

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/19/19

A Bill

SENATE BILL 561

5 By: Senator J. Hendren
6 By: Representative Dotson
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS TAX REFORM ACT OF 2019;
10 TO REFORM THE TAX LAWS OF THE STATE; TO AMEND THE
11 ARKANSAS CORPORATE FRANCHISE TAX ACT OF 1979; TO
12 TRANSFER THE ADMINISTRATION AND COLLECTION OF THE
13 FRANCHISE TAX TO THE DEPARTMENT OF FINANCE AND
14 ADMINISTRATION; TO ELIMINATE THE FRANCHISE TAX
15 PENALTY ON CLOSED BUSINESSES; TO AUTHORIZE AND
16 REQUIRE REPORTING OF CERTAIN INFORMATION RELATED TO
17 TAXES; TO REQUIRE BIENNIAL REPORTS OF THE EFFECT OF
18 EXEMPTIONS, DISCOUNTS, CREDITS, AND DEDUCTIONS
19 RELATING TO INCOME TAX AND SALES AND USE TAX; TO
20 PROVIDE FOR GUIDELINES AND PENALTIES RELATED TO
21 ASSESSMENTS FOR PURPOSES OF PROPERTY TAXES; TO
22 REQUIRE THE ASSESSMENT COORDINATION DEPARTMENT TO
23 ESTABLISH MANDATORY GUIDELINES FOR COUNTIES RELATED
24 TO THE ASSESSMENT OF BUSINESS INVENTORY AND PROPERTY
25 THAT IS EXEMPT FROM AD VALOREM TAX; TO PROVIDE FOR
26 PENALTIES FOR NONCOMPLIANCE WITH THE GUIDELINES
27 ESTABLISHED BY THE ASSESSMENT COORDINATION
28 DEPARTMENT; TO EXEMPT CERTAIN ADVERTISING FROM SALES
29 TAX; TO REGULATE THE SALES AND USE TAX EXEMPTION FOR
30 ALL-TERRAIN VEHICLES USED AS FARM MACHINERY AND
31 EQUIPMENT; AND FOR OTHER PURPOSES.
32
33

Subtitle

35 TO CREATE THE ARKANSAS TAX REFORM ACT OF
36 2019; AND TO REFORM THE SALES TAX, INCOME



1 TAX, PROPERTY TAX, AND FRANCHISE TAX LAWS
2 OF THE STATE.

3
4
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

6
7 SECTION 1. DO NOT CODIFY. Title.

8 This act shall be known and may be cited as the "Arkansas Tax Reform
9 Act of 2019".

10
11 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

12 (a) The General Assembly finds that:

13 (1) The Arkansas Tax Reform and Relief Legislative Task Force
14 was charged with:

15 (A) Examining and identifying areas of potential tax
16 reform within the tax laws; and

17 (B) Recommending legislation to the General Assembly, in
18 part, to modernize and simplify the Arkansas tax code and ensure fairness to
19 all taxpayers;

20 (2) There are several areas of the tax code that should be
21 amended to reform the state's tax laws to modernize and simplify the tax code
22 and ensure fairness to all taxpayers; and

23 (3) Any savings realized by the state through tax reforms should
24 be dedicated to reducing the tax burden for Arkansas taxpayers.

25 (b) It is the intent of the General Assembly to:

26 (1) Reform Arkansas tax laws to modernize and simplify the tax
27 code and ensure fairness to all taxpayers; and

28 (2) Offset any revenue savings realized through tax reform with
29 corresponding changes to reduce the tax burden for Arkansas taxpayers.

30
31 SECTION 3. Arkansas Code § 4-25-109(c)(1), concerning a corporation
32 changing its state of incorporation, is amended to read as follows:

33 (c)(1) The change may be made by a foreign corporation by filing with
34 the Secretary of State:

35 (A) A certified copy of its original or restated articles
36 and all amendments subsequent to the latest restatement, which were filed in

1 the other jurisdiction;

2 (B) The original of a certificate of good standing from
3 the state of original jurisdiction, dated not more than thirty (30) days
4 earlier than the date of filing in this state;

5 (C) An application for incorporation ~~pursuant to~~ under
6 this section, signed for the corporation by its president or vice president
7 and its secretary or assistant secretary, and acknowledged by one (1) of the
8 signing officers, setting forth the requirements of § 4-27-202;

9 (D)(i) A franchise tax contact sheet provided by the
10 ~~Secretary of State~~ Department of Finance and Administration.

11 (ii) The Secretary of State shall send a copy of the
12 franchise tax contact sheet required to be filed under this subsection to the
13 department; and

14 (E) A certificate by the Secretary of State or other
15 proper officer of the jurisdiction in which the corporation is incorporated,
16 reciting that the corporation has taken all action required under the laws of
17 the jurisdiction to become a corporation incorporated under the laws of this
18 state.

19

20 SECTION 4. Arkansas Code § 4-27-120(i), concerning the filing
21 requirements under the Arkansas Business Corporation Act of 1987, is amended
22 to read as follows:

23 (i) The document must be delivered to the office of the Secretary of
24 State for filing and must be accompanied by one (1) exact or conformed copy
25 ~~(except as provided in §§ 4-27-503 and 4-27-1509 [repealed])~~, the correct
26 filing fee, and proof of payment of any franchise tax, license fee, or
27 penalty required by this chapter or other law.

28

29 SECTION 5. Arkansas Code § 4-27-121(a), concerning the forms
30 prescribed and furnished under the Arkansas Business Corporation Act of 1987,
31 is amended to read as follows:

32 (a) The Secretary of State may prescribe and furnish on request forms
33 for: (1) an application for a certificate of existence, (2) a foreign
34 corporation's application for a certificate of authority to transact business
35 in this state, and (3) a foreign corporation's application for a certificate
36 of withdrawal, ~~and (4) the annual franchise tax report.~~ If the Secretary of

1 State so requires, use of these forms is mandatory.

2

3 SECTION 6. Arkansas Code § 4-27-128(b), concerning certificates of
4 existence under the Arkansas Business Corporation Act of 1987, is amended to
5 read as follows:

6 (b) A certificate of existence or authorization sets forth:

7 (1) the domestic corporation's corporate name or the foreign
8 corporation's corporate name used in this state;

9 (2) that

10 (i) the domestic corporation is duly incorporated under
11 the laws of this state, the date of its incorporation, and the period of its
12 duration if less than perpetual; or

13 (ii) that the foreign corporation is authorized to
14 transact business in this state;

15 (3) that all fees, taxes, and penalties owed to this state have
16 been paid, if

17 (i) payment is reflected in the records of the Secretary
18 of State and

19 (ii) nonpayment affects the existence or authorization of
20 the domestic or foreign corporation;

21 (4) that its most recent annual franchise tax report required by
22 § 4-27-1622 has been delivered to the ~~Secretary of State~~ Department of
23 Finance and Administration;

24 (5) that articles of dissolution have not been filed; and

25 (6) other facts of record in the office of the Secretary of
26 State that may be requested by the applicant.

27

28 SECTION 7. Arkansas Code § 4-27-1420 is amended to read as follows:

29 4-27-1420. Grounds for administrative dissolution.

30 The Secretary of State may commence a proceeding under § 4-27-1421 to
31 administratively dissolve a corporation if:

32 (1) the corporation does not pay within sixty (60) days after
33 they are due any franchise taxes or penalties imposed by this chapter or
34 other law;

35 (2) the corporation does not deliver its annual franchise tax
36 report to the ~~Secretary of State~~ Department of Finance and Administration

1 within sixty (60) days after it is due;

2 (3) the corporation is without a registered agent in this state
3 for sixty (60) days or more;

4 (4) the corporation does not notify the Secretary of State
5 within sixty (60) days that its registered agent has been changed or has
6 resigned; or

7 (5) the corporation's period of duration stated in its articles
8 of incorporation expires.

9

10 SECTION 8. Arkansas Code § 4-27-1530 is amended to read as follows:

11 4-27-1530. Grounds for revocation.

12 The Secretary of State may commence a proceeding under § 4-27-1531 to
13 revoke the certificate of authority of a foreign corporation authorized to
14 transact business in this state if:

15 (1) the foreign corporation does not deliver its annual
16 franchise tax report to the ~~Secretary of State~~ Department of Finance and
17 Administration within sixty (60) days after it is due;

18 (2) the foreign corporation does not pay within sixty (60) days
19 after they are due any franchise taxes or penalties imposed by this chapter
20 or other law;

21 (3) the foreign corporation is without a registered agent in
22 this state for sixty (60) days or more;

23 (4) the foreign corporation does not file an appropriate notice
24 with the Secretary of State within sixty (60) days of the change or
25 resignation of the foreign corporation's registered agent;

26 (5) an incorporator, director, officer, or agent of the foreign
27 corporation signed a document he or she knew was false in any material
28 respect with intent that the document be delivered to the Secretary of State
29 for filing;

30 (6) the Secretary of State receives a duly authenticated
31 certificate from the Secretary of State or other official having custody of
32 corporate records in the state or country under whose law the foreign
33 corporation is incorporated stating that it has been dissolved or disappeared
34 as the result of a merger.

35

36 SECTION 9. Arkansas Code § 4-27-1601(e), concerning corporate records

1 under the Arkansas Business Corporation Act of 1987, is amended to read as
2 follows:

3 (e) A corporation shall keep a copy of the following records at its
4 principal office:

5 (1) its articles or restated articles of incorporation and all
6 amendments to them currently in effect;

7 (2) its bylaws or restated bylaws and all amendments to them
8 currently in effect;

9 (3) resolutions adopted by its board of directors creating one
10 (1) or more classes or series of shares, and fixing their relative rights,
11 preferences, and limitations, if shares issued pursuant to those resolutions
12 are outstanding;

13 (4) the minutes of all shareholders' meetings, and records of
14 all action taken by shareholders without a meeting, for the past three (3)
15 years;

16 (5) all written communications to shareholders generally within
17 the past three (3) years, including the financial statements furnished for
18 the past three (3) years under § 4-27-1620;

19 (6) a list of the names and business addresses of its current
20 directors and officers; and

21 (7) its most recent annual franchise tax report delivered to the
22 ~~Secretary of State~~ Department of Finance and Administration under § 4-27-
23 1622.

24

25 SECTION 10. Arkansas Code § 4-27-1622 is amended to read as follows:

26 4-27-1622. Annual franchise tax report for ~~Secretary of State~~ the
27 Department of Finance and Administration.

28 (a) Each domestic corporation, and each foreign corporation authorized
29 to transact business in this state, shall deliver to the ~~Secretary of State~~
30 Department of Finance and Administration for filing an annual franchise tax
31 report that sets forth:

32 (1) the name of the corporation;

33 (2) the jurisdiction under which the corporation is
34 incorporated;

35 (3) the information required by § 4-20-105(a);

36 (4) the address of its principal office, wherever it is located;

- 1 (5) the names of its principal officers;
- 2 (6) the total number of authorized shares, itemized by class and
- 3 series, if any, within each class;
- 4 (7) the total number of issued and outstanding shares, itemized
- 5 by class and series, if any, within each class; and
- 6 (8) such other information as the ~~Secretary of State~~ Director of
- 7 the Department of Finance and Administration may specify in a form
- 8 promulgated ~~pursuant to § 4-27-121(a)~~ under the Arkansas Corporate Franchise
- 9 Tax Act of 1979, § 26-54-101 et seq.

10 (b) The requirements as to the applicability, use, and filing of the

11 annual franchise tax report shall be as set forth in the Arkansas Corporate

12 Franchise Tax Act of 1979, § 26-54-101 et seq.

13

14 SECTION 11. Arkansas Code § 4-33-120(i), concerning filing

15 requirements under the Arkansas Nonprofit Corporation Act of 1993, is amended

16 to read as follows:

17 (i) The document must be delivered to the office of the Secretary of

18 State for filing and must be accompanied by one (1) exact or conformed copy

19 (except as provided in §§ 4-33-503 and 4-33-1509), the correct filing fee,

20 and proof of payment of any franchise tax, license fee, or penalty required

21 by this chapter or other law.

22

23 SECTION 12. Arkansas Code § 17-19-202(c), concerning licensing

24 applications for bail bond companies, is amended to read as follows:

25 (c)(1) An application for a professional bail bond company license

26 shall be accompanied by proof that the applicant:

27 (A) Is an Arkansas partnership, firm, or corporation, a

28 foreign corporation registered and authorized to conduct business in the

29 State of Arkansas, or an individual who is a resident of the state; and

30 (B) Has at least one (1) owner or partner that has been

31 licensed for at least two (2) years during the last three (3) years by the

32 State of Arkansas as a professional bail bondsman.

33 (2) A corporation shall file proof that its most recent annual

34 franchise tax has been paid to the ~~Secretary of State~~ Department of Finance

35 and Administration.

36

1 SECTION 13. Arkansas Code § 23-48-1009(1), concerning the Bank
2 Commissioner's grounds for revoking the certificate of authority of a
3 registered out-of-state bank, is amended to read as follows:

4 (1) The out-of-state bank does not deliver its annual franchise
5 tax report to the ~~Secretary of State~~ Department of Finance and Administration
6 within sixty (60) days after it is due;

7
8 SECTION 14. Arkansas Code § 25-16-708(a), concerning the appointment
9 of special counsel by the Attorney General to collect moneys due to the
10 state, is amended to read as follows:

11 (a) When there ~~shall be~~ is past due and unpaid any special license
12 fee, ~~franchise tax~~, privilege tax, or other moneys due the state by
13 individuals, officers, companies, firms, or corporations, and when in his or
14 her judgment it would be ~~for~~ in the best interest of the state to do so, the
15 Attorney General ~~shall have the authority to~~ may appoint special counsel to
16 take any steps ~~which shall be~~ necessary for the collection of all those sums
17 ~~which~~ that are due and unpaid.

18
19 SECTION 15. Arkansas Code § 26-18-303(b)(14), concerning exemptions
20 from the prohibition on disclosing certain confidential and privileged
21 records under the Arkansas Tax Procedure Act, is amended to read as follows:

22 (14)(A) Disclosure of the following information ~~from~~ concerning
23 corporate franchise tax ~~reports~~:

- 24 (i) The name and address of ~~the~~ a corporation;
- 25 (ii) The name of ~~the~~ a corporation's president, vice
26 president, secretary, treasurer, and controller;
- 27 (iii) The total authorized capital stock with par
28 value;
- 29 (iv) The total issued and outstanding capital stock
30 with par value; ~~and~~
- 31 (v) The state of incorporation; and
- 32 (vi) Information necessary to report to the
33 Secretary of State, the Bank Commissioner, the Bail Bondsman Licensing Board,
34 the Insurance Commissioner, or any other state agency or official authorized
35 to take action against a corporation for failure to take any action required
36 under the Arkansas Corporate Franchise Tax Act of 1979, § 26-54-101 et seq.,

1 including without limitation information concerning whether a corporation has
2 filed a franchise tax report, whether a corporation has paid franchise tax
3 due, and the name and address of the registered agent or principal office of
4 the corporation.

5 (B) In the case of a franchise tax report filed by an
6 organization formed under the Small Business Entity Tax Pass Through Act, §
7 4-32-101 et seq., the confidentiality provision of subsection (a) of this
8 section shall apply to the names of members of the organization, except those
9 designated in the organization's franchise tax report as a manager,
10 president, vice president, secretary, treasurer, or controller of the
11 organization, unless the organization has: ~~no~~

12 (i) No registered agent for service of process, in
13 which case the confidentiality provisions of subsection (a) of this section
14 shall not apply; or

15 (ii) Failed to take an action required under the
16 Arkansas Corporate Franchise Tax Act of 1979, § 26-54-101 et seq., in which
17 case the disclosures identified in subdivision (b)(14)(A) of this section are
18 allowed.

19
20 SECTION 16. Arkansas Code Title 26, Chapter 26, Subchapter 11, is
21 amended to add an additional section to read as follows:

22 26-26-1125. Guidelines for assessing property – Noncompliance.

23 (a) The Assessment Coordination Department shall:

24 (1) Establish mandatory guidelines for county assessors to
25 follow in:

26 (A) Identifying property that is exempt from ad valorem
27 taxation; and

28 (B) Assessing business inventory;

29 (2) Adopt rules necessary for:

30 (A) The general guidance and assistance of county
31 assessors in identifying exempt property and assessing business inventory;
32 and

33 (B) Determining when a county is noncompliant with the
34 rules established by the department under this section;

35 (3) Confer with and assist county assessors in identifying
36 exempt property and assessing business inventory to ensure that all

1 assessments of property are just and uniform throughout the state;

2 (4) Prescribe any forms necessary to assist county assessors in
3 uniformly identifying exempt property and assessing business inventory;

4 (5) Monitor each county's compliance with the rules established
5 by the department under this section; and

6 (6) As soon as is practicable, notify immediately the
7 Legislative Council or, if the General Assembly is in session, the Joint
8 Budget Committee, when a county is determined to be noncompliant with the
9 rules established by the department under this section.

10 (b) A county assessor shall:

11 (1) Assess property in accordance with the rules adopted by the
12 department; and

13 (2) Use only a form that is prescribed or approved by the
14 department to identify exempt property or assess business inventory.

15 (c) Upon receiving notification under subdivision (a)(6) of this
16 section, the Legislative Council or, if the General Assembly is in session,
17 the Joint Budget Committee, may recommend to the General Assembly that a
18 noncompliant county's funds under § 26-26-310(b)(2)(C) that are to be
19 allocated to the county assessor be reduced or withheld until the county
20 becomes compliant under this section.

21
22 SECTION 17. Arkansas Code Title 26, Chapter 50, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 26-50-103. Biennial report on certain state taxes.

25 (a) Before each regular session of the General Assembly, the Director
26 of the Department of Finance and Administration shall report to the
27 Legislative Council and the Governor on the effect of each exemption,
28 discount, credit, and deduction relating to state income tax and state sales
29 and use tax.

30 (b)(1) In preparing the report required under subsection (a) of this
31 section, if actual data is not available, the director shall use available
32 statistical data to estimate the effect of each exemption, discount, credit,
33 and deduction.

34 (2) If the director concludes that the effect of an exemption,
35 discount, credit, or deduction cannot be determined, the director shall
36 include in the report a complete explanation of why he or she reached that

1 conclusion.

2 (c) The report required under subsection (a) of this section:

3 (1) Shall include:

4 (A) An analysis of each exemption, discount, credit, and
5 deduction that reduces the amount of tax payable, including without
6 limitation:

7 (i) An estimate of the loss of revenue for a six-
8 year period beginning with the fiscal year in which the report is submitted;
9 and

10 (ii) A citation to the statutory or other legal
11 authority for the exemption, discount, credit, or deduction; and

12 (B) For an exemption, discount, credit, or deduction that
13 reduces revenue by more than one percent (1%) of the total revenue for the
14 relevant tax, the effect of the exemption, discount, credit, or deduction on:

15 (i) The distribution of the tax burden by:

16 (a) Income class; and

17 (b) Industry or business class; and

18 (ii) Total income by income class; and

19 (2) May include:

20 (A) An assessment of the intended purpose of each
21 exemption, discount, credit, and deduction and whether the exemption,
22 discount, credit, or deduction is achieving that purpose; and

23 (B) A recommendation for retaining, eliminating, or
24 amending the law related to each exemption, discount, credit, and deduction.

25 (d)(1) The director may request from any state officer or state agency
26 information necessary to complete the report required under subsection (a) of
27 this section.

28 (2) Each state officer and state agency shall cooperate with the
29 director in providing information or analysis for the report required under
30 subsection (a) of this section.

31
32 SECTION 18. Arkansas Code § 26-52-401(13), concerning sales tax
33 exemptions for various products and services, is amended to read as follows:

34 (13) Gross proceeds derived from sales of advertising space: ~~in~~

35 (A) In newspapers and publications; and

36 (B) Through billboard advertising services; or

1 (C) On a public transit bus.

2
3 SECTION 19. Arkansas Code § 26-52-403, concerning the sales and use
4 tax exemption for farm equipment and machinery, is amended to add an
5 additional subsection to read as follows:

6 (d)(1) If a person claims the exemption provided for in this section
7 for an all-terrain vehicle:

8 (A) The person shall complete a form prescribed by the
9 director that includes:

10 (i) The person's name and contact information;

11 (ii) The person's tax identification number;

12 (iii) The make, model, year, and identification
13 number of the all-terrain vehicle;

14 (iv) A signed statement indicating that the person
15 understands that the use of an exemption under this section for the purchase
16 of an all-terrain vehicle may be subject to audit by the Department of
17 Finance and Administration; and

18 (v) Any other information required by the director
19 to aid in the administration of this section; and

20 (B) The seller of the all-terrain vehicle shall submit the
21 completed form required under subdivision (d)(1) of this section to the
22 department with the seller's sales tax return for the month in which the all-
23 terrain vehicle was sold.

24 (2)(A) As used in this section, "all-terrain vehicle" a vehicle
25 that:

26 (i) Has three (3), four (4), or six (6) wheels;

27 (ii) Is fifty inches (50") or less in width;

28 (iii) Is equipped with nonhighway tires; and

29 (iv) Has an engine displacement of no more than one
30 thousand cubic centimeters (1,000 cc).

31 (B) "All-terrain vehicle" does not include a golf cart,
32 riding lawnmower, or lawn or garden tractor.

33
34 SECTION 20. Arkansas Code § 26-54-105(a)-(c), concerning franchise tax
35 reports under the Arkansas Corporate Franchise Tax Act of 1979, are amended
36 to read as follows:

1 (a)(1) The ~~Secretary of State~~ Department of Finance and Administration
2 shall furnish report forms to each corporation subject to ~~the provisions of~~
3 this chapter by mailing them to the corporation's current agent for service
4 or other person identified by the corporation.

5 (2) When filing the franchise tax report, a corporation may
6 state who is to receive a franchise tax form the following year if that
7 person is different from the agent for service on file for the corporation at
8 that time.

9 (b) ~~Any~~ A corporation that fails to receive the report forms by March
10 20 of the reporting year shall make written request for them to the ~~Secretary~~
11 ~~of State~~ department on or before March 31.

12 (c)(1) Each corporation subject to the requirements of this chapter
13 shall file a franchise tax report with the ~~Secretary of State~~ department that
14 shows the condition and status of the corporation as of the close of business
15 on the last day of the corporation's preceding fiscal year and other
16 information required by the ~~Secretary of State~~ department.

17 (2)(A) The franchise tax as computed on the report shall be
18 remitted with the franchise tax report ~~on or before June 1 of the reporting~~
19 ~~year for franchise tax due for calendar year 2003 and years prior to 2003 and~~
20 submitted to the department with the corporation's income tax return.

21 (B) ~~The~~ For a corporation that is not required to submit
22 an income tax return, the franchise tax as computed on the report shall be
23 remitted with the franchise tax report on or before May 1 of the reporting
24 year for franchise tax due ~~for calendar year 2004 and subsequent years.~~

25
26 SECTION 21. Arkansas Code § 26-54-107 is amended to read as follows:

27 26-54-107. Computation of tax – Penalty – Relief.

28 (a) The ~~Secretary of State~~ Director of the Department of Finance and
29 Administration from the information reported and from any other information
30 received by him or her bearing upon the subject shall compute the amount of
31 tax of each corporation at the rate or rates provided by this chapter.

32 (b)(1)(A) If the taxpayer fails to comply with the filing and
33 remittance requirements under § 26-54-105(c) ~~by May 1, the Secretary of State~~
34 director shall assess the corporation a penalty of twenty-five dollars
35 (\$25.00) plus interest on the tax and penalty from the date due until paid at
36 the rate of ten percent (10%) per year.

1 (B) However, the franchise tax, penalty, and interest for
2 any tax year shall not exceed two (2) times the corporation's tax owed.

3 (2)(A) ~~On~~ Except as provided in subdivision (b)(2)(B) of this
4 section, on or before November 1 of each year, the ~~Secretary of State~~
5 director shall mail notice to the corporation at its last known address
6 stating that the corporation is subject to forfeiture of its corporate
7 charter under § 26-54-111 for the failure to pay corporate franchise tax.

8 (B) For a corporation that has a franchise tax due date
9 after May 1, six (6) months after the franchise tax return due date for the
10 corporation, taking into account any extensions of the due date, the director
11 shall mail notice to the corporation at its last known address stating that
12 the corporation is subject to forfeiture of its corporate charter under § 26-
13 54-111 for the failure to pay corporate franchise tax.

14 (c) The ~~Secretary of State~~ director or his or her designee may agree
15 to settle or compromise a dispute concerning interest or penalties associated
16 with corporate franchise taxes if the taxpayer:

17 (1) Disputes the proposed amount; or

18 (2) Is insolvent or bankrupt.

19 (d)(1) The ~~Secretary of State~~ director may waive any accrued interest
20 or assessed penalties imposed on a taxpayer due to a failure to remit
21 corporate franchise taxes under § 26-54-105(c), if:

22 (A) The taxpayer is reasonably mistaken about the
23 application of this chapter or the computation of the franchise tax to the
24 corporation; or

25 (B) A taxpayer cannot pay the accrued interest or assessed
26 penalties because of the taxpayer's insolvency or bankruptcy.

27 (2) The ~~Secretary of State~~ director may waive any fees that a
28 taxpayer owes if the taxpayer desires to dissolve the corporation.

29 (3) If a taxpayer demonstrates that a corporation was not doing
30 business in the state for the period for which penalties and interest are
31 owed under this section, the director shall waive the amount due under this
32 section if the taxpayer demonstrates that the taxpayer intends to dissolve
33 the corporation.

34 (e) ~~If the parties cannot resolve the dispute, the parties may pursue~~
35 ~~any other remedy available to them, including, but not limited to, remedies~~
36 ~~available under the Arkansas Administrative Procedure Act, § 25-15-201 et~~

1 ~~seq.~~ The Arkansas Tax Procedure Act, § 26-18-101 et seq., so far as is
2 practicable, is applicable to the franchise tax levied under this subchapter
3 and to the reporting, remitting, and enforcement of the franchise tax.

4 (f) The ~~Secretary of State~~ director shall develop guidelines to assist
5 a taxpayer in resolving a corporate franchise tax dispute.

6
7 SECTION 22. Arkansas Code §§ 26-54-109 – 26-54-112 are amended to read
8 as follows:

9 26-54-109. Lists of corporations to be prepared.

10 (a)(1) The Secretary of State, Bank Commissioner, Insurance
11 Commissioner, and any other officer or agency of the state authorized to
12 issue corporate permits or authorities to do business in this state shall
13 prepare and maintain a correct list of all corporations organizing or
14 qualifying through their respective offices or agencies.

15 (2) Each official or agency shall file with the ~~Secretary of~~
16 State Department of Finance and Administration a monthly report showing:

17 (A) The name and address of each new corporation organized
18 or qualified;

19 (B) The authorized and outstanding capital stock;

20 (C) The name changes, mergers, charter forfeitures,
21 ~~dissolutions~~, or withdrawals;

22 (D) The name and address of each corporation that has
23 provided official notification regarding the dissolution of the corporation;
24 and

25 ~~(D)(E)~~ (E) All other information concerning the corporation
26 required by the ~~Secretary of State~~ department.

27 (b) Upon request of the ~~Secretary of State~~ Director of the Department
28 of Finance and Administration, each official or agency shall prepare and
29 certify to the ~~Secretary of State~~ director a complete list of the names and
30 addresses of all corporations ~~which that~~ that have organized or qualified through
31 their respective office or agency and ~~which that~~ that are subject to the
32 provisions of this chapter.

33 (c) Officials or agencies of the state, county, or municipalities
34 authorized to issue permits shall notify each corporation receiving a permit
35 of the requirements to register the corporation with the Secretary of State
36 ~~prior to~~ before conducting business in Arkansas.

1 (d)(1) ~~Any~~ A corporation filing instruments providing for the
2 organization of any common law or statutory trust or similar organization
3 with any county clerk, or other clerk of the various counties of this state,
4 shall file them in duplicate.

5 (2) The clerk receiving the documents for filing or recordation
6 shall file mark them and forward the file-marked duplicate to the Secretary
7 of State.

8 (e)(1) ~~The Director of the Department of Finance and Administration~~
9 director shall provide the Secretary of State a list of corporations doing
10 business in this state and filing franchise tax reports with the ~~Department~~
11 ~~of Finance and Administration~~ department.

12 (2) However, the director shall not include any information
13 deemed confidential by any other law.

14
15 26-54-110. Dissolution or withdrawal by corporations.

16 Applications for dissolution or withdrawal by a corporation,
17 association, or organization cannot be accepted by the authority ~~which~~ that
18 initially authorized or granted an authority to the corporation to do
19 business in Arkansas until receipt of a statement verified by the ~~Secretary~~
20 ~~of State~~ Director of the Department of Finance and Administration that the
21 franchise tax due has been paid.

22
23 26-54-111. Charter forfeiture for failure to pay tax – Procedure.

24 (a)(1) ~~On~~ Except as provided in subdivision (a)(2) of this section, on
25 or before January 31 of each year, the Secretary of State shall proclaim as
26 forfeited the corporate charters or authorities, ~~as the case may be,~~ of all
27 corporations, both domestic and foreign that according to the ~~Secretary of~~
28 ~~State's~~ Department of Finance and Administration's records are delinquent in
29 the payment of the annual franchise tax for a prior year.

30 (2) For a corporation that has a franchise tax due date after
31 May 1, eight (8) months after the franchise tax return due date for the
32 corporation, taking into account any extensions of the due date, the
33 Secretary of State shall proclaim as forfeited the corporate charters or
34 authorities of the corporations, both domestic and foreign that according to
35 the department's records are delinquent in the payment of the annual
36 franchise tax for a prior year.

1 (b)(1) A copy of the proclamation, or applicable portion thereof,
2 shall be furnished to each other official or agency of the state ~~which~~ that
3 is authorized to issue corporation charters or authorities.

4 (2) Upon their receipt of the proclamation, the several
5 officials shall at once correct their respective records in accordance with
6 the proclamation.

7
8 26-54-112. Reinstatement of corporations.

9 (a)(1)(A)(i) ~~Any~~ A corporation whose charter or permit authority to do
10 business in the state has been declared forfeited by proclamation of the
11 Governor or the Secretary of State may be reinstated to all its rights,
12 powers, and property.

13 (ii) Reinstatement shall be retroactive to the time
14 that the corporation's authority to do business in the state was declared
15 forfeited.

16 (B) The reinstatement shall be made after the filing of
17 all delinquent franchise tax reports satisfactory to the ~~Secretary of State~~
18 Department of Finance and Administration and the payment of all taxes and
19 penalties due for each year of delinquency.

20 (2) However, ~~no~~ reinstatement ~~shall be~~ is not allowed after
21 seven (7) years from the date the charter or permit authority to do business
22 in the state was declared forfeited by proclamation of the Governor or the
23 Secretary of State.

24 (b) If the Secretary of State issued the original corporate charter,
25 permit, or authority, the Secretary of State shall reinstate the corporation
26 upon payment by the corporation of all amounts due, as provided in subsection
27 (a) of this section.

28 (c)(1) If the original corporate charter, permit, or authority was
29 issued by an official other than the Secretary of State, the official shall
30 reinstate the corporation upon the corporation's filing with the official the
31 receipt of the ~~Secretary of State~~ department showing payment of all amounts
32 due, as provided in subsection (a) of this section.

33 (2) Thereafter, the corporation shall stand in all respects as
34 though its name had never been declared forfeited.

35
36 SECTION 23. Arkansas Code § 26-54-114 is amended to read as follows:

1 26-54-114. Nonpayment of franchise taxes.

2 (a) ~~No~~ A corporation or limited liability company ~~shall be~~ is not
3 allowed to file any forms or documentation related to that corporation or
4 limited liability company if the corporation or limited liability company
5 owes past-due franchise taxes to the ~~Secretary of State~~ Department of Finance
6 and Administration.

7 (b) ~~No~~ A person ~~shall be~~ is not allowed to file any initial forms or
8 documentation with the Secretary of State to create any legal entity in the
9 State of Arkansas or to obtain authority to do business in the State of
10 Arkansas if that person is substantially connected to any corporation or
11 limited liability company that owes past-due franchise taxes to the ~~Secretary~~
12 ~~of State~~ department.

13 (c) As used in this section:

14 (1) "Past-due franchise taxes" means only those taxes owed three
15 (3) years prior to the year in which the current filing is presented;

16 (2) "Past officer or director" means a person who was associated
17 with the corporation or limited liability company during the time that its
18 charter was revoked for nonpayment of franchise taxes; and

19 (3) "Substantially connected" means a present officer or
20 director or a past officer or director of a corporation.

21
22 SECTION 24. Arkansas Code Title 26, Chapter 54, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 26-54-115. Rules.

25 The Director of the Department of Finance and Administration may adopt
26 rules to implement and administer this chapter.

27
28 SECTION 25. DO NOT CODIFY. Rules.

29 (a) When adopting the initial rules required under Sections 3-17 and
30 20-24 of this act, the final rules shall be filed with the Secretary of State
31 for adoption under § 25-15-204(f):

32 (1) On or before January 1, 2020; or

33 (2) If approval under § 10-3-309 has not occurred by January 1,
34 2020, as soon as practicable after approval under § 10-3-309.

35 (b) The director of the relevant state agency shall file the proposed
36 rules with the Legislative Council under § 10-3-309(c) sufficiently in

1 advance of January 1, 2020, so that the Legislative Council may consider the
2 rules for approval before January 1, 2020.

3
4 SECTION 26. EFFECTIVE DATES.

5 (a) Sections 3-17 and 20-24 of this act are effective on and after
6 January 1, 2020.

7 (b) Sections 18 and 19 of this act are effective on the first day of
8 the calendar quarter following the effective date of the act.

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10
11 */s/J. Hendren*
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