

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

**Act 1865 of the Regular Session**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H3/16/05*

**A Bill**

HOUSE BILL 2480

5 By: Representatives Hardwick, Mathis, Abernathy, Adcock, Anderson, Berry, Blair, Bolin, Bond,  
6 Borhauer, Bright, Burris, Childers, Cooper, Cowling, D. Creekmore, Davenport, Davis, Dickinson,  
7 Dobbins, Dunn, Edwards, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, R. Green,  
8 Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd,  
9 Lamoureux, Mack, Mahony, J. Martin, M. Martin, Matayo, Maxwell, McDaniel, Medley, Norton,  
10 Ormond, Overbey, Pace, Petrus, S. Prater, Pritchard, Pyle, Ragland, Rainey, Reep, Roebuck, Rogers,  
11 Rosenbaum, Sample, Saunders, Scroggin, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Verkamp,  
12 Walters, Wells, Wills, Wood  
13 By: Senators Higginbotham, Altes, Bisbee, J. Bookout, Capps, Glover, Hendren, Horn, G. Jeffress, B.  
14 Johnson, T. Smith, J. Taylor, Trusty, Wooldridge  
15  
16

**For An Act To Be Entitled**

18 AN ACT TO PROVIDE FOR A SALES AND USE TAX  
19 EXEMPTION FOR QUALIFIED MUSEUMS; AND FOR OTHER  
20 PURPOSES.  
21

**Subtitle**

22 TO PROVIDE FOR A SALES AND USE TAX  
23 EXEMPTION FOR QUALIFIED MUSEUMS.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended  
30 to add an additional section to read as follows:

31 26-52-438. Exemption for qualified museums.

32 (a) As used in this section:

33 (1) "Exemption certificate" means an exemption certificate  
34 issued by the Director of the Department of Finance and Administration under  
35 subdivision (d)(1) of this section;



1           (2) "Nonprofit organization" means any organization described in  
2 Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect on  
3 January 1, 2005;

4           (3) "Qualified museum" means any nonprofit organization that  
5 acquires a collection of artwork for purposes of establishing and operating a  
6 qualified museum facility, regardless of whether the nonprofit organization  
7 may engage in any other charitable activities, if the:

8           (A) Fair market value of the artwork collection of the  
9 nonprofit organization for public viewing and exhibition at the qualified  
10 museum facility exceeds one hundred million dollars (\$100,000,000) prior to  
11 January 1, 2013; and

12           (B) The Director of the Department of Finance and  
13 Administration has issued an exemption certificate to the nonprofit  
14 organization; and

15           (4) "Qualified museum facility" means a facility, including the  
16 structures, buildings, and any ancillary or related structures or buildings  
17 and real property associated with the facility, including auditoriums,  
18 parking areas, and educational facilities that house a collection of art or  
19 other exhibits for public viewing and exhibition, if the:

20           (A) Principal location and primary operations of the  
21 facility will be located within the State of Arkansas;

22           (B) Museum portion of the facility opens to the public  
23 after January 1, 2005, and prior to January 1, 2013; and

24           (C) Aggregate total costs of the construction and  
25 acquisition of the facility exceeds thirty million dollars (\$30,000,000)  
26 prior to January 1, 2013.

27           (b)(1) The gross receipts or gross proceeds derived from the sale of  
28 any tangible personal property or services to a qualified museum are exempt  
29 from the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

30           (2) The exemption provided in subdivision (b)(1) of this section  
31 shall also apply to the gross receipts or gross proceeds derived from the  
32 sale of materials to a qualified museum or its contractor or agent used in  
33 the construction, repair, expansion, or operation of the qualified museum  
34 facility.

35           (c) A nonprofit organization requesting recognition as a qualified  
36 museum shall file with the director, on forms prescribed by the director, a

1 written statement under oath:

2 (1) Describing the facts upon which the nonprofit organization  
3 claims the exemption under this section. This statement shall be filed prior  
4 to first claiming this exemption and shall include facts indicating that the  
5 nonprofit organization has a good faith plan and intent to satisfy the  
6 conditions under subdivision (c)(2) of this section; and

7 (2) On or before June 30, 2013, stating that the following  
8 conditions have been met:

9 (A) The nonprofit organization has established and  
10 operated prior to January 1, 2013, a facility that houses a collection of art  
11 or other exhibits for public viewing and exhibition;

12 (B) The principal location and primary operations of the  
13 facility are located within the State of Arkansas;

14 (C) The museum portion of the facility first opened to the  
15 public after January 1, 2005, and prior to January 1, 2013;

16 (D) The aggregate total costs of construction and  
17 acquisition of the facility including the structures, buildings, ancillary or  
18 related structures or buildings, real property used in connection with the  
19 facility, auditoriums, parking areas and educational facilities exceeded  
20 thirty million dollars (\$30,000,000) prior to January 1, 2013; and

21 (E) Prior to January 1, 2013, the nonprofit organization  
22 acquired a collection of artwork with a fair market value in excess of one  
23 hundred million dollars (\$100,000,000) for public viewing and exhibition at  
24 the qualified museum facility.

25 (d)(1) After filing the statement required under subdivision (c)(1) of  
26 this section, if the director finds that the nonprofit organization has a  
27 good faith plan and intent to satisfy the conditions of subdivision (c)(2) of  
28 this subsection prior to January 1, 2013, the director shall issue an  
29 exemption certificate to the nonprofit organization within sixty (60) days  
30 after the filing of the statement.

31 (2) The director may revoke the exemption certificate at any  
32 time after it is issued if the director determines that the nonprofit  
33 organization is unable to satisfy the conditions under subdivision (c)(2) of  
34 this subsection prior to January 1, 2013.

35 (3) After filing the statement required under subdivision (c)(2)  
36 of this section, if the director determines that the nonprofit organization

1 has not met the conditions under subdivision (c)(2) of this section, the  
2 director shall revoke the exemption certificate of the nonprofit  
3 organization.

4 (4) If the nonprofit organization fails to file the statement  
5 described in subdivision (c)(2) of this section on or prior to June 30, 2013,  
6 the director shall revoke the exemption certificate.

7 (5) Revocation by the director of an exemption certificate shall  
8 be retroactive to the date of its issuance subject to subsection (e) of this  
9 section.

10 (e)(1) If the director revokes the exemption certificate, any tax  
11 deficiency, related interest, and applicable penalties due under the Arkansas  
12 Gross Receipts Act of 1941, § 26-52-101 et seq., Arkansas Compensating Tax  
13 Act of 1949, § 26-53-101 et seq., or the Arkansas Tax Procedure Act, § 26-18-  
14 101 et seq., may be assessed against the nonprofit organization but may not  
15 be assessed against a third party that has relied in good faith on the  
16 exemption certificate prior to its revocation.

17 (2) If the director revokes the exemption certificate, any tax  
18 deficiency, related interest, and applicable penalties assessed against the  
19 nonprofit organization shall also include any tax deficiency, related  
20 interest, and applicable penalties assessed on purchases made by the  
21 nonprofit organization's contractors and agents for the benefit of the  
22 nonprofit organization in reliance on the exemption certificate.

23 (3) Any assessment by the director under subdivisions (e)(1) or  
24 (2) of this section shall be made in accordance with the Arkansas Tax  
25 Procedure Act, § 26-18-101 et seq. However, the time period for the director  
26 to make the assessment is extended to whichever of the following occurs  
27 first:

28 (A) Three (3) years from the date the nonprofit  
29 organization files the statement under subdivision (c)(2) of this section; or

30 (B) July 1, 2016.

31 (4) The nonprofit organization may contest any assessment or  
32 other determination by the director in accordance with the Arkansas Tax  
33 Procedure Act, § 26-18-101 et seq.

34  
35 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended  
36 to add an additional section to read as follows:

1       26-53-145. Exemption for qualified museums.

2       (a) As used in this section:

3           (1) "Exemption certificate" means an exemption certificate  
4 issued by the Director of the Department of Finance and Administration under  
5 subdivision (d)(1) of this section;

6           (2) "Nonprofit organization" means any organization described in  
7 Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect on  
8 January 1, 2005;

9           (3) "Qualified museum" means any nonprofit organization that  
10 acquires a collection of artwork for purposes of establishing and operating a  
11 qualified museum facility, regardless of whether the nonprofit organization  
12 may engage in any other charitable activities, if the:

13           (A) Fair market value of the artwork collection of the  
14 nonprofit organization for public viewing and exhibition at the qualified  
15 museum facility exceeds one hundred million dollars (\$100,000,000) prior to  
16 January 1, 2013; and

17           (B) The Director of the Department of Finance and  
18 Administration has issued an exemption certificate to the nonprofit  
19 organization; and

20           (4) "Qualified museum facility" means a facility, including the  
21 structures, buildings, and any ancillary or related structures or buildings  
22 and real property associated with the facility, including auditoriums,  
23 parking areas and educational facilities that house a collection of art or  
24 other exhibits for public viewing and exhibition, if the:

25           (A) Principal location and primary operations of the  
26 facility will be located within the State of Arkansas;

27           (B) Museum portion of the facility opens to the public  
28 after January 1, 2005, and prior to January 1, 2013; and

29           (C) Aggregate total costs of the construction and  
30 acquisition of the facility exceeds thirty million dollars (\$30,000,000)  
31 prior to January 1, 2013.

32       (b)(1) The storage, use, distribution, or consumption of any tangible  
33 personal property by a qualified museum is exempt from the Arkansas  
34 Compensating Tax Act of 1949, § 26-53-101 et seq.

35       (2) The exemption provided in subdivision (b)(1) of this section  
36 shall also apply to the storage, use, distribution, or consumption of

1 materials by a qualified museum, or its contractor or agent used in the  
2 construction, repair, expansion, or operation of the qualified museum  
3 facility.

4 (c) A nonprofit organization requesting recognition as a qualified  
5 museum shall file with the director, on forms prescribed by the director, a  
6 written statement under oath:

7 (1) Describing the facts upon which the nonprofit organization  
8 claims the exemption under this section. This statement shall be filed prior  
9 to first claiming this exemption and shall include facts indicating that the  
10 nonprofit organization has a good faith plan and intent to satisfy the  
11 conditions under subdivision (c)(2) of this section; and

12 (2) On or before June 30, 2013, stating that the following  
13 conditions have been met:

14 (A) The nonprofit organization has established and  
15 operated prior to January 1, 2013, a facility that houses a collection of art  
16 or other exhibits for public viewing and exhibition;

17 (B) The principal location and primary operations of the  
18 facility are located within the State of Arkansas;

19 (C) The museum portion of the facility first opened to the  
20 public after January 1, 2005, and prior to January 1, 2013;

21 (D) The aggregate total costs of construction and  
22 acquisition of the facility including the structures, buildings, ancillary or  
23 related structures or buildings, real property used in connection with the  
24 facility, auditoriums, parking areas and educational facilities exceeded  
25 thirty million dollars (\$30,000,000) prior to January 1, 2013; and

26 (E) Prior to January 1, 2013, the nonprofit organization  
27 acquired a collection of artwork with a fair market value in excess of one  
28 hundred million dollars (\$100,000,000) for public viewing and exhibition at  
29 the qualified museum facility.

30 (d)(1) After filing the statement required under subdivision (c)(1) of  
31 this section, if the director finds that the nonprofit organization has a  
32 good faith plan and intent to satisfy the conditions of subdivision (c)(2) of  
33 this section prior to January 1, 2013, the director shall issue an exemption  
34 certificate to the nonprofit organization within sixty (60) days after the  
35 filing of the statement.

36 (2) The director may revoke the exemption certificate at any

1 time after it is issued if the director determines that the nonprofit  
2 organization is unable to satisfy the conditions under subdivision (c)(2) of  
3 this section prior to January 1, 2013.

4 (3) After filing the statement required under subdivision (c)(2)  
5 of this section, if the director determines that the nonprofit organization  
6 has not met the conditions under subdivision (c)(2) of this section, the  
7 director shall revoke the exemption certificate of the nonprofit  
8 organization.

9 (4) If the nonprofit organization fails to file the statement  
10 described in subdivision (c)(2) of this section on or prior to June 30, 2013,  
11 the director shall revoke the exemption certificate.

12 (5) Revocation by the director of an exemption certificate shall  
13 be retroactive to the date of its issuance subject to subsection (e) of this  
14 section.

15 (e)(1) If the director revokes the exemption certificate, any tax  
16 deficiency, related interest, and applicable penalties due under the Arkansas  
17 Gross Receipts Act of 1941, § 26-52-101 et seq., the Arkansas Compensating  
18 Tax Act of 1949, § 26-53-101 et seq., or the Arkansas Tax Procedure Act, §  
19 26-18-101 et seq., may be assessed against the nonprofit organization but may  
20 not be assessed against a third party that has relied in good faith on the  
21 exemption certificate prior to its revocation.

22 (2) If the director revokes the exemption certificate, any tax  
23 deficiency, related interest, and applicable penalties assessed against the  
24 nonprofit organization shall also include any tax deficiency, related  
25 interest, and applicable penalties assessed on purchases made by the  
26 nonprofit organization's contractors and agents for the benefit of the  
27 nonprofit organization in reliance on the exemption certificate.

28 (3) Any assessment by the director under subdivisions (e)(1) or  
29 (2) of this section shall be made in accordance with the Arkansas Tax  
30 Procedure Act, § 26-18-101 et seq. However, the time period for the director  
31 to make the assessment is extended to whichever of the following occurs  
32 first:

33 (A) Three (3) years from the date the nonprofit  
34 organization files the statement under subdivision (c)(2) of this section; or

35 (B) July 1, 2016.

36 (4) The nonprofit organization may contest any assessment or

1 other determination by the director in accordance with the Arkansas Tax  
2 Procedure Act, § 26-18-101 et seq.

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*/s/ Hardwick, et al*

*APPROVED: 04/08/2005*



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