

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.

Act 661 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/9/09

A Bill

SENATE BILL 396

5 By: Senators Elliott, Bryles, *G. Baker, Bookout, Crumbly, D. Johnson, J. Key, T. Smith, H. Wilkins*
6 By: Representatives *W. Lewellen, Rainey, Allen, J. Edwards, Hall, Ingram, L. Smith, Webb*
7
8

9 **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.
16

17 **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".
29

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;



1 (b) That the lack of affordable housing affects the abilities of
2 communities to maintain and develop viable and stable economies; and

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

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

7 (2) To help families attain economic stability;

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

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

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

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

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

22
23 15-5-1703. Definitions.

24 As used in this subchapter:

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

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

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

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

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

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

36 (7) "Median household income" means state or area median household

1 income, as defined and adjusted annually by the United States Department of
2 Housing and Urban Development.

3
4 15-5-1704. Establishment of Arkansas Housing Trust Fund.

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

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

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

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

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

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

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

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

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

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

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

1 (1) To invest and reinvest all money held in the housing trust
2 fund in investments under the authority's investment policies, pending its
3 use for the purposes described in this subchapter;

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

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

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

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

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

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

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

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

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

33
34 15-5-1706. Creation of Arkansas Housing Trust Fund Advisory Committee.

35 (a)(1) There is created the Arkansas Housing Trust Fund Advisory
36 Committee for the purpose of advising the Board of Directors and staff of the

1 Arkansas Development Finance Authority with respect to the Arkansas Housing
2 Trust Fund.

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

6 (3) The members of the advisory committee shall be entitled to
7 expense reimbursement under § 25-16-902 from amounts deposited into the
8 housing trust fund.

9 (4) Each member of the advisory committee should have a
10 demonstrated interest in the housing needs of individuals and families with
11 low or moderate incomes and the revitalization of distressed neighborhoods.

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

16 (1) A representative of the financial industry, appointed by the
17 Governor;

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

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

21 (4) A representative of the real estate industry, appointed by
22 the Governor;

23 (5) A representative from the economic development field,
24 appointed by the Governor;

25 (6) A developer of affordable housing, appointed by the
26 Governor;

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

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

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

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

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

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

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

5 (A) Two members will have an initial term of one (1) year;

6 (B) Three members will have an initial term of two (2)
7 years;

8 (C) Three members will have an initial term of three (3)
9 years; and

10 (D) Three members will have an initial term of four (4)
11 years.

12 (3) Members of the advisory committee may serve successive
13 terms.

14
15 15-5-1707. Roles and responsibilities of the Arkansas Housing Trust
16 Fund Advisory Committee.

17 (a) The Arkansas Housing Trust Fund Advisory Committee will operate
18 within the structure of the Arkansas Development Finance Authority and will
19 advise the Board of Directors of the Arkansas Development Finance Authority
20 on matters relating to the Arkansas Housing Trust Fund and its programs.

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

22 (1) Collaborate with the staff of the authority in drafting
23 rules, compliance responsibilities, set-asides, and funding priorities for
24 the housing trust fund and the programs funded by the housing trust fund,
25 which rules and policies will be referred by the advisory committee to the
26 authority for its review and approval;

27 (2) Review and advise the authority on housing trust fund
28 marketing efforts;

29 (3) Review data on the use and impact of the housing trust fund
30 compiled by the staff of the authority which shall be provided to the
31 advisory committee not less frequently than one (1) time a year;

32 (4) Prepare, working with the staff of the authority, an annual
33 review of the rules, compliance responsibilities, set-asides, funding
34 priorities, and funding decisions, including any recommended changes, which
35 review shall be presented to the board of directors of the authority for
36 final approval; and

1 (5) Prepare an annual performance report for the housing trust
2 fund, including information about the housing trust fund's success in meeting
3 its intended purposes, which shall be provided to the Governor, the Speaker
4 of the House of Representatives and the Senate President Pro Tempore.

5
6 15-5-1708. Purposes and uses of the Arkansas Housing Trust Fund.

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

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

12 (1) New construction, reconstruction, or rehabilitation of
13 rental housing or housing designed for owner occupancy;

14 (2) Rental assistance;

15 (3) Land acquisition;

16 (4) Predevelopment costs;

17 (5) Infrastructure;

18 (6) Transitional housing;

19 (7) Down payment assistance;

20 (8) Housing and foreclosure counseling; and

21 (9) Technical assistance.

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

24 (1) Local governments;

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

27 (3) Nonprofit organizations;

28 (4) Nonprofit housing developers; and

29 (5) For-profit housing developers.

30
31 15-5-1709. Minimum requirements; Distribution of funds; Application
32 evaluation guidelines.

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

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

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

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

6 (4) Housing to be funded must meet all building and maintenance
7 standards set forth in the rules of the authority.

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

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

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

16 (A) Persons with very low income;

17 (B) Persons living in rural areas;

18 (C) Homeless persons;

19 (D) Persons with disabilities;

20 (E) Elderly persons; and

21 (F) Victims of domestic violence.

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

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

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

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

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

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

