

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2009-128

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

HOUSE BILL 1981

By: Representative Dismang

Filed with: House Interim Committee on Revenue and Taxation
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO SIMPLIFY FRANCHISE TAX REPORTING BY
ALLOWING THE FILING DATE TO COINCIDE WITH THE
FEDERAL INCOME TAX FILING DATE; TO LIMIT THE
AMOUNT OF FRANCHISE TAX PER CORPORATION; TO ALLOW
THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO
COLLECT AND MANAGE FRANCHISE TAX REPORTS; AND FOR
OTHER PURPOSES.

Subtitle

TO SIMPLIFY FRANCHISE TAX REPORTING BY
ALLOWING THE FILING DATE TO COINCIDE
WITH THE FEDERAL INCOME TAX FILING DATE
AND TO LIMIT THE AMOUNT OF FRANCHISE TAX
PER CORPORATION.

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

SECTION 1. Arkansas Code § 26-54-105 is amended to read as follows:
26-54-105. Franchise tax reports.

(a)(1) ~~The Secretary of State shall furnish report forms to each
corporation subject to the provisions of this chapter by mailing them to the
corporation's current agent for service or other person identified by the
corporation.~~

~~(2) When filing the franchise tax report, a corporation may~~



1 ~~state who is to receive a franchise tax form the following year if that~~
2 ~~person is different from the agent for service on file for the corporation at~~
3 ~~that time.~~

4 ~~(b) Any corporation that fails to receive the report forms by March 20~~
5 ~~of the reporting year shall make written request for them to the Secretary of~~
6 ~~State on or before March 31.~~

7 ~~(e)(1) Each corporation subject to the requirements of this chapter~~
8 ~~shall file a franchise tax report with the Secretary of State department~~
9 ~~which that shows its condition and status as of the close of business on~~
10 ~~December 31 of the preceding calendar year and other information required by~~
11 ~~the Secretary of State for that corporation's income tax year as filed with~~
12 ~~its federal income tax return.~~

13 ~~(2)(A) The franchise tax as computed on the report shall be~~
14 ~~remitted with the franchise tax report on or before June 1 of the reporting~~
15 ~~year for franchise tax due for calendar year 2003 and years prior to 2003.~~

16 ~~(B) The franchise tax as computed on the report shall be~~
17 ~~remitted with the franchise tax report on or before May 1 of the reporting~~
18 ~~year for franchise tax due for calendar year 2004 and subsequent years.~~

19 ~~(d)(b)(1) Every corporation that dissolves shall be is required to pay~~
20 ~~at the time of dissolution the franchise tax for the prior calendar year and~~
21 ~~pay at the time of dissolution the minimum franchise tax for the year in~~
22 ~~which that the corporation is dissolved or withdrawn by submitting the~~
23 ~~franchise tax with the corporation's income tax as filed with its federal~~
24 ~~income tax return.~~

25 (2) Any newly formed corporation shall not be required to file a
26 franchise tax report until the calendar year immediately following the
27 calendar year of incorporation.

28 ~~(e)(1) When the par value of the shares of a corporation is required~~
29 ~~to be stated in any franchise tax report and the shares of the corporation~~
30 ~~are without par value, the number of shares shall be stated.~~

31 ~~(2) For the purpose of computing the franchise tax prescribed by~~
32 ~~this chapter, such shares of no par value shall be considered to be of the~~
33 ~~par value of twenty five dollars (\$25.00) per share.~~

34 ~~(f) Each corporation which pays its tax computed by the full~~
35 ~~assessment of capital stock or property shall not be required to report the~~
36 ~~value of its real and personal property within or without this state.~~

1 ~~(g)~~(c)(1) Every franchise tax report shall contain the following
2 statement:

3 “I declare, under the penalties of perjury, that the foregoing statements are
4 true to the best of my knowledge and belief.”

5 (2) The statement shall be signed by the president, vice
6 president, secretary, treasurer, or controller of the corporation or other
7 authorized person.

8 ~~(h)~~(d)(1) All information contained in a franchise tax report shall be
9 confidential and not available for public inspection, except for the
10 following:

11 (A) The name and address of the corporation;

12 (B) The name of the corporation’s president, vice
13 president, secretary, treasurer, and controller;

14 (C) The total authorized capital stock ~~with par value~~;

15 (D) The total issued and outstanding capital stock with
16 par value; and

17 (E) The state of incorporation.

18 (2) In the case of a franchise tax report filed by an
19 organization formed under the Small Business Entity Tax Pass Through Act, §
20 4-32-101 et seq., the names of members, except those designated in the
21 organizations’ franchise tax report as a manager, president, vice president,
22 secretary, treasurer, or controller of the organization, ~~shall be~~ are
23 confidential and are not available for public inspection unless the
24 organization has no registered agent for service of process.

25
26 SECTION 2. Arkansas Code § 26-54-107 is amended to read as follows:

27 26-54-107. ~~Computation~~ Amount of tax – Filing – Penalty – Relief.

28 (a)(1) ~~The Secretary of State from the information reported and from~~
29 ~~any other information received by him or her bearing upon the subject~~ The
30 Department of Finance and Administration shall compute set the amount of
31 franchise tax of due from each corporation at the rate ~~or rates provided by~~
32 ~~this chapter~~ of one hundred fifty dollars (\$150).

33 (2) A franchise tax return shall coincide with the accounting
34 period covered by the federal income tax return of the corporation.

35 (3) The franchise tax shall be paid to the department at the
36 time of filing the franchise tax return, including any extensions that may be

1 granted.

2 (b)(1)~~(A)~~ If the taxpayer fails to comply with the filing and
3 remittance requirements prescribed in § 26-54-105(c) by ~~June 1~~ April 15, the
4 ~~Secretary of State department~~ shall assess the corporation a penalty of
5 twenty-five dollars (\$25.00) plus interest on the franchise tax due and
6 penalty from the date due until paid at the rate of ten percent (10%) per
7 annum.

8 ~~(2)(B)~~ However, the franchise tax, penalty, and interest for any
9 tax year shall not exceed two (2) times the corporation's franchise tax owed.

10 ~~(2) On or before November 1 of each year, the Secretary of State~~
11 ~~shall mail notice to the corporation at its last known address stating that~~
12 ~~the corporation is subject to forfeiture of its corporate charter under § 26-~~
13 ~~54-111 for the failure to pay corporate franchise tax.~~

14 (c)(1) A corporation may seek relief from any proposed assessment of
15 taxes ~~pursuant to~~ under this chapter under the Arkansas Administrative
16 Procedure Act, § 25-15-201 et seq.

17 (2) ~~This~~ The method under subdivision (c)(1) of this section
18 shall be the exclusive method for seeking relief.

19
20 SECTION 3. Arkansas Code § 26-54-110 is amended to read as follows:

21 26-54-110. Dissolution or withdrawal by corporations.
22 Applications for dissolution or withdrawal by a corporation, association, or
23 organization ~~cannot~~ shall not be accepted by the authority which initially
24 authorized or granted an authority to the corporation to do business in
25 Arkansas until receipt of a statement verified by the ~~Secretary of State~~
26 Department of Finance and Administration that the franchise tax due has been
27 paid.

28
29 SECTION 4. Arkansas Code § 26-54-111 is amended to read as follows:

30 26-54-111. Charter forfeiture for failure to pay tax - Procedure.

31 (a)(1) On or before January 1 of each year, the Secretary of State
32 shall issue a proclamation ~~proclaiming as forfeited~~ that lists the corporate
33 charters or authorities, ~~as the case may be,~~ of all domestic and foreign
34 corporations, ~~both domestic and foreign which,~~ according to the Secretary of
35 State's records, that are delinquent in the payment of the annual franchise
36 tax for any prior year and proclaims the corporate charters or authorities as

1 forfeited.

2 (2) The Secretary of State shall obtain the information on
3 corporations that are delinquent on the payment of the annual franchise tax
4 from the Department of Finance and Administration.

5 (b)(1) The Secretary of State shall furnish a—A copy of the
6 proclamation or applicable portion of the proclamation—~~thereof, shall be~~
7 ~~furnished~~ to each ~~other~~ official or agency of the state ~~which is authorized~~
8 ~~to issue that issues~~—corporation corporate charters or authorities. ~~Upon~~
9 ~~their receipt of the proclamation, the several officials shall at once~~
10 ~~correct their respective records in accordance with the proclamation.~~

11 (2) After receipt of the proclamation, each official or agency
12 of the state shall correct its records to reflect the forfeited corporate
13 charters or authorities.

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15 SECTION 5. Effective date. This act is effective for tax years
16 beginning on or after January 1, 2009.

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36 Filed Date: 04/09/2009 By: LMG\VJF