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New Laws Benefit Lower-Income Arkansans

Several significant bills to help lower-income families in Arkansas became law during the 2009 legislative session. These new laws include measures to expand opportunities for Arkansans to access affordable housing; expand eligibility for ARKids First Medicaid health insurance; establish guidelines for scholarships funded by a state lottery approved by voters in 2008; and set full disclosure requirements for high-cost, short-term loans tied to a user's income tax refund; and create a state task force to recommend ways to reduce poverty and expand economic opportunity.

This brief reviews these new laws and describes how each law offers potential benefits to Arkansas families; how each law promotes opportunities for individuals and families to build assets; and potential ways in which further benefits to our state may develop from these measures.

All new laws reviewed in this report took effect July 31, 2009, unless otherwise noted.

Arkansas Housing Trust Fund

Act 661 creates the Arkansas Housing Trust Fund, which will allow access to quality housing for a broad range of Arkansans.

A housing trust fund is a vehicle to distribute a dedicated source of public revenue to address the affordable housing needs of a community. Prior to passage of Act 661, Arkansas had been one of just 12 states without a state housing trust fund.

Passage of the Arkansas Housing Trust Fund legislation was spearheaded by Housing Arkansas, a coalition of affordable housing advocates in the private, government, and nonprofit sectors including Southern Good Faith Fund (SGFF). Seventy-eight organizations, including SGFF and its parent company, Southern Bancorp Inc., endorsed Act 661.

Unfortunately, efforts to fund Act 661 were not successful. Act 661 does represent a key first step; it creates the structure to receive and utilize future public funds. The next step is to secure a funding source, ideally a permanent dedicated revenue source, for the Arkansas Housing Trust Fund. Housing Arkansas is currently evaluating potential revenue options and will pursue legislation in the 2010 or 2011 legislative sessions.

Highlights of the structure established for the Arkansas Housing Trust Fund are summarized in the following paragraphs. This structure is the product of intense deliberations among key affordable-housing stakeholders across the state which collaborated for months to draft Act 661.

The Arkansas Development Finance Authority (ADFA) will administer the Arkansas Housing Trust Fund. A Housing Trust Fund Advisory Committee composed of affordable housing developers, advocates, and beneficiaries will work with ADFA staff to draft program rules, regulations, compliance issues, and funding priorities. Housing Trust Fund Advisory Committee recommendations will be submitted to the ADFA Board of Directors for final approval.

Under Act 661, the Arkansas Housing Trust Fund will:

- **Focus on families at or below 80 percent of the state or area median household income.** Area median household income varies depending on location and family size. For example, 80 percent of area median household income for a family of four currently ranges from $33,600 a year in several rural counties to $42,500 in the Fayetteville-Springdale-Rogers Metropolitan Statistical Area (MSA). Attention will be given to serving rural areas and very low-income populations, including, but not limited to, the disabled, the homeless, victims of domestic violence, and the elderly.

- **Provide grants, loans, loan guarantees, and/or loan subsidies to eligible applicants to fund residential housing and/or related activities.** Eligible activities will include new construction, rehabilitation, rental or homeownership housing, rental assistance, land acquisition, predevelopment costs, infrastructure, transitional housing, down payment assistance, housing and foreclosure counseling, and technical assistance.
- **Make eligible for funding local governments, local public housing authorities and agencies, non-profit organizations, and non-profit and for-profit housing developers.** Funds will be awarded through a competitive process based on review criteria to be established by ADFA in collaboration with the Housing Trust Fund Advisory Committee.

More information on the Arkansas Housing Trust Fund is available at www.housingarkansas.org

ARKids First Expansion

Act 435 expands the family income eligibility limit for ARKids First Medicaid health insurance from 200 percent of the federal poverty level to 250 percent. The eligibility expansion will be financed by the increase in the state tax on tobacco products enacted during the session. An estimated 20,000 currently uninsured children will benefit.[1]

Groups supporting Act 435 include the Arkansas Finish Line Coalition and the Arkansas Kids Count Coalition, of which SGFF is a member.

Under current guidelines, 250 percent of the federal poverty level is $36,425 for a family of two; $45,775 for a family of three; and $55,125 for a family of four.[2]

State Lottery Scholarships

Acts 605 and 606 establish the governing structure and scholarship guidelines for the state lottery approved by voters in 2008. The scholarship guidelines include several provisions potentially benefiting lower-income Arkansans:

- Nontraditional students—those who do not enter college directly from high school—will be eligible for the lottery scholarships if they meet academic requirements, regardless of when they graduated from high school, so long as they have a 2.5 high school grade point average (GPA) or score 19 on their ACT test.
- Scholarships can be combined with other forms of aid up to the full cost of attendance at an institution of higher education.
- Students who did not graduate from high school with a 2.5 GPA or 19 ACT can “earn into” eligibility by achieving a 2.5 GPA after 12 credit hours of college coursework.
- Full-time and part-time students are eligible, and there will be a guaranteed $8 million increase over current levels of scholarship funding for nontraditional students.
- Students receiving non-degree certifications from two-year colleges are eligible for lottery scholarships.
- Need-based aid under the GO! Opportunities Scholarship program and Workforce Improvement Grant program (for students age 24 and older) will be expanded should lottery proceeds exceed expectations.

Act 606 took effect March 25, 2009.

Task Force on Reducing Poverty and Promoting Economic Opportunity

Act 722 creates a Legislative Task Force on Reducing Poverty and Promoting Economic Opportunity. The 22 appointees to the task force will include a representative from SGFF.

The task force is charged with submitting a final report by November 1, 2010, to the governor, speaker of the state House of Representatives, and president pro tempore of the state Senate. The report’s specified focuses include the following:

- Identify the number of individuals living at or near the poverty level in the state, and among certain subpopulations, including children;

- Identify the risk factors and underlying causes of poverty through consultation with experts, service providers, and individuals living at or near poverty;
- Examine the long-term effects of poverty on children, adults, families, and communities;
- Analyze and identify the costs of poverty to families, municipalities, and the state;
- Identify existing statewide public and private programs that address poverty, especially child poverty, and any deficiencies in statewide public and private programs;
- Identify and assess best practices, model programs, and strategies that research has proven to reduce poverty;
- Recommend public policy strategies and legislation that have the potential to reduce poverty on a statewide or regional scale;
- Engage all state agencies to help determine the innovative roles each state agency, both individually and cooperatively, can play to eliminate poverty; and
- Establish measurable benchmarks for the elimination of poverty in the state by setting percentage reductions in the number of people living at or near poverty in the next five, ten, and twenty years.

Refund Anticipation Loan Disclosures

Act 1402 establishes detailed written and oral disclosure requirements for refund anticipation loans and sets penalties for engaging in prohibited activities when offering the loans. SGFF was among the organizations that actively supported passage of this pro-consumer legislation.

Refund anticipation loans are short-term cash advances against a consumer's anticipated income tax refund. Refund anticipation loan products are marketed to the working poor, particularly those who receive the federal Earned Income Tax Credit (EITC). IRS data show that in 2007, of the 8.6 million people nationally who received a refund anticipation loan, 5.4 million (63 percent) received the federal EITC.

Because refund anticipation loans are generally offered through out-of-state banks, the Arkansas Legislature does not have legal authority to regulate the fees charged to take out the loans. But the Legislature does have authority to set common-sense disclosure requirements and ensure that businesses offering these loans do not charge unnecessary fees.

One of the key reasons for the enhanced disclosure under Act 1402 is that many taxpayers do not understand that if their tax refund is less than expected, they will still owe the full amount of the refund anticipation loan. Taxpayers can usually get their refund in eight to 15 days without paying any extra fees and taking out a loan. Additionally, taxpayers who meet income guidelines can get their taxes prepared free of charge by using the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) program. In particular, all taxpayers who receive the EITC qualify for VITA services.

SGFF currently operates VITA sites in Arkadelphia, Helena-West Helena, and Pine Bluff. There are a total of 29 VITA sites in Arkansas.

Of the 8.6 million people nationally who received a refund anticipation loan in 2007, 63 percent received the federal EITC.

Act 1402 covers both refund anticipation loans (described above) and refund anticipation checks. For a refund anticipation check, the provider opens a "dummy" account in which a consumer's tax refund is directly deposited by the IRS. After receipt of the consumer's tax refund, the refund anticipation check provider then issues the consumer a check or debit card, or directly deposits into the consumer account the refund minus a fee.

Act 1402's key provisions include the following, for a person or business processing applications for or otherwise facilitating a consumer taking out a refund anticipation loan or a refund anticipation check:

- Prominently displayed schedules showing the current fees and examples of interest rates charged for refund anticipation loans or refund anticipation checks, and the following disclosure statement:

  "When you take out a refund anticipation loan, you are borrowing money against your tax refund.

If your tax refund is less than expected, you will still owe the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. YOU CAN USUALLY GET YOUR REFUND IN 8 TO 15 DAYS WITHOUT PAYING ANY EXTRA FEES AND TAKING OUT A LOAN. You can have your tax return filed electronically and your refund direct deposited into your own bank account without obtaining a loan or paying fees for an extra product."

- A separate disclosure form handed out with the product application, with a disclosure statement similar to the one listed above, also disclosing the fee for the refund anticipation loan or refund anticipation check, including the fee for tax preparation and other fees charged to the consumer; the time within which the proceeds of the refund anticipation loan or check will be paid to the consumer if the loan or check is approved; and for refund anticipation loans, disclosure of the interest rate.

Prohibited activities include:

- Requiring a consumer to enter into a loan agreement in order to complete a tax return.
- Charging or imposing any fee or requiring other consideration in the making or facilitating of a refund anticipation loan or refund anticipation check apart from the fee charged by the creditor or bank that provides the loan or check. Fees may be charged for tax return preparation services.

  This section does not prohibit the charge or fee imposed by the facilitator to all of its customers if the same fee in the same amount is charged to customers who do not receive refund anticipation loans, refund anticipation checks, or other tax-related financial products. This fee may include fees for tax return preparation.
- Directly or indirectly arranging for any third party to charge an interest, fee, or charge related to a refund anticipation loan or refund anticipation check, other than the refund anticipation loan or refund anticipation check fee imposed by the creditor.

Processors or other facilitators of refund anticipation loans or checks who violate applicable provisions of Act 1402 will face penalties under the Arkansas Deceptive Trade Practices Act, which is enforced by the Arkansas attorney general. Violators also are liable to the consumer for actual and consequential damages; statutory damages of $1,000; and reasonable attorney's fees and costs.

Other New Laws of Note

Higher Education

Act 1213 broadens the pool of eligible applicants for the state's GO! Opportunities need-based scholarship program to include nontraditional students who have passed the GED; students who graduated from high school more than 12 months before enrolling in college; students at two-year colleges; and students in certified certificate programs. This law took effect April 7, 2009.

K-12 Education

Act 397 amends state law to provide an opportunity for home instruction for parents from minority or low socioeconomic backgrounds by providing instruction to a parent on how to incorporate developmentally appropriate learning activities in the home.

Such instruction may include, according to Act 397:

- Role play and demonstration by trained volunteers;
- The use of and access to Department of Education Web site tools for parents;
- Assistance with nutritional meal planning and preparation;
- Other strategies or curricula developed or acquired by the school district for at-home parental instruction approved by the Department of Education; and
- Other activities determined by the school to help a parent assist in his or her child's learning.

Each school district is required to provide training at least annually for the volunteers who conduct home visits in a home instruction program.

Act 730 creates the Arkansas College and Career Readiness Planning Program. Beginning with the 2010-11 school year, public schools must administer the pre-ACT EXPLORE assessment to all 8th graders and the pre-ACT PLAN or PSAT assessment to all 10th graders.

According to Act 730, the EXPLORE is the pre-ACT assessment designed to help 8th graders "explore a broad range of options for their future and focus not only on high school coursework but also on post-high school choices as well."

PLAN is the pre-ACT assessment for 10th graders used to help a student "focus attention on improved academic achievement, career preparation, and planning for post-high school years."

The PSAT, or Preliminary SAT/National Merit Scholarship Qualifying Test, provides practice for the SAT Reasoning Test and "gives students feedback on individual strengths and weaknesses on college readiness skills."

The state Department of Education will report to the House and Senate Education Committees by September 31, 2012, and each following year, on the implementation and effectiveness of the College and Career Readiness Planning Program.

Act 949 is designed to provide intervention and support to chronically underperforming schools with achievement gaps. The legislation defines a chronically underperforming school as not meeting adequate yearly progress under the federal No Child Left Behind Act of 2001 for three or more consecutive years. School districts with chronically underperforming schools shall use the district's National School Lunch state categorical funding to evaluate the impact of educational strategies used by the chronically underperforming school to address the achievement gaps among students in the chronically underperforming school.

Health Care

Act 708 allows the Arkansas Rural Medical Practice Student Loan and Scholarship Board and rural communities to offer "income incentives" of up to $80,000 for physicians to locate in rural areas. The physician would be required to repay any income incentive received if the physician reneged on a promise to locate in a given rural community.

Low-Income

Act 1485 directs the state Department of Workforce Services and the Arkansas Early Childhood Commission to develop a program to pay for child care services for Temporary Assistance for Needy Families (TANF) recipients enrolled in day or evening classes at a two-year college.

Act 436 reduces the state sales tax on groceries from 2.875 percent to 1.875 percent. This law took effect July 1, 2009.

Conclusion

New laws enacted during the 2009 regular legislative session represent some significant steps toward expanding opportunities for lower-income Arkansans to meet certain basic needs and build assets. Southern Good Faith Fund is committed to build upon these successes by working with other interested partners to, among other things, secure a revenue source for the Arkansas Housing Trust Fund; utilize the Legislative Task Force on Reducing Poverty and Promoting Economic Opportunity to create more opportunities for lower-income Arkansans; and monitor implementation of the state lottery's scholarship and financial aid provisions, which hold significant promise to increase our state's historically low higher education attainment.

Endnotes

1. Arkansas Advocates for Children and Families, *Kids at the Capitol 2009 Legislative Summary*, accessed at http://www.aradvocates.org/_images/pdfs/Kids%20at%20the%20Capitol%202009%20web.pdf

2. 2009 U.S. Department of Health and Human Services Federal Poverty Guidelines, accessed at http://aspe.hhs.gov/POVERTY/09poverty.shtml

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