

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 707 OF 1991
HOUSE BILL 1285

4 **By: Representatives Willems, Thicksten,**
5 **George, Rice, and Parkerson**

6
7 **For An Act To Be Entitled**

8 "AN ACT TO ESTABLISH A PROGRAM TO PROVIDE ASSISTANCE TO
9 INVENTORS IN ARKANSAS; AND FOR OTHER PURPOSES."

10

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

12

13 SECTION 1. This act shall be known and may be cited as the "Inventors
14 Assistance Act."

15

16 SECTION 2. As used in this act, unless context otherwise requires:

17 (1) "The Center" means the Center for Prototype Development and
18 Emerging Technologies to be developed and operated by the University of
19 Arkansas at Little Rock;

20 (2) "Commercial state" means the point at which a product has
21 been developed beyond the theoretical and prototype stage and is capable of
22 being manufactured or practiced commercially;

23 (3) "Inventor" means any person who conceives a new concept which
24 may result in a proprietary product;

25 (4) "Person" means any individual, sole proprietor, partnership,
26 or corporation;

27 (5) "Product" means any device, technique, process, item of
28 manufacture, composition of matter or work of authorship;

29 (6) "Proposal" means a plan provided by the inventor which
30 includes technical and descriptive information on a *product*;

31 (7) "Royalties" means all things of value received by an inventor
32 in connection with the licensing of a proprietary product or the assignment,
33 sale or licensing of intellectual property;

34 (8) "Proprietary Product" means a product patented, copyrighted,
35 or trademarked pursuant to federal or state law, or for which an application
36 for patent or for copyright or trademark registration is pending;

1 (9) "Gross Sales Revenues" means all revenues or anything of
2 value received by any person from the sale of a proprietary product;

3 (10) "Intellectual Property" means patents, copyrights, or
4 trademarks acquired pursuant to federal or state law, or applications for
5 patent or for copyright or trademark registration; and

6 (11) "Product Development Plan" means a plan prepared by the
7 Center for developing a product to the commercial state.

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9 SECTION 3. *The Board of Trustees of the University of Arkansas, in*
10 *consultation with the Arkansas Inventors Congress is authorized to establish a*
11 *prototype development center at the University of Arkansas at Little Rock to*
12 *provide assistance to inventors. The inventors assistance program shall be*
13 *designed to:*

14 (1) Attract inventors from throughout this State, the nation, and
15 other countries, and encourage them to submit their proposals for review and
16 evaluation;

17 (2) Provide assistance to inventors whose proposals are accepted
18 after evaluation and review. Assistance may include limited patent searches,
19 market analysis, product research and development, assistance in obtaining
20 financing, business counseling, and any other assistance not prohibited by the
21 Constitution or laws of this State which is necessary to develop the product
22 to the commercial state. To protect both the State and the inventor, a
23 disclosure document shall be on file with the U.S. Patent Office before the
24 Center will review a proposal;

25 (3) Provide assistance to enable the manufacturing, marketing and
26 distribution of the product; and

27 (4) Protect the confidentiality of each inventor's proposals to
28 the extent permitted by law.

29
30 SECTION 4. *The Board of Trustees of the University of Arkansas, on*
31 *behalf of the center, may:*

32 (1) Enter into contracts on a competitive bid basis or non-
33 competitive bid basis, consistent with state laws and regulations with public
34 and private agencies, institutions, organizations and individuals for the
35 purpose of providing assistance to and services for inventors as required by

1 this act;

2 (2) Solicit the support and contribution of public and private
3 agencies, organizations, institutions and individuals;

4 (3) Receive and administer funds for the purpose of operating the
5 inventors assistance program;

6 (4) Advertise and promote the inventors assistance program;

7 (5) *Adopt policies and procedures to implement the provisions of*
8 this act; and

9 (6) Acquire security interests in intellectual property to the
10 extent necessary to protect the state's interest in the fees charged pursuant
11 to Section 5.

12

13 SECTION 5. (a) The Center shall charge a filing fee of up to five
14 hundred dollars (\$500.00) for each proposal submitted for review and
15 evaluation, depending upon the cost to research the proposal as determined by
16 the Center.

17 (b) After review and evaluation, proposals shall be accepted or
18 rejected for product development under the inventors assistance program.

19 (c) If a proposal is accepted for product development, the Center
20 shall prepare a product development plan which will include a technical plan
21 for developing the product, time schedule and estimated cost. The Center will
22 have an established policy for making decisions to develop products utilizing
23 appropriate resources and bringing the products to a commercial state. The
24 services of the Center may include patent searches, applications for patent,
25 copyright registration, market analysis, product research and development,
26 assistance in obtaining financing including financing from private resources
27 and business counseling.

28 (d) If the inventor wants the Center to develop the product
29 according to the product development plan, but is unable to finance all or
30 part of the development, then the Center may develop the product using in part
31 its own or other resources, provided such resources are available. The
32 inventor shall be liable to pay a fee according to the policy set forth in
33 Section 5 (e) (3). The inventor may finance the product development plan in
34 full and, in such cases, there will not be any additional fee involved.

35 (e) Before services to aid in the development of the product

1 shall commence, the Board of Trustees of the University of Arkansas on behalf
 2 of the Center shall enter into a written contract with the inventor which
 3 shall include, in addition to any other provisions consistent with this act:

4 (1) The services which the Center will provide to aid in
 5 the development of the product;

6 (2) Any other services which the Center will assist the
 7 inventor in obtaining and for which the inventor shall be liable pursuant to
 8 written consent;

9 (3) (A) Authorization for the Center to receive a fee not
 10 to exceed an amount equal to:

11 (i) Ten percent (10%) of all royalties from the
 12 product for a period not to exceed ten (10) years from the first day after
 13 royalties are first received by the inventor;

14 (ii) One percent (1%) of the gross sales revenue for a
 15 period not to exceed ten (10) years from the first day after *the product*
 16 *reaches the commercial state; and/or*

17 (iii) *an equitable percentage of any consideration*
 18 *received from the sale, licensing or transfer of any interest in intellectual*
 19 *property or proprietary products.*

20 (B) The fee shall be based on a consideration of the
 21 following factors:

22 (i) The inventor's contribution to the financing of
 23 the product *according to the product development plan;*

24 (ii) The Center's contribution to the financing of the
 25 product *according to the product development plan; and*

26 (iii) The potential for commercial success of the
 27 product;

28 (4) A written agreement from the inventor that all products
 29 developed under the program shall be researched, developed, manufactured,
 30 packaged within this State and distributed from this State to the extent that
 31 it is economically feasible. Provided, wherever the products are manufactured
 32 the fee set forth in Section 5 (e) (3) shall accrue to this State pursuant to
 33 the provisions of this act;

34 (5) Provision for acquisition by the Center of any security
 35 interest in intellectual property as required to protect the state's interest

1 in the fee set forth in Section 5 (e) (3);

2 (6) Agreement by the inventor that any assignment, sale or
3 licensing of a product or intellectual property developed under the program
4 shall be subject to the Center's security interest and that any contract with
5 a third party for the assignment, sale or licensing of a product or
6 intellectual property developed under the program shall explicitly condition
7 such assignment, sale or license on the prior rights of the Center; and

8 (7) Provision for such fiscal reporting by the inventor,
9 the inventor's assignee or licensee as may be necessary to assure the
10 performance of all provisions of the written contract.

11 (f) *The Board of Trustees of the University of Arkansas on behalf*
12 *of the Center is authorized to enter into a written contract with each Center*
13 *employee which shall include provisions designed to protect the*
14 *confidentiality of inventors' proposals and to prohibit the employee from*
15 *using information gained at the Center to compete with or disadvantage any*
16 *inventor.*

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18 SECTION 6. There is hereby established on the books of the State
19 Treasurer, State Auditor, and Chief Fiscal Officer of the State a fund to be
20 known as the "Inventor's Assistance Program Fund". This fund shall consist of
21 all monies received by the Center for implementation of the Inventors
22 Assistance Act and all fees received pursuant to this act. *Monies received*
23 *into the fund are authorized to be applied to implement this act.* Any amount
24 in said fund not directly needed to implement this act shall go to the General
25 Revenue Fund of the State.

26

27 SECTION 7. The Center shall submit an annual report based on the fiscal
28 year on or before December 31 of each year to the Governor and shall mail the
29 report to the Legislative Council of the General Assembly to be reviewed by
30 the Joint Interim Committee on State Agencies and Governmental Affairs. The
31 report shall include, but not be limited to:

32 (1) The number of proposals submitted for review and evaluation;

33 (2) The number of proposals accepted for development and the
34 number rejected;

35 (3) The number of products patented;

- 1 (4) The number of products developed to the commercial state;
- 2 (5) The number of jobs created and preserved as a result of the
- 3 manufacturing, marketing, packaging, warehousing and distribution of products;
- 4 and
- 5 (6) An estimate of the multiplier effect on the Arkansas economy
- 6 as a result of jobs so created and preserved.

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8 SECTION 8. All provisions of this act of a general and permanent nature

9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 9. If any provision of this act or the application thereof to

13 any person or circumstance is held invalid, such invalidity shall not affect

14 other provisions or applications of the act which can be given effect without

15 the invalid provision or application, and to this end the provisions of this

16 act are declared to be severable.

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18 SECTION 10. All laws and parts of laws in conflict with this act are

19 hereby repealed.

20

21 SECTION 11. EMERGENCY. It is hereby found and determined by the

22 General Assembly that establishment of businesses by inventors results in

23 numerous benefits to the state; that these benefits include industrial

24 diversification, broadening of the economic base, the creation of jobs, and

25 benefits to the residents of the state through new products and processes;

26 that it is estimated that ninety-five percent (95%) of all inventions are

27 never authoritatively considered primarily because inventors are unfamiliar

28 with the business environment or financial structure necessary for

29 implementing their proposals; that this act would provide assistance to

30 inventors and at the same time create benefits to the state and its residents;

31 and that the need for assistance constitutes such an emergency that the

32 immediate passage of this act is necessary in order to provide for assistance

33 to inventors. Therefore, an emergency is declared to exist and this act being

34 necessary for the preservation of the public peace, health, and safety shall

35 take effect and be in full force from and after its passage and approval.

As Amended 3/8/91 3/15/91

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/s/F. Willems, et al

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APPROVED: 3-22-91