

Hall of the House of Representatives

94th General Assembly - Regular Session, 2023

Amendment Form

Subtitle of House Bill No. 1239

TO AMEND LAWS CONCERNING THE CORPORATE FRANCHISE TAX; TO REPEAL THE ARKANSAS CORPORATE FRANCHISE TAX ACT OF 1979; AND TO MAKE CONFORMING CHANGES.

Amendment No. 1 to House Bill 1239

Amend House Bill No. 1239 as originally introduced:

Delete SECTIONS 1 through 6 of the bill in their entirety, and substitute the following:

"SECTION 1. Arkansas Code Title 4, Chapter 25, Subchapter 1, is amended to add an additional section to read as follows:

4-25-111. Annual report for corporations – List of corporations.

(a)(1) As used in this section, "corporation" means any corporation, domestic or foreign, active or inactive, that is organized in or qualified under the laws of the State of Arkansas and includes without limitation any person or group of persons, association, joint-stock company, business trust, or other organizations with or without charter constituting a separate legal entity of relationship with the purpose of obtaining some corporate privilege or franchise that is not allowed to them as individuals and that is exercising, or attempting to exercise, corporate-type acts, whether or not existing by virtue of a particular statute.

(2) "Corporation" does not include:

(A) Nonprofit corporations;

(B) Corporations that are organizations exempt from the federal income tax; or

(C) Organizations formed under or governed by the Uniform Partnership Act (1996), § 4-46-101 et seq., or the Uniform Limited Partnership Act (2001), § 4-47-101 et seq.

(b)(1) The Secretary of State shall furnish annual report forms to each corporation subject to this section by mailing the annual report forms to the corporation's current agent for service or other person identified by the corporation.

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



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

(d) Each corporation subject to the requirements of this section shall file an annual report with the Secretary of State 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.

(e) A newly formed corporation is not required to file an annual report until the calendar year immediately following the calendar year of incorporation.

(f) When the par value of the shares of a corporation is required to be stated in an annual report and the shares of the corporation are without par value, the number of shares shall be stated.

(g)(1) Every annual report shall contain the following statement:
"I declare, under the penalties of perjury, that the foregoing statements are true to the best of my knowledge and belief."

(2) The statement required under subdivision (g)(1) of this section shall be signed by the president, vice president, secretary, treasurer, or controller of the corporation or other authorized person.

(h)(1) All information contained in an annual report shall be confidential and not available for public inspection, except for the following:

- (A) The name and address of the corporation;
- (B) The name of the corporation's president, vice president, secretary, treasurer, and controller;
- (C) The total authorized capital stock with par value;
- (D) The total issued and outstanding capital stock with par value; and
- (E) The state of incorporation.

(2) In the case of an annual report filed by an organization formed under the Uniform Limited Liability Company Act, § 4-38-101 et seq., the names of members, except those designated in the organizations' franchise tax report as a manager, president, vice president, secretary, treasurer, or controller of the organization, shall be confidential and not available for public inspection unless the organization has no registered agent for service of process.

(i)(1)(A) The 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.

(B) Each official or agency shall file with the Secretary of State a monthly report showing:

- (i) The name and address of each new corporation organized or qualified;
- (ii) The authorized and outstanding capital stock;
- (iii) The name changes, mergers, charter forfeitures, or withdrawals;

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

(v) All other information concerning the corporation required by the Secretary of State.

(2) Upon request of the Secretary of State, each official or agency shall prepare and certify to the Secretary of State a complete list of the names and addresses of all corporations that have organized or qualified through their respective office or agency and that are subject to the provisions of this section.

(3) 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 before conducting business in Arkansas.

(4)(A) 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.

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

SECTION 2. Arkansas Code § 4-27-1622 is amended to read as follows:
4-27-1622. Annual ~~franchise tax~~ report for Secretary of State.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State 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 may specify in a form promulgated under § 4-27-121(a).

(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~~ § 4-25-111.

SECTION 3. Arkansas Code § 4-36-401(a)(1), concerning the annual reports due under the Arkansas Benefit Corporation Act, is amended to read as follows:

(a)(1) A benefit corporation shall prepare an annual benefit report and an annual ~~franchise tax~~ report under ~~§ 26-54-104~~ § 4-25-111.

SECTION 4. Arkansas Code § 4-36-401(b), concerning the annual reports due under the Arkansas Benefit Corporation Act, is amended to read as follows:

(b) A benefit corporation shall send a benefit report to each shareholder annually:

(1) Before ~~the stated due date of an annual franchise tax under § 26-54-104~~ May 1; or

(2) When the benefit corporation delivers an annual financial report to its shareholders.

SECTION 5. Arkansas Code § 4-37-205(a), concerning the certificate of good standing for a protected series under the Uniform Protected Series Act, is amended to read as follows:

(a) On request of any person, the Secretary of State shall issue a certificate of good standing for a protected series of a series limited liability company or a certificate of registration for a foreign protected series if:

(1) in the case of a protected series:

(A) no statement of dissolution, termination, or relocation pertaining to the protected series has been filed; and

(B) the company has delivered to the Secretary of State for filing the most recent annual report required by ~~§ 26-54-105~~ § 4-25-111 and the report includes the name of the protected series, unless:

(i) when the company delivered the report for filing, the protected series designation pertaining to the protected series had not yet taken effect; or

(ii) after the company delivered the report for filing, the company delivered to the Secretary of State for filing a statement of designation change changing the name of the protected series; or

(2) in the case of a foreign protected series, it is registered to do business in this state.

SECTION 6. Arkansas Code § 4-37-206(a), concerning the information required in the annual report of a limited liability company, is amended to read as follows:

(a) In the annual report required by ~~§ 26-54-105~~ § 4-25-111, a series limited liability company shall include the name of each protected series of the company:

(1) for which the company has previously delivered to the Secretary of State for filing a protected series designation; and

(2) which has not dissolved and completed winding up.

SECTION 7. Arkansas Code § 4-38-212(f), concerning a limited liability company's annual report for the Secretary of State, is amended to read as follows:

(f) A limited liability company has satisfied the annual report requirements under this section if the requirements under ~~the Arkansas Corporate Franchise Tax Act of 1979, § 26-54-101 et seq.,~~ § 4-25-111 have been met."

AND

Appropriately renumber the sections of the bill

The Amendment was read _____
By: Representative Underwood
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Chief Clerk