

INTERIM STUDY PROPOSAL 2019-078

1
2 State of Arkansas
3 92nd General Assembly
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As Engrossed: S4/10/19

A Bill

SENATE BILL 560

5
6 By: Senators B. Johnson, J. Hendren
7 *By: Representative Richmond*

8 Filed with: Senate Committee on Revenue and Taxation
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO AMEND THE LAWS PERTAINING TO THE
12 ADMINISTRATION OF STATE TAXES; TO AMEND THE
13 ADMINISTRATIVE HEARING PROCEDURES FOR STATE TAXES; TO
14 AMEND THE PROCEDURES OF TAXPAYER JUDICIAL RELIEF; TO
15 CREATE THE TAX APPEALS COMMISSION ACT; TO CREATE A
16 FUND FOR THE TAX APPEALS COMMISSION; AND FOR OTHER
17 PURPOSES.

Subtitle

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20
21 AN ACT TO AMEND THE ADMINISTRATION OF
22 STATE TAXES; TO AMEND THE ADMINISTRATIVE
23 HEARING PROCEDURES FOR STATE TAXES; TO
24 CREATE THE TAX APPEALS COMMISSION ACT;
25 AND TO CREATE A FUND FOR THE TAX APPEALS
26 COMMISSION.

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

30
31 SECTION 1. Arkansas Code Title 26, Chapter 18, is amended to add an
32 additional subchapter to read as follows:

33 Subchapter 11 – Tax Appeals Commission Act

34
35 26-18-1101. Title.

1 This subchapter shall be known and may be cited as the “Tax Appeals
2 Commission Act”.

3

4 26-18-1102. Legislative purpose.

5 The purpose of this subchapter is to increase public confidence in the
6 fairness of the state tax system by establishing an independent tax appeals
7 commission within the executive branch of state government to ensure due
8 process in the resolution of tax disputes between taxpayers and the
9 Department of Finance and Administration.

10

11 26-18-1103. Legislative intent - Construction.

12 This subchapter shall be interpreted and construed to further the
13 intent of the General Assembly to provide the people of Arkansas with a fair
14 and independent Tax Appeals Commission to hear and resolve tax disputes
15 between taxpayers and the Department of Finance and Administration.

16

17 26-18-1104. Definition.

18 As used in this subchapter, “taxpayer” means a supplier, distributor,
19 partnership, limited liability company, corporation, person, user, off-road
20 consumer, or any entity that:

21 (1) Is challenging the state’s jurisdiction over the taxpayer;

22 or

23 (2) Has standing to challenge a decision by the Department of
24 Finance and Administration:

25 (A) Imposing a liability for tax, penalty or interest;

26 (B) Denying a refund or credit application;

27 (C) Canceling, refusing, or revoking a license or permit
28 under § 26-18-601, § 26-55-219, § 26-55-231, or § 26-56-311;

29 (D) Proposing an assessment of taxes;

30 (E) Closing a noncompliant taxpayer’s business;

31 (F) Relating to a jeopardy assessment;

32 (G) Seizing a vending device or a coin-operated amusement
33 device; or

34 (H) Taking any other action that provides a taxpayer the
35 right to a hearing with the Tax Appeals Commission under state law.

36

26-18-1105. Tax Appeals Commission - Creation.

(a) The Tax Appeals Commission is created in the executive branch of state government.

(b) The commission shall be separate from and independent of the authority, control, and supervision of the Department of Finance and Administration.

(c) The commission shall have a seal.

26-18-1106. Appointment of commissioners.

(a)(1) The Tax Appeals Commission shall consist of three (3) commissioners.

(2) Each commissioner shall be subject to the requirements under § 26-18-1107.

(b)(1) The commissioners shall be appointed by the Governor, subject to confirmation by the Senate.

(2) However, if a commissioner is appointed while the General Assembly is not in session, the commissioner may qualify and hold the position of commissioner unless the appointment is rejected by the Senate under § 10-2-113.

(c)(1) The Governor shall designate one (1) of the commissioners as Chief Commissioner.

(2)(A) The Chief Commissioner shall serve at the pleasure of the Governor.

(B) The Governor may revoke the designation of Chief Commissioner and may designate a new Chief Commissioner at any time.

(3) The Chief Commissioner shall:

(A) Be an attorney licensed to practice law in the State of Arkansas;

(B) Act as the executive officer of the commission;

(C) Be charged with the administration of the commission;

(D) Apportion among the commissioners all causes, matters, and hearings coming before the commission; and

(E) Take any actions necessary to enable the commission to properly exercise the duties, functions, and powers of the commission provided under this subchapter.

1 (d)(1) Except as provided in subdivision (d)(3) of this section,
2 commissioners shall be appointed to terms of five (5) years.

3 (2) A commissioner shall not serve more than two (2) terms.

4 (3) The commissioners who are appointed during the creation of
5 the commission shall be given initial terms of differing lengths as follows:

6 (A) One (1) of the commissioners who is initially
7 appointed shall serve an initial term of four (4) years and shall be eligible
8 for appointment to one (1) subsequent term of five (5) years after the
9 initial term; and

10 (B) The Chief Commissioner and one (1) other commissioner
11 shall serve an initial term of five (5) years and may be appointed to one (1)
12 subsequent term of five (5) years after the initial term.

13 (e) Each commissioner shall receive an annual salary comparable to the
14 salary provided to district court judges in the state.

15 (f) Once appointed, each commissioner shall continue his or her term
16 until the:

17 (1) Commissioner is removed from his or her position under
18 subsection (i) of this section;

19 (2) Commissioner is not appointed to a second term;

20 (3) Commissioner's second term expires;

21 (4) Commissioner retires his or her position;

22 (5) Commissioner relinquishes his or her position; or

23 (6) Commissioner is unable to perform his or her duties.

24 (g)(1) Once appointed, each commissioner shall take an oath or make an
25 affirmation that he or she will faithfully discharge his or her duties.

26 (2) The oath or affirmation required under subdivision (g)(1) of
27 this section shall be filed in the office of the Secretary of State.

28 (h)(1) If a vacancy occurs on the commission, the Governor shall
29 appoint a commissioner to fill the vacancy, subject to confirmation by the
30 Senate.

31 (2) However, if an appointment is made while the General
32 Assembly is not in session, a commissioner may qualify and hold the position
33 unless the appointment is rejected by the Senate under § 10-2-113.

34 (i)(1) The Governor may remove a commissioner for:

35 (A) Neglect of duty;

36 (B) Inability to perform duties;

1 (C) Malfeasance in office; or

2 (D) Other good cause.

3 (2) The Governor shall provide notice and an opportunity to be
4 heard before removing a commissioner.

5 (j) A commissioner shall conduct himself or herself in an impartial
6 manner and may withdraw from a hearing at any time if he or she deems himself
7 or herself disqualified from performing his or her duties in an impartial
8 manner.

9 (k)(1) A commissioner shall not:

10 (A) Engage in a business or be employed outside of his or
11 her position as commissioner; or

12 (B) Hold office or a position of profit in this state or a
13 political subdivision of this state, another state, or the United States of
14 America.

15 (2) However, a commissioner may own passive interests in
16 business entities and earn income from incidental teaching and scholarly
17 activities, unless such activities conflict with his or her duties as an
18 impartial commissioner.

19

20 26-18-1107. Qualifications of commissioners.

21 (a) Each commissioner of the Tax Appeals Commission shall:

22 (1) Be a qualified elector of the State of Arkansas;

23 (2) Have obtained a minimum of a bachelor's degree from an
24 accredited college or university; and

25 (3) Possess substantial knowledge of Arkansas tax and revenue
26 law.

27 (b)(1) Including the Chief Commissioner, two (2) commissioners shall
28 be attorneys licensed to practice law in the State of Arkansas.

29 (2) One (1) commissioner shall be a non-attorney who is a
30 certified public accountant or a tax professional admitted to practice before
31 the Internal Revenue Service.

32 (3) Each of the commissioners shall satisfy the requirements of
33 subsection (a) of this section.

34 (c) To assist with the creation of the commission, one (1) of the two
35 (2) initial attorney commissioners appointed by the Governor shall be an

1 Administrative Law Judge serving in the Office of Hearings and Appeals of the
2 Department of Finance and Administration as of July 1, 2020.

3

4 26-18-1108. Location of the Tax Appeals Commission.

5 (a)(1) The principal office of the Tax Appeals Commission shall be
6 located in Little Rock, Arkansas.

7 (2) The principal office of the commission shall be located in a
8 building that is separate and apart from a building in which a division of
9 the Department of Finance and Administration is located.

10 (b) To provide taxpayers a reasonable opportunity to appear before the
11 commission, the commission may conduct its hearings at:

12 (1) Its principal office; or

13 (2) Buildings or facilities, or both, leased or owned by state
14 or local public agencies or entities, within the State of Arkansas.

15 (c) The commission may contract only with state and local public
16 agencies or entities in the State of Arkansas to arrange for hearing rooms,
17 chambers, offices, or other appropriate facilities:

18 (1) For its principal office in Little Rock, Arkansas; and

19 (2) For hearings not held at the commission's principal office.

20

21 26-18-1109. Employees.

22 (a) The Tax Appeals Commission may employ clerks, court reporters, and
23 other employees as necessary to carry out the duties of the commission.

24 (b) An employee of the commission shall not act as an attorney, a
25 representative, or an accountant for a taxpayer in a matter involving a tax
26 imposed or levied under state law by the Department of Finance and
27 Administration.

28 (c) In addition to employing a court reporter, the commission may
29 contract for the reporting of its hearings and, in the contract, fix the
30 terms and conditions under which the contractor will supply transcripts to
31 the commission or parties.

32

33 26-18-1110. Jurisdiction of the Tax Appeals Commission.

34 (a) Except as provided under § 26-18-1118, the Tax Appeals Commission:

1 (1) Shall have jurisdiction to hear disputes involving all state
2 taxes except those stated in § 26-18-102 and taxes not administered by the
3 Director of the Department of Finance and Administration;

4 (2) May reduce, set aside, alter, change, or remedy the decision
5 by the department subject to appeal, if the commission finds that the
6 decision:

7 (A) Was made in bad faith; or

8 (B) May be reduced, set aside, altered, changed, or
9 remedied for any reason under state law; and

10 (3) Shall compel the Director of the Arkansas Department of
11 Finance and Administration to issue a final assessment, decision,
12 determination, or take other appropriate action, consistent with a decision
13 issued by the commission.

14 (b) Upon the creation of the commission:

15 (1) Existing hearings pending with the Office of Hearings and
16 Appeals of the Department of Finance and Administration shall remain with the
17 office;

18 (2) Hearings initiated on or after July 1, 2021 shall be heard
19 by the commission.

20 (c) The commission shall not have jurisdiction:

21 (1) To hear disputes involving exceptions to the Arkansas Tax
22 Procedure Act under § 26-18-102; or

23 (2)(A) Over protests filed before July 1, 2021, unless a protest
24 is transferred to the commission from the Office of Hearings and Appeals of
25 the Department of Finance and Administration.

26 (B) A protest may be transferred to the commission from
27 the office only upon the agreement of both the Chief Commissioner and the
28 Director of the Department of Finance and Administration.

29 (C) A protest shall not be transferred to the commission
30 before July 1, 2021.

31
32 26-18-1111. Settlement of tax disputes.

33 A taxpayer and legal counsel for the Department of Finance and
34 Administration may settle or compromise controversies at any time under § 26-
35 18-705.

36

1 26-18-1112. Service of process.

2 (a) Mailing by first class mail to any of the following constitutes
3 service on the other party under this subchapter:

4 (1) The address of the taxpayer given on the taxpayer's
5 petition;

6 (2) The address of the taxpayer's representative of record; or

7 (3) The address designated by the Department of Finance and
8 Administration as the proper place of service on the department.

9 (b) The commission may:

10 (A) Prescribe other methods of service of process; and

11 (B) Order that notice be given to additional persons.

12
13 26-18-1113. Pleadings.

14 (a) A taxpayer may commence an action under this subchapter by filing
15 a petition with the Tax Appeals Commission protesting a decision by the
16 Department of Finance and Administration:

17 (b)(1) A petition under subsection (a) of this section shall be filed
18 with the commission no later than ninety (90) days from the date the
19 department issues a decision or course of action, or both, to be taken
20 against the taxpayer by the department.

21 (2) The commission shall notify and serve a copy of the petition
22 to the department within fifteen (15) days of receipt of the petition by the
23 commission.

24 (c)(1) The department shall file an answer to the petition filed under
25 this section within sixty (60) days of receipt of the notice from the
26 commission under subsection (b)(2) of this section.

27 (2)(A) The department shall serve a copy of the answer on the
28 taxpayer's representative, or if the taxpayer is not represented, on the
29 taxpayer directly, and shall file proof of service with the answer.

30 (B) An attorney's certification that the attorney sent the
31 pleading by first class mail, postage prepaid, or email to the taxpayer or
32 the authorized representative of the taxpayer is sufficient proof of service
33 under this subdivision (c)(2).

34 (3) Material facts alleged in the petition, if not expressly
35 admitted or denied in the answer, are deemed admitted.

1 (4) If the department fails to file an answer within the
2 prescribed time under subsection (c)(1) of this section, all material facts
3 alleged in the petition shall be deemed admitted.

4 (d)(1) The taxpayer may file a reply to an answer filed under
5 subsection (c) of this section within thirty (30) days of the date the answer
6 was mailed or emailed to the taxpayer or the authorized representative of the
7 taxpayer, as reflected by the postmark on the envelope or the date stamp on
8 the email.

9 (2) The taxpayer shall:

10 (A) Serve a copy of a reply filed under subdivision (d)(1)
11 of this section on the authorized representative of the department; and

12 (B)(i) File proof of service of the reply filed under
13 subdivision (d)(1) of this section with the reply.

14 (ii) A certification by the taxpayer or the
15 authorized representative of the taxpayer stating that he or she mailed the
16 pleading by first class mail, postage prepaid, or e-mailed the pleading to
17 the department's authorized representative is sufficient proof of service
18 under this subdivision (d)(2)(B).

19 (3) If the taxpayer fails to reply within thirty (30) days after
20 the date the answer was mailed or emailed to the taxpayer or the authorized
21 representative of the taxpayer, a hearing shall be scheduled under
22 subdivision (d)(4) of this section.

23 (4) The commission shall schedule a hearing:

24 (A) No later than thirty (30) days after a reply has been
25 filed under this section; or

26 (B) If no reply has been filed within thirty (30) days, no
27 later than thirty (30) days after the deadline for filing an answer under
28 this section.

29 (e)(1) Either party may amend a pleading once without leave at any
30 time before the period for responding to the pleading expires.

31 (2) After the period for responding to a pleading expires, a
32 pleading may be amended only with the written consent of the adverse party or
33 with the permission of the commission.

34 (3) The commission shall allow a party to file an answer or
35 reply, or both, to an amended pleading.

1 (4) The filing of an answer or an amended answer shall be made
2 no later than sixty (60) days after the filing of an amended petition.

3 (5)(A) The filing of a reply or an amended reply shall be made
4 within thirty (30) days after the filing of the amended answer.

5 (B) If a party fails to file a reply or an amended reply
6 within the prescribed time, a hearing shall be scheduled under subdivision
7 (d)(4) of this section.

8 (6) A taxpayer may not amend a pleading for a petition after the
9 expiration of the time for filing a petition if the amended petition would
10 have the effect of conferring jurisdiction over a matter that would otherwise
11 not come within the jurisdiction of the commission.

12 (7) An amended pleading shall relate back to the time of the
13 filing of the original pleading, unless the commission orders otherwise,
14 either on motion of a party or on the commission's own initiative.

15 (f) Subsections (b)-(e) of this section do not apply to the following
16 administrative hearings before the commission:

17 (1) A cancelation or refusal to issue, extend, or reinstate a
18 license, permit, or registration under § 26-18-601;

19 (2) A decision by the director to close a noncompliant
20 taxpayer's business under §§ 26-18-1001 and 26-18-1002; and

21 (3) A jeopardy assessment by the Director of the Department of
22 Finance and Administration under § 26-18-402.

23
24 26-18-1114. Fees.

25 (a) The Tax Appeals Commission shall not impose any filing fees for
26 petitions filed with the commission.

27 (b) The commission may charge fees that do not exceed the fees charged
28 and collected by the clerks of the courts of Arkansas for the following
29 services:

30 (1) Comparing, or preparing and comparing, a transcript of the
31 record; and

32 (2) Copying a record, entry, or other paper and the comparison
33 and certification of the record, entry, or other paper.

34 (c) All fees and moneys assessed and collected by the commission under
35 this subchapter shall be deposited into the State Treasury and credited to
36 the Tax Appeals Commission Fund.

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26-18-1115. Discovery and stipulation.

(a) Subject to reasonable limitation as prescribed by the Tax Appeals Commission, each party shall make every effort to achieve discovery by informal consultation or communication.

(b)(1) Upon the request of any party to the hearing, a commissioner or any duly authorized clerk of the commission shall issue a subpoena requiring:

- (A) The attendance of a witness to give testimony;
- (B) The production of evidence or a thing; or
- (C) Both the attendance of a witness and the production of

evidence or a thing.

(2) However, a commissioner or any duly authorized clerk of the commission shall not issue a subpoena requiring a party to produce evidence or a thing that:

(A) Was previously produced to the Department of Finance and Administration during an audit between the taxpayer and the department; and

(B) Is not directly related to the petition filed with the commission.

(c) A commissioner may designate one (1) or more of the employees of the commission to administer oaths.

(d) A witness subpoenaed under this subchapter shall be allowed fees as provided under § 16-43-801, which shall be part of the expense of administering this subchapter and shall be paid by the commission.

26-18-1116. Hearings.

(a) Hearings under this subchapter shall be tried before the appointed commissioners of the Tax Appeals Commission and are not subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) Except as stated in this subchapter, the Tax Appeals Commission shall:

- (1) Receive evidence;
- (2) Conduct hearings; and
- (3) Render decisions.

1 (c)(1) Hearings shall be conducted in accordance with the rules of
2 practice and procedure as the commission may promulgate in conformity with
3 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

4 (2) Hearings shall be conducted in private and shall not be
5 scheduled to begin at the same time as an unrelated hearing.

6 (3) Hearings, files, and records of the commission are:

7 (A) Confidential to the same extent as tax records under §
8 26-18-303; and

9 (B) Closed and exempt from disclosure under the Freedom of
10 Information Act of 1967, § 25-19-101 et seq.

11 (d) Hearings shall:

12 (1) Not be bound by the rules of evidence applicable to civil
13 cases in state courts;

14 (2) Admit relevant evidence, including hearsay, if it is
15 probative of a material fact in controversy; and

16 (3) Exclude irrelevant and repetitious evidence.

17 (e) The rules of privilege recognized by state law shall apply to
18 hearings under this subchapter.

19 (f) Testimony shall be given on oath or affirmation.

20 (g) The petition and other pleadings in the hearing are deemed to
21 conform to the proof presented at the hearing unless:

22 (1) A party satisfies to the commission that the presentation of
23 the evidence would unfairly prejudice the party in maintaining its position
24 on the merits; or

25 (2) Deeming the taxpayer's petition to conform to the proof
26 would confer jurisdiction on the commission over a matter that would not
27 otherwise come within the jurisdiction of the commission.

28 (h) Both the taxpayer and the Department of Finance and Administration
29 shall have the burden of persuasion by a preponderance of the evidence in the
30 record.

31 (i)(1) The Chief Commissioner shall be the presiding commissioner at
32 all hearings.

33 (2) The Chief Commissioner and the other commissioner who is an
34 attorney shall attend each hearing.

1 (j) Except in a case involving the denial of a claim for refund, the
2 taxpayer shall have the right to have his or her case heard before paying any
3 of the amounts asserted as due by the department and before posting a bond.

4 (k) If a taxpayer pays all or part of the tax or other amount in
5 issue, with or after the filing of a timely petition, the commission shall
6 treat the taxpayer's petition as a protest of a denial of a claim for refund
7 of the amount paid by the taxpayer.

8 (1)(1) The commission shall schedule and hold a hearing pursuant to §
9 26-18-1113(d)(4).

10 (2) However, the commission shall schedule and hold a hearing:

11 (A) Under § 26-18-601(b) within three (3) days after a
12 taxpayer has filed a petition with the commission;

13 (B) Under § 26-18-601(c) within twenty (20) days after a
14 taxpayer has filed a petition with the commission;

15 (C) Under § 26-18-1002 within fourteen (14) days after a
16 taxpayer has filed a petition with the commission; and

17 (D) Under § 26-18-402 within five (5) business days after
18 a taxpayer has filed a petition with the commission.

19 (m)(1) A taxpayer may elect to have his or her petition heard in-
20 person, by telephone, or solely upon the documents filed with the commission.

21 (2) The taxpayer shall make an election under this subsection in
22 the taxpayer's initial petition.

23 (3) If the taxpayer fails to make an election under this
24 subsection in the taxpayer's initial petition, the petition shall be set for
25 an in-person hearing in Little Rock.

26 (4) The taxpayer may amend his or her election only up to the
27 date the taxpayer's reply is filed or due to be filed.

28
29 26-18-1117. Decisions.

30 (a)(1) The Tax Appeals Commission shall render a decision in writing,
31 including a concise statement of the facts and conclusions of law.

32 (2) The commission's decision shall grant relief, invoke
33 remedies, and issue orders as the commission deems appropriate to carry out
34 its decision.

1 (3) The Chief Commissioner or the other commissioner who is an
2 attorney shall prepare a written decision that reflects the view of the
3 majority of the presiding commissioners at the hearing.

4 (4) The written decision shall be officially published as
5 provided in § 26-18-1120.

6 (b)(1)(A) A decision shall be issued no later than thirty (30) days
7 after the submission of the last brief filed or the completion of the
8 hearing, whichever is later.

9 (B) However, the commission shall issue a decision:

10 (i) Within five (5) days after a hearing is
11 concluded under § 26-18-402;

12 (ii) Within three (3) days after a hearing is
13 concluded under § 26-18-601(b); and

14 (iii) Within five (5) days after a hearing is
15 concluded under § 26-18-1002.

16 (2)(A) The commission may extend the thirty-day period to render
17 a decision up to an additional thirty (30) days for good cause.

18 (B) However, the commission shall not extend the period to
19 render a decision under subdivision (b)(1)(B) of this section with regard to
20 hearings held under:

21 (i) Section 26-18-402;

22 (ii) Section 26-18-601(b); and

23 (iii) Section 26-18-1002.

24 (c) A decision of the commission has the same effect and shall be
25 enforced in the same manner as a judgment of a circuit court, unless the
26 decision is overturned on appeal.

27 (d)(1) The interpretation of a taxing statute by the commission shall
28 be followed by the commission in subsequent cases involving the same statute.

29 (2) The commission's application of a statute to the facts of a
30 case shall be followed by the commission in subsequent cases involving
31 similar facts.

32 (3) However, the commission is not required to follow a prior
33 interpretation or application of law by the commission if:

34 (A) The interpretation or application conflicts with an
35 interpretation or application of a federal or state court; or

1 (B) The commission provides satisfactory reasons for
2 reversing precedent.

3
4 26-18-1118. Judicial relief.

5 (a) A taxpayer may seek judicial relief from a decision of the Tax
6 Appeals Commission by following the procedures stated in §§ 26-18-406 and 26-
7 18-507.

8 (b) The Department of Finance and Administration may seek judicial
9 relief from a decision of the commission by filing suit in the Pulaski County
10 Circuit Court.

11
12 26-18-1119. Representation.

13 (a) A taxpayer may be represented at a hearing by an authorized
14 representative who has provided a completed power of attorney form to the Tax
15 Appeals Commission in the form prescribed by the commission.

16 (b) The Department of Finance and Administration shall be represented
17 by an authorized representative at a hearing.

18
19 26-18-1120. Publication of decisions.

20 (a) The Tax Appeals Commission shall index and publish a decision in
21 print or electronic form that the commission deems best adapted for public
22 convenience.

23 (b) Any identifying facts and information that the commission
24 determines to be confidential in nature concerning a taxpayer or other
25 individual or entities shall be redacted from a publication.

26 (c) A publication of a decision shall be made permanently available
27 and constitute an official report of the commission.

28
29 26-18-1121. Promulgation of rules.

30 (a) The Tax Appeals Commission may promulgate rules and forms as
31 necessary to carry out the intent and purpose of this subchapter and
32 implement the duties assigned to the commission.

33 (b) The commission may promulgate rules governing pleadings and
34 service of process requirements to commence a hearing under this subchapter
35 and the practice and procedure rules of the commission.

36

SECTION 2. DO NOT CODIFY. Creation of the Tax Appeals Commission.

(a) The Tax Appeals Commission shall be created by January 1, 2021.

(b) The initial commissioners shall be appointed by January 1, 2021.

(c) The Chief Commissioner shall be designated by January 1, 2021.

(d) This act does not affect any hearing, prosecution, action, suit or appeal, commenced in the judicial branch before the creation of the commission.

SECTION 3. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1263. Tax Appeals Commission Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Tax Appeals Commission Fund".

(b) The fund shall consist of fees and moneys assessed and collected by the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101 et seq., and any other revenues authorized by law.

(c) The fund shall be administered by the commission.

(d) The fund shall be used by the commission for the administration, maintenance, and operation of the commission.

SECTION 4. Arkansas Code § 25-18-224(b), concerning the distribution of quasijudicial opinions and orders, is amended to read as follows:

(b) ~~Administrative decisions of the Office of Hearings and Appeals of the Department of Finance and Administration~~ Tax Appeals Commission and opinions of the Department of Finance and Administration ~~which that~~ which that contain information ~~which that~~ which that is confidential ~~pursuant to~~ under Arkansas Tax Procedure Act, § 26-18-101 et seq., ~~shall be~~ are exempt from the disclosure provisions of subsection (a) of this section.

SECTION 5. Arkansas Code § 26-18-303(b), concerning confidential records, is amended to add an additional subdivision to read as follows:

(26) Disclosure of information to the Tax Appeals Commission of information relevant to any case or controversy before the Tax Appeals Commission.

1 SECTION 6. Arkansas Code § 26-18-314(b), concerning the transparency
2 of legal opinions regarding tax decisions, is amended to read as follows:

3 (b)(1) ~~A final determination of a hearing officer or the director~~
4 decision issued under § 26-18-405 on or after January 1, 2016, under § 26-18-
5 405 or the Tax Appeals Commission Act, § 26-18-1101 et seq., shall be posted
6 on the Arkansas.gov website.

7 (2) Any identifying facts and information that the ~~director~~
8 commission determines to be confidential in nature concerning taxpayers or
9 other individuals or entities under the Tax Appeals Commission Act, § 26-18-
10 1101 et seq., shall be redacted from a final determination decision posted
11 under this section.

12 (3) The ~~director~~ commission may post a synopsis that fully
13 describes the subject matter, facts, and conclusions reached by the ~~hearing~~
14 ~~officer or director~~ commission instead of posting the complete ~~determination~~
15 decision.

16 (4) An administrative appeal to the commission that is settled or
17 withdrawn from consideration before a ~~final determination~~ decision is made by
18 the commission shall not be posted under this section.

19
20 SECTION 7. Arkansas Code § 26-18-401(b), concerning the assessment and
21 collection of taxes, is amended to read as follows:

22 (b)(1) The director shall collect all taxes imposed by any state tax
23 law.

24 (2)(A)(i) The director shall issue a final assessment to each
25 taxpayer liable for the unpaid tax.

26 (ii) The final assessment shall state the amount of
27 the assessment and demand payment within ten (10) days of the assessment.

28 (iii) The final assessment shall not be issued
29 before the expiration of time for the taxpayer to request an administrative
30 hearing ~~under § 26-18-404 with the Tax Appeals Commission under the Tax~~
31 Appeals Commission Act, § 26-18-1101 et seq.

32 (B) If the taxpayer has requested administrative relief
33 ~~under § 26-18-404 the final assessment shall be issued according to § 26-18-~~
34 ~~405.~~ under the Tax Appeals Commission Act, § 26-18-1101 et seq., the director
35 shall issue a final assessment according to the decision of the commission.

1 (C)(i) If the taxpayer has paid the assessment before the
2 time for the issuance of the final assessment, no final assessment shall be
3 issued.

4 (ii) The taxpayer may seek to recover the payment of
5 the assessment only if § 26-18-403 or § 26-18-406 applies.

6 (3) Upon receipt of the final assessment from the director, the
7 person liable for the tax shall pay the stated amount including any interest,
8 additions to tax, and assessable penalties at the place and time stated in
9 the final assessment.

10

11 SECTION 8. Arkansas Code § 26-18-402(b) and (c), concerning jeopardy
12 assessments, are amended to read as follows:

13 (b)(1) Within five (5) days after the date on which a notice and
14 demand for payment is made under subsection (a) of this section, the director
15 shall provide the taxpayer with a written statement of the information upon
16 which the director relies in making such assessment.

17 (2) *If the taxpayer fails or refuses to pay the tax upon demand
18 of the director or requests a hearing before the ~~director~~ Tax Appeals
19 Commission within five (5) business days after the day the taxpayer is
20 furnished the written statement described in subdivision ~~(1) of this~~
21 ~~subsection (b)(1) of this section~~, the tax shall become delinquent and the
22 director shall proceed to issue a certificate of indebtedness.*

23 (c)(1) *When the taxpayer requests a hearing, the ~~director~~ commission
24 shall hold the hearing within five (5) business days of receipt of the
25 request. After a hearing, the ~~director~~ commission shall determine whether the
26 making of the assessment under subsection (a) of this section is reasonable
27 under the circumstances and shall render ~~his or her~~ its decision.*

28 (2) *The taxpayer has three (3) days after the receipt of the
29 ~~director's~~ commission's decision either to pay the tax and applicable penalty
30 and interest due or to protest the decision of the director as provided by §
31 26-18-406(a) prior to the director's issuing a certificate of indebtedness.*

32

33 SECTION 9. Arkansas Code § 26-18-403(a)(2)(B), concerning proposed
34 assessments, is amended to read as follows:

35 (B) The notice required under subdivision (a)(2)(A) of
36 this section shall:

1 (i) Explain the basis for the proposed assessment;
2 (ii)(a) State that a final assessment, as provided
3 by § 26-18-401, will be made if the taxpayer does not ~~protest~~ file a petition
4 with the Tax Appeals Commission protesting the proposed assessment as
5 provided by ~~§ 26-18-404~~ under the Tax Appeals Commission Act, § 26-18-1101 et
6 seq.

7 (b) The taxpayer does not have to ~~protest~~ file a
8 petition with the commission protesting the proposed assessment under the Tax
9 Appeals Commission Act, § 26-18-1101 et seq., to later be entitled to
10 exercise the right to seek a judicial ~~review~~ relief of the assessment under §
11 26-18-406; and

12 (iii) Provide contact information for the taxpayer
13 to use if the taxpayer wants to obtain his or her tax records, including
14 without limitation the facts and evidence supporting the proposed assessment,
15 from the Department of Finance and Administration.

16
17 SECTION 10. Arkansas Code § 26-18-403(c), concerning proposed
18 assessments, is amended to read as follows:

19 (c)(1) An erroneously paid refund is a tax deficiency and is subject
20 to assessment under this section.

21 (2)(A) When an erroneously paid refund is issued to a taxpayer,
22 the director shall issue a notice of proposed assessment for the amount of
23 the erroneously paid refund, plus interest and any penalty authorized under
24 this chapter.

25 (B) The notice of proposed assessment to recover an erroneously
26 paid refund shall explain the basis for the proposed assessment and shall
27 inform the taxpayer that a final assessment under § 26-18-401 shall be made
28 if the taxpayer fails to ~~protest~~ file a petition with the commission
29 protesting the assessment under ~~§ 26-18-404~~ the Tax Appeals Commission Act, §
30 26-18-1101 et seq.

31 (3) ~~Sections 26-18-404, 26-18-406 and 26-18-701 apply~~ Sections 26-18-
32 406, 26-18-701, and the Tax Appeals Commission Act, § 26-18-1101 et seq.,
33 apply to assessments of erroneously paid refunds.

34 (4) Interest and penalties imposed on a tax deficiency are subject to
35 waiver or abatement in accordance with the procedure established in § 26-18-
36 705(b) if the tax deficiency arose from an error by the Department of Finance

1 and Administration that resulted in the issuance of an erroneously paid
2 refund.

3

4 SECTION 11. Arkansas Code § 26-18-404 is repealed.

5 ~~26-18-404. Taxpayer relief.~~

6 ~~(a) Any taxpayer who wishes to seek administrative relief from any~~
7 ~~proposed assessment of taxes or from a denial of a claim for refund by the~~
8 ~~director shall follow the procedure provided by this section.~~

9 ~~(b)(1) A taxpayer may at his or her option either request the director~~
10 ~~to consider his or her request for relief solely upon written documents~~
11 ~~furnished by the taxpayer or upon the written documents and any evidence~~
12 ~~produced by the taxpayer at a hearing.~~

13 ~~(2) A taxpayer who requests the director to render his or~~
14 ~~her decision based on written documents is not entitled by law to any other~~
15 ~~administrative hearing prior to the director's rendering of his or her~~
16 ~~decision and, if necessary, the issuing of a final assessment and demand for~~
17 ~~payment or issuing of a certificate of indebtedness.~~

18 ~~(c)(1) Within sixty (60) days after service of notice of the proposed~~
19 ~~assessment or denial of a claim for refund, the taxpayer may file with the~~
20 ~~director a written protest under oath, signed by the taxpayer or the~~
21 ~~taxpayer's authorized agent, setting forth the taxpayer's reasons for~~
22 ~~opposing the proposed assessment or the denial of a claim for refund.~~

23 ~~(2) No administrative relief will be available to a~~
24 ~~taxpayer who fails to protest or to a taxpayer who fails to request an~~
25 ~~extension of time to protest a proposed assessment of tax or denial of a~~
26 ~~claim for refund within the sixty (60) days following the service of notice~~
27 ~~of the proposed assessment or denial of a claim for refund.~~

28 ~~(d) The director may, in his or her discretion, extend the time for~~
29 ~~filing a protest for any period of time not to exceed an additional ninety-~~
30 ~~day period.~~

31

32 SECTION 12. Arkansas Code § 26-18-405 is repealed.

33 ~~26-18-405. Hearing on proposed assessments.~~

34 ~~(a)(1) The director shall appoint a hearing officer to review all~~
35 ~~written protests submitted by taxpayers, hold all hearings, and make written~~

1 ~~findings as to the applicability of the proposed assessment or the denial of~~
2 ~~the claim for refund.~~

3 ~~(2) Decisions of the hearing officer shall be final unless~~
4 ~~revised by the director.~~

5 ~~(3) The hearings on written and oral protests and determinations~~
6 ~~made by the hearing officer shall not be subject to the provisions of the~~
7 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

8 ~~(b) The director may appoint one (1) or more hearing officers, but the~~
9 ~~persons occupying these appointments shall not contemporaneously with the~~
10 ~~holding of these appointments have any other administrative duties within the~~
11 ~~Revenue Division of the Department of Finance and Administration.~~

12 ~~(c) The actual hearing on the written protest shall be held in any~~
13 ~~city in which the division maintains a field audit district office or in such~~
14 ~~other city as the director shall, in his or her discretion, designate.~~

15 ~~(d)(1)(A) All written protests filed with the director shall be~~
16 ~~delivered promptly to the hearing officer.~~

17 ~~(B) The hearing officer shall set the time and place for~~
18 ~~the hearing on a written protest and shall give the taxpayer reasonable~~
19 ~~notice of the hearing.~~

20 ~~(C) If it is not possible for the hearing officer to hold~~
21 ~~a hearing and issue a decision on a protest of a proposed assessment within~~
22 ~~one hundred eighty (180) days after the taxpayer files a written protest for~~
23 ~~reasons that the hearing officer determines are beyond the taxpayer's~~
24 ~~control, the director shall waive the interest for the period from the time~~
25 ~~the written protest is filed until the final assessment is issued.~~

26 ~~(2) At the hearing, the taxpayer may be represented by an~~
27 ~~authorized representative and may present evidence in support of his or her~~
28 ~~position.~~

29 ~~(3) After the hearing, the hearing officer shall render his or~~
30 ~~her decision in writing and shall serve copies upon both the taxpayer and the~~
31 ~~section or division of the Department of Finance and Administration which~~
32 ~~proposed the assessment or the denial of the claim for refund.~~

33 ~~(4)(A)(i) If the proposed assessment or denial of a claim for~~
34 ~~refund is sustained, in whole or part, the taxpayer or legal counsel for the~~
35 ~~director may request in writing, within twenty (20) days of the mailing of~~
36 ~~the decision, that the director revise the decision of the hearing officer.~~

1 ~~(ii) No request for revision will be considered~~
2 ~~unless it is received by the director within twenty (20) days of the mailing~~
3 ~~of the hearing decision.~~

4 ~~(iii) Either the taxpayer or legal counsel for the~~
5 ~~director shall provide a copy of any written request for revision to the~~
6 ~~other.~~

7 ~~(iv) The director may hold the supplemental~~
8 ~~proceedings on any request for revision and shall issue a decision on the~~
9 ~~request within sixty (60) days of the receipt of the request for revision.~~

10 ~~(B) If the director refuses to make a revision or if the~~
11 ~~taxpayer or legal counsel for the director does not make a request for~~
12 ~~revision, then the director shall send either:~~

13 ~~(i) A final assessment to the taxpayer, as provided~~
14 ~~by § 26-18-401, that is made upon the final determination of the hearing~~
15 ~~officer that sustained a proposed assessment of tax; or~~

16 ~~(ii) A notice in writing to both the taxpayer and~~
17 ~~legal counsel for the director, if a revision was requested, of his or her~~
18 ~~decision not to revise a decision that resulted in no tax due, including the~~
19 ~~denial of a claim for refund.~~

20 ~~(C)(i) If the director revises the decision of the hearing~~
21 ~~officer, the director shall send the final decision of the director to the~~
22 ~~taxpayer and to the legal counsel for the director.~~

23 ~~(ii) A notice of final assessment shall be made upon~~
24 ~~the decision of the director if the director's decision sustained a proposed~~
25 ~~assessment of tax.~~

26 ~~(iii) No further notice will be issued for a final~~
27 ~~decision of the director that results in no tax due, including the denial of~~
28 ~~a claim for refund.~~

29 ~~(D) A taxpayer may not request revision of a decision~~
30 ~~issued by the director under this subdivision (d)(4).~~

31 ~~(e) A taxpayer may seek relief from the final decision of the hearing~~
32 ~~officer or the director on a final assessment of a tax deficiency or a notice~~
33 ~~of denial of a claim for refund by following the procedure set forth in § 26-~~
34 ~~18-406.~~

35 ~~(f)(1) In addition to the hearing procedures set out in subsections~~
36 ~~(a)-(e) of this section, the director may hold administrative hearings by~~

1 ~~telephone, video conference, or other electronic means if the director~~
 2 ~~determines that conducting the hearing in such a manner:~~

3 ~~(A) Is in the best interest of the taxpayer and the~~
 4 ~~department;~~

5 ~~(B) Is agreed to by both parties;~~

6 ~~(C) Is not fiscally unsound or administratively~~
 7 ~~burdensome; and~~

8 ~~(D) Adequately protects the confidentiality of the~~
 9 ~~taxpayer's information.~~

10 ~~(2) The director may contract with third parties for all~~
 11 ~~services necessary to conduct hearings by telephone, video, or other~~
 12 ~~electronic means.~~

13 ~~(3) Any person who enters into a contract with the director to~~
 14 ~~provide services necessary to conduct hearings by telephone, video, or other~~
 15 ~~electronic means shall be subject to the requirements of this chapter~~
 16 ~~providing for the confidentiality of all taxpayer records.~~

17
 18 SECTION 13. Arkansas Code § 26-18-406 is amended to read as follows:
 19 26-18-406. Judicial relief.

20 (a) *After the issuance and service on the taxpayer of the final*
 21 *assessment of a deficiency in tax that is not protested by the taxpayer ~~under~~*
 22 *~~§ 26-18-403 or the issuance of a final determination decision of the hearing~~*
 23 *~~officer or the director under § 26-18-405 Tax Appeals Commission, a taxpayer~~*
 24 *may seek judicial relief from the final assessment or ~~determination decision~~*
 25 *by:*

26 (1)(A) Filing suit for judicial relief from ~~the final a decision~~
 27 ~~of the commission, or a final~~ assessment or determination issued by the
 28 director, within one hundred eighty (180) days of the date of the decision or
 29 final assessment or determination.

30 (B) A taxpayer filing suit under this subdivision (a)(1)
 31 shall not be required to pay the state tax, penalties, and interest due
 32 before filing suit;

33 (2) Paying the entire amount of state tax due within one (1)
 34 year of the date of ~~the final a decision of the commission or a final~~
 35 ~~assessment or determination~~ and filing suit to recover that amount within one
 36 (1) year of the date of payment; or

1 (3) Filing suit to recover assessed tax, penalty, and interest
 2 paid prior to the time for issuance of the final assessment by the director
 3 within one (1) year of the date of the ~~final determination of the hearing~~
 4 ~~officer or the director under § 26-18-405~~ decision of the commission under
 5 the Tax Appeals Commission Act, § 26-18-1101 et seq., or the final assessment
 6 by the director.

7 (b) A taxpayer may seek judicial relief from a ~~final determination~~
 8 ~~denying~~ decision by the commission or director to deny a claim for refund by
 9 filing suit to recover the amount claimed within one (1) year from the
 10 mailing of the denial of the director under § 26-18-507, or a ~~final~~
 11 ~~determination of the hearing officer or the director under § 26-18-405~~
 12 decision of the commission under the Tax Appeals Commission Act, § 26-18-1101
 13 et seq., whichever is later.

14 (c)(1) Jurisdiction for a suit to contest a ~~final~~ decision by the
 15 commission or final assessment ~~or determination~~ issued by the director under
 16 this section shall be in the Pulaski County Circuit Court or the circuit
 17 court of the county in which the taxpayer resides or has his or her principal
 18 place of business, where the matter shall be tried de novo.

19 (2) An appeal will lie from the circuit court to the Supreme
 20 Court, as in other cases provided by law.

21 (3) A presumption of correctness or weight of authority shall
 22 not attach to a ~~final~~ decision of the commission or final assessment ~~or~~
 23 ~~determination of~~ issued by the director in a trial de novo or an appeal under
 24 this section.

25 (d)(1) The methods provided in this section and the Tax Appeals
 26 Commission Act, § 26-18-1101 et seq., shall be the sole alternative methods
 27 for seeking relief from a ~~written~~ decision by the commission or a final
 28 assessment ~~decision of~~ issued by the director establishing a deficiency in
 29 tax or disallowing a claim for refund.

30 (2) An injunction shall not issue to stay proceedings for
 31 assessment or collection of taxes levied under state tax law.

32 (e)(1) In a court proceeding under this section, the:

33 (A) Prevailing party may be awarded a judgment for court
 34 costs; and

35 (B) Taxpayer may be awarded reasonable attorney's fees if
 36 *the:*

1 (i) ~~Director revised a decision of the hearing~~
2 ~~officer in favor of the taxpayer under § 26-18-405;~~

3 ~~(ii)~~ Taxpayer is the prevailing party in an action
4 for judicial relief from ~~the~~ a determination of the director under this
5 section or a decision of the commission under the Tax Appeals Commission Act,
6 § 26-18-1101 et seq.; and

7 ~~(iii)~~(ii) Court finds that the director's ~~revision~~
8 determination or the commission's decision was without a reasonable basis in
9 law and fact clearly erroneous.

10 (2) A judgment of court costs entered by the court in favor of
11 either party or of attorney's fees awarded in favor of the taxpayer shall be
12 treated, for purposes of this chapter, in the same manner as an overpayment
13 or deficiency of tax, except that interest or penalty shall not be allowed or
14 assessed with respect to a judgment for court costs or attorney's fees.

15 (f) If a taxpayer pays the tax, penalty, and interest assessed under §
16 26-18-403 and does not request administrative relief according to ~~§ 26-18-404~~
17 the Tax Appeals Commission Act, § 26-18-1101 et seq., then:

18 (1) The taxpayer may seek judicial relief from the assessment
19 only if the taxpayer files suit in circuit court within one (1) year from the
20 date of payment of the assessment; and

21 (2) The provisions of § 26-18-507 ~~shall~~ do not apply to the
22 payments.

23 (g) The Arkansas Rules of Civil Procedure and § 16-56-126 concerning
24 nonsuit and commencement of new actions apply to appeals under this section.

25
26 SECTION 14. Arkansas Code § 26-18-507(e), concerning claims for refunds
27 of overpayments, is amended to read as follows:

28 (e)(1)(A) The director shall make a written determination and give
29 notice to the taxpayer concerning whether or not a refund is due.

30 (B)(i) If a refund is due, the director shall certify that the
31 claim is to be paid to the taxpayer as provided by law or credited against
32 state taxes due or to become due.

33 (ii)(a) If the director determines that the taxpayer
34 entitled to the refund has an outstanding state tax delinquency for which a
35 certificate of indebtedness has been filed, the director shall apply the
36 refund due as payment against the outstanding state tax delinquency. If the

1 amount of the state tax refund exceeds the amount of the outstanding state
2 tax delinquency, the excess amount shall be paid to the taxpayer in
3 accordance with subdivision (e)(1)(B)(i) of this section.

4 (b) The director shall notify each taxpayer in
5 writing whose refund results from the filing of a joint return that the joint
6 refund will be applied against the outstanding state tax delinquency.

7 (c) A taxpayer who claims that only the
8 taxpayer's spouse owes the delinquent state tax debt may seek administrative
9 relief ~~by filing a written protest under oath within thirty (30) days by~~
10 filing a petition protesting the director's written determination within
11 ninety (90) days with the Tax Appeals Commission under the Tax Appeals
12 Commission Act, § 26-18-1101 et seq., after the notice under subdivision
13 (e)(1)(B)(ii)(b) of this section is received that includes information
14 regarding why the taxpayer does not owe the delinquent state tax debt and
15 either requests a hearing in person or based upon the information submitted
16 with the petition of protest.

17 (d) A hearing ~~on a written protest made~~ under
18 this subdivision (e)(1)(B)(ii) and any judicial relief requested following
19 the administrative hearing process with the commission shall be provided in
20 accordance with the applicable provisions of ~~§§ 26-18-405 and 26-18-406. §~~
21 26-18-406 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

22 (2)(A) If the director's ~~determination~~ decision is to disallow
23 the claim for refund, in whole or in part, then the director shall
24 immediately issue a written decision giving notice to the taxpayer of the
25 denial of the claim for refund.

26 (B) The taxpayer may seek administrative review and relief
27 from the director's decision to deny a claim for refund ~~by protesting as~~
28 ~~provided in §§ 26-18-404 and 26-18-405. by filing a petition of protest with~~
29 the commission under the Tax Appeals Commission Act, § 26-18-1101 et seq.

30 (3) The taxpayer or the director may seek judicial relief under
31 the provisions of § 26-18-406 and the Tax Appeals Commission Act, § 26-18-
32 1101 et seq., from:

33 (A) A notice of a denial of a claim for refund issued by
34 the director; ~~or~~

35 (B) The director's failure to issue a written decision
36 after the claim for refund has been filed for six (6) months; or

1 (C) A decision by the commission.

2
3 SECTION 15. Arkansas Code § 26-18-601 is amended to read as follows:
4 26-18-601. Cancellation or refusal of license or permit.

5 (a)(1) The ~~director~~ Director of the Department of Finance and
6 Administration may cancel or refuse to issue, extend, or reinstate a license,
7 permit, or registration under any state tax law to any person or taxpayer who
8 has within the last three (3) years failed to comply with a state law
9 concerning the timely reporting and payment of a state tax administered by
10 the director or failed to observe or fulfill the conditions upon which the
11 license or permit was issued.

12 (2) A failure to pay assessed interest and penalties on a
13 delinquent state tax is grounds for a decision to cancel or refuse to issue,
14 extend, or reinstate a license, permit, or registration under this
15 subsection.

16 (b)(1) When the director determines, in his or her sole discretion,
17 that an emergency situation exists and that the public welfare and safety are
18 endangered, he or she may issue an order temporarily suspending a license,
19 permit, or registration pending a hearing before ~~him or her~~ the Tax Appeals
20 Commission on the subject of the cancellation of the license, permit, or
21 registration.

22 (2) The director shall give notice of the temporary suspension
23 at the same time that he or she gives notice of his or her intention to
24 cancel or to refuse to issue, extend, or reinstate any license, permit, or
25 duplicate copy thereof, as provided by this section.

26 (3)(A) The provisions of § 26-18-1113(b)-(e) do not apply to a
27 hearing with the commission under this subsection.

28 (B) The ~~director~~ commission shall as soon as practicable,
29 but in any event within three (3) days after the request of the taxpayer,
30 hold a hearing on whether the temporary suspension should be made permanent.

31 (C) The commission shall issue a decision under this
32 subsection within three (3) days.

33 (4) The temporary suspension shall be made permanent without a
34 hearing unless the taxpayer requests a hearing with the commission within
35 twenty (20) days of receipt of notice of the temporary suspension.

1 (c)(1) Except as set out in subsection (b) of this section, before the
2 director may cancel or refuse to issue, extend, or reinstate any license,
3 permit, or registration, he or she shall give notice of his or her proposed
4 action, and the owner or applicant shall have twenty (20) days after receipt
5 of the director's decision to request a hearing with the commission.

6 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
7 hearing with the commission under this subsection.

8 (3) The commission shall issue a decision under this subsection
9 within twenty (20) days.

10 (d)(1) When a license, permit, or registration is cancelled by the
11 director, all accrued fees, taxes, and penalties, even though not due and
12 payable at the time of cancellation under the state tax law imposing and
13 levying the tax, shall become due concurrently with the cancellation of the
14 license, permit, or registration.

15 (2) The licensee or permittee shall within five (5) business
16 days of cancellation make a report to the director covering the period not
17 previously covered by reports filed by that person and ending with the date
18 of the cancellation and shall pay all accrued fees, taxes, and penalties at
19 the time the report is made.

20 (3) Violation of this subsection is a Class C misdemeanor.

21 (e)(1) The affected taxpayer may seek relief from the decision of the
22 director cancelling a license, permit, or registration by requesting a
23 hearing, pursuant to subsections (b) and (c) of this section, by filing a
24 ~~written protest of the action~~ petition with the hearing officer appointed by
25 ~~the director, pursuant to § 26-18-405~~ the commission pursuant to the Tax
26 Appeals Commission Act, § 26-18-1101 et seq., and the hearing officer
27 commission shall hold all hearings requested pursuant to this section.

28 (2) ~~The hearing officer~~ commission shall issue a written decision
29 on all hearings which shall be final ~~unless revised by the director~~.

30 (3) ~~The hearings and determinations of the hearing officer shall~~
31 ~~not be subject to the provisions of the Arkansas Administrative Procedure~~
32 ~~Act, § 25-15-201 et seq.~~

33 (4)(A) ~~A taxpayer may request a revision by the director of the~~
34 ~~hearing officer's determination which is adverse to him or her within twenty~~
35 ~~(20) days of the date of the mailing of the hearing officer's decision.~~

1 ~~(B)(3)~~ If the director refuses to make a revision, or if
 2 the taxpayer does not request a revision, then the The affected taxpayer may
 3 seek relief from the ~~hearing officer's~~ commission's decision ~~or the final~~
 4 ~~revision determination by the director~~ by following the method provided in §
 5 26-18-602 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

6 (f) Violations of this section shall be punished as provided in § 26-
 7 18-206. The director may seek to enjoin any violation of any state tax law
 8 the director is charged to enforce.

9
 10 SECTION 16. Arkansas Code § 26-18-602 is amended to read as follows:

11 26-18-602. Judicial ~~review~~ relief of cancellation decision.

12 (a)(1) The affected taxpayer may seek judicial relief from ~~the a~~
 13 decision of the ~~director, rendered after a hearing,~~ Tax Appeals Commission
 14 under the Tax Appeals Commission Act, § 26-18-1101 et seq., affirming the
 15 decision of the Director of the Department of Finance and Administration to
 16 ~~cancelling~~ cancel a license, permit, or registration.

17 (2) The taxpayer's petition seeking an order to stay the effect
 18 of the ~~director's~~ commission's decision shall be filed within thirty (30)
 19 days after receipt of notice of that decision by the taxpayer with the
 20 Pulaski County Circuit Court or the circuit court of the county in which the
 21 taxpayer resides or has his or her principal place of business, where the
 22 matter shall be tried de novo.

23 (b)(1) Judicial Relief relief from the decision of the ~~director~~
 24 ~~cancelling~~ commission to affirm the director's decision to cancel a license,
 25 permit, or registration may be taken only as provided in this section.

26 (2)(A) To stay the effect of the ~~director's~~ commission's
 27 decision, the person or taxpayer shall file a bond not to exceed twenty-five
 28 thousand dollars (\$25,000) with and in an amount fixed by the ~~director~~
 29 commission, payable to the State of Arkansas.

30 (B) The bond shall be conditioned upon:

31 (i) The faithful and diligent prosecution of the
 32 appeal by the taxpayer to a final determination; and

33 (ii) The immediate compliance of the taxpayer with
 34 the ~~director's~~ commission's decision if the ~~director's~~ commission's decision
 35 is not enjoined by the circuit court or upon appeal is upheld by the Supreme
 36 Court.

1 (3) The ~~director~~ commission may, ~~in his or her discretion,~~
2 refuse to stay the effect of ~~his or her~~ its decision and permit a bond to be
3 posted when ~~he or she~~ it determines ~~in his or her sole discretion~~ that the
4 public safety and welfare would be endangered by the stay.

5 (c) The venue for all actions seeking relief from a decision of the
6 ~~director concerning the cancellation of or refusal of the issuance of~~
7 commission to affirm the director's decision to cancel or refuse to issue a
8 license or permit shall be the Pulaski County Circuit Court or the circuit
9 court of the county in which the taxpayer resides or has his or her principal
10 place of business.

11
12 SECTION 17. Arkansas Code § 26-18-701(a)(1)(A), concerning issuance of
13 certificates of indebtedness and execution, is amended to read as follows:

14 (a)(1)(A) If a taxpayer does not timely and properly pursue his or her
15 remedies seeking relief from ~~a decision of~~ the assessment of a tax deficiency
16 by the Director of the Department of Finance and Administration or a decision
17 made by the Tax Appeals Commission under the Tax Appeals Commission Act, §
18 26-18-1101 et seq., and a final assessment is made against the taxpayer, or
19 if the taxpayer fails to pay the deficiency assessed upon notice and demand,
20 then the director shall, as soon as practicable thereafter, issue to the
21 circuit clerk of any county of the state a certificate of indebtedness
22 certifying that the person named in the certificate of indebtedness is
23 indebted to the state for the amount of the tax established by the director
24 as due.

25
26 SECTION 18. Arkansas Code § 26-18-705(c), concerning settlement or
27 compromise of liability controversies, is amended to read as follows:

28 (c)(1) In settling or compromising any controversy relating to the
29 liability of a person for any state tax for any taxable period, the *director,*
30 the director's legal counsel, or another authorized representative of the
31 director may enter into a written closing agreement concerning the liability.

32 (2) When the closing agreement is signed by the director, it
33 shall be final and conclusive, and except upon a showing of fraud or
34 misrepresentation of a material fact, no additional assessment or collection
35 shall be made by the director, and the taxpayer shall not institute any
36 hearing with the Tax Appeals Commission under the Tax Appeals Commission Act,

1 § 26-18-1101 et seq., or a judicial proceeding to recover such liabilities as
2 agreed to in the closing agreement.

3
4 SECTION 19. Arkansas Code § 26-18-1002 is amended to read as follows:
5 26-18-1002. Administrative hearing.

6 (a) A noncompliant taxpayer may request an administrative hearing
7 concerning the decision of the Director of the Department of Finance and
8 Administration to close the noncompliant taxpayer's business with the Tax
9 Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101 et
10 seq., by following the procedures in this section.

11 ~~(b)(1) Within five (5) business days~~ The noncompliant taxpayer shall
12 have five (5) days after the delivery or attempted delivery of the notice
13 required by § 26-18-1001(c), ~~the noncompliant taxpayer may file a written~~
14 ~~protest to file a petition with the commission protesting the decision of the~~
15 ~~director,~~ signed by the noncompliant taxpayer or his or her authorized agent,
16 stating the reasons for opposing the closure of the business and requesting
17 an administrative hearing.

18 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
19 hearing with the commission under this section.

20 ~~(c)(1) A noncompliant taxpayer may request that an administrative a~~
21 ~~hearing be held in person, in Little Rock or by telephone, upon written~~
22 ~~documents furnished by the noncompliant taxpayer, or upon written documents~~
23 ~~and any evidence produced by the noncompliant taxpayer at an administrative~~
24 ~~hearing.~~

25 ~~(2) The director has the discretion to~~ commission may determine
26 whether an administrative hearing at which testimony is to be presented will
27 be conducted in person or by telephone.

28 ~~(3) A noncompliant taxpayer who requests an administrative~~
29 ~~hearing based upon written documents is not entitled to any other~~
30 ~~administrative hearing prior to the hearing officer's rendering a decision.~~

31 ~~(d) The administrative hearing will be conducted by a hearing officer~~
32 ~~appointed by the director under § 26-18-405.~~

33 ~~(e)(1)(c)(1)~~ The hearing officer commission will conduct the
34 administrative hearing under the Tax Appeals Commission Act, § 26-18-1101 et
35 seq., and will set the time and place for a hearing and will give the
36 noncompliant taxpayer notice of the hearing.

1 ~~(2) At the administrative hearing, the noncompliant taxpayer may~~
2 ~~be represented by an authorized representative and may present evidence in~~
3 ~~support of his or her position.~~

4 ~~(f)(1) The hearing may be held in any city in which the Revenue~~
5 ~~Division of the Department of Finance and Administration maintains a field~~
6 ~~audit district office or in such other city as the director may designate.~~

7 (2) The administrative hearing will be held within fourteen (14)
8 calendar days of receipt by the ~~director~~ commission of the ~~request for~~
9 ~~hearing petition.~~

10 ~~(g) The administrative hearing and determinations made by the hearing~~
11 ~~officer under this subchapter are not subject to the provisions of the~~
12 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

13 ~~(h)~~(d) The defense or defenses to the closure of a business under this
14 subchapter are:

15 (1) Written proof that the noncompliant taxpayer filed all
16 delinquent returns and paid the delinquent tax due including interest and
17 penalty; or

18 (2) That the noncompliant taxpayer has entered into a written
19 payment agreement, approved by the director, to satisfy the tax delinquency.

20 ~~(i)~~(e) The decision of the ~~hearing officer~~ commission ~~must~~ shall be in
21 writing with copies delivered to the noncompliant taxpayer and the Department
22 of Finance and Administration by the United States Postal Service or by hand
23 delivery.

24 ~~(j)~~(f) A decision of the ~~hearing officer~~ commission after a hearing to
25 sustain the director’s decision to close the business of the noncompliant
26 taxpayer is effective twenty (20) days after the date of the decision and,
27 except as provided under § 26-18-1003, acts as an injunction prohibiting
28 further operation of the business.

29
30 SECTION 20. Arkansas Code § 26-18-1003(a) and (b), regarding judicial
31 relief, is amended to read as follows:

32 (a) As used in this section:

33 (1) “Administrative decision” means a decision by the Tax
34 Appeals Commission issued under § 26-18-1002 and the Tax Appeals Commission
35 Act, § 26-18-1101 et seq., to affirm the decision of the Director of the

1 Department of Finance and Administration to close the business of a
2 noncompliant taxpayer;

3 (2) "Business" means a business subject to an administrative
4 decision; and

5 (3) "Business closure order" means a notice of closure issued by
6 the director under § 26-18-1001.

7 (b)(1) A noncompliant taxpayer may seek judicial relief from an
8 administrative decision by the commission by filing suit within twenty (20)
9 calendar days of the date of the administrative decision.

10 (2) Jurisdiction for a suit under this section shall be in the
11 Pulaski County Circuit Court or the circuit court of the county where the
12 noncompliant taxpayer resides or has his or her principal place of business,
13 where the matter shall be tried de novo.

14

15 SECTION 21. Arkansas Code § 26-36-315 is amended to read as follows:
16 26-36-315. Joint refunds.

17 (a) When a taxpayer who is a debtor as defined in this subchapter has
18 filed a joint return for which he or she is due a refund or has filed a
19 separate return on the same form resulting in a joint refund, the entire
20 amount of the refund shall be subject to setoff.

21 (b)(1) The Director of the Department of Finance and Administration
22 shall notify each taxpayer due a joint refund of the amount and the date of a
23 proposed setoff for a debt certified by a claimant agency to the Revenue
24 Division of the Department of Finance and Administration.

25 (2) The notice under subdivision (b)(1) of this section shall be in
26 writing and sent to the address listed on the taxpayer's most recently filed
27 income tax return.

28 (c)(1)(A) A taxpayer who claims that he or she is not a debtor of a
29 claimant agency may seek administrative relief by filing a ~~written protest~~
30 ~~under oath within thirty (30) days after the notice under subdivision (b)(1)~~
31 ~~of this section is received.~~ petition protesting the director's decision with
32 the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101
33 et seq.

34 (B) The ~~written protest~~ petition of protest shall be
35 signed by the nondebtor taxpayer or the nondebtor taxpayer's authorized agent

1 and include the nondebtor taxpayer's reasons for opposing the proposed
2 setoff.

3 ~~(2) The nondebtor taxpayer may request the director to consider~~
4 ~~his or her request for relief upon written documents furnished by the~~
5 ~~nondebtor taxpayer or upon the written document and the evidence produced by~~
6 ~~the nondebtor taxpayer at a hearing conducted under the Arkansas Tax~~
7 ~~Procedure Act, § 26-18-101 et seq.~~

8 ~~(3)~~ (2) The nondebtor taxpayer's petition of protest shall
9 include documentation supporting the proportionate share of the nondebtor
10 taxpayer's payment of tax and the resulting amount of the joint refund that
11 the nondebtor taxpayer claims is not subject to setoff.

12 (d) A nondebtor taxpayer who requests the ~~director~~ commission to
13 render ~~his or her~~ its decision based on ~~written documents~~ pleadings filed
14 with the commission is not entitled by law to any other administrative
15 hearing before the ~~director's~~ commission's rendering of ~~his or her~~ its
16 decision.

17 (e) Administrative relief ~~shall not be~~ is not available to a nondebtor
18 taxpayer who fails to ~~protest~~ file a petition protesting a proposed setoff
19 within the ~~thirty (30)~~ ninety (90) days after the notice under subdivision
20 (b)(1) of this section is received.

21 ~~(f)(1) If a taxpayer requests a hearing in person rather than on~~
22 ~~written documents, a hearing officer shall set the time and place for hearing~~
23 ~~on the written protest and shall give the nondebtor taxpayer reasonable~~
24 ~~notice of the hearing.~~

25 ~~(2) At the hearing, the nondebtor taxpayer may be represented by~~
26 ~~an authorized representative and may present evidence in support of his or~~
27 ~~her position.~~

28 ~~(3) After the hearing, the hearing officer shall render his or~~
29 ~~her decision in writing and shall serve copies upon both the nondebtor~~
30 ~~taxpayer and the claimant agency.~~

31 ~~(g) The hearings on written protests and determinations made by the~~
32 ~~hearing officer are not subject to the Arkansas Administrative Procedure Act,~~
33 ~~§ 25-15-201 et seq.~~

34 ~~(h)(1)~~ (f)(1) After the issuance and service on the taxpayer of a
35 decision of the ~~hearing officer~~ commission to sustain the setoff of the joint
36 refund, a nondebtor taxpayer may seek judicial relief from the decision by

1 filing suit within thirty (30) days after the date of the ~~final determination~~
2 decision of the ~~hearing officer~~ commission under § 26-18-1118.

3 (2) Jurisdiction for a suit to contest a ~~determination~~ decision
4 of the ~~hearing officer~~ commission under this section shall be in the Pulaski
5 County Circuit Court or the circuit court of the county where the nondebtor
6 taxpayer resides, and the matter shall be tried de novo.

7 (g) This section is the sole means by which a nondebtor taxpayer may
8 challenge a proposed setoff for the benefit of a claimant agency.

9
10 SECTION 22. Arkansas Code § 26-52-209 is amended to read as follows:

11 26-52-209. Applicability of tax procedure provisions.

12 All proceedings relative to the issuance, revocation, or suspension of
13 a permit under this subchapter shall be governed by the provisions of the
14 Arkansas Tax Procedure Act, § 26-18-101 et seq. and the Tax Appeals
15 Commission Act, § 26-18-1101 et seq.

16
17 SECTION 23. Arkansas Code § 26-55-219 is amended to read as follows:

18 26-55-219. Distributor’s license – Refusal.

19 (a)(1) ~~In the event that any~~ If an application for a license to
20 transact business as a distributor in the State of Arkansas ~~shall be~~ is filed
21 by ~~any a~~ a person whose license ~~shall at any time have~~ has been cancelled at
22 any time for cause by the Director of the Department of Finance and
23 Administration, or ~~in case~~ if the director ~~shall be of the opinion~~ determines
24 that the application is not filed in good faith or ~~in the event~~ that the
25 application is filed by some person as a subterfuge for the real person in
26 ~~interest whose license or registration shall theretofore have~~ has been
27 ~~cancelled for cause by the director, or for any other valid reason, then and~~
28 ~~in any of said events the director~~ Tax Appeals Commission, after a hearing ~~of~~
29 ~~which the applicant shall have been given five (5) days’ notice in writing~~
30 ~~and at which the applicant shall have the right to appear in person or by~~
31 ~~counsel and present testimony, shall have and is given the right and~~
32 ~~authority to under the Arkansas Tax Procedure Act, § 26-18-101 et seq., and~~
33 ~~the Tax Appeals Commission Act, § 26-18-1101 et seq., may refuse to issue to~~
34 ~~the person a license certificate to transact business as a distributor in the~~
35 ~~State of Arkansas.~~

1 (b)(1) ~~Any A distributor may seek judicial relief of an action by the~~
 2 ~~commission who is aggrieved by the action of the director~~ in refusing to
 3 issue the license applied for, within thirty (30) days from the time of the
 4 refusal, ~~may appeal~~ by appealing to the circuit court of the county of the
 5 distributor's residence where the distributor ~~shall be~~ is entitled to a
 6 hearing de novo.

7 (2) An appeal shall lie from the circuit court to the Supreme
 8 Court as in other cases now provided by law.

9 (c) If the licensee fails to commence an action within the time
 10 prescribed under § 26-18-601 and the Tax Appeals Commission Act, § 26-18-1101
 11 et seq., the director may immediately revoke the license of the licensee and
 12 notify the licensee by registered mail, addressed to the last known address
 13 of the licensee appearing in the files of the director.

14
 15 SECTION 24. Arkansas Code § 26-55-231(a), concerning the failure to
 16 report or pay tax relating to the revocation or cancellation of licenses
 17 under the Motor Fuel Tax Law, is amended to read as follows:

18 (a)(1) If a distributor at any time files a false monthly report of
 19 the data or information required by this subchapter or fails, refuses, or
 20 neglects to file the monthly report required by this subchapter, or to pay
 21 the full amount of the tax as required by this subchapter, the Director of
 22 the Department of Finance and Administration may give notice to the
 23 distributor of an intention to revoke the license of the distributor.

24 (2) ~~The distributor shall be entitled to a period of five (5)~~
 25 ~~days after receipt of the notice from the director, within which to apply for~~
 26 ~~a hearing before the director on the question of having the distributor's~~
 27 ~~license revoked. The director shall grant a hearing at such time and place as~~
 28 ~~the director may designate of which the distributor shall have five (5) days'~~
 29 ~~advance notice in writing~~ hearing under § 26-18-601(c) and the Tax Appeals
 30 Commission Act, § 26-18-1101 et seq.

31 (3) After the hearing, ~~at which time the distributor shall be~~
 32 ~~entitled to present evidence and argument of counsel, the director~~ the
 33 commission shall decide whether the distributor's license shall be revoked.

34 (4)(A) Upon the issuance of an order revoking the license, the
 35 distributor shall be entitled to an appeal to the circuit court in the county

1 where the distributor may do business where the question shall be tried de
2 novo.

3 (B) An appeal shall lie from the circuit court of that
4 county as in other cases provided by law.

5 (5)(A) If the distributor fails to ~~apply for a hearing~~ file a
6 petition with the commission within the time set out in subdivision (a)(2)(A)
7 of this section, the director may ~~forthwith cancel~~ revoke the license of the
8 distributor and notify the distributor of the ~~cancellation~~ revocation by
9 registered mail to the last known address of the distributor appearing on the
10 files of the director.

11 (B) The director shall also notify the surety company on
12 the distributor's bond in like manner.

13
14 SECTION 25. Arkansas Code § 26-56-311 is amended to read as follows:
15 26-56-311. Revocation of supplier's or dealer's license.

16 (a) If a licensed liquefied gas special fuels supplier or dealer fails
17 to file any report required by this subchapter, or falsely or fraudulently
18 files a report, or fails to pay the full amount of the tax levied by this
19 subchapter, or if at any time the surety on the licensee's bond becomes
20 unsatisfactory or inaccessible to the Director of the Department of Finance
21 and Administration or the bond is discharged or cancelled, and a new bond is
22 not furnished by the licensee within five (5) days after the demand of the
23 director, the director may give notice to the licensee of an intention to
24 revoke his or her license.

25 (b)(1) ~~The licensee shall be entitled to a period of ten (10) days~~
26 ~~after the mailing of the notice within which to apply for a hearing on the~~
27 ~~question of having his or her license revoked, and the director shall~~
28 ~~designate a time and place for the hearing, giving the licensee five (5)~~
29 ~~days' notice thereof under § 26-18-601(c) and the Tax Appeals Commission Act,~~
30 § 26-18-1101 et seq.

31 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
32 hearing with the commission under this section.

33 (c)(1) ~~After the hearing, at which the licensee shall be entitled to~~
34 ~~present evidence and be represented by counsel, the director shall determine~~
35 ~~whether the licensee's license shall be revoked.~~ the commission shall render
36 a decision as to whether the licensee's license should be revoked.

1 (2) If the commission decides that a licensee’s license should
2 be revoked, the commission shall authorize the director to immediately revoke
3 the licensee’s license.

4 (d)(1) Upon the commission’s issuance of an order revoking the
5 license, the licensee ~~shall be entitled to~~ may appeal to the circuit court in
6 any county in which the licensee may do business, where the question shall be
7 tried de novo, but the ~~director’s~~ commission’s order shall be affirmed if
8 supported by substantial evidence.

9 (2) An appeal may be had from the judgment of the circuit court
10 as in other cases as provided by law.

11 (e)(1) If the licensee fails to apply for a hearing within the
12 prescribed time under § 26-18-601(c) and the Tax Appeals Commission Act, §
13 26-18-1101 et seq., the director may immediately revoke the license of the
14 licensee and notify the licensee by registered mail, addressed to the last
15 known address of the licensee appearing in the files of the director.

16 (2) The director shall also notify the surety company on the
17 licensee’s bond in like manner.

18
19 SECTION 26. Arkansas Code § 26-57-413(c) and (d), concerning the
20 revocation of licenses for coin-operated amusement devices, are amended to
21 read as follows:

22 (c) ~~The licensee shall have fifteen (15) days in which to notify the~~
23 ~~director that a hearing is desired, after which time a hearing shall be had~~
24 ~~not less than fifteen (15) days subsequent to the expiration of the fifteen-~~
25 ~~day period of notice~~ is entitled to a hearing under § 26-18-601(c) and the
26 Tax Appeals Commission Act, § 26-18-1101 et seq.

27 (d)(1)(A) ~~Any~~ A licensee whose license has been revoked or suspended
28 may appeal to the Pulaski County Circuit Court within twenty (20) days after
29 revocation or suspension by filing a copy of the notice of the revocation or
30 suspension with the clerk of the circuit court and causing a summons to be
31 served on the director.

32 ~~(2)(B)~~ The case shall be tried de novo in the circuit
33 court.

34 ~~(3)(C)~~ Either party may prosecute an appeal to the Supreme
35 Court as in other cases.

1 (2) If the licensee fails to commence an action under § 26-18-
 2 601(c) or the Tax Appeals Commission Act, § 26-18-1101 et seq., the director
 3 may immediately revoke the license of the licensee and notify the licensee by
 4 registered mail, addressed to the last known address of the licensee
 5 appearing in the files of the director.

6
 7 SECTION 27. Arkansas Code § 26-57-419(f), concerning the revocation of
 8 licenses to sell coin-operated amusement devices, is amended to read as
 9 follows:

10 (f)(1) The director may revoke or suspend the licenses for cause.

11 (2) Any licensee shall be notified in writing that the
 12 revocation or suspension of ~~its~~ the licensee's license is being considered
 13 and the reason therefor.

14 (3) ~~The licensee shall have fifteen (15) days in which to notify~~
 15 ~~the director that a hearing is desired, after which time a hearing shall be~~
 16 ~~held not less than fifteen (15) days subsequent to the expiration of the~~
 17 ~~fifteen-day period of notice~~ is entitled to a hearing under § 26-18-601(c)
 18 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

19 (4)(A)(i) ~~Any~~ A licensee whose license has been revoked or
 20 suspended may appeal to the Pulaski County Circuit Court by filing a copy of
 21 the notice of revocation or suspension with the clerk of the court within
 22 twenty (20) days of receipt ~~thereof~~ of the notice of revocation or suspension
 23 and causing the issuance of a summons to be served on the director or the
 24 commission, or both.

25 (ii) The hearing shall be de novo in the Pulaski
 26 County Circuit Court.

27 (B) Either party may appeal to the Supreme Court as in
 28 other cases.

29
 30 SECTION 28. Arkansas Code § 26-57-419, concerning licenses to sell
 31 coin-operated amusement devices, is amended to add an additional subsection
 32 to read as follows:

33 (g) If the licensee fails to commence an action within the time
 34 prescribed under § 26-18-601(c) and the Tax Appeals Commission Act, § 26-18-
 35 1101 et seq., the director may immediately revoke the license of the licensee

1 and notify the licensee by registered mail, addressed to the last known
2 address of the licensee appearing in the files of the director.

3
4 SECTION 29. Arkansas Code § 26-57-1212(c), concerning the procedure
5 upon forfeiture of vending devices, is amended to read as follows:

6 (c)(1) The owner of the vending device shall be given at least thirty
7 (30) days' written notice of the date of the hearing on the forfeiture of the
8 vending device.

9 (2) The notice shall be considered a notice of proposed
10 assessment under § 26-18-403, and the owner shall be entitled to an
11 administrative hearing ~~pursuant to § 26-18-405~~ with the Tax Appeals
12 Commission under the Tax Appeals Commission Act, § 26-18-1101 et seq.

13
14 SECTION 30. EFFECTIVE DATE. Sections 4-29 of this act are effective
15 on and after July 1, 2021.

16
17
18 /s/B. Johnson

19
20
21 Referred requested by the Arkansas Senate

22 Prepared by: JLL/VJF
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