

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# **A Bill**

**ACT 459 OF 1995**  
**HOUSE BILL 1636**

4 **By: Representatives Wren, Courtway, Cash, Choate, Fletcher Hill, Jones, Kidd, Lynn,**  
5 **Mitchell, T. Smith, Stalnaker, Thomas, Wallis, and Young**

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## **For An Act To Be Entitled**

9 "AN ACT TO AMEND ARKANSAS CODE SUBCHAPTER 3 OF CHAPTER 2  
10 OF TITLE 1 AND § 25-15-204 TO PROVIDE FOR THE COMPILATION  
11 OR CODIFICATION OF STATE AGENCY REGULATIONS BY THE  
12 ARKANSAS CODE REVISION COMMISSION; AND FOR OTHER  
13 PURPOSES."

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## **Subtitle**

16 "TO PROVIDE FOR THE CODIFICATION OF  
17 STATE AGENCY REGULATIONS BY THE ARKANSAS  
18 CODE REVISION COMMISSION."

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

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22 SECTION 1. Section 1-2-303 is hereby amended to read as follows:

23 "1-2-303. Powers and Duties.

24 (a) (1) (A) The Arkansas Code Revision Commission shall, from time to  
25 time, arrange for the publication of compilations, recom compilations, revisions,  
26 codifications, or recodifications of, or cumulative or noncumulative  
27 supplements to, the statutes of Arkansas.

28 (B) The Arkansas Code Revision Commission shall, from time  
29 to time, arrange for the publication of complete compilations, recom compilations,  
30 codifications, or recodifications of the regulations of each agency having  
31 general applicability and legal effect, issued or promulgated by the agency  
32 which are relied upon by the agency as authority for, or are invoked or used  
33 by it in the discharge of, its activities or functions.

34 (2) The commission shall arrange for the solicitation and receipt  
35 of competitive bids for all these publications on such terms as it deems  
36 reasonable.

1           (3) Specifications for the publications shall be drawn under the  
2 supervision of and subject to approval by the commission.

3           (4) (A) Contracts shall be awarded to the lowest responsible  
4 bidder, taking into consideration, among other things, estimated time of  
5 performance, quality of work, probability of timely and adequate performance,  
6 and experience of the company regarding the services sought by the commission.

7           (B) If the best interests of the state would be served, any  
8 and all bids submitted to the commission regarding any publication project may  
9 be rejected, and the commission may negotiate any necessary contract with the  
10 party most qualified to perform the services sought by the commission.

11           (5) The price at which publications under this section shall be  
12 sold shall, from time to time, be fixed by the Arkansas Code Revision  
13 Commission . If the commission enters into a contract with a publisher for  
14 any publication, the price at which the publication under the contract shall  
15 be sold shall, from time to time, be fixed by agreement between the commission  
16 and the publishers.

17           (6) Supplements and replacement volumes published under the  
18 supervision of the commission shall be prima facie evidence of the law or  
19 regulations contained therein.

20           (b) The Arkansas Code Revision Commission, in its discretion and  
21 subject to the provisions and requirements of § 19-4-1109, may enter into  
22 contracts for professional services to the commission, which contracts may  
23 include, but are not limited to, the purposes of:

24           (1) Creation and maintenance of up-to-date continuing  
25 computerized data base banks of the statutes and regulations of Arkansas by  
26 use of magnetic tape or other means of photographic or electronic preservation  
27 and reproduction systems with facilities for electronic access and retrieval.

28           (A) However, before the commission shall enter into any  
29 contract for computerized data base banks of the statutes or regulations of  
30 Arkansas, the commission shall confer with and seek the advice of the  
31 President Pro Tempore of the Senate and the Speaker of the House of  
32 Representatives of the General Assembly of the State of Arkansas, the Arkansas  
33 Legislative Council, and the Bureau of Legislative Research with respect to  
34 the needs and requirements for use of computerized data base banks of the  
35 statutes or regulations of Arkansas:

1 (i) For electronic access and statutory retrieval in  
2 connection with a computerized bill drafting and bill processing system;

3 (ii) To meet the needs of the General Assembly and  
4 the committees thereof; and

5 (iii) To assist in the preparation of acts signed by  
6 the Governor for printing of the official acts of Arkansas.

7 (B) The commission shall confer periodically with the  
8 President Pro Tempore of the Senate and the Speaker of the House of  
9 Representatives of the Arkansas General Assembly, the Legislative Council, and  
10 the Bureau of Legislative Research and shall seek their advice with respect to  
11 means of upgrading and improving the computerized data base banks to meet the  
12 needs and requirements for their respective uses;

13 (2) Providing continuing assistance to the commission in the  
14 maintenance of the data bases and the appropriate codification of legislation  
15 adopted by the General Assembly and compilation or codification of regulations  
16 promulgated by state agencies;

17 (3) Performing those other services which are determined by the  
18 commission, from time to time, to be reasonably required and necessary in  
19 order to maintain availability to the State of Arkansas of up-to-date  
20 computerized data base indices of the statutes and regulations of Arkansas and  
21 in furtherance of its duties and authority as otherwise provided by this  
22 subchapter and by other provisions of law;

23 (4) Preparation of a compilation or codification of all  
24 regulations of Arkansas in a code of regulations; or, in lieu of a single  
25 compilation or codification of all regulations, preparation of compilations or  
26 codifications of a similar subject or nature, from time to time, with the  
27 overall objective of eventually incorporating all regulations in a compilation  
28 or codification of those regulations; and

29 (5) Preparation of a codification of all the statutes of a general  
30 and permanent nature in a proposed code of laws, to be presented to the  
31 General Assembly of the State of Arkansas for approval and enactment; or, in  
32 lieu of a single codification of all of the state's statutes of a general and  
33 permanent nature, preparation of recommended codes of a similar subject or  
34 nature in proposed titles or chapters of a code for consideration by the  
35 General Assembly for enactment, from time to time, with the overall objective

1 of eventually incorporating all of the state's statutes of a general and  
2 permanent nature in a unified codification of those laws.

3 (c) The Arkansas Code Revision Commission shall cause the executive  
4 director and other staff members of the commission:

5 (1) To make continual studies and conduct reviews of the common  
6 law, statutes, and current judicial decisions of the state in order to  
7 identify:

8 (A) Obsolete statutes;

9 (B) Overlapping and duplicating laws;

10 (C) Inequitable or inconsistent laws;

11 (D) Deficiencies in existing laws which contribute to  
12 indefiniteness of interpretation of the purpose of those laws or the  
13 legislative intent thereof;

14 (E) Deficiencies in administrative procedures;

15 (F) Defects in practice and procedure;

16 (G) Deficiencies of due process provisions in the  
17 enforcement of the criminal laws of this state;

18 (2) To provide for other and similar studies designed to lead to  
19 the preparation of drafts of corrective legislation for presentation, after  
20 review and approval by the Legislative Council, to each session of the General  
21 Assembly for enactment; and

22 (3) To make studies of the methods, means, and systems used in  
23 the various states for the compilation, codification, revision, and  
24 publication of the compilations, codifications, or statutes of those states.  
25 These studies are to be used by the commission in determining means of  
26 improving the codification of the statutes of Arkansas and the compilation or  
27 codification of the regulations of Arkansas and to prepare recommendations to  
28 the General Assembly in regard thereto.

29 (d) (1) In exercising the powers and duties imposed upon it by this  
30 section, the commission shall not authorize any change in the substance or  
31 meaning of any provision of the Arkansas Code or any Act of the General  
32 Assembly or any regulation. However, the commission is authorized to:

33 (A) Correct the spelling of words;

34 (B) Change the capitalization for the purpose of  
35 uniformity;

- 1 (C) Correct manifest typographical and grammatical errors;
- 2 (D) Correct manifest errors in references to laws;
- 3 (E) Correct manifest errors in internal reference numbers;
- 4 (F) Substitute the proper Code section number, subchapter  
5 number, chapter number, subtitle number, title number, or other number or  
6 designation for the terms this Act, the preceding Code section, this  
7 regulation, the preceding regulation, or any similar words or phrases;
- 8 (G) Renumber, redesignate, and rearrange chapters,  
9 subchapters, sections, subsections, and subdivisions, or any combination or  
10 portion thereof;
- 11 (H) Change internal reference numbers to agree with  
12 renumbered chapters, subchapters, sections, subsections, subdivisions, or  
13 portions thereof;
- 14 (I) Substitute the correct calendar date for the effective  
15 date of this Act or the effective date of this regulation and other phrases  
16 of similar import;
- 17 (J) Correct inaccurate references to the titles of  
18 officers, the names of departments or other agencies of the state or local  
19 governments, or the federal government, and to the short titles of other laws,  
20 and make any other name changes necessary to be consistent with the laws  
21 currently in effect;
- 22 (K) Rearrange definitions in alphabetical order;
- 23 (L) Insert or delete hyphens in words so as to follow  
24 correct grammatical usage;
- 25 (M) Change numerals or symbols to words or vice versa and  
26 add figures or words if they are merely a repetition of written words or vice  
27 versa for purposes of uniformity and style;
- 28 (N) Change nouns from the singular to the plural or vice  
29 versa and change forms of verbs for purposes of style and grammar; and
- 30 (O) Change punctuation for purposes of uniformity and  
31 consistency of style.
- 32 (2) This subsection shall not apply to the publication known as  
33 the Acts of Arkansas. The Acts of Arkansas shall be published containing the  
34 acts of the General Assembly exactly as enacted by the General Assembly. No  
35 correction, change, renumbering, substitution, redesignation, or rearrangement

1 shall be made to the text of the acts published in the Acts of Arkansas."

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3 SECTION 2. Subchapter 3 of chapter 2 of title 1 is hereby amended by  
4 adding a new § 1-2-307 to read as follows:

5 "1-2-307. Code of state regulations.

6 (a) The format and indexing of a code of state regulations shall  
7 conform as nearly as practical to the format and indexing of the Arkansas Code  
8 of 1987 Annotated.

9 (b) To be accepted by the Code Revision Commission for publication in a  
10 code of state regulations, a rule shall:

11 (1) Cite the law under which the rule is adopted;

12 (2) Be signed by the head of the agency or the rule-making  
13 coordinator for the agency adopting the rule; and

14 (3) Be in the physical form specified by the commission.

15 (c) In the performance of its duties under this subchapter, the  
16 commission may:

17 (1) Call upon an agency to submit to the commission one or more  
18 copies of all existing rules as well as subsequent amendments, repeals,  
19 additions, or new rules;

20 (2) Advise agencies as to the form and style of their rules as  
21 well as the compilation or codification thereof; and

22 (3) Promulgate general or special rules respecting the nature and  
23 content of the code of state regulations, making exceptions to it,  
24 supplementing or limiting the duties of agencies under this subchapter, and  
25 otherwise carrying out the purposes of this subchapter.

26 (d) (1) After consulting with the agency that adopted the rule, the  
27 commission may revise the form of a rule submitted for inclusion in a code of  
28 state regulations to do one or more of the following:

29 (A) Rearrange the order of the rule in the code or the  
30 order of the subsections, subdivisions, or other subparts of the rule;

31 (B) Provide a heading for the rule or revise the heading of  
32 the rule;

33 (C) Reletter or renumber the rule or the subparts of the  
34 rule in accordance with a uniform system;

35 (D) Rearrange definitions and lists; and

1                   (E) Make any other changes in arrangement or in form that  
2 do not change the substance of the rule and are necessary or desirable for a  
3 clear and orderly arrangement of the rule.

4                   (2) Revision of a rule by the commission under this section does  
5 not affect the effective date of the rule or require the agency to readopt or  
6 resubmit the rule. When the commission revises the form of a rule, the  
7 commission shall send the agency that adopted the rule a copy of the revised  
8 rule. The revised rule is the official rule.

9                   (e) No rule shall be valid unless adopted and filed in substantial  
10 compliance with this section."

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12           SECTION 3. Section 25-15-204(d) is hereby amended to read as follows:

13           "(d) (1) Every agency, including those exempted under § 25-15-202, shall  
14 file with the Secretary of State, the Arkansas State Library, and the Arkansas  
15 Code Revision Commission a certified copy of each rule and regulation adopted  
16 by it.

17                   (2) The Secretary of State shall keep a register of the rules  
18 open to public inspection, and it shall be a permanent register.

19                   (3) The Arkansas Code Revision Commission shall publish a code of  
20 state regulations pursuant to § 1-2-301 et seq."

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22           SECTION 4. All provisions of this act of a general and permanent nature  
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
24 Revision Commission shall incorporate the same in the Code.

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26           SECTION 5. If any provision of this act or the application thereof to  
27 any person or circumstance is held invalid, such invalidity shall not affect  
28 other provisions or applications of the act which can be given effect without  
29 the invalid provision or application, and to this end the provisions of this  
30 act are declared to be severable.

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32           SECTION 6. All laws and parts of laws in conflict with this act are  
33 hereby repealed.

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APPROVED: 2-27-95

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