting agencies and bureaus thereof, the Supreme
 13 Court, the Court of Appeals, circuit courts, prosecuting attorneys, ~~and~~ the
 14 Administrative Office of the Courts, and the Arkansas Development Finance
 15 Authority;

16
 17 SECTION 14. Arkansas Code § 19-11-203(23), concerning the definitions
 18 to be used under the Arkansas Procurement Law, is amended to read as follows:

19 (23)(A) "Public funds" means all state-appropriated and cash
 20 funds of state agencies, as defined by applicable law or official ruling.

21 (B) Without necessarily being limited thereto, "public
 22 funds" does not include:

23 (i) Grants, donations, research contracts, and
 24 revenues derived from self-supporting enterprises that are not operated as a
 25 primary function of the agency, no part of which funds are deposited into the
 26 State Treasury; ~~and~~

27 (ii) Revenue derived from patient care and self-
 28 supporting hospital enterprises of an academic medical center; and

29 (iii) Cash funds dedicated for use by the Arkansas
 30 Development Finance Authority under § 15-5-209(a) or by the Student Loan
 31 Authority Division of the Arkansas Development Finance Authority under § 15-
 32 5-1904(b);

33
 34 SECTION 15. Arkansas Code § 21-4-203(12), concerning the definitions
 35 to be used under the Uniform Attendance and Leave Policy Act, is amended to
 36 read as follows:

1 (12) "State agencies" means all agencies, departments, boards,
2 commissions, bureaus, councils, state-supported institutions of higher
3 education, or other agencies except the following excluded agencies or
4 positions within agencies:

5 (A) The elected constitutional officers of this state and
6 their employees;

7 (B) The General Assembly and its employees, including
8 employees of the Bureau of Legislative Research and Arkansas Legislative
9 Audit;

10 (C) Members of the Supreme Court, members of the Court of
11 Appeals, the Administrative Office of the Courts, circuit courts, and
12 prosecuting attorneys, but not including deputy prosecuting attorneys;

13 (D) The Arkansas Department of Transportation; ~~and~~

14 (E) All administrative, academic, or other nonclassified
15 employees of the state-supported institutions of higher education; and

16 (F) The Arkansas Development Finance Authority;

17
18 SECTION 16. Arkansas Code § 21-5-204(a), concerning exceptions to the
19 Uniform Classification and Compensation Act, is amended to read as follows:

20 (a) Except as provided in subsection (b) of this section, this
21 subchapter does not apply to:

22 (1) The employees of:

23 (A) Elected constitutional officers of this state;

24 (B) The General Assembly, including employees of the
25 Bureau of Legislative Research and Arkansas Legislative Audit; and

26 (C) Members of the Supreme Court, the Court of Appeals,
27 circuit courts, prosecuting attorneys, and the Administrative Office of the
28 Courts;

29 (2) The Arkansas Department of Transportation;

30 (3) Federal military technicians, military training support
31 personnel, federally funded personnel of the Arkansas National Guard, and
32 other military personnel who are paid directly by the United States
33 Government;

34 (4) The Arkansas State Game and Fish Commission; ~~and~~

35 (5) State-supported institutions of higher education; and

36 (6) The Arkansas Development Finance Authority.

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SECTION 17. Arkansas Code § 21-5-410(a), concerning eligibility for the State and Public School Life and Health Insurance Program, is amended to read as follows:

(a) Individuals eligible to participate in the State and Public School Life and Health Insurance Program include:

(1) All active state employees, active public school employees, or other eligible employees of a participating entity or participating institution;

(2) Members of the General Assembly;

(3) Elected constitutional officers;

(4) Appointed or elected board and commission members who are on a full-time salaried basis; ~~and~~

(5)(A) Those state contract employees hired by the Arkansas National Guard on a full-time basis in accordance with 10 U.S.C. § 2304.

(B) Program participation for contract employees of the Arkansas National Guard is conditioned upon the United States Government's contributing the employer's share to the Employee Benefits Division; and

(6) Employees and staff of the Arkansas Development Finance Authority.

SECTION 18. Arkansas Code § 22-6-601(a)(1)(A), concerning the sale procedure for public property, is amended to read as follows:

(a)(1)(A) The several state boards or commissions having supervision of the affairs of the charitable, penal, correctional, educational, and other institutions of the State of Arkansas and all other state boards and commissions, except the State Highway Commission, the Arkansas State Game and Fish Commission, the Arkansas Natural Heritage Commission, the State Parks, Recreation, and Travel Commission, the Division of Higher Education, the Arkansas Development Finance Authority, and institutions of higher education, and the executive heads of all state offices, departments, divisions, and agencies, all referred to separately as "state agency", may sell or purchase, for cash in hand and upon compliance with the provisions of this section, the lands, in whole or in part, belonging to or under the supervision or control of the respective state agency or belonging to the state and held for the use or benefit of the state agency.

1
2 SECTION 19. Arkansas Code § 22-8-206, concerning the purchase of
3 automobiles under the Automobile and Pickup Truck Acquisition Act for the
4 State of Arkansas, is amended to add an additional subsection to read as
5 follows:

6 (g) The Arkansas Development Finance Authority is exempt from this
7 section.
8

9 SECTION 20. Arkansas Code § 25-15-202(2)(C)(i), concerning the
10 definition of "agency" to be used under the Administrative Procedure Act, is
11 amended to read as follows:

12 (C)(i) Except as provided in subdivision (2)(C)(ii) of
13 this section, the word "agency" shall not include the Arkansas Public Service
14 Commission, the Arkansas Pollution Control and Ecology Commission, the
15 Workers' Compensation Commission, ~~and~~ the Division of Workforce Services, and
16 the Arkansas Development Finance Authority, as the existing laws governing
17 those agencies provide adequate administrative procedures for those agencies.
18

19 SECTION 21. Arkansas Code § 25-16-702(a), concerning the
20 representation of state agencies and officers by the Attorney General and the
21 requirements for the employment of outside counsel, is amended to read as
22 follows:

23 (a) The Except as provided in subsection (f) of this section, the
24 Attorney General shall be the attorney for all state officials, departments,
25 institutions, and agencies. Whenever any officer or department, institution,
26 or agency of the state needs the services of an attorney, the matter shall be
27 certified to the Attorney General for attention.
28

29 SECTION 22. Arkansas Code § 25-16-702, concerning the representation
30 of state agencies and officers by the Attorney General and the requirements
31 for the employment of outside counsel, is amended to add an additional
32 subsection to read as follows:

33 (f) This section does not apply to the Arkansas Development Finance
34 Authority.
35

36 SECTION 23. Arkansas Code § 25-43-302(a)(4), concerning the state

1 entities transferred to the Department of Commerce, is repealed.

2 ~~(4) The Arkansas Development Finance Authority, created under §~~
3 ~~15-5-201;~~

4
5 SECTION 24. Arkansas Code § 26-51-1702(c), concerning the allowance
6 and calculation of the Arkansas low-income housing tax credit by the Arkansas
7 Development Finance Authority, is amended to read as follows:

8 (c) The Arkansas low-income housing tax credit shall be taken against
9 the state income or premium taxes due from the taxpayer. The credit
10 authorized by this subchapter shall not be refundable. Any amount of credit
11 that exceeds the tax due for a taxable year may be carried forward to any of
12 the five (5) subsequent taxable years ~~or carried forward to any of the five~~
13 ~~(5) subsequent taxable years.~~

14
15 SECTION 25. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that the state fiscal year is a
17 twelve-month period that begins on July 1 each year; that the effectiveness
18 of this act on July 1, 2025, is essential to the operation of the Arkansas
19 Development Finance Authority; that the operations of the authority depend in
20 part on reports and actions taken by the authority; that a delay in the
21 effective date of this act beyond July 1, 2025, will impair the operations of
22 the state and the authority; and that delaying the effective date of this act
23 could work irreparable harm upon the proper administration and provision of
24 essential governmental programs. Therefore, an emergency is declared to
25 exist, and this act being necessary for the preservation of the public peace,
26 health, and safety shall become effective on July 1, 2025.