

Hall of the House of Representatives
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of Senate Bill No. 373

TO EXEMPT ATTORNEY-CLIENT COMMUNICATIONS AND ATTORNEY WORK PRODUCT FROM THE
FREEDOM OF INFORMATION ACT OF 1967.

Amendment No. 3 to Senate Bill No. 373

Amend Senate Bill No. 373 as engrossed, (version: 03/09/2017 2:12:56 PM):

Delete everything after the enacting clause and substitute the following:

"SECTION 1. DO NOT CODIFY. Legislative intent.

(a) The purpose of this act is to:

(1) Develop a balance between protecting the transparency in government provided by the Arkansas Freedom of Information Act of 1967, § 25-19-101 et seq., and still provide the privacy necessary for attorneys to efficiently and effectively serve the public; and

(2) Exempt only the narrow category of attorney-client communications and work product strictly related to pending or threatened litigation.

(b) It is not the purpose of this act to exempt all communications between attorneys and clients, or all work produced by an attorney.

SECTION 2. Arkansas Code § 25-19-105(b), concerning examination and copying of public records, is amended to add an additional subdivision to read as follows:

(24)(A) A record related to pending or threatened litigation that, if kept by a private attorney for a nongovernmental entity, would be privileged from disclosure as an attorney-client communication or attorney work product record under the Arkansas Rules of Civil Procedure, Arkansas Rules of Evidence, or Arkansas Rules of Professional Conduct.

(B) As used in this subdivision (24):

(i) "Threatened litigation" means awareness by a governmental entity, through an actual written or verbal communication from a potential claimant, or the claimant's representative, that the claimant will likely seek legal relief in a court, tribunal, or administrative agency against the governmental entity or its officials; and

(ii) "Written or verbal communication" means an indication by a person or entity, including an action by an administrative agency.

(C) An exemption under subdivision (b)(24)(A) of this section shall expire:



(i) Ninety (90) days upon the close of litigation and any associated appeal; or
(ii) One (1) year after the date of the threat of litigation if no litigation is initiated."

The Amendment was read _____
By: Representative Ballinger
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Chief Clerk