

1 State of Arkansas
2 94th General Assembly
3 Fiscal Session, 2024
4

A Bill

SENATE BILL 78

5 By: Senator J. Bryant
6 By: Representative McClure
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS DATA CENTERS ACT OF
10 2023; TO CREATE REQUIREMENTS FOR NOISE REDUCTION IN
11 THE OPERATION OF A DIGITAL ASSET MINING BUSINESS; TO
12 CLARIFY THE ABILITY OF AN ARKANSAS RESIDENT TO ENGAGE
13 IN HOME DIGITAL ASSET MINING; TO PROHIBIT FOREIGN-
14 PARTY-CONTROLLED OWNERSHIP OF A DIGITAL ASSET MINING
15 BUSINESS IN ARKANSAS; TO DECLARE AN EMERGENCY; AND
16 FOR OTHER PURPOSES.

Subtitle

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20 TO AMEND THE ARKANSAS DATA CENTERS ACT OF
21 2023; TO PROHIBIT FOREIGN-PARTY-
22 CONTROLLED OWNERSHIP OF A DIGITAL ASSET
23 MINING BUSINESS; AND TO DECLARE AN
24 EMERGENCY.
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 14-1-603(10), concerning the definition of
30 "ordinance" under the Arkansas Data Centers Act of 2023, is amended to read
31 as follows:

32 (10) "Ordinance" means an ordinance, resolution, or other
33 appropriate legislative enactment of a legislative body ~~that~~

34 ~~(A) Prohibits an individual from operating a business from~~
35 ~~a residence; or~~

36 ~~(B) Requires an individual to obtain approval before~~



1 ~~operating a business from a residence;~~

2

3 SECTION 2. Arkansas Code § 14-1-604(a), concerning requirements that a
4 digital asset mining business shall comply with to operate in Arkansas, is
5 amended to read as follows:

6 (a) A digital asset mining business may operate in this state if the
7 digital asset mining business complies with:

8 ~~(1) State law concerning business guidelines and tax policies;~~

9 ~~(2)(1) Any ordinance concerning operations and safety ordinance;~~

10 ~~(3)(2) Any rule or rate for utility service provided by or on~~
11 ~~behalf of a public entity; and~~

12 ~~(4)(3) State and federal employment laws law.~~

13

14 SECTION 3. Arkansas Code § 14-1-604(b), concerning requirements that a
15 digital asset mining business shall comply with, is amended to add an
16 additional subdivision to read as follows:

17 (3) Apply noise-reduction techniques, including without
18 limitation:

19 (A) Using liquid cooling or submerged cooling;

20 (B)(i) Fully enclosing the envelope.

21 (ii) As used in subdivision (b)(3)(B)(i) of this
22 section, "fully enclosing the envelope" means enfolding the envelope where
23 noise from the operation of a digital asset mining business is directly
24 produced around all sides, including above and below the equipment producing
25 the noise, with material that is reasonably calculated by industry standards
26 to reduce noise emissions to a level that is acceptable to a reasonable
27 person under similar circumstances; or

28 (C) Upon approval by the local government, locating or
29 relocating to:

30 (i) A minimum of two thousand feet (2,000') from the
31 nearest residential or commercial use structure; or

32 (ii) An area zoned for industrial use.

33

34 SECTION 4. Arkansas Code § 14-1-604, concerning requirements that a
35 digital asset mining business shall comply with, is amended to add an
36 additional subsection to read as follows:

1 (f) A local government shall not pass an ordinance that:

2 (1) Prohibits an individual from engaging in home digital asset
 3 mining; or

4 (2) Requires an individual to obtain approval from a local
 5 government before engaging in home digital asset mining.

6
 7 SECTION 5. Arkansas Code § 14-1-605(a), concerning prohibiting a local
 8 government from imposing ordinances or zoning regulations on a digital asset
 9 mining business with the intent to discriminate against the digital asset
 10 mining business, is amended to read as follows:

11 (a) Except as provided by subsection (d) of this section, a local
 12 government shall not:

13 ~~(1) Enact or adopt an ordinance, policy, or action that limits~~
 14 ~~the sound decibels generated from home digital asset mining other than the~~
 15 ~~limits set for sound pollution generally;~~

16 ~~(2) Impose a different requirement for a digital asset mining~~
 17 ~~business than is applicable to any requirement for a data center;~~

18 ~~(3) Rezone rezone an area in which a digital asset mining~~
 19 ~~business is located without complying with applicable state law and local~~
 20 ~~zoning ordinances; or~~

21 ~~(4) Rezone an area with the intent or effect of discriminating~~
 22 ~~against a digital asset mining business.~~

23
 24 SECTION 6. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
 25 to add an additional section to read as follows:

26 14-1-606. Ownership of digital asset mining business by prohibited
 27 foreign-party-controlled business prohibited – Definitions – Penalty –
 28 Reporting.

29 (a) As used in this section:

30 (1) "Controlling interest" means an ownership interest of
 31 fifteen percent (15%) or more, in the aggregate;

32 (2) "Prohibited foreign-party-controlled business" means a
 33 corporation, company, association, firm, partnership, society, joint-stock
 34 company, trust, estate, or other legal entity whose controlling interest is
 35 owned by a prohibited foreign party; and

36 (3) "Prohibited foreign party" means:

1 (A) A citizen, resident, or agent of a country subject to
2 § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. § 120.1
3 et seq.;

4 (B) A foreign government formed within a country subject
5 to § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. §
6 120.1 et seq.;

7 (C) A party other than an individual or a government that
8 is created or organized under the laws of a foreign government within a
9 country subject to § 126.1 of the International Traffic in Arms Regulations,
10 22 C.F.R. § 120.1 et seq.;

11 (D) Any party other than an individual or a government:

12 (i) That is created or organized under the laws of
13 any state; and

14 (ii) In which a significant interest or substantial
15 control is directly or indirectly held or is capable of being exercised by:

16 (a) An individual referred to in subdivision
17 (a)(3)(A) of this section;

18 (b) A foreign government referred to in
19 subdivision (a)(3)(B) of this section;

20 (c) A party referred to in subdivision
21 (a)(3)(C) of this section; or

22 (d) A combination of the individuals, parties,
23 or governments referred to in this subdivision (a)(3)(D)(ii);

24 (E) An Entity of Particular Concern designated by the
25 United States Department of State; or

26 (F) An agent, trustee, or other fiduciary of a person or
27 entity enumerated in subdivisions (a)(3)(A)-(E) of this section.

28 (b)(1) A prohibited foreign-party-controlled business shall not
29 acquire or hold by grant, purchase, devise, descent, or otherwise any
30 interest in a digital asset mining business in this state.

31 (2) A person shall not acquire or hold a digital asset mining
32 business as an agent, trustee, or other fiduciary for a prohibited foreign-
33 party-controlled business.

34 (c)(1) A prohibited foreign-party-controlled business in operation
35 before the effective date of this act shall have six (6) months from the
36 effective date of this act to divest itself of the digital asset mining

1 business.

2 (2)(A) If the Office of Agricultural Intelligence determines
3 that a prohibited foreign party has acquired or may be holding a digital
4 asset mining business with assets in Arkansas in violation of this section,
5 the office shall report the potential violation to the Attorney General.

6 (B) If the Attorney General has received notice under
7 subdivision (c)(2)(A) of this section, the Attorney General may:

8 (i) Receive sworn statements; and

9 (ii) Issue subpoenas to compel the:

10 (a) Testimony of witnesses subpoenaed before
11 him or her; and

12 (b) Production of records and other documents
13 under § 25-16-705.

14 (d)(1) If as a result of the investigation under subdivision (c)(2) of
15 this section the Attorney General concludes that a violation of this section
16 has occurred, the Attorney General may commence an action in a circuit court
17 with proper jurisdiction over the digital asset mining business.

18 (2)(A) If the digital asset mining business is held to be in
19 violation of this section, the circuit court shall issue an order for the
20 digital asset mining business to be sold through judicial foreclosure.

21 (B) The proceeds of the sale under subdivision (d)(2)(A)
22 of this section shall be disbursed to the lienholders, in order of priority,
23 except for liens that under the terms of the sale are to remain.

24 (C) If the assets of the digital asset mining business
25 include real property, the Attorney General shall promptly record a copy of
26 the following in the local land records:

27 (i) Upon commencement, notice of the pendency of the
28 action under subdivision (d)(1) of this section; and

29 (ii) The order for the sale of the digital asset
30 mining business under subdivision (d)(2)(A) of this section.

31 (3) The Attorney General may pursue other remedies in an action
32 brought under subdivision (d)(1) of this section, including without
33 limitation:

34 (A) A civil penalty of fifteen thousand dollars (\$15,000);

35 (B) Prejudgment interest and postjudgment interest at the
36 maximum rates permitted by law; and

1 (C) Reasonable attorney's fees.

2 (4) In addition to the remedies under subdivision (d)(3) of this
3 section, the Attorney General may pursue treble damages against a digital
4 asset mining business if the digital asset mining business:

5 (A) Is held in violation of this section;

6 (B) Is ordered to pay a civil penalty under subdivision
7 (d)(3)(A) of this section; and

8 (C) Fails to pay a civil penalty under subdivision
9 (d)(3)(A) of this section within the scope of the order of the circuit court.

10 (5) The approval of a digital asset mining business by a local
11 government shall not be a defense to a cause of action brought under
12 subdivision (d)(1) of this section.

13 (e) A digital asset mining business that is composed of greater than
14 fifteen-percent ownership by a prohibited foreign-party-controlled business
15 shall report the composition of its ownership to the Attorney General.

16 (f) Title to real property is not invalid due to a violation of this
17 section by any former owner of the real property.

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19 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that increased circulation of
21 digital currency and adoption of digital transformation have led to an influx
22 of digital asset mining businesses in Arkansas in recent years; that digital
23 asset mining businesses have potential to generate excessive noise and that
24 without adequate regulation, digital asset mining businesses can place a
25 strain on, and reduce the quality of life of, residents and communities near
26 them; and that growth of this business sector has been capitalized upon by
27 foreign corporations and other foreign entities and aliens that pose
28 potential threats to the welfare and safety of Arkansas and its residents.
29 Therefore, an emergency is declared to exist, and this act being necessary
30 for the preservation of the public peace, health, and safety shall become
31 effective thirty (30) days after:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor, the
34 expiration of the period of time during which the Governor may veto the bill;
35 or

36 (3) If the bill is vetoed by the Governor and the veto is overridden,

1 the date the last house overrides the veto.

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