

Stricken language would be deleted from and underlined language would be added to present law.
Act 819 of the Regular Session

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S3/19/19 H3/27/19
A Bill

SENATE BILL 561

By: Senator J. Hendren
By: Representative Dotson

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS TAX REFORM ACT OF 2019;
TO REFORM THE TAX LAWS OF THE STATE; TO AMEND THE
ARKANSAS CORPORATE FRANCHISE TAX ACT OF 1979; TO
TRANSFER THE ADMINISTRATION AND COLLECTION OF THE
FRANCHISE TAX TO THE DEPARTMENT OF FINANCE AND
ADMINISTRATION; TO ELIMINATE THE FRANCHISE TAX
PENALTY ON CLOSED BUSINESSES; TO AUTHORIZE AND
REQUIRE REPORTING OF CERTAIN INFORMATION RELATED TO
TAXES; TO REQUIRE BIENNIAL REPORTS OF THE EFFECT OF
EXEMPTIONS, DISCOUNTS, CREDITS, AND DEDUCTIONS
RELATING TO INCOME TAX AND SALES AND USE TAX; TO
PROVIDE FOR GUIDELINES AND PENALTIES RELATED TO
ASSESSMENTS FOR PURPOSES OF PROPERTY TAXES; TO
REQUIRE THE ASSESSMENT COORDINATION DEPARTMENT TO
ESTABLISH MANDATORY GUIDELINES FOR COUNTIES RELATED
TO THE ASSESSMENT OF BUSINESS INVENTORY AND PROPERTY
THAT IS EXEMPT FROM AD VALOREM TAX; TO PROVIDE FOR
PENALTIES FOR NONCOMPLIANCE WITH THE GUIDELINES
ESTABLISHED BY THE ASSESSMENT COORDINATION
DEPARTMENT; TO EXEMPT CERTAIN ADVERTISING FROM SALES
TAX; TO REGULATE THE SALES AND USE TAX EXEMPTION FOR
ALL-TERRAIN VEHICLES USED AS FARM MACHINERY AND
EQUIPMENT; AND FOR OTHER PURPOSES.

Subtitle

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



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

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

SECTION 1. DO NOT CODIFY. Title.

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

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

(a) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

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

the other jurisdiction;

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

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

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

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

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

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

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

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

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

State so requires, use of these forms is mandatory.

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

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

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

(2) that

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

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

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

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

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

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

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

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

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

4-27-1420. Grounds for administrative dissolution.

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

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

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

within sixty (60) days after it is due;

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

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

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

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

4-27-1530. Grounds for revocation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the name of the corporation;

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

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

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

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

(b) The requirements as to the applicability, use, and filing of the annual franchise tax report shall be as set forth in the Arkansas Corporate Franchise Tax Act of 1979, § 26-54-101 et seq.

SECTION 11. Arkansas Code § 4-33-120(i), concerning filing requirements under the Arkansas Nonprofit Corporation Act of 1993, is amended to read as follows:

(i) The document must be delivered to the office of the Secretary of State for filing and must be accompanied by one (1) exact or conformed copy (except as provided in §§ 4-33-503 and 4-33-1509), the correct filing fee, and proof of payment of any franchise tax, license fee, or penalty required by this chapter or other law.

SECTION 12. Arkansas Code § 17-19-202(c), concerning licensing applications for bail bond companies, is amended to read as follows:

(c)(1) An application for a professional bail bond company license shall be accompanied by proof that the applicant:

(A) Is an Arkansas partnership, firm, or corporation, a foreign corporation registered and authorized to conduct business in the State of Arkansas, or an individual who is a resident of the state; and

(B) Has at least one (1) owner or partner that has been licensed for at least two (2) years during the last three (3) years by the State of Arkansas as a professional bail bondsman.

(2) A corporation shall file proof that its most recent annual franchise tax has been paid to the ~~Secretary of State~~ Department of Finance and Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The Assessment Coordination Department shall:

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

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

(B) Assessing business inventory;

(2) Adopt rules necessary for:

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

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

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

assessments of property are just and uniform throughout the state;

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

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

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

(b) A county assessor shall:

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

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

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

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

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

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

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

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

conclusion.

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

(1) Shall include:

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

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

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

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

(i) The distribution of the tax burden by:

(a) Income class; and

(b) Industry or business class; and

(ii) Total income by income class; and

(2) May include:

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

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

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

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

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

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

(A) In newspapers and publications; and

(B) Through billboard advertising services; or

(C) On a public transit bus.

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

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

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

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

(ii) The person's tax identification number;

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

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

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

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

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

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

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

(iii) Is equipped with nonhighway tires; and

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

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

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

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

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

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

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

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

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

SECTION 21. Arkansas Code § 26-54-107 is amended to read as follows:
26-54-107. Computation of tax – Penalty – Relief.

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

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

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

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

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

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

- (1) Disputes the proposed amount; or
- (2) Is insolvent or bankrupt.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The authorized and outstanding capital stock;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26-54-112. Reinstatement of corporations.

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

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

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

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

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

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

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

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

26-54-114. Nonpayment of franchise taxes.

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

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

(c) As used in this section:

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

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

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

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

26-54-115. Rules.

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

SECTION 25. DO NOT CODIFY. Rules.

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

(1) On or before May 1, 2021; or

(2) If approval under § 10-3-309 has not occurred by May 1, 2021, as soon as practicable after approval under § 10-3-309.

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

advance of May 1, 2021, so that the Legislative Council may consider the rules for approval before May 1, 2021.

SECTION 26. EFFECTIVE DATES.

(a) Sections 3-17 and 20-24 of this act are effective on and after May 1, 2021.

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

/s/J. Hendren

APPROVED: 4/9/19