

1 State of Arkansas *As Engrossed: S4/7/25 S4/9/25*

2 95th General Assembly

A Bill

3 Regular Session, 2025

HOUSE BILL 1797

4

5 By: Representative Beaty Jr.

6 By: Senator Gilmore

7

8

For An Act To Be Entitled

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 DECLARE*
 17 *AN EMERGENCY; AND FOR OTHER PURPOSES.*

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Subtitle

21 *TO AMEND THE LAW CONCERNING THE ARKANSAS*
 22 *DEVELOPMENT FINANCE AUTHORITY; AND TO*
 23 *DECLARE AN EMERGENCY.*

24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26

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

31 (e) The General Assembly further finds that:

32 (1) The ongoing crisis in housing is limiting the ability of
 33 communities to improve and expand, hampering the state's economy and ability
 34 to compete for jobs and growth;

35 (2) A majority of states meet this challenge with a public
 36 finance agency that operates with lessened governmental regulation and



1 bureaucracy, resulting in increased efficiency with no cost to taxpayers;

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

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

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

8
9 SECTION 2. Arkansas Code § 15-5-104, concerning the construction of
10 the Arkansas Development Finance Authority Act, is amended to add additional
11 subsections to read as follows:

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

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

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

18 (A) Purchase of a mortgage loan;

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

20 (C) Acquisition of a mortgage;

21 (D) Acquisition of or any dealing with respect to a
22 mortgage property;

23 (E) Issuance of bonds;

24 (F) Execution of a mortgage, deed of trust, or trust
25 indenture; or

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

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

30 (g) Upon request, the President of the Arkansas Development Finance
31 Authority shall appear before the Legislative Council, or if the General
32 Assembly is in session, the Joint Budget Committee, to report on any contract
33 or procurement matter identified by the Legislative Council or the Joint
34 Budget Committee.

35 (h) The authority and all records and other data of the authority are
36 subject to inspection and audit by Arkansas Legislative Audit under § 10-4-

1 416.

2

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

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

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

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

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

18

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

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

26

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

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

34

35 SECTION 6. Arkansas Code § 15-5-209(a), concerning the disposition and
36 use of funds by the Arkansas Development Finance Authority, is amended to

1 read as follows:

2 (a) All revenues received by the Arkansas Development Finance
3 Authority, except revenues derived from appropriations, are: ~~specifically~~
4 (1) Specifically declared to be cash funds restricted in their
5 use and dedicated and to be used solely as provided in this subchapter and §§
6 15-5-101 – 15-5-106 and 15-5-301 – 15-5-316;
7 (2) Exempt from § 19-4-802; and
8 (3) Not public funds under the Arkansas Procurement Law, § 19-
9 11-201 et seq.

10

11 SECTION 7. Arkansas Code § 15-5-209(c), concerning the disposition and
12 use of funds by the Arkansas Development Finance Authority, is amended to
13 read as follows:

14 (c) All moneys received by the authority, other than moneys received
15 by virtue of an appropriation, are: ~~specifically~~
16 (1) Specifically declared to be cash funds restricted in their
17 use and to be used solely as provided herein;
18 (2) Exempt from § 19-4-802; and
19 (3) Not public funds under the Arkansas Procurement Law, § 19-
20 11-201 et seq.

21

22 SECTION 8. Arkansas Code § 15-5-212(a), concerning the approval of
23 Legislative Council for certain matters of the Arkansas Development Finance
24 Authority, is amended to read as follows:

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

30

31 SECTION 9. Arkansas Code § 15-5-303 is amended to read as follows:
32 15-5-303. Exclusive issuer of revenue bonds for public facilities.

33 It is the intention of the General Assembly that the Arkansas
34 Development Finance Authority shall be the exclusive issuer of revenue bonds
35 for public facilities acquired or constructed for the benefit of state
36 agencies, except the respective boards of trustees of state-supported

1 institutions of higher education, the Career Education and Workforce
2 Development Board, the State Board of Finance, ~~and~~ the Arkansas Economic
3 Development Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and
4 15-4-608, and the Industrial Development Guaranty Bond Act, § 15-4-701 et
5 seq., and the Arkansas Natural Resources Commission when issuing bonds under
6 § 15-22-301.

7
8 SECTION 10. Arkansas Code § 15-5-409(c), concerning the review of
9 applications under the Arkansas Development Finance Authority Bond Guaranty
10 Act of 1985, is amended to read as follows:

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

17
18 SECTION 11. Arkansas Code § 15-5-409(e), concerning the review of
19 applications under the Arkansas Development Finance Authority Bond Guaranty
20 Act of 1985, is amended to read as follows:

21 (e) The borrower shall be notified in writing of any staff or review
22 committee determination that the application is not being submitted to the
23 authority with a recommendation that it be approved. The notice shall advise
24 the borrower that the application will be kept confidential unless the
25 borrower shall file, within thirty (30) days from the date of receipt of the
26 written notice, a petition with the authority requesting that the authority
27 hold a hearing in regard to the application, in which event the ~~application~~
28 ~~and all supporting documents~~ recommendations resulting from the staff or
29 review committee shall become public information available for public
30 inspection.

31
32 SECTION 12. Arkansas Code § 19-4-801(2)(B), concerning the definition
33 of "state agency" to be used in relation to the expenditure of cash funds, is
34 amended to read as follows:

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

36 (i) Governor;

1 (ii) Secretary of State;
2 (iii) Attorney General;
3 (iv) Treasurer of State;
4 (v) Auditor of State;
5 (vi) Commissioner of State Lands;
6 (vii) Supreme Court and its justices;
7 (viii) Circuit courts and circuit judges;
8 (ix) Prosecuting attorneys;
9 (x) Arkansas State Game and Fish Commission;
10 (xi) Arkansas Department of Transportation;
11 (xii)(a) Office of the Arkansas Lottery.
12 (b) However, the office shall be considered a
13 state agency for the purposes of § 19-4-810 et seq.;

14 (xiii) General Assembly; ~~and~~
15 (xiv) Arkansas Development Finance Authority; and
16 (xv) Respective staffs of the officers and agencies
17 listed in this subdivision (2)(B).

18
19 SECTION 13. Arkansas Code § 19-9-606 is amended to read as follows:
20 19-9-606. Proclamation, order, etc., authorizing issuance of bonds.

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

28 (b) Only upon the ~~proclamation, order, ordinance, or resolution~~ or by
29 letter bearing the signature of the executive head of the governing body
30 shall the governmental unit be authorized to issue such bonds, provided that
31 ~~no proclamation, an order, ordinance, or resolution,~~ or a letter bearing the
32 signature of the executive head of the governing body shall not be required
33 for the issuance of refunding bonds, including refunding bonds where the
34 principal amount of the new bonds to be issued exceeds the outstanding
35 principal amount of the prior bonds or notes to be refunded.

36

1 SECTION 14. Arkansas Code § 19-11-203(13), concerning the definitions
2 to be used under the Arkansas Procurement Law, is amended to read as follows:

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

10
11 SECTION 15. Arkansas Code § 19-11-203(23), concerning the definitions
12 to be used under the Arkansas Procurement Law, is amended to read as follows:

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

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

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

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

23 (iii) Cash funds dedicated for use by the Arkansas
24 Development Finance Authority under § 15-5-209(a) or by the Student Loan
25 Authority Division of the Arkansas Development Finance Authority under § 15-
26 5-1904(b);

27
28 SECTION 16. Arkansas Code § 21-4-203(12), concerning the definitions
29 to be used under the Uniform Attendance and Leave Policy Act, is amended to
30 read as follows:

31 (12) "State agencies" means all agencies, departments, boards,
32 commissions, bureaus, councils, state-supported institutions of higher
33 education, or other agencies except the following excluded agencies or
34 positions within agencies:

35 (A) The elected constitutional officers of this state and
36 their employees;

1 (B) The General Assembly and its employees, including
2 employees of the Bureau of Legislative Research and Arkansas Legislative
3 Audit;

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

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

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

10 (F) The Arkansas Development Finance Authority;
11

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

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

16 (1) The employees of:

17 (A) Elected constitutional officers of this state;

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

20 (C) Members of the Supreme Court, the Court of Appeals,
21 circuit courts, prosecuting attorneys, and the Administrative Office of the
22 Courts;

23 (2) The Arkansas Department of Transportation;

24 (3) Federal military technicians, military training support
25 personnel, federally funded personnel of the Arkansas National Guard, and
26 other military personnel who are paid directly by the United States
27 Government;

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

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

30 (6) The Arkansas Development Finance Authority.
31

32 SECTION 18. Arkansas Code § 21-5-410(a), concerning eligibility for
33 the State and Public School Life and Health Insurance Program, is amended to
34 read as follows:

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

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

4 (2) Members of the General Assembly;

5 (3) Elected constitutional officers;

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

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

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

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

15
16 SECTION 19. Arkansas Code § 22-6-601(a)(1)(A), concerning the sale
17 procedure for public property, is amended to read as follows:

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

31
32 SECTION 20. Arkansas Code § 22-8-206, concerning the purchase of
33 automobiles under the Automobile and Pickup Truck Acquisition Act for the
34 State of Arkansas, is amended to add an additional subsection to read as
35 follows:

36 (g) The Arkansas Development Finance Authority is exempt from this

1 section.

2

3 SECTION 21. Arkansas Code § 25-15-202(2)(C)(i), concerning the
4 definition of "agency" to be used under the Administrative Procedure Act, is
5 amended to read as follows:

6 (C)(i) Except as provided in subdivision (2)(C)(ii) of
7 this section, the word "agency" shall not include the Arkansas Public Service
8 Commission, the Arkansas Pollution Control and Ecology Commission, the
9 Workers' Compensation Commission, ~~and~~ the Division of Workforce Services, and
10 the Arkansas Development Finance Authority, as the existing laws governing
11 those agencies provide adequate administrative procedures for those agencies.

12

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

17 (a) The Except as provided in subsection (f) of this section, the
18 Attorney General shall be the attorney for all state officials, departments,
19 institutions, and agencies. Whenever any officer or department, institution,
20 or agency of the state needs the services of an attorney, the matter shall be
21 certified to the Attorney General for attention.

22

23 SECTION 23. Arkansas Code § 25-16-702, concerning the representation
24 of state agencies and officers by the Attorney General and the requirements
25 for the employment of outside counsel, is amended to add an additional
26 subsection to read as follows:

27 (f) This section does not apply to the Arkansas Development Finance
28 Authority.

29

30 SECTION 24. Arkansas Code § 25-43-302(a)(4), concerning the state
31 entities transferred to the Department of Commerce, is repealed.

32 ~~(4) The Arkansas Development Finance Authority, created under §~~
33 ~~15-5-201,~~

34

35 SECTION 25. Arkansas Code § 26-51-1702(c), concerning the allowance
36 and calculation of the Arkansas low-income housing tax credit by the Arkansas

1 Development Finance Authority, is amended to read as follows:

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

8

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

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/s/Beaty Jr.

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