

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 94th General Assembly
3 Second Extraordinary Session, 2023
4

A Bill

DRAFT EGL/EGL
HOUSE BILL

5 By: NA
6

For An Act To Be Entitled

8 AN ACT TO REPEAL THE STATUTES CONCERNING THE
9 OCCUPATIONAL AUTHORIZATION AND LICENSURE OF PRIVATE
10 EMPLOYMENT AGENCIES, EMPLOYMENT COUNSELORS, AND
11 EMPLOYMENT AGENCY MANAGERS; TO REPEAL THE ARKANSAS
12 PRIVATE EMPLOYMENT AGENCY ACT OF 1975; TO REPEAL
13 REFERENCES TO PRIVATE EMPLOYMENT AGENCIES, EMPLOYMENT
14 COUNSELORS, AND EMPLOYMENT AGENCY MANAGERS; TO REMOVE
15 EMPLOYMENT AGENCY LICENSES FROM THE LIST OF SOURCES
16 OF ENUMERATED GENERAL REVENUE; AND FOR OTHER
17 PURPOSES.
18

Subtitle

19
20
21 TO REPEAL CERTAIN STATUTES CONCERNING THE
22 OCCUPATIONAL AUTHORIZATION AND LICENSURE
23 OF CERTAIN EMPLOYMENT OFFICES AND
24 AGENCIES; AND TO REPEAL THE ARKANSAS
25 PRIVATE EMPLOYMENT AGENCY ACT OF 1975.
26

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

30 SECTION 1. Arkansas Code Title 11, Chapter 11, is repealed.
31

32 ~~CHAPTER 11 — EMPLOYMENT OFFICES AND AGENCIES~~
33

34 ~~Subchapter 1 — General Provisions~~
35

36 ~~11-11-101. Recruitment of labor by foreign labor agents.~~

1 operation of a designated employment agency office. Every employment agency
2 must maintain a licensed agency manager at each of its separate office
3 locations;

4 (2) ~~“Applicant” except when used to describe an applicant for an~~
5 ~~employment agency or agency manager’s or counselor’s license means any~~
6 ~~person, whether employed or unemployed, seeking or entering into an~~
7 ~~arrangement for employment or change of employment through the medium or~~
8 ~~service of an employment agency;~~

9 (5) ~~“Employee” means a person performing or seeking to perform~~
10 ~~work or service of any kind or character for compensation;~~

11 (6) ~~“Employer” means a person employing or seeking to employ a~~
12 ~~person for compensation;~~

13 (7)(A) ~~“Employment agent” or “employment agency” means any~~
14 ~~person engaged for hire, compensation, gain, or profit in the business of~~
15 ~~furnishing persons seeking employment with information or other service~~
16 ~~enabling the persons to procure employment by or through employers or~~
17 ~~furnishing any other person who may be seeking to employ or may be in the~~
18 ~~market for help of any kind with information enabling the other person to~~
19 ~~procure help.~~

20 (B) ~~However, “employment agent” or “employment agency”~~
21 ~~does not mean:~~

22 (i) ~~Any person who prepares resumes for individuals~~
23 ~~for employment purposes if the person who prepares the resumes does not refer~~
24 ~~or purport to refer prospective employees to employers or employers to~~
25 ~~prospective employees, does not represent himself or herself as an employment~~
26 ~~agency, or does not have any financial connection with any employment agency;~~

27 (ii) ~~Any person who employs individuals to render~~
28 ~~part-time or temporary services to, for, or under the direction of a third~~
29 ~~person if the person employing the individuals, in addition to paying wages~~
30 ~~or salaries, pays federal Social Security taxes and state and federal~~
31 ~~unemployment insurance and secures work service to, for, or under the~~
32 ~~direction of a third person;~~

33 (iii) ~~Any bona fide nursing school, nurses’~~
34 ~~registry, management consulting firm, business school, or vocational school~~
35 ~~whose primary function and purpose is training and education, except that if~~
36 ~~such an organization charges a fee, directly or indirectly, for job placement~~

1 of individuals, the organization shall be an employment agency within the
 2 meaning of this subchapter;

3 (iv) ~~A labor organization;~~

4 (v) ~~Any person who publishes advertisements placed
 5 and paid for by a third person seeking employment or an employee, provided
 6 that the person does not procure or offer to procure employment or employees;
 7 or~~

8 (vi) ~~Any person who contracts with an employer to
 9 recruit employees for the employer without charge to the prospective
 10 employee;~~

11 (8) ~~“Employment counselor” means an employee of any employment
 12 agency who interviews, counsels, or advises applicants or employers, or both,
 13 on employment or allied problems or who makes or arranges contracts or
 14 contacts between employers and employees. The term “employment counselor”
 15 includes employees who solicit orders for employees from prospective
 16 employers;~~

17 (9) ~~“Fee” shall mean anything of value, including any money or
 18 other valuable consideration exacted, charged, collected, or received,
 19 directly or indirectly, or paid or contracted to be paid for any services or
 20 act by an employment agency; and~~

21 (10) ~~“Person” means any individual, company, firm, association,
 22 partnership, or corporation.~~

23
 24 ~~11-11-203. — Penalty.~~

25 (a) ~~The Director of the Division of Labor shall have authority to
 26 impose a fine of not less than twenty five dollars (\$25.00) nor more than
 27 five hundred dollars (\$500) for violation of the provisions of this
 28 subchapter by an employment agency or its employees or agents.~~

29 (b) ~~The director shall notify the employment agency in writing of the
 30 reasons for imposition of a fine and at that time shall make available to the
 31 employment agency a signed written statement by any individual having filed a
 32 complaint with the director relative to the matter for which a fine has been
 33 imposed by the director.~~

34 (c) ~~The agency shall have the right to a hearing before the director
 35 and the right to judicial review provided by § 11-11-223 with respect to the
 36 fine.~~

1
2 ~~11-11-204. Director and division—Powers and duties.~~

3 ~~(a) It shall be the duty of the Division of Labor, and it shall have~~
4 ~~the power, jurisdiction, and authority to administer and enforce the~~
5 ~~provisions of this subchapter.~~

6 ~~(b) The Director of the Division of Labor shall have the power,~~
7 ~~jurisdiction, and authority to issue licenses to employment agencies, agency~~
8 ~~managers, and counselors and to refuse to issue, revoke, or suspend the~~
9 ~~licenses when, after due investigation, and in compliance with the procedures~~
10 ~~set forth in §§ 11-11-221 and 11-11-222, the director finds that the~~
11 ~~applicant is for good and sufficient cause unfit to be an employment agent,~~
12 ~~agency manager, or counselor within the meaning of this subchapter or any~~
13 ~~rules or orders lawfully promulgated under this subchapter.~~

14 ~~(c)(1) Complaints against any person, employment agent, agency~~
15 ~~manager, or counselor may be made to the division orally or in writing.~~

16 ~~(2) The director shall have the power to compel attendance of~~
17 ~~witnesses by issuance of subpoenas, administer oaths, direct production of~~
18 ~~documents and records, and direct taking of testimony and evidence concerning~~
19 ~~all matters within the jurisdiction of the division.~~

20 ~~(3) The director may order testimony to be taken by deposition~~
21 ~~in any proceeding pending before the division at any stage of the proceeding.~~

22 ~~(4) The director or his or her duly authorized agent shall at~~
23 ~~all reasonable times have access to, for the purpose of examination and~~
24 ~~copying, the books, records, papers, and documents of any person being~~
25 ~~investigated or proceeded against under the provisions of this subchapter, so~~
26 ~~long as the books, records, papers, or documents sought to be inspected or~~
27 ~~copied are reasonably related to the investigation or proceeding being~~
28 ~~conducted by the director.~~

29 ~~(5) The director or his or her authorized agent shall, upon~~
30 ~~application of any party to proceedings before the director, issue to the~~
31 ~~party subpoenas requiring the attendance and testimony of witnesses or the~~
32 ~~production of any books, records, papers, or documents reasonably related to~~
33 ~~issues involved in proceedings before the director or an investigation~~
34 ~~conducted by the director.~~

35 ~~(6) If any person in proceedings before the director or in~~
36 ~~investigations conducted by the director disobeys or resists any lawful order~~

1 ~~or process issued by the director or his or her authorized agents, or fails~~
 2 ~~to produce, after being lawfully directed to do so, any book, paper, record,~~
 3 ~~or document, or refuses to appear and testify after being subpoenaed to do~~
 4 ~~so, the director shall certify the facts to any court of competent~~
 5 ~~jurisdiction in the state or to the Pulaski County Circuit Court.~~

6 ~~(7) The court shall have authority to conduct hearings and~~
 7 ~~punish any person for failure or refusal to testify or produce books, papers,~~
 8 ~~documents, or records subpoenaed or ordered by the director as though the~~
 9 ~~conduct constituted contempt of court.~~

10 ~~(8) Witnesses summoned by the director or his or her authorized~~
 11 ~~agent shall be paid the same fees and mileage paid to witnesses in the courts~~
 12 ~~of this state.~~

13 ~~(d)(1) The director may prescribe such rules for the conduct of the~~
 14 ~~business of private employment agencies as necessary to implement this~~
 15 ~~subchapter.~~

16 ~~(2) These rules shall have the force and effect of law and shall~~
 17 ~~be enforced by the director in the same manner as the provisions of this~~
 18 ~~subchapter.~~

19 ~~(3) Adoption of rules pursuant to this subsection shall be~~
 20 ~~carried out in compliance with the Arkansas Administrative Procedure Act, §~~
 21 ~~25-15-201 et seq.~~

22 ~~(e) The division shall have authority to investigate employment~~
 23 ~~agents, agency managers, and counselors. The division shall have the right to~~
 24 ~~examine records required by law to be kept and maintained by employment~~
 25 ~~agents, agency managers, and counselors and to examine the offices where the~~
 26 ~~business is or shall be conducted by them.~~

27 ~~(f) The division may seek to recover in a court of competent~~
 28 ~~jurisdiction fees charged or collected in violation of this subchapter.~~

29
 30 ~~11-11-208. License required — Penalties.~~

31 ~~(a) No person shall engage in the business of or act as an employment~~
 32 ~~agent, agency manager, or counselor unless he or she first obtains a license~~
 33 ~~from the Division of Labor.~~

34 ~~(b)(1)(A) Any person who shall engage in the business of or act as an~~
 35 ~~employment agent, agency manager, or counselor without first procuring a~~
 36 ~~license is guilty of a misdemeanor.~~

1 ~~(B) He or she shall be punished by a fine of not less than~~
2 ~~fifty dollars (\$50.00) and not more than two hundred fifty dollars (\$250) for~~
3 ~~each day of acting as an employment agent, agency manager, or counselor~~
4 ~~without a license or by imprisonment for not more than three (3) months, or~~
5 ~~by both.~~

6 ~~(2) In addition to the penalties described in subdivision (b)(1)~~
7 ~~of this section, upon petition of the Director of the Division of Labor, any~~
8 ~~court in the state having the statutory power to enjoin or restrain shall~~
9 ~~have jurisdiction to restrain and enjoin any person who engages in the~~
10 ~~business of or acts as an employment agent, agency manager, or counselor~~
11 ~~without having first procured a license for so engaging or acting.~~

12
13 ~~11-11-209. Certificate of exemption required for certain~~
14 ~~organizations.~~

15 ~~(a) Bona fide nursing schools, nurses' registries, management~~
16 ~~consulting firms, business schools, vocational schools whose primary function~~
17 ~~and purpose is training and education, and resume services shall obtain from~~
18 ~~the Director of the Division of Labor a certificate of exemption from the~~
19 ~~requirements of this subchapter.~~

20 ~~(b) In connection with issuance of a certificate of exemption and with~~
21 ~~respect to an organization's continued eligibility for a previously issued~~
22 ~~certificate of exemption, the director shall have those investigative powers~~
23 ~~conferred by § 11-11-204.~~

24
25 ~~11-11-210. Employment counselor's license—Application—~~
26 ~~Qualifications.~~

27 ~~(a) To be eligible for application for an employment counselor's~~
28 ~~license, the applicant shall be:~~

29 ~~(1) A citizen of the United States;~~

30 ~~(2) Of good moral character;~~

31 ~~(3) A person whose license has not been revoked within two (2)~~
32 ~~years from the date of application; and~~

33 ~~(4) Able to demonstrate business integrity.~~

34 ~~(b)(1) Every applicant for an initial license for employment counselor~~
35 ~~shall file with the Division of Labor a written application on a form~~
36 ~~prescribed and furnished by the Director of the Division of Labor.~~

1 ~~years from the date of the application;~~

2 ~~(5) A person who has completed the twelfth grade, except that~~
 3 ~~the Director of the Division of Labor may establish proof necessary to him or~~
 4 ~~her that the applicant is possessed of a twelfth grade education in terms of~~
 5 ~~intellectual competency, judgment, and achievement; and~~

6 ~~(6) A person who demonstrates business integrity, financial~~
 7 ~~responsibility, and judgment.~~

8 ~~(b)(1) Every applicant for an initial employment agency license and~~
 9 ~~every applicant for a renewal license shall file with the Director of the~~
 10 ~~Division of Labor a completed application on a form prescribed and furnished~~
 11 ~~by the Director of the Division of Labor.~~

12 ~~(2)(A) The application shall be signed by the applicant and~~
 13 ~~sworn to before anyone qualified by law to administer oaths.~~

14 ~~(B) If the applicant is a corporation, the application~~
 15 ~~shall state the names and home addresses of all shareholders, officers, and~~
 16 ~~directors of the corporation and shall be signed and sworn to by the~~
 17 ~~president, treasurer, and secretary thereof.~~

18 ~~(C) If the applicant is a partnership, the application~~
 19 ~~shall state the names and home addresses of all partners therein and shall be~~
 20 ~~signed and sworn to by all of them.~~

21 ~~(3) The applicant shall file at least two (2) letters of~~
 22 ~~character reference from persons of reputed business or professional~~
 23 ~~integrity.~~

24 ~~(4) This application shall also contain such other information~~
 25 ~~as the Director of the Division of Labor may prescribe.~~

26
 27 ~~11-11-213. Employment agency license — Bond required — Action on the~~
 28 ~~bond.~~

29 ~~(a)(1) Every application for issuance or renewal of an employment~~
 30 ~~agency's license shall be accompanied by a bond in the sum of five thousand~~
 31 ~~dollars (\$5,000) with a duly licensed surety company or companies authorized~~
 32 ~~to do business in this state.~~

33 ~~(2) The terms and conditions of the bond shall be approved by~~
 34 ~~the Director of the Division of Labor.~~

35 ~~(3) The bond shall be conditioned that the employment agency and~~
 36 ~~each member, employee, shareholder, director, or officer of a person, firm,~~

1 partnership, corporation, or association operating as the employment agency
2 will not violate the provisions of this subchapter or violate rules or orders
3 lawfully promulgated by the director or violate the terms of any contract
4 made by the employment agent in the conduct of its business.

5 (b)(1) If any person shall be aggrieved by the misconduct of any
6 licensee, that person may maintain an action in his or her own name upon the
7 bond of the employment agency in any court of competent jurisdiction or in
8 the Pulaski County Circuit Court.

9 (2)(A) All claims shall be assignable, and the assignee shall be
10 entitled to the same remedies upon the bond of the licensee as the person
11 aggrieved would have been entitled to if the claim had not been assigned.

12 (B) Any claim so assigned may be enforced in the name of
13 the assignee.

14 (3) Any remedies given by this section shall not be exclusive of
15 any other remedy that would otherwise exist.

16 (c) Action on the bond required by this section may be maintained by
17 the director in the name of the state in any court of competent jurisdiction
18 or in the Pulaski County Circuit Court, for the benefit of any person or
19 persons aggrieved by the misconduct of the licensee.

20 (d)(1) If any licensee fails to file a new bond with the Division of
21 Labor within thirty (30) days after notice of cancellation by the surety of
22 the bond required by this section, the license issued to the principal under
23 the bond is suspended until such time as a new surety bond is filed with and
24 approved by the director.

25 (2) A person whose license is suspended pursuant to this
26 subsection shall not carry on the business of an employment agency during the
27 period of the suspension.

28
29 11-11-214. Investigation of license applicant by director.

30 (a) Upon filing of an application for a license as provided in this
31 subchapter, the Director of the Division of Labor shall cause an
32 investigation to be made regarding the character, business integrity, and
33 financial responsibility of the license applicant.

34 (b) The director shall also determine the suitability or unsuitability
35 of the applicant's proposed office location.

36 (c) An application for an employment agency's, agency manager's, or

1 ~~employment counselor's license shall be rejected by the director if it is~~
 2 ~~found that any person named in the license application is not of good moral~~
 3 ~~character, business integrity, or financial responsibility or if there is~~
 4 ~~good and sufficient reason within the meaning and purpose of this subchapter~~
 5 ~~for rejecting the application.~~

6
 7 ~~11-11-215. Employment agency license—Scope—Change of license.~~

8 ~~(a)(1) An employment agent's license issued pursuant to this~~
 9 ~~subchapter shall protect only those persons to whom it is issued and only the~~
 10 ~~location for which it is issued.~~

11 ~~(2) A separate license shall be required for each separate~~
 12 ~~office location operated by an employment agency.~~

13 ~~(3) No license shall be valid to protect any business transacted~~
 14 ~~under any name other than that designated in the license.~~

15 ~~(b) No employment agent shall permit any person not mentioned in the~~
 16 ~~license or license application to become a member, officer, director,~~
 17 ~~shareholder, or partner in the conduct of the business of the employment~~
 18 ~~agent unless written consent of the Director of the Division of Labor and~~
 19 ~~written consent of the surety on the bond required by this subchapter shall~~
 20 ~~first be obtained.~~

21 ~~(c) The location of an employment agency shall not be changed without~~
 22 ~~written consent from the Director of the Division of Labor, and a new license~~
 23 ~~application shall be required for any change of office location in excess of~~
 24 ~~twenty five (25) miles.~~

25 ~~(d) A charge of ten dollars (\$10.00) shall be made by the Division of~~
 26 ~~Labor for the recording of authorization for each change of office location~~
 27 ~~authorized by this section.~~

28
 29 ~~11-11-216. Examination for licenses.~~

30 ~~(a)(1)(A) Before the Director of the Division of Labor issues a~~
 31 ~~license to an applicant for a permanent employment agent's, permanent agency~~
 32 ~~manager's, or permanent counselor's license, the applicant shall be required~~
 33 ~~to successfully complete a written examination prepared by the director.~~

34 ~~(B) The examination shall establish the competency of the~~
 35 ~~applicant to:~~

36 ~~(i) Operate and conduct an employment agency; or~~

1 ~~(ii) Perform service as an agency manager or counselor for~~
 2 ~~the agency.~~

3 ~~(2) No examination shall be required for renewal of any license~~
 4 ~~issued pursuant to this subchapter unless the license has been suspended,~~
 5 ~~revoked, or submitted late, causing the application to be treated as a new~~
 6 ~~application.~~

7 ~~(b) The Division of Labor shall hold examinations at such times and~~
 8 ~~places as it shall reasonably determine, except that examinations shall be~~
 9 ~~given to license applicants at least once every sixty (60) days.~~

10 ~~(c)(1) An examination fee of five dollars (\$5.00) shall be paid by~~
 11 ~~each applicant in addition to the license fee.~~

12 ~~(2) The examination fee shall be retained by the division,~~
 13 ~~whether or not the applicant successfully completes the examination.~~

14 ~~(3) The examination fee shall be forfeited if the applicant does~~
 15 ~~not take the examination within three (3) months of the application date.~~

16
 17 ~~11-11-217. License fees.~~

18 ~~(a) Before a permanent license shall be granted to a license~~
 19 ~~applicant, an applicant shall pay the following annual fee for each license:~~

20 ~~(1) Two hundred fifty dollars (\$250) for an employment agency;~~

21 ~~(2) Twenty five dollars (\$25.00) for an employment agency~~
 22 ~~manager; and~~

23 ~~(3) Twenty dollars (\$20.00) for an employment counselor.~~

24 ~~(b) Multiple licenses for a person simultaneously performing the~~
 25 ~~functions of employment agent, agency manager, or employment counselor will~~
 26 ~~not be required. The person shall procure a license commensurate with the~~
 27 ~~highest level of job duties and responsibilities customarily and regularly~~
 28 ~~performed by the person.~~

29 ~~(c) All moneys received from licensing shall be deposited into the~~
 30 ~~general fund of the State Treasury.~~

31
 32 ~~11-11-218. Temporary licenses.~~

33 ~~(a)(1) The Director of the Division of Labor shall have authority to~~
 34 ~~issue a temporary license for operation of a private employment agency, which~~
 35 ~~shall be valid for no more than ninety (90) days, upon submission by the~~
 36 ~~applicant for the license of:~~

1 (A) ~~A properly completed application form furnished and~~
 2 ~~approved by the director;~~

3 (B) ~~Submission of evidence of the applicant's compliance~~
 4 ~~with the bonding requirements of this subchapter; and~~

5 (C) ~~Payment of a temporary license fee of one hundred~~
 6 ~~dollars (\$100).~~

7 (2) ~~The temporary license may be issued only if, after~~
 8 ~~investigation, it reasonably appears that the applicant will meet the~~
 9 ~~qualifications for a permanent private employment agency license.~~

10 (b)(1) ~~The director shall have authority to issue temporary licenses~~
 11 ~~for agency managers and employment counselors, which shall be valid for no~~
 12 ~~more than ninety (90) days, upon submission by the applicant for such license~~
 13 ~~of:~~

14 (A) ~~A properly completed application form, furnished and~~
 15 ~~approved by the director; and~~

16 (B) ~~Payment of a temporary license fee of ten dollars~~
 17 ~~(\$10.00).~~

18 (2) ~~The temporary licenses for agency managers and employment~~
 19 ~~counselors may be issued only if, after investigation, it reasonably appears~~
 20 ~~that the applicant will meet the qualifications for a permanent license as~~
 21 ~~agency manager or employment counselor.~~

22 (3) ~~Temporary licenses issued to agency managers and employment~~
 23 ~~counselors are nontransferable and are automatically rescinded upon~~
 24 ~~suspension or termination of the employment of the agency manager or~~
 25 ~~employment counselor.~~

26 (4) ~~The director shall approve or reject an application for a~~
 27 ~~temporary agency manager's license or temporary employment counselor's~~
 28 ~~license within five (5) days after receipt of a properly completed~~
 29 ~~application for the license.~~

30
 31 ~~11-11-219. Renewal of licenses.~~

32 (a) ~~Every license issued pursuant to this subchapter shall remain in~~
 33 ~~force for one (1) year from the date of issue or until the end of the state's~~
 34 ~~fiscal year, whichever occurs first, unless the license has been revoked~~
 35 ~~pursuant to the provisions of this subchapter.~~

36 (b) ~~Applications for renewal of all licenses provided by this~~

1 ~~subchapter must be filed with the Director of the Division of Labor no later~~
2 ~~than thirty (30) days prior to expiration of the license.~~

3 ~~(c) Any licensee who fails to renew a license by the expiration date~~
4 ~~shall be automatically suspended from the right to engage in the activity~~
5 ~~authorized by the license until the license is renewed.~~

6 ~~(d) Every application for renewal of a license must be accompanied by~~
7 ~~payment of the required license fee and evidence of compliance with the~~
8 ~~bonding requirements of this subchapter.~~

9
10 ~~11-11-220. Cessation of business by licensee.~~

11 ~~(a)(1) If an employment agent ceases business operations, the agent~~
12 ~~shall, as soon as reasonably possible, notify the Division of Labor and shall~~
13 ~~deliver or forward by mail the agent's license to the division. Failure to~~
14 ~~give notice, or failure to deliver such employment agent's license, shall be~~
15 ~~a violation of § 11-11-208.~~

16 ~~(2)(A) When one (1) or more individuals, on the basis of whose~~
17 ~~qualifications an agency license has been obtained, ceases to be connected~~
18 ~~with the licensed business for any reason whatsoever, the agency business may~~
19 ~~be carried on for a temporary period not to exceed thirty (30) days, under~~
20 ~~such terms and conditions as the Director of the Division of Labor shall~~
21 ~~provide by rule for the orderly closing of the business or the replacement~~
22 ~~and qualification of a new member, partner, or corporate officer, director,~~
23 ~~or shareholder.~~

24 ~~(B) The agency's authorization to continue to do business~~
25 ~~under this subchapter beyond the thirty day period provided in this~~
26 ~~subdivision (a)(2) shall be contingent upon approval by the Director of the~~
27 ~~Division of Labor of any new member, principal, partner, officer, director,~~
28 ~~or shareholder.~~

29 ~~(b)(1) If an agency manager terminates his or her employment with an~~
30 ~~employment agency by which he or she is employed, the agency shall notify the~~
31 ~~division, as soon as is reasonably possible, to enable the division to know~~
32 ~~at all times the identity of the person charged with the general management~~
33 ~~of each of the agency's office locations.~~

34 ~~(2) The employment agency shall also deliver or forward by mail~~
35 ~~the agency manager's license, together with the reasons why the agency~~
36 ~~manager has terminated his or her position with the employment agency.~~

1 ~~(c) If an employment counselor terminates his or her employment with~~
 2 ~~the employment agency by which he or she is employed, the agency shall, as~~
 3 ~~soon as is reasonably possible, notify the division and deliver or forward by~~
 4 ~~mail the employment counselor's license to the division, together with the~~
 5 ~~reasons for his or her termination.~~

6
 7 ~~11-11-221. Issuance, refusal, suspension, or revocation of license—~~
 8 ~~Grounds.~~

9 ~~(a) The Director of the Division of Labor shall issue a license as an~~
 10 ~~employment agent, agency manager, or counselor to any person who qualifies~~
 11 ~~for the license under the terms of this subchapter.~~

12 ~~(b) The director may, in addition, refuse to issue a license to any~~
 13 ~~person or may suspend or revoke the license of any employment agent, agency~~
 14 ~~manager, or employment counselor or impose administrative fines as provided~~
 15 ~~for in § 11-11-203 when the director finds that any of the following~~
 16 ~~conditions exist:~~

17 ~~(1) That the employment agent, agency manager, or counselor has~~
 18 ~~violated any of the provisions of this subchapter;~~

19 ~~(2) That the employment agent, agency manager, or counselor has~~
 20 ~~violated any of the rules or other orders lawfully promulgated by the~~
 21 ~~director;~~

22 ~~(3) That the employment agent, agency manager, or counselor has~~
 23 ~~violated the conditions of the bond required by § 11-11-213;~~

24 ~~(4) That the person, employment agent, agency manager, or~~
 25 ~~employment counselor has engaged in a fraudulent, deceptive, or dishonest~~
 26 ~~practice;~~

27 ~~(5) That the person, employment agent, agency manager, or~~
 28 ~~employment counselor has been legally adjudicated incompetent; or~~

29 ~~(6) That the applicant is for good and sufficient cause unfit to~~
 30 ~~be an employment agent, agency manager, or employment counselor within the~~
 31 ~~meaning of this subchapter or of any of the rules or orders lawfully~~
 32 ~~promulgated by the director.~~

33 ~~(c) This section and § 11-11-222 shall not be construed to relieve any~~
 34 ~~person from civil liability or from criminal prosecution under the provisions~~
 35 ~~of this subchapter or under other laws of this state.~~

36

1 ~~11-11-222. Refusal, suspension, or revocation of license—Notice and~~
2 ~~hearing.~~

3 ~~(a)(1) The Director of the Division of Labor may not refuse to issue a~~
4 ~~license or suspend or revoke a license unless it furnishes the person,~~
5 ~~employment agent, agency manager, or employment counselor with a written~~
6 ~~statement of the charges against him or her and affords him or her an~~
7 ~~opportunity to be heard on the charges.~~

8 ~~(2) At the time that written charges are furnished to an~~
9 ~~employment agency, the director shall make available to the agency a signed~~
10 ~~written statement by any individual having filed a complaint with the~~
11 ~~director relative to the matter for which charges have been filed by the~~
12 ~~director.~~

13 ~~(3) The agency shall be given at least twenty (20) days' written~~
14 ~~notice of the date and time of the hearing. The notice shall conform to the~~
15 ~~standards for notices set forth in the Arkansas Administrative Procedure Act,~~
16 ~~§ 25-15-201 et seq.~~

17 ~~(4) The notice shall be sent by certified mail, return receipt~~
18 ~~requested, to the address of the person as shown on his or her application~~
19 ~~for license, or it may be served in the manner in which a summons is served~~
20 ~~in civil cases commenced in the circuit courts of this state.~~

21 ~~(b)(1) At the time and place fixed for the hearing, the director shall~~
22 ~~hold the hearing and thereafter make his or her order either dismissing the~~
23 ~~charges or refusing, suspending, or revoking the license.~~

24 ~~(2)(A) At the hearing, the accused shall have the right to~~
25 ~~appear personally and by counsel and to cross-examine witnesses against him~~
26 ~~or her.~~

27 ~~(B)(i) He or she shall be allowed to produce evidence and~~
28 ~~witnesses in his or her defense and shall have the right to have witnesses~~
29 ~~subpoenaed.~~

30 ~~(ii) The subpoenas shall be issued by the director.~~

31 ~~(c)(1) A stenographic record of all proceedings shall be made, and a~~
32 ~~transcript of the proceedings shall be made if desired by the Division of~~
33 ~~Labor or by the accused.~~

34 ~~(2) The transcript shall be paid for by the party ordering it.~~

35
36 ~~11-11-223. Judicial review of director's administrative orders.~~

1 ~~(a) If the Director of the Division of Labor refuses to grant a~~
2 ~~license, suspends or revokes a license that has been granted, or imposes an~~
3 ~~administrative fine as provided in §§ 11-11-213, 11-11-221, and 11-11-222,~~
4 ~~the person adversely affected or aggrieved by the order of the director~~
5 ~~issued pursuant to the provisions of §§ 11-11-221 and 11-11-222 may obtain a~~
6 ~~review of the order.~~

7 ~~(b) The order may be brought in the circuit court in the judicial~~
8 ~~district in which the violation is alleged to have occurred, where the~~
9 ~~employment agent, manager, or counselor worked, or in the Pulaski County~~
10 ~~Circuit Court or, if the aggrieved person is a nonresident of the state, in~~
11 ~~the Pulaski County Circuit Court.~~

12 ~~(c)(1) The review may be obtained by filing in the court within thirty~~
13 ~~(30) days following the issuance of the order a written petition praying that~~
14 ~~the order be modified or set aside.~~

15 ~~(2)(A) A copy of the petition shall be forthwith transmitted by~~
16 ~~the clerk of the court to the Division of Labor.~~

17 ~~(B) Thereupon, the division shall file in the court the~~
18 ~~record of proceedings before the division.~~

19 ~~(d) Upon the filing, the court shall have jurisdiction of the~~
20 ~~proceedings and of the questions determined therein and shall have power to~~
21 ~~grant such temporary relief or restraining order as it deems just and proper~~
22 ~~and to make and enter upon the pleadings, testimony, and proceedings set~~
23 ~~forth in the record a decree affirming, modifying, or setting aside, in whole~~
24 ~~or in part, the order of the director and enforcing the same to the extent~~
25 ~~that the order is affirmed.~~

26 ~~(e) Commencement of proceedings under this section shall not, unless~~
27 ~~ordered by the court, operate as a stay of the order of the director.~~

28 ~~(f)(1) No objection which has not been urged before the director shall~~
29 ~~be considered by the court.~~

30 ~~(2) The findings of the director with respect to questions of~~
31 ~~fact, if supported by substantial evidence on the record considered as a~~
32 ~~whole, shall be conclusive.~~

33 ~~(g)(1) If any party shall apply to the court for leave to adduce~~
34 ~~additional evidence and shall show to the satisfaction of the court that the~~
35 ~~additional evidence is material and that there were reasonable grounds for~~
36 ~~the failure to adduce the evidence in the hearing before the director, the~~

1 court may order the additional evidence to be taken before the director and
2 made a part of the record.

3 (2)(A) The director may modify his or her findings as to the
4 facts or make new findings, by reason of additional evidence so taken and
5 filed, and the director shall file the modified or new findings with the
6 court.

7 (B) The findings with respect to questions of fact, if
8 supported by substantial evidence on the record considered as a whole, shall
9 be conclusive.

10 (h) Upon the filing of the record with it, the jurisdiction of the
11 court shall be exclusive, and its judgment and decree shall be final, except
12 that it shall be subject to review by the Supreme Court.

13 (i)(1) The division shall certify the record of its proceedings if the
14 party commencing the proceedings shall pay to it the cost of preparing and
15 certifying the records, including the recording and transcribing of all
16 testimony introduced in the proceedings.

17 (2) If payment of the costs of preparing and certifying the
18 records, including the recording and transcribing of all testimony introduced
19 in the proceedings, is not made by the party commencing the proceedings for
20 review within ten (10) days after notice from the division of the cost of
21 preparing and certifying the record, the circuit court in which the
22 proceeding is pending, on motion of the director, shall dismiss the petition.
23

24 ~~11-11-224. Deceptive practices.~~

25 (a) No employment agent shall publish or cause to be published any
26 fraudulent or misleading notice or advertisement of the employment agency by
27 means of cards, circulars, or signs or in newspapers or other publications.

28 (b) All letterheads, receipts, and blanks shall contain the full name
29 and address of the employment agency, and the licensee shall state in all
30 notices and advertisements the fact that the licensee is or conducts a
31 private employment agency.

32 (c) No employment agency shall print, publish, or paint on any sign or
33 window or insert in any newspaper or publication a name similar to that of
34 the Arkansas State Employment Service or any other governmental agency.

35 (d) No employment agency shall print or stamp on any receipt or on any
36 contract used by the agency any part of this subchapter unless the entire

1 ~~section from which the part is taken is printed or stamped thereon.~~

2 ~~(e) No employment agency shall allow any person in its employment to~~
3 ~~use any names other than their legal names in the course of and in respect to~~
4 ~~their employment with the agency.~~

5 ~~(f) No employment agency or its employees or agents shall give any~~
6 ~~information or make any representation to any applicant, where the agency or~~
7 ~~its employees or agents know or reasonably should know that the information~~
8 ~~or representation is false.~~

9 ~~(g) No employment agency or its employees or agents shall knowingly~~
10 ~~withhold from a job applicant any information material to a job to which that~~
11 ~~applicant is referred.~~

12 ~~(h) No employment agent or its agents or employees shall engage in any~~
13 ~~conduct in the course of its business that constitutes a fraudulent,~~
14 ~~dishonest, or deceptive practice, whether or not the conduct is prohibited by~~
15 ~~this subchapter.~~

16 ~~(i) No contracts, forms, or schedules used by employment agencies in~~
17 ~~their dealings with the public shall contain any false, ambiguous, or~~
18 ~~misleading information.~~

19
20 ~~11-11-225. Miscellaneous restrictions and requirements.~~

21 ~~In addition to other provisions of this subchapter, the following~~
22 ~~provisions shall govern each and every employment agency:~~

23 ~~(1) Every employment agent or agency shall display his, her, or~~
24 ~~its license in a conspicuous place in the main office of the agency. Managers~~
25 ~~and counselors shall display their licenses in a conspicuous place in their~~
26 ~~offices or work areas;~~

27 ~~(2)(A) All advertising by an employment agency of any form or~~
28 ~~kind shall include the words "employment agency" or "personnel agency".~~

29 ~~(B) Advertising for an employment position with the agency~~
30 ~~itself shall clearly convey the information that the job position offered is~~
31 ~~with the employment agency publishing the advertisement;~~

32 ~~(3) No employment agency or its agents or employees shall~~
33 ~~receive or require any applicant to execute any power of attorney, assignment~~
34 ~~of wages or salary, or note authorizing the confession of judgment;~~

35 ~~(4) No employment agent, by himself or herself, or by his or her~~
36 ~~agents or employees, shall solicit, persuade, or induce any employee to leave~~

1 any employment in which the employment agent or his or her agent has placed
2 the employee, nor shall any employment agency or any of its agents or
3 employees solicit, persuade, or induce any employer to discharge any
4 employee, nor shall any employment agent, or his or her agents or employees,
5 divide or offer to divide or share directly or indirectly any fee, charge, or
6 compensation received, or to be received, from an employee with any employer
7 or persons in any way connected with the business thereof;

8 (5)(A) ~~No employment agent by himself or herself or by his or~~
9 ~~her agents or employees shall give or promise to give anything of intrinsic~~
10 ~~value to any employer or applicant for employment as an inducement to use the~~
11 ~~services of his or her employment agency.~~

12 (B) ~~No fee shall be solicited or accepted as an~~
13 ~~application or registration fee by an employment agent for the purpose of~~
14 ~~registering any person as an applicant for employment;~~

15 (6) ~~No employment agency or its agents or employees shall~~
16 ~~advertise or make a referral for any job position without having first~~
17 ~~obtained a bona fide job order therefor;~~

18 (7) ~~No employment agency or its agents or employees shall refer~~
19 ~~an applicant for a job or job interview unless the applicant has been~~
20 ~~personally interviewed by the employment agency or its agents or employees or~~
21 ~~has corresponded with the employment agency with the specific purpose of~~
22 ~~securing employment through that employment agency;~~

23 (8)(A) ~~Every employment agency shall inform the public by a~~
24 ~~conspicuous sign or poster that the employment agency is subject to the~~
25 ~~requirements of this subchapter, which is administered and enforced by the~~
26 ~~Division of Labor.~~

27 (B) ~~The division shall prepare and distribute the sign or~~
28 ~~poster to be used by agencies to comply with this subdivision (8);~~

29 (9) ~~No employment agency or its agents or employees shall~~
30 ~~knowingly send an applicant to any place where a strike, lockout, or other~~
31 ~~labor dispute exists;~~

32 (10) ~~No agency shall use any trade name or business identity~~
33 ~~similar to, or reasonably likely to be confused with, the trade name or~~
34 ~~business identity of an existing agency or any governmental nonprofit~~
35 ~~employment agency;~~

36 (11) ~~No employment agency shall refer an applicant to a~~

1 ~~situation, employment, or occupation prohibited by law;~~

2 ~~(12) No employment agency shall charge a fee to an employee for~~
 3 ~~any services other than actual placement of an applicant;~~

4 ~~(13) No employment agency shall charge an applicant a fee for~~
 5 ~~accepting employment with the employment agency or any subsidiary of that~~
 6 ~~agency;~~

7 ~~(14) Any information regarding an applicant's background or~~
 8 ~~credit, from whatever source obtained, shall be used for no purpose other~~
 9 ~~than assisting the applicant in securing employment. However, an employment~~
 10 ~~agency may use background and credit information regarding an applicant in~~
 11 ~~determining whether to conduct placement services for the applicant if the~~
 12 ~~applicant gives written authorization for securing the information and~~
 13 ~~understands the purpose for which the information is secured;~~

14 ~~(15) No employment agency or its agents or employees shall~~
 15 ~~engage in any practice that discriminates against any person on the basis of~~
 16 ~~race, color, sex, age, religion, or national origin;~~

17 ~~(16) Under no circumstances shall more than one (1) fee for any~~
 18 ~~one (1) placement be charged any applicant;~~

19 ~~(17) No contracts, forms, or schedules used by employment~~
 20 ~~agencies shall contain any provisions in conflict with the provisions of this~~
 21 ~~subchapter; and~~

22 ~~(18) All refunds due shall be made by the agency by cash, check,~~
 23 ~~or money order promptly when due.~~

24
 25 ~~11-11-226. Designation of manager required.~~

26 ~~(a) Every employment agency shall designate an agency manager at each~~
 27 ~~office location of that agency, who shall be responsible for the general~~
 28 ~~management, administration, and operation of that office location.~~

29 ~~(b) The agency manager must comply with the licensing requirements of~~
 30 ~~§§ 11-11-210—11-11-212, 11-11-214, 11-11-217, 11-11-218, 11-11-220(a)(1)~~
 31 ~~and (b), and 11-11-226.~~

32 ~~(c) Every employment agency must maintain an agency manager at each of~~
 33 ~~its office locations.~~

34
 35 ~~11-11-227. Fee restrictions and requirements.~~

36 ~~(a) When employment lasts less than ninety (90) calendar days,~~

1 regardless of the reason, no employment agency may charge an employee a fee
2 of more than one ninetieth (1/90th) of the permanent placement fee for each
3 calendar day of the employment. Under no circumstances shall the fee exceed
4 twenty percent (20%) of an employee's actual gross earnings if employment
5 lasts less than thirty (30) days or forty percent (40%) of an employee's
6 actual gross earnings if employment lasts more than thirty (30) days but less
7 than ninety (90) days.

8 (b)(1) ~~When a promissory note is used by the agency, it shall be~~
9 ~~clearly identified as such and shall not be executed until the placement is~~
10 ~~made.~~

11 (2) ~~The defense of no or insufficient consideration shall be~~
12 ~~good as against a holder of any such employment agency fee note.~~

13 (c)(1) ~~When a dispute concerning a fee exists, the Division of Labor~~
14 ~~may conduct an investigation to determine all of the facts concerning the~~
15 ~~dispute. Thereafter, the Director of the Division of Labor shall issue a~~
16 ~~decision and order resolving the dispute.~~

17 (2) ~~Any person aggrieved by this decision and order may obtain~~
18 ~~review of this decision and order pursuant to § 11-11-222.~~

19 (d)(1) ~~Any schedule of fees to be charged by an employment agency for~~
20 ~~its services shall be furnished to all applicants upon making application~~
21 ~~with the agency.~~

22 (2)(A) ~~The forms, fee schedules, and contracts utilized by an~~
23 ~~employment agency shall contain no ambiguous, false, or misleading~~
24 ~~information.~~

25 (B) ~~No contract or fee schedule shall contain smaller than~~
26 ~~eight-point type.~~

27 (e)(1) ~~All fee schedules used in the business of an employment agency~~
28 ~~must be furnished to job applicants and fee-paying employers and shall state~~
29 ~~in dollars and cents the amount of any fee charged by the agency for its~~
30 ~~services.~~

31 (2) ~~Percentages shall not be used by agencies in schedules of~~
32 ~~fees to be charged for their services, except when the annual salary for a~~
33 ~~job is twelve thousand dollars (\$12,000) or more.~~

34 (f) ~~It shall be unlawful for any employment agency to impose, enforce,~~
35 ~~collect, or receive a fee for performance of any service for a job applicant,~~
36 ~~or for a prospective employer, unless the agency makes every reasonable~~

1 effort to disclose the exact dollar amount of the fee to the applicant or
2 prospective employer prior to commencement of employment of an applicant by
3 an employer.

4 (g) ~~Nothing in this section or this subchapter shall be construed to~~
5 ~~prohibit an employment agency from contracting with an employer on a fee-paid~~
6 ~~basis to pay the fee for the placement services for an employee without an~~
7 ~~actual job placement or to prohibit an agency from charging a fee to an~~
8 ~~employer for a retained services contract to search for applicants for an~~
9 ~~employer without an actual job placement.~~

10
11 ~~11-11-228. Filing of fee schedule, forms, and contracts required.~~

12 (a) ~~It shall be the duty of every employment agency to file with the~~
13 ~~Division of Labor a schedule of all fees, charges, and commissions that the~~
14 ~~agency expects to charge and collect for its service, together with a copy of~~
15 ~~all forms and contracts to be used in dealings with the public in the~~
16 ~~operation of its business.~~

17 (b) ~~The fee schedules, contracts, and forms shall be filed with the~~
18 ~~division on the date of the agency's application for initial or renewal~~
19 ~~licensing under this subchapter.~~

20 (c) ~~Any amendments or supplements to fee schedules, contracts, or~~
21 ~~forms filed with the division must be filed at least fifteen (15) days before~~
22 ~~the amendment or supplement is to become effective.~~

23 (d) ~~It shall be unlawful for any employment agency to charge, demand,~~
24 ~~collect, or receive a greater compensation for any service performed by the~~
25 ~~agency than is specified in fee schedules filed with the division or than is~~
26 ~~specified by this subchapter.~~

27
28 ~~11-11-229. Records required.~~

29 (a) ~~It shall be the duty of every employment agency to keep a complete~~
30 ~~record of all orders for employees that are received from prospective~~
31 ~~employers. This record shall contain the date when the order was received,~~
32 ~~the name and address of the employer seeking the services of an employee, the~~
33 ~~name of the individual placing the order, the duties of the position to be~~
34 ~~filled, the qualifications required of the employee, the salary or wages to~~
35 ~~be paid, and the probable duration of the job.~~

36 (b) ~~It shall be the duty of every employment agency to keep a complete~~

1 ~~record of each applicant who is referred by the agency to an employer for a~~
2 ~~job interview. This record shall contain the date when the applicant was~~
3 ~~referred to a prospective employer for a job or interview, the name of the~~
4 ~~applicant, and the name of the firm to whom the applicant is referred.~~

5 ~~(c)(1) It shall be the duty of every employment agency to keep a~~
6 ~~complete register called a "business transaction record", which shall consist~~
7 ~~of the name of the individual placed, the date of the placement, the name of~~
8 ~~the employer, the starting date of the position, the starting salary, the~~
9 ~~amount of the fee charged, and the remarks column.~~

10 ~~(2) The remarks column will state the amount of any adjustment~~
11 ~~or refund made.~~

12 ~~(d)(1) Prior to referral of any person to a job or interview or prior~~
13 ~~to placement of any job advertisement, an employment agency must have a~~
14 ~~current bona fide job order.~~

15 ~~(2) It shall be the duty of every employment agency to maintain~~
16 ~~a copy of any job advertisement and the job order pertaining to any~~
17 ~~advertisement in a readily available record.~~

18 ~~(e) All of the records listed in this section shall be kept in the~~
19 ~~employment agency office and shall be open during office hours to inspection~~
20 ~~by the Division of Labor and its duly authorized agents.~~

21 ~~(f) No employment agent or his or her employee shall knowingly make~~
22 ~~any false entry or omission in the records.~~

23
24 SECTION 2. Arkansas Code § 11-10-717(e)(5), concerning employer
25 contribution collections, failure to pay or report, and penalties, is
26 repealed.

27 ~~(5) The provisions of this subsection shall not be applicable to~~
28 ~~private employment agencies who provide their employees to employers on a~~
29 ~~temporary help basis, provided that the private employment agencies are~~
30 ~~liable as employers for the payment of contributions on wages paid to~~
31 ~~temporary workers so employed.~~

32
33 SECTION 3. Arkansas Code § 19-6-201(17), concerning the enumeration of
34 general revenues of the state, is repealed.

35 ~~(17) Employment agency licenses, as enacted by Acts 1975, No.~~
36 ~~493, known as the "Arkansas Private Employment Agency Act of 1975", and all~~

1 ~~laws amendatory thereto, § 11-11-201 et seq.,~~
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1 State of Arkansas
2 94th General Assembly
3 Second Extraordinary Session, 2023
4

A Bill

DRAFT EGL/EGL
HOUSE BILL

5 By: NA
6

For An Act To Be Entitled

8 AN ACT TO REPEAL THE STATUTES CONCERNING THE
9 OCCUPATIONAL AUTHORIZATION AND LICENSURE OF
10 OCCUPATIONS RELATED TO GREYHOUND RACING IN ARKANSAS;
11 TO REPEAL THE ARKANSAS GREYHOUND RACING LAW; TO
12 REPEAL REFERENCES TO GREYHOUND RACING IN THE ARKANSAS
13 CODE; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO REPEAL THE STATUTES CONCERNING THE
17 OCCUPATIONAL AUTHORIZATION AND LICENSURE
18 OF OCCUPATIONS RELATED TO GREYHOUND
19 RACING IN ARKANSAS; TO REPEAL THE
20 ARKANSAS GREYHOUND RACING LAW; AND TO
21 REPEAL REFERENCES TO GREYHOUND RACING.
22
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 23, Chapter 111, is repealed.
28

29 ~~Chapter 111 — ARKANSAS GREYHOUND RACING LAW~~

30
31 ~~Subchapter 1 — General Provisions~~

32
33 ~~23-111-101. Title.~~

34 ~~This chapter shall be referred to and may be cited as the “Arkansas~~
35 ~~Greyhound Racing Law”.~~
36

1 ~~23-111-102.—Applicability.~~

2 ~~Nothing contained in this chapter shall in any way be construed to~~
3 ~~apply to any other method or manner of racing except the racing of greyhounds~~
4 ~~as provided in this chapter.~~

5
6 ~~23-111-103.—Inconsistent statutes inapplicable.~~

7 ~~All other acts and parts of acts inconsistent with any of the~~
8 ~~provisions of this chapter are expressly declared not to apply to any person,~~
9 ~~partnership, group, association, trust, or corporation engaged or~~
10 ~~participating in racing or making or contributing to the pari-mutuel or~~
11 ~~certificate method of wagering in manner and form as provided for by this~~
12 ~~chapter at any race meeting held or conducted by any franchise holder having~~
13 ~~a license for the holding or conducting of the race meetings as provided by~~
14 ~~this chapter.~~

15
16 ~~23-111-104.—Disposition of funds.~~

17 ~~(a) All franchise or license fees, excise or privilege taxes,~~
18 ~~penalties, fines, costs, and other amounts received by the Arkansas Racing~~
19 ~~Commission under the provisions of this chapter shall be general revenues and~~
20 ~~shall be deposited into the State Treasury to the credit of the State~~
21 ~~Apportionment Fund.~~

22 ~~(b) The Treasurer of State shall allocate and transfer the money to~~
23 ~~the various State Treasury funds participating in general revenues in the~~
24 ~~respective proportions to each as provided by, and to be used for the~~
25 ~~respective purposes set forth in, the Revenue Stabilization Law, § 19-5-101~~
26 ~~et seq.~~

27 ~~(c)(1) However, any increase in the amount designated by the~~
28 ~~commission for licensing fees after January 1, 2017, shall be returned to and~~
29 ~~deposited into a cash fund of the Racing Division.~~

30 ~~(2) With the approval of the commission, funds deposited into~~
31 ~~the cash fund under subdivision (c)(1) of this section shall be used to pay~~
32 ~~for drug testing or other expenses related to the regulation of dog racing in~~
33 ~~Arkansas.~~

34
35 ~~23-111-105.—Racing passes.~~

36 ~~(a) The Secretary of the Department of Finance and Administration~~

1 shall set a maximum number of racing passes to be printed and issued
 2 annually, and it shall not be fewer than the number printed in 1990.

3 (b)(1) ~~Racing passes provided to and accepted by members of the~~
 4 ~~General Assembly and constitutional officers are to be distributed by them to~~
 5 ~~their constituents in order to provide for a statewide distribution of the~~
 6 ~~racing passes and to persons residing outside the State of Arkansas in order~~
 7 ~~to promote tourism and advance the economic interests of the state.~~

8 (2) ~~The passes provided to the members of the General Assembly~~
 9 ~~and constitutional officers are not for their personal use but are for~~
 10 ~~redistribution as provided in this section and, therefore, do not constitute~~
 11 ~~gifts or compensation to members of the General Assembly and constitutional~~
 12 ~~officers for the purposes of any law of this state.~~

13 (3) ~~This section does not prohibit members of the General~~
 14 ~~Assembly and constitutional officers from redistributing racing passes to~~
 15 ~~other members of the General Assembly or other state constitutional officers.~~

16
 17 ~~Subchapter 2 — Arkansas Racing Commission~~

18
 19 ~~23-111-201. — Jurisdiction of Arkansas Racing Commission.~~

20 (a) ~~All references to “commission” in this chapter mean the Arkansas~~
 21 ~~Racing Commission or its successor having jurisdiction over thoroughbred~~
 22 ~~horse racing in this state.~~

23 (b) ~~In addition to all other duties, powers, and responsibilities~~
 24 ~~conferred upon it by other laws of this state, the commission shall exercise~~
 25 ~~duties, powers, and responsibilities over greyhound racing as authorized in~~
 26 ~~this chapter.~~

27
 28 ~~23-111-202. — Membership.~~

29 ~~No person who is officially connected with, employed by, financially~~
 30 ~~interested in, or related within the third degree of consanguinity or~~
 31 ~~affinity to any officer or stockholder of an applicant for, or any officer or~~
 32 ~~stockholder of a holder of, a franchise applied for or issued under or~~
 33 ~~pursuant to the provisions of this chapter shall be eligible to serve as a~~
 34 ~~member of the Arkansas Racing Commission having authority to administer this~~
 35 ~~chapter.~~

~~23-111-203. Powers and duties generally.~~

~~(a) Subject to the limitations and conditions as in this chapter or other applicable law provided, the Arkansas Racing Commission shall have sole jurisdiction over the business and the sport of greyhound racing in the state where the racing is permitted for any stake, purse, or reward.~~

~~(b) In exercising the jurisdiction as provided in subsection (a) of this section, but without necessarily being limited to the following, it shall be the function, power, and duty of the commission to:~~

~~(1) Grant franchises to conduct greyhound races;~~

~~(2) Approve dates for each racing meet and issue permits therefor;~~

~~(3) Issue licenses to:~~

~~(A) An attendant;~~

~~(B) A franchise holder's employee;~~

~~(C) A greyhound handler;~~

~~(D) A kennel employee;~~

~~(E) A kennel helper;~~

~~(F) A greyhound owner;~~

~~(G) A greyhound trainer;~~

~~(H) An assistant greyhound trainer;~~

~~(I) A veterinarian;~~

~~(J) A veterinarian assistant; and~~

~~(K) An authorized agent, contractor, vendor, or other person employed or involved with the care of greyhounds or greyhound racing on the grounds of the licensed racetrack;~~

~~(4) Establish by rule the license fees, not to exceed one hundred fifty dollars (\$150) per applicant, for a license issued under subdivision (b)(3) of this section;~~

~~(5) Collect and deposit into the State Treasury all fees for franchises and licenses, all taxes and other imposts, and all other moneys due the State of Arkansas in relation to greyhound racing;~~

~~(6) Hear and determine all matters properly coming before the commission and grant rehearings thereon; and~~

~~(7)(A) Take other action, not inconsistent with law, as it may deem necessary or desirable to supervise and regulate and to effectively control in the public interest greyhound racing in the State of Arkansas,~~

1 ~~including without limitation:~~

2 ~~(i) Imposing fines in an amount not to exceed one~~
 3 ~~hundred thousand dollars (\$100,000) per violation of a rule of the~~
 4 ~~commission;~~

5 ~~(ii) Issuing orders;~~

6 ~~(iii) Ordering the forfeiture of purse money won by~~
 7 ~~a disqualified greyhound;~~

8 ~~(iv) Prescribing conditions under which greyhound~~
 9 ~~racing shall be conducted by a franchise holder;~~

10 ~~(v) Promulgating rules;~~

11 ~~(vi) Redistributing forfeited purse money; and~~

12 ~~(vii) Suspending or revoking licenses.~~

13 ~~(B) The commission shall exercise its authority under this~~
 14 ~~subsection in a reasonable manner.~~

15 ~~(C) The holder of a franchise or a taxpayer may appeal an~~
 16 ~~action of the commission to the Pulaski County Circuit Court.~~

17 ~~(c)(1)(A) The commission may require an applicant to be fingerprinted~~
 18 ~~to determine the applicant's suitability to be issued a license as a~~
 19 ~~greyhound owner or trainer.~~

20 ~~(B) If required by the commission, the fingerprints shall~~
 21 ~~be forwarded by the commission to the Division of Arkansas State Police for~~
 22 ~~statewide criminal and noncriminal background checks.~~

23 ~~(C) After completion of the statewide criminal and~~
 24 ~~noncriminal background checks, the fingerprints shall be forwarded by the~~
 25 ~~division to the Federal Bureau of Investigation for a national criminal~~
 26 ~~history record check.~~

27 ~~(2) The applicant shall sign a release that authorizes the~~

28 ~~(A) Division to forward the applicant's fingerprint card~~
 29 ~~to the Federal Bureau of Investigation for a national criminal history record~~
 30 ~~check; and~~

31 ~~(B) Release of the results of the statewide criminal and~~
 32 ~~noncriminal background checks and the national criminal history record check~~
 33 ~~to the commission.~~

34 ~~(3)(A) Any information received by the commission from the~~
 35 ~~statewide criminal and noncriminal background check and the national criminal~~
 36 ~~history record check shall be kept confidential and may be used by the~~

1 ~~commission only for the purpose of determining the applicant's suitability to~~
2 ~~be licensed by the commission.~~

3 ~~(B) The commission may disclose any information under~~
4 ~~subdivision (c)(3)(A) of this section to the applicant or the applicant's~~
5 ~~duly authorized representative.~~

6 ~~(4) No statewide criminal and noncriminal background checks or~~
7 ~~national criminal history record check shall be required of applicants for~~
8 ~~certain classes of licenses that have been exempted from investigation by~~
9 ~~rules promulgated by the commission.~~

10 ~~(5) The commission shall promulgate rules to implement this~~
11 ~~subsection.~~

12
13 ~~23-111-204. Regulatory authority—Limitations.~~

14 ~~(a) The Arkansas Racing Commission shall have full, complete, and sole~~
15 ~~power and authority to promulgate rules and orders and prescribe conditions~~
16 ~~under which greyhound racing shall be conducted by a franchise holder, but~~
17 ~~the power and authority so granted shall be exercised by the commission in a~~
18 ~~reasonable manner. The holder of any franchise, or any taxpayer, shall have~~
19 ~~redress to the Pulaski County Circuit Court for any wrong committed by the~~
20 ~~commission in the exercise of the power and authority granted pursuant to~~
21 ~~this section.~~

22 ~~(b)(1) The commission shall have no right or power to determine who~~
23 ~~shall be officers or employees of any franchise holder.~~

24 ~~(2) However, the commission may by rule require that all~~
25 ~~officers and employees, or agents, of the franchise holder who are in charge~~
26 ~~of, or whose duties relate directly to, the running of races, and the~~
27 ~~handling of any funds which may be wagered on any race, be approved by the~~
28 ~~commission.~~

29 ~~(3) The commission may compel the discharge of any official,~~
30 ~~employee, or agent of the franchise holder who fails or refuses to comply~~
31 ~~with the rules or orders of the commission or who, in the opinion of the~~
32 ~~commission, is guilty of fraud or dishonesty.~~

33
34 ~~23-111-205. Hearings.~~

35 ~~(a)(1) In the event any franchise holder or person is aggrieved by any~~
36 ~~action of the Arkansas Racing Commission, he or she shall be entitled to a~~

1 ~~hearing by the commission.~~

2 ~~(2)(A) The hearing shall be held at such place in the State of~~
3 ~~Arkansas and at such time as the commission may designate.~~

4 ~~(B) Notice shall be served on the party affected by~~
5 ~~mailing the notice of the time and place that the hearing will be held by~~
6 ~~registered or certified United States mail to the party affected.~~

7 ~~(3) In conducting the hearing, the commission shall not be bound~~
8 ~~by technical rules of evidence.~~

9 ~~(4) Any party affected in the hearing may be represented by~~
10 ~~counsel and shall have the right to introduce evidence, and the commission~~
11 ~~may in its discretion likewise be represented by counsel at the hearing. The~~
12 ~~counsel shall participate in the conduct of the hearing for and on behalf of~~
13 ~~the commission.~~

14 ~~(b)(1) For purposes of conducting a hearing, the commission shall have~~
15 ~~the power to administer oaths, issue subpoenas, and compel the attendance and~~
16 ~~testimony of witnesses.~~

17 ~~(2) Any person who has been served with a subpoena to appear and~~
18 ~~testify issued by the commission in the course of an inquiry or hearing~~
19 ~~conducted under the provisions of this chapter and who shall refuse and~~
20 ~~neglect to appear or testify relative to the hearing as commanded in the~~
21 ~~subpoena shall be guilty of a violation and upon conviction shall be fined~~
22 ~~not less than fifty dollars (\$50.00) nor more than five hundred dollars~~
23 ~~(\$500).~~

24 ~~(3) In connection with any hearing, the commission or the~~
25 ~~aggrieved may cause the deposition of witnesses within or without the state~~
26 ~~to be taken in the manner prescribed by existing statutes for the taking of~~
27 ~~depositions in this state.~~

28 ~~(c) All hearings shall be held before at least three (3) members of~~
29 ~~the commission, and the concurrence of at least three (3) members of the~~
30 ~~commission shall be necessary for any finding or order.~~

31 ~~(d) At the conclusion of the hearing, the commission shall make its~~
32 ~~findings to be the basis for the action taken by the commission. The findings~~
33 ~~and order shall be subject to review in Pulaski County Circuit Court, from~~
34 ~~which an appeal may be taken to the Supreme Court.~~

35
36 ~~Subchapter 3 — Franchises Generally~~

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~~23-111-301. Greyhound racing permitted—Limitations.~~

~~(a)(1) Greyhound racing may be conducted in all political subdivisions of the State of Arkansas, but only by the holder of a franchise granted by the Arkansas Racing Commission, and the commission may grant a franchise only to a corporation organized under the laws of this state.~~

~~(2) Franchises may not be granted by the commission to individuals, partnerships, associations, trusts, or to any others except corporations as provided in this section.~~

~~(b)(1) However, in the event that the limitations contained in subsection (a) of this section are declared unconstitutional, then the commission may grant franchises to individuals, partnerships, associations, trusts, and corporations.~~

~~(2) Wherever the word “corporation” shall appear in this chapter, it shall be deemed to include the enumeration in subdivision (b)(1) of this section in the event of the declaration of unconstitutionality.~~

~~(c) The commission may not grant more than one (1) franchise for conducting greyhound racing meets in a single county.~~

~~(d) No franchise or temporary franchise shall be granted whenever the cost of the plant proposed to be constructed, including lands, buildings, facilities, and equipment, shall be less than one million dollars (\$1,000,000).~~

~~23-111-302. Application generally—Issuance of temporary franchise—Hearing and appeal.~~

~~(a) Any corporation desiring a franchise to conduct greyhound racing in any county in which a current franchise for greyhound racing is not held by another shall file its application therefor with the Arkansas Racing Commission and deposit with the commission the sum of five thousand dollars (\$5,000) to cover the expenses of publishing legal notices and to pay a pro rata part of the costs of the general election, all as provided in this chapter.~~

~~(b) The application shall set forth:~~

- ~~(1) The name of the corporation;~~
- ~~(2) The address of its principal office;~~
- ~~(3) The names and addresses of all of its officers and~~

1 ~~directors, a majority of whom must be residents of the State of Arkansas, and~~
2 ~~all of whom must be of good moral character;~~

3 ~~(4) The name and address of its agent for service of process;~~

4 ~~(5) Its latest financial statements;~~

5 ~~(6) The estimated amount of funds which it proposes to spend for~~
6 ~~the acquisition of a site, the construction thereon of buildings and~~
7 ~~facilities, and the purchase of equipment for conducting racing meets;~~

8 ~~(7) Copies of architectural plans and specifications for the~~
9 ~~buildings and facilities; and~~

10 ~~(8) Such other information and requirements as the commission~~
11 ~~shall determine as necessary to enable it to pass upon the application.~~

12 ~~(c)(1) Immediately upon the filing of each application, the commission~~
13 ~~shall investigate the personal background and financial responsibility of the~~
14 ~~officers, directors, and principal stockholders of the corporation, examine~~
15 ~~the plans and specifications of the buildings and facilities proposed to be~~
16 ~~constructed, and take into consideration such other facts and conditions as~~
17 ~~it shall find necessary or desirable in the premises. Within ninety (90) days~~
18 ~~after the date of the filing of any application, the commission shall grant,~~
19 ~~or refuse to grant, a temporary franchise to the corporation.~~

20 ~~(2) However, in all instances the commission shall give the~~
21 ~~applicant, and all others who shall have filed written requests to be heard~~
22 ~~on the question, not less than ten (10) days' notice of the date it proposes~~
23 ~~to formally consider the application. All interested parties shall have the~~
24 ~~right to appear before the commission and be heard.~~

25 ~~(3) The commission shall make a record of its proceeding at each~~
26 ~~hearing.~~

27 ~~(d)(1) Should the commission refuse to grant a temporary franchise, it~~
28 ~~shall set forth in writing its reasons for the refusal. A copy of the writing~~
29 ~~shall immediately be sent to the applicant by registered or certified United~~
30 ~~States mail to the address listed in the application.~~

31 ~~(2) Within sixty (60) days after the date of any refusal, the~~
32 ~~applicant may file with the commission amendments to the application for the~~
33 ~~purpose of overcoming any of the objections on which the commission based its~~
34 ~~refusal to grant a temporary franchise. Within thirty (30) days after receipt~~
35 ~~of the amendments, the commission shall either confirm its original refusal~~
36 ~~or it may grant a temporary franchise.~~

1 ~~(3) Within twenty (20) days following the date of original~~
2 ~~refusal, or within twenty (20) days following the date of refusal after the~~
3 ~~filing of any amendments, the applicant may appeal to the Pulaski County~~
4 ~~Circuit Court, and it shall be tried de novo on the record of the hearing~~
5 ~~before the commission.~~

6 ~~(4) An appeal may be taken by the commission or by the applicant~~
7 ~~from the circuit court to the Supreme Court. The appeal shall likewise be~~
8 ~~tried de novo.~~

9 ~~(5) The mandate of the court shall be filed with the commission.~~

10 ~~(c)(1) Should the commission grant a temporary franchise on its own~~
11 ~~motion or based upon the decision of the court, then the fact of the grant~~
12 ~~shall be certified by the commission to the Secretary of State, and the five~~
13 ~~thousand dollars (\$5,000) deposited with it under the provisions of~~
14 ~~subsection (a) of this section shall be paid over to the Secretary of State~~
15 ~~by the commission.~~

16 ~~(2) Should a temporary franchise not be granted pursuant to this~~
17 ~~section, the funds deposited with it under subsection (a) of this section~~
18 ~~shall be refunded to the corporation by the commission.~~

19
20 ~~23-111-303. Approval of electors required.~~

21 ~~The Arkansas Racing Commission shall not be authorized to grant, nor~~
22 ~~shall it grant, a franchise to any corporation to conduct greyhound racing in~~
23 ~~any county in this state unless the commission has been authorized to grant a~~
24 ~~franchise as expressed by the approval of a majority of the qualified~~
25 ~~electors of the state voting on the proposition at the regular statewide~~
26 ~~biennial general election, as set forth in this chapter.~~

27
28 ~~23-111-304. Elections.~~

29 ~~(a)(1) After receipt of the certification provided for in § 23-111-~~
30 ~~302(e), the Secretary of State shall cause to be published, by one (1)~~
31 ~~insertion in a newspaper of general circulation published in each county of~~
32 ~~the state, not less than thirty (30) days nor more than sixty (60) days~~
33 ~~before the next general election, a notice reading substantially as~~
34 ~~follows: "NOTICE is hereby given that at the next general election the~~
35 ~~following question will be placed upon the ballot for the approval or~~
36 ~~rejection by the qualified electors of the state voting at such general~~

1 election.

2 ~~“Shall the Arkansas Racing Commission be authorized to grant a franchise to~~
3 ~~conduct greyhound racing in County, Arkansas?~~

4 ~~“Given under my hand on this day of,~~
5 ~~20.....Secretary of State of the State of Arkansas”.~~

6 (2) ~~If there is no such newspaper published in any county, the~~
7 ~~notice may be published in any newspaper having a general circulation in the~~
8 ~~county.~~

9 (b) ~~Within the time prescribed by law for the certification of other~~
10 ~~questions to be submitted to a vote of the people at a general election, the~~
11 ~~Secretary of State shall duly certify to the county boards of election~~
12 ~~commissioners of the several counties of the state the question as set forth~~
13 ~~in the notice provided for in subsection (a) of this section.~~

14 (c) ~~The county board of election commissioners of each county shall~~
15 ~~cause to be printed on the general election ballot the following:“Shall the~~
16 ~~Arkansas Racing Commission be authorized to grant a franchise to conduct~~
17 ~~greyhound racing in County, Arkansas?~~

18 ~~FOR authorizing the Arkansas Racing Commission to grant a franchise to~~
19 ~~conduct greyhound racing in County, Arkansas □~~
20 ~~AGAINST authorizing the Arkansas Racing Commission to grant a franchise to~~
21 ~~conduct greyhound racing in County, Arkansas □”.~~

22 (d) ~~The county boards of election commissioners shall canvass the vote~~
23 ~~and, as in the instance of other statewide measures voted on by the people,~~
24 ~~certify the results thereof to the Secretary of State who shall forthwith~~
25 ~~tabulate all returns so received by him or her and, by published notice in a~~
26 ~~newspaper having a statewide circulation, proclaim the result of the~~
27 ~~election, setting out in the proclamation the total vote for and against the~~
28 ~~question submitted as provided in subsection (c) of this section. The result~~
29 ~~of the election as so proclaimed shall be conclusive unless attacked in the~~
30 ~~courts within thirty (30) days after the date of publication of the~~
31 ~~proclamation. All contests in relation thereto shall be under the general~~
32 ~~election laws of this state.~~

33 (e) ~~The Secretary of State shall file a certified copy of the~~
34 ~~proclamation with the Arkansas Racing Commission, and the commission shall~~
35 ~~immediately notify the corporation of the result of the election.~~

36 (f) ~~If a majority of the qualified electors of the state voting on the~~

1 ~~question vote against authorizing the commission to grant the franchise to~~
2 ~~conduct greyhound racing in the county, the temporary franchise held by the~~
3 ~~corporation shall, ipso facto, be null and void as of the final date on which~~
4 ~~a contest of the results of the election may be commenced or, in the event of~~
5 ~~contest, upon the date of final determination of the issue.~~

6 ~~(g) By use of the moneys deposited with the Secretary of State under~~
7 ~~the provisions of § 23-111-302(e), the Secretary of State shall first pay the~~
8 ~~cost of publication of legal notices required under this section, and any~~
9 ~~funds which remain from the deposit shall be paid over in equal amounts to~~
10 ~~the treasurers of the several counties of the state for credit to the general~~
11 ~~fund.~~

12
13 ~~23-111-305. Construction of racing plant — Issuance of permanent~~
14 ~~franchise.~~

15 ~~(a)(1) If a majority of the qualified electors of the state voting on~~
16 ~~the question vote for authorizing the Arkansas Racing Commission to grant a~~
17 ~~franchise to conduct greyhound racing in the county, the corporation holding~~
18 ~~a temporary franchise, within ninety (90) days following the date of receipt~~
19 ~~of notification thereof from the commission as provided in § 23-111-304(d),~~
20 ~~shall acquire a site and commence the construction of buildings and~~
21 ~~facilities which it proposes to use in conducting greyhound racing meets.~~

22 ~~(2) Failure of the corporation to acquire the site and commence~~
23 ~~construction within the ninety day period shall constitute a forfeit of the~~
24 ~~temporary franchise.~~

25 ~~(3) Should any holder of a temporary franchise acquire a site~~
26 ~~and commence construction within the ninety day period but fail to complete~~
27 ~~construction and be open for business within one (1) year next following the~~
28 ~~end of the ninety day period, or should the construction not be in~~
29 ~~substantial compliance with the plans and specifications theretofore filed~~
30 ~~with, and approved by, the commission, or should the aggregate total of costs~~
31 ~~of acquisition of a site, construction of buildings and facilities, and~~
32 ~~purchase of equipment be less than one million dollars (\$1,000,000), then the~~
33 ~~commission shall cancel the temporary franchise, and the cancellation shall~~
34 ~~constitute a forfeit thereof by the corporation.~~

35 ~~(4) However, nothing contained in this section shall be~~
36 ~~construed so as to prohibit mutual agreement on the part of the commission~~

1 and the corporation to making such changes in the plans and specifications
2 for construction as may be deemed necessary or desirable, but no changes may
3 be agreed to which will have the effect of reducing the total aggregate cost
4 of plant and equipment below one million dollars (\$1,000,000).

5 (b) Upon completion of the plant within the time, in the manner, and
6 at the minimum costs provided in subsection (a) of this section and the
7 payment of a franchise fee in the amount of one thousand dollars (\$1,000) to
8 the commission by the holder of the temporary franchise, the commission shall
9 issue its franchise in exchange for the temporary franchise held by the
10 corporation. The corporation may then proceed to conduct greyhound racing
11 meets in accordance with the provisions of this chapter or other applicable
12 law, and the franchise shall thereafter be effective in the hands of the
13 corporation unless and until terminated by operation of law, or sooner if
14 terminated by the commission based upon the corporation's failure to comply
15 with applicable greyhound racing laws or by the voluntary forfeiture of the
16 franchise by the franchise holder.

17
18 ~~23-111-306. Subsequent referendum elections.~~

19 (a) After the elapse of not less than four (4) years next following
20 the date of any election conducted pursuant to § 23-111-304, the county board
21 of election commissioners shall call a special election in accordance with §
22 7-11-201 et seq. on the proposition of continuing greyhound racing in the
23 county. The election shall be called upon petitions filed with it containing
24 the signatures of qualified electors of the county of not less than five
25 percent (5%) of the total number voting in the election for county clerk of
26 the county at the next preceding general election, together with a sum of
27 money estimated by the board as sufficient to pay all expenses of the
28 election.

29 (b)(1) The date of the special election shall be fixed at the next
30 special election date under § 7-11-205. The deposit of the funds as provided
31 in subsection (a) of this section and the election shall be conducted and
32 shall be subject to contest under the general election laws of this state.

33 (2) The proposition printed on the ballot shall be "FOR
34 Greyhound Racing" and "AGAINST Greyhound Racing".

35 (3) By published notice, the board shall proclaim the results of
36 the election and shall also certify the results to the Arkansas Racing

1 Commission.

2 ~~(4) All contests in relation to the results of the election~~
3 ~~shall be commenced within twenty (20) days next following the date of~~
4 ~~publication of notice as provided in subsection (a) of this section.~~

5 ~~(c) If a majority of the qualified electors of the county voting on~~
6 ~~the question shall disapprove the continuance of greyhound racing, the~~
7 ~~franchise held by the corporation shall, ipso facto, be null and void as of~~
8 ~~the final date on which a contest of the results of the election may be~~
9 ~~commenced or, in the event of contest, upon the date of final determination~~
10 ~~of the issue.~~

11
12 ~~23-111-307. Franchises granted prior to July 1, 1957.~~

13 ~~(a)(1) Any permit granted prior to July 1, 1957, to conduct greyhound~~
14 ~~racing in this state is validated, and the action of the authority granting~~
15 ~~the permit is ratified and confirmed.~~

16 ~~(2) Whether or not the permit has been granted for a definite~~
17 ~~period of time, the holder of the permit shall pay a franchise fee in an~~
18 ~~amount of one thousand dollars (\$1,000) and shall be deemed to have a~~
19 ~~franchise upon compliance with provisions of this chapter.~~

20 ~~(b) The franchise shall continue in effect so long as the holder~~
21 ~~thereof shall comply with all applicable laws of this state relating to~~
22 ~~greyhound racing or until the rights thereunder shall terminate by operation~~
23 ~~of law making greyhound racing unlawful in the area covered by the franchise~~
24 ~~or until the forfeit of the franchise by the holder thereof.~~

25
26 ~~23-111-308. Employees and patrons.~~

27 ~~(a) No franchise holder shall permit any person under eighteen (18)~~
28 ~~years of age to be a patron of the pari mutuel or certificate system of~~
29 ~~wagering conducted or supervised by it.~~

30 ~~(b) The Arkansas Racing Commission shall have the right to require~~
31 ~~that every franchise holder shall employ residents of the State of Arkansas~~
32 ~~to the extent of eighty percent (80%) of the employees engaged in any~~
33 ~~greyhound race meet.~~

34
35 ~~Subchapter 4 — Officers, Directors, Stockholders, Etc., of Franchises~~
36

1 ~~23-111-401. Purpose.~~

2 ~~(a) It is determined by the General Assembly that the business of~~
3 ~~conducting dog racing and pari-mutuel wagering thereon is so clothed with the~~
4 ~~public interest that the operation should be closely regulated and controlled~~
5 ~~to the end that the operation will not be conducted in a manner detrimental~~
6 ~~to the public interest of this state and its citizens and that the policy and~~
7 ~~manner of operation of the business is largely determined by those who have~~
8 ~~substantial financial interests in the corporate franchise holder.~~

9 ~~(b) Therefore, it is the purpose and intent of §§ 23-111-402—23-111-~~
10 ~~405 and 23-111-407—23-111-409 to broaden, clarify, and strengthen the~~
11 ~~authority of the Arkansas Racing Commission to investigate the personal~~
12 ~~background of officers, directors, and principal stockholders of applicants~~
13 ~~for, and holders of, franchises to conduct dog racing in this state and to~~
14 ~~deny application for, suspend, or revoke a dog racing franchise upon the~~
15 ~~basis of the personal background of an officer, director, or principal~~
16 ~~stockholder of an applicant for, or holder of, a franchise, in order that the~~
17 ~~commission can better perform its duty to regulate and control dog racing in~~
18 ~~this state in the public interest.~~

19
20 ~~23-111-402. Definition.~~

21 ~~For the purposes of §§ 23-111-401, 23-111-403—23-111-405, and 23-111-~~
22 ~~407—23-111-409, “principal stockholder” means every stockholder, either~~
23 ~~individual, partnership, association, or corporation, owning or having~~
24 ~~control of ten percent (10%) or more of the outstanding stock of a~~
25 ~~corporation which is an applicant for, or holder of, a franchise to conduct~~
26 ~~dog racing in this state.~~

27
28 ~~23-111-403. Sections 23-111-401, 23-111-402, 23-111-404, 23-111-405,~~
29 ~~and 23-111-407—23-111-409 supplemental.~~

30 ~~The provisions of §§ 23-111-401, 23-111-402, 23-111-404, 23-111-405,~~
31 ~~and 23-111-407—23-111-409 are supplemental to the provisions of §§ 23-111-~~
32 ~~101—23-111-104, 23-111-201—23-111-205, 23-111-301—23-111-308, 23-111-~~
33 ~~501, and 23-111-506, and 23-111-508—23-111-514, and all other laws~~
34 ~~regarding dog racing in this state and shall not be construed to repeal or~~
35 ~~modify any of those laws.~~

36

1 ~~23 111 404. Application for franchise.~~

2 ~~In addition to the information required by §§ 23 111 101—23 111 104,~~
3 ~~23 111 201—23 111 205, 23 111 301—23 111 308, 23 111 501, and 23 111 506,~~
4 ~~and 23 111 508—23 111 514, every application filed with the Arkansas Racing~~
5 ~~Commission for a franchise to conduct dog racing in any county of this state~~
6 ~~shall set forth the total number of outstanding shares of stock of the~~
7 ~~applicant corporation and the number of the shares of stock owned or under~~
8 ~~the control of each of the stockholders of the applicant corporation.~~

9
10 ~~23 111 405. Investigation by Arkansas Racing Commission.~~

11 ~~(a)(1)(A) The Arkansas Racing Commission is authorized to conduct a~~
12 ~~thorough investigation of the personal background of each officer, each~~
13 ~~director, and each principal stockholder of an applicant for, or holder of, a~~
14 ~~franchise for conducting dog racing in this state.~~

15 ~~(B) In the event a corporation, partnership, or~~
16 ~~association qualifies as a principal stockholder of an applicant for, or~~
17 ~~holder of, a franchise for conducting dog racing in this state, then the~~
18 ~~commission is authorized to conduct a thorough investigation of the personal~~
19 ~~background of each officer, director, and stockholder of the corporation or~~
20 ~~the personal background of each member of the partnership or association.~~

21 ~~(2) In investigating the personal background of an officer,~~
22 ~~director, or principal stockholder of an applicant for, or holder of, a dog~~
23 ~~racing franchise, or the officers, directors, and stockholders of a~~
24 ~~corporation qualifying as a principal stockholder or the members of any~~
25 ~~partnership or association qualifying as a principal stockholder, the~~
26 ~~commission may take into consideration:~~

27 ~~(A) Present and past business associations of a person and~~
28 ~~corporate stockholdings of the person;~~

29 ~~(B) Any connection the person has or may have had with any~~
30 ~~gambling operations or other unlawful operations in this state or any other~~
31 ~~state;~~

32 ~~(C) Any criminal convictions of the person; and~~

33 ~~(D) Such other matters as the commission shall deem~~
34 ~~helpful in determining whether the ownership by the person, corporation,~~
35 ~~partnership, or association qualifying as a principal stockholder of a~~
36 ~~substantial amount of stock in the corporate applicant for, or holder of, a~~

1 ~~franchise to conduct dog racing in this state would or would not be~~
2 ~~detrimental to the public interest of this state.~~

3 ~~(b) The commission may refuse to grant a franchise or temporary~~
4 ~~franchise or it may suspend or revoke an existing franchise if after~~
5 ~~investigation and hearing it determines that an officer, director, or~~
6 ~~principal stockholder of the applicant for, or holder of, a franchise is of~~
7 ~~undesirable personal background.~~

8 ~~(c) The commission may refuse to grant a franchise or temporary~~
9 ~~franchise or it may suspend or revoke an existing franchise if after~~
10 ~~investigation and hearing it determines that an officer, director, or~~
11 ~~stockholder of a corporation qualifying as a principal stockholder under §~~
12 ~~23-111-402 or a member of any partnership or association qualifying as a~~
13 ~~principal stockholder under the provisions of § 23-111-402 is of undesirable~~
14 ~~personal background.~~

15 ~~(d)(1) Before the commission refuses to grant any franchise or~~
16 ~~temporary franchise or suspends or revokes an existing franchise on the basis~~
17 ~~of the personal background of any officer, director, or principal stockholder~~
18 ~~of the applicant for, or holder of, a franchise, the commission shall:~~

19 ~~(A) Set a date and time for a hearing on the matter;~~

20 ~~(B) Notify the applicant or franchise holder of:~~

21 ~~(i) The specific findings of the commission upon the~~
22 ~~basis of which it proposed to refuse, suspend, or revoke the franchise; and~~

23 ~~(ii) The date and time of the hearing; and~~

24 ~~(C) At least ten (10) days prior to the hearing, publish~~
25 ~~notice of the hearing in a newspaper of general circulation in the county in~~
26 ~~which dog racing is held or proposed to be held under the franchise.~~

27 ~~(2) Notice shall be given to the applicant or franchise holder~~
28 ~~by registered mail addressed to the applicant or franchise holder at its~~
29 ~~principal office as shown in the application or in other records of the~~
30 ~~commission at least ten (10) days prior to the date of the hearing.~~

31 ~~(3) At the hearing the applicant for, or holder of, a franchise~~
32 ~~and other interested persons shall be permitted to appear and present~~
33 ~~evidence relevant to the issue or finding upon which the commission proposes~~
34 ~~to deny, suspend, or revoke a franchise.~~

35 ~~(4) All proceedings before the commission pursuant to this~~
36 ~~section and the right of appeal therefrom shall be conducted in accordance~~

1 with, and taken in the manner provided in, and in every way subject to, the
2 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

3
4 ~~23-111-406. Electoral and residency requirement.~~

5 ~~(a) A majority of all officers and directors of any greyhound dog~~
6 ~~track in this state shall be qualified electors of this state who have~~
7 ~~resided in the county in which the track is located for a period of not less~~
8 ~~than two (2) years and shall maintain a residence in the county during their~~
9 ~~tenure as officers or directors thereof.~~

10 ~~(b) Any person who may be elected or selected as an officer or~~
11 ~~director of any greyhound dog track, prior to his or her election or~~
12 ~~selection, shall submit to the Arkansas Racing Commission a duly verified~~
13 ~~affidavit setting forth information indicating whether he or she is a~~
14 ~~qualified elector of this state, his or her place of residence, and the~~
15 ~~period of time during which he or she has resided at his or her place of~~
16 ~~residence, in order that the commission may determine that the provisions of~~
17 ~~this section are being complied with.~~

18 ~~(c) If there is any change in any of the material facts noted on the~~
19 ~~verified affidavit filed with the commission by the officer or director of a~~
20 ~~greyhound dog track, the officer or director, within thirty (30) days after~~
21 ~~the occurrence of the change, shall submit a new verified affidavit to the~~
22 ~~commission as required in this section, noting the change.~~

23 ~~(d) Any person who furnishes false information in the affidavit filed~~
24 ~~with the commission as required in this section or fails to file a~~
25 ~~replacement verified affidavit with the commission within thirty (30) days~~
26 ~~after the change of any material fact noted on the affidavit previously filed~~
27 ~~with the commission shall be guilty of a Class A misdemeanor.~~

28
29 ~~23-111-407. Report of changes.~~

30 ~~Every holder of a franchise to conduct dog racing in this state shall~~
31 ~~report any and all changes in its board of directors, executive officers, and~~
32 ~~other management personnel, and all changes in the ownership of its stock, to~~
33 ~~the Arkansas Racing Commission within ten (10) days next following such a~~
34 ~~change.~~

35
36 ~~23-111-408. Intergovernmental cooperation.~~

1 ~~dog racing franchisee, kennel owners, and greyhound racing in the State of~~
 2 ~~Arkansas.~~

3 ~~(3) Greyhound racing on Easter Sunday or Christmas Day is~~
 4 ~~prohibited.~~

5 ~~(b) The racing days provided for under §§ 23-111-503—23-111-505~~
 6 ~~shall be conducted on the days and during the hours determined by the~~
 7 ~~commission under subsection (a) of this section.~~

8
 9 ~~23-111-503. Additional racing days for benefit of city general fund~~
 10 ~~and Division of Developmental Disabilities Services.~~

11 ~~(a) The Arkansas Racing Commission is authorized to allow each dog~~
 12 ~~racing franchise holder to conduct three (3) additional days of racing at any~~
 13 ~~dog racing meet. The franchise holder shall agree that the net proceeds~~
 14 ~~derived from the additional days shall be credited as follows:~~

15 ~~(1) One-third (1/3) to be deposited with the city treasurer or~~
 16 ~~collector of the city in which the dog racing track is located for credit to~~
 17 ~~the city general fund to be used for charitable purposes only, as determined~~
 18 ~~by the mayor and governing body; and~~

19 ~~(2) Two-thirds (2/3) to be deposited with the Treasurer of State~~
 20 ~~as special revenue to be used for the sole benefit for community programs of~~
 21 ~~the Division of Developmental Disabilities Services.~~

22 ~~(b) Employees of the dog racing track shall be allowed to donate their~~
 23 ~~services for the additional days of dog racing allowed by the commission~~
 24 ~~under this section.~~

25 ~~(c) Net proceeds derived from the additional days of dog racing shall~~
 26 ~~be the proceeds derived from the pari-mutuel wagering at, and admissions to,~~
 27 ~~the dog racing track less the cost of salaries, if any, of all employees,~~
 28 ~~fuel, lights, purses, taxes, and other fees and costs incurred by the~~
 29 ~~franchise holder in conducting the additional days of racing.~~

30 ~~(d) The commission shall establish appropriate rules to assure~~
 31 ~~compliance with the provisions of this section and shall audit and verify all~~
 32 ~~receipts and expenditures of the franchise holder in determining compliance~~
 33 ~~with this section.~~

34
 35 ~~23-111-504. Additional racing days for municipal assistance—~~
 36 ~~Distribution of net proceeds to municipalities.~~

1 ~~(a) The Arkansas Racing Commission is authorized to allow each dog~~
2 ~~racing franchise holder to conduct six (6) additional days of racing during~~
3 ~~each calendar year in addition to any other days of dog racing authorized by~~
4 ~~law.~~

5 ~~(b) The net proceeds, as defined in § 23-111-503, derived from two (2)~~
6 ~~of the additional days of dog racing shall be deposited with the Treasurer of~~
7 ~~State as special revenue for credit to the Municipal Aid Fund. Moneys~~
8 ~~deposited into the fund shall be distributed to all municipalities located in~~
9 ~~the county in which the dog racing meet is held, except the municipality in~~
10 ~~which the dog racing track is located, with each municipality to receive such~~
11 ~~portion of the fund as the population of the municipality bears to the total~~
12 ~~population of all participating municipalities in the county.~~

13
14 ~~23-111-505. Additional racing days for benefit of indigent patients,~~
15 ~~etc.~~

16 ~~(a) The Arkansas Racing Commission is authorized to allow each dog~~
17 ~~racing franchise holder to conduct fifteen (15) additional days of racing~~
18 ~~during each twelve-month period. The additional days of racing may be divided~~
19 ~~between each of the two (2) racing meets allowed by § 23-111-502, or all the~~
20 ~~additional days of racing may be added to a single racing meet as determined~~
21 ~~by the commission. In the event the additional days allowed by the commission~~
22 ~~fall upon a Saturday or Saturdays, then the franchise holder, at its option,~~
23 ~~may conduct daylight racing as authorized for a regular racing meet.~~

24 ~~(b)(1) All revenue derived from the pari-mutuel tax at the fifteen~~
25 ~~(15) additional days of racing authorized by subsection (a) of this section~~
26 ~~after moneys have been remitted by the franchise holder to Arkansas State~~
27 ~~University Mid-South as provided by § 23-111-517 shall be deposited with the~~
28 ~~Treasurer of State as special revenue for credit to the Indigent Patient's~~
29 ~~Fund, to be used by Mississippi County, Poinsett County, Cross County, St.~~
30 ~~Francis County, and Lee County to defray the cost of hospitalization and~~
31 ~~other medical services of indigent Arkansas patients in healthcare facilities~~
32 ~~for which the county has not received total reimbursement.~~

33 ~~(2) Each county shall certify to the Chief Fiscal Officer of the~~
34 ~~State the amount of the unreimbursed medical expenses under such procedures~~
35 ~~and such detail as required by the Department of Finance and Administration.~~

36 ~~(3) The amount available to each county shall be no more than~~

1 ~~one fifth (1/5) of the total funds available or the amount certified of~~
2 ~~unreimbursed medical expenses, whichever is less.~~

3 ~~(c) The commission is authorized to allow each dog racing franchise~~
4 ~~holder to conduct two (2) additional days of racing at any dog racing meet.~~
5 ~~The net proceeds derived from these additional days shall be deposited with~~
6 ~~the city treasurer or collector of the city in which the dog racing track is~~
7 ~~located for credit to the city general fund to be used for providing~~
8 ~~assistance and relief to disaster victims, indigent persons, organizations~~
9 ~~which assist such persons, and for education purposes.~~

10
11 ~~23-111-506. Application for license to conduct meet — Issuance.~~

12 ~~(a)(1) Before any franchise holder conducts a racing meet in the~~
13 ~~county in which it holds a franchise, it shall file with the Arkansas Racing~~
14 ~~Commission an application to hold the meet and a bond in the sum of ten~~
15 ~~thousand dollars (\$10,000) payable to the State of Arkansas, with a surety to~~
16 ~~be approved by the commission, conditioned that the franchise holder shall:~~

17 ~~(A) Faithfully make the payments to the commission;~~

18 ~~(B) Keep its books and records and make reports as~~
19 ~~provided in this chapter; and~~

20 ~~(C) Conduct the greyhound racing in conformity with this~~
21 ~~chapter.~~

22 ~~(2) The application shall specify the dates on which it is~~
23 ~~intended or desired to conduct or hold the meet and such further information~~
24 ~~as the commission may prescribe.~~

25 ~~(3)(A) The license fee required to be paid by the franchise~~
26 ~~holder under the provisions of this section shall be computed at the rate of~~
27 ~~three hundred dollars (\$300) per day, payable each day of the meet to the~~
28 ~~commission.~~

29 ~~(B) The license fee imposed by this section shall be in~~
30 ~~lieu of all other license or occupation fees or taxes which otherwise would~~
31 ~~be due by the franchise holder to the State of Arkansas, or to any of its~~
32 ~~political subdivisions.~~

33 ~~(b)(1) Each application shall be filed with the commission at least~~
34 ~~one hundred twenty (120) days prior to the date upon which it is desired to~~
35 ~~begin the racing meet.~~

36 ~~(2) Whenever mutually agreeable to the commission and the~~

1 ~~franchise holder, the commission may allot racing dates other than those~~
2 ~~requested in the application.~~

3 ~~(c) Immediately following the allotting of any racing dates and the~~
4 ~~issuance of a license to hold a racing meet, the commission shall notify the~~
5 ~~franchise holder of the dates allotted. The notice shall be in writing and~~
6 ~~sent by registered or certified United States mail to the franchise holder.~~
7 ~~Each notice and license shall be mailed by the commission at least ninety~~
8 ~~(90) days before the date fixed for the beginning of the racing meet.~~

9 ~~(d)(1) Each license shall specify:~~

10 ~~(A) The name of the franchise holder;~~

11 ~~(B) The dates on which the racing meet shall be held or~~
12 ~~conducted; and~~

13 ~~(C) The location of the place, track, or enclosure at~~
14 ~~which the racing meet is to be conducted.~~

15 ~~(2) No license shall be transferable, nor shall it apply to any~~
16 ~~place, track, or enclosure other than the one specified in the license.~~

17 ~~(e)(1) If the commission refuses an application for a license, it~~
18 ~~shall notify the franchise holder. This notice must be in writing and sent by~~
19 ~~registered or certified United States mail to the franchise holder and shall~~
20 ~~be mailed by the commission at least twenty (20) days before the date fixed~~
21 ~~in the application for the beginning of the racing meet. In each instance the~~
22 ~~notice shall contain the reasons for refusal of the application.~~

23 ~~(2) No application shall be refused until after the franchise~~
24 ~~holder has been granted a hearing by the commission.~~

25
26 ~~23-111-508. Wagering.~~

27 ~~(a)(1) Any franchise holder conducting a greyhound racing meet may~~
28 ~~provide places in the race meeting grounds, or enclosure, at which it may~~
29 ~~conduct and supervise the pari-mutuel or certificate system of wagering by~~
30 ~~patrons on the races conducted by the franchise holder at the meeting.~~

31 ~~(2) The pari-mutuel or certificate method of wagering upon races~~
32 ~~held at the race track, within the race track, and at the racing meet shall~~
33 ~~not under any circumstances, if conducted under the provisions of this~~
34 ~~chapter, be held or construed to be unlawful, all other laws or parts of laws~~
35 ~~of the State of Arkansas to the contrary notwithstanding.~~

36 ~~(b) No other place or method of wagering shall be used or permitted by~~

1 ~~the franchise holder, unless permitted under subsection (d) or subsection (e)~~
2 ~~of this section, nor shall the pari-mutuel or certificate system of wagering~~
3 ~~be conducted on any races except races at the race track where the franchise~~
4 ~~holder holds a current license issued by the Arkansas Racing Commission.~~

5 ~~(c) No franchise holder shall permit any minor to be a patron of the~~
6 ~~pari-mutuel or certificate system of wagering conducted or supervised by it.~~

7 ~~(d)(1)(A) However, nothing contained in this section shall be~~
8 ~~construed to permit the pari-mutuel or certificate method of wagering upon~~
9 ~~any race track unless the track is licensed as provided by this chapter.~~

10 ~~(B) It is declared to be unlawful for any franchise holder~~
11 ~~to permit, conduct, or supervise any pari-mutuel or certificate method of~~
12 ~~wagering upon any race track except in accordance with the provisions of this~~
13 ~~chapter.~~

14 ~~(2) There shall be no wagering on the results of any races~~
15 ~~except under the pari-mutuel or certificate method of wagering, as provided~~
16 ~~in this chapter, and then only by the installation and use of equipment~~
17 ~~approved by the commission.~~

18 ~~(3) In addition to the pari-mutuel or certificate system of~~
19 ~~wagering as authorized by this chapter, the commission is authorized and~~
20 ~~directed to establish and adopt rules permitting the conduct of pari-mutuel~~
21 ~~or certificate system of wagering upon racing, either horse or greyhound,~~
22 ~~shown live or in any other manner approved by the commission by television or~~
23 ~~otherwise to or from the premises of the franchise holder.~~

24 ~~(4) Any franchise holder using or permitting wagering or any~~
25 ~~person wagering under any other method at a licensed race track shall be~~
26 ~~guilty of a Class D felony for each such offense.~~

27 ~~(e)(1) With the prior approval of the commission and pursuant to rules~~
28 ~~adopted by the commission, a franchise holder's patrons with money on deposit~~
29 ~~in an account with the franchise holder may place wagers by communication~~
30 ~~through telephone or other mobile device or through other electronic means on~~
31 ~~races conducted at the franchise holder's race track facility and horse races~~
32 ~~or greyhound races at other racetracks, whether or not the patron is located~~
33 ~~on the grounds of the franchise holder's race track facility when placing the~~
34 ~~wager.~~

35 ~~(2) Wagers accepted by the franchise holder under this~~
36 ~~subsection shall be treated for all purposes under this chapter as a wager~~

1 made by the patron on the grounds of the franchise holder's race track
2 facility.

3
4 ~~23-111-509. Disposition of wagering money.~~

5 ~~(a) Each franchise holder conducting a racing meet under the~~
6 ~~provisions of this chapter shall keep its books and records in such manner as~~
7 ~~to clearly show the total amount of moneys wagered on each race held or~~
8 ~~conducted at each meet and the disposition of the moneys.~~

9 ~~(b)(1) In the calendar year 1995 and each calendar year thereafter,~~
10 ~~the franchise holder shall withhold and retain for its own use and benefit~~
11 ~~sixteen percent (16%) of all moneys wagered on live, on-premises races up to~~
12 ~~and including one hundred twenty-five million dollars (\$125,000,000) and~~
13 ~~twelve percent (12%) of all moneys wagered on live, on-premises races in~~
14 ~~excess of one hundred twenty-five million dollars (\$125,000,000).~~

15 ~~(2)(A) From the amount withheld and retained by the franchise~~
16 ~~holder, the franchise holder shall agree that the following credits will be~~
17 ~~made in the following percentage amounts of all moneys wagered on live, on-~~
18 ~~premises races up to and including one hundred twenty-five million dollars~~
19 ~~(\$125,000,000) per calendar year, which shall be in addition to any other~~
20 ~~credits or payments:~~

21 ~~(i) Seven eighths of one percent (.875%) to be used~~
22 ~~by the franchise holder for supplements for increasing purses awarded at~~
23 ~~races conducted at the franchise holder's facility;~~

24 ~~(ii) Three eighths of one percent (.375%) to the~~
25 ~~institutions or funds described in §§ 23-111-503—23-111-505 and 23-111-515~~
26 ~~on a proportionate basis;~~

27 ~~(iii) One half of one percent (0.5%) to be used by~~
28 ~~the franchise holder for capital improvements to be made by the franchise~~
29 ~~holder at the racing facility; and~~

30 ~~(iv) One half of one percent (0.5%) to be used by~~
31 ~~the franchise holder for promotions to be conducted by the franchise holder~~
32 ~~to encourage patronage and tourism.~~

33 ~~(B) These credits will not accrue on moneys wagered on~~
34 ~~live, on-premises races in excess of one hundred twenty-five million dollars~~
35 ~~(\$125,000,000) per calendar year.~~

36 ~~(C) The Arkansas Racing Commission may audit and verify~~

1 receipts and expenditures of the franchise holder in determining compliance
2 with this subdivision (b)(2).

3 (D) If there is a final determination by the commission
4 that any of the credits or payments provided in this subsection have not been
5 used for the purposes specified in this section, the franchise holder shall
6 pay the amount equal to any moneys used for an unauthorized purpose to the
7 commission for the use and benefit of the State of Arkansas.

8 (3)(A) "Capital improvements" as used in this section shall
9 include all items and expenditures incurred for new construction with related
10 equipment, reconstruction, renovation, reconditioning, and repairing of
11 facilities with related equipment, or for debt service on money borrowed by
12 the franchise holder for those enumerated purposes.

13 (B) In the case of capital improvements, the commission
14 may use a multiyear approach based on a multiyear program being undertaken by
15 the franchise holder so that accountability for expenditures may be based on
16 expenditures made during the entire multiyear period out of the capital
17 improvement moneys derived during the multiyear period.

18 (c)(1) In the calendar year 1995 and each calendar year thereafter,
19 for all racing meets conducted by the franchise holder, the franchise holder
20 shall withhold and pay to the commission for the use and benefit of the State
21 of Arkansas, as a privilege tax:

22 (A) Three percent (3%) of all moneys wagered on live, on-
23 premises races up to and including one hundred twenty five million dollars
24 (\$125,000,000), together with one third (1/3) of the odd cents or breaks; and

25 (B) Seven percent (7%) of all moneys wagered on live, on-
26 premises races in excess of one hundred twenty five million dollars
27 (\$125,000,000), together with one third (1/3) of the odd cents or breaks.

28 (2)(A) For all races simulcast to the grounds of the franchise
29 holder's Arkansas race track from other race tracks and races conducted in
30 the past and rebroadcast by electronic means and shown on a delayed or
31 replayed basis on the grounds of the franchise holder's Arkansas race track
32 under § 23-111-508(d)(3), the franchise holder shall withhold and pay to the
33 commission for the use and benefit of the State of Arkansas, as a privilege
34 tax, one percent (1%) of all moneys wagered on such races on the grounds of a
35 franchise holder's Arkansas race track.

36 (B) From the one percent (1%) reduction in the simulcast

1 ~~privilege tax provided for in this section, the franchise holder shall agree~~
2 ~~that the following credits shall be made in the following percentage amounts,~~
3 ~~which shall be in addition to any other credits for payments:~~

4 ~~(i) One fourth of one percent (0.25%) to be used by~~
5 ~~the franchise holder for supplements for increasing purses awarded at races~~
6 ~~conducted at the franchise holder's facility;~~

7 ~~(ii) One fourth of one percent (0.25%) to be used by~~
8 ~~the franchise holder for promotions conducted by the franchise holder to~~
9 ~~encourage patronage and tourism;~~

10 ~~(iii) One fourth of one percent (0.25%) to be used~~
11 ~~by the franchise holder for capital improvements made by the franchise holder~~
12 ~~at the racing facility;~~

13 ~~(iv) One fifth of one percent (0.20%) to be used by~~
14 ~~the franchise holder to directly offset increased simulcasting expenses over~~
15 ~~and above those incurred during calendar year 2000, including interface fees,~~
16 ~~host signal fees, licensing fees, and equipment costs related to simuleast.~~
17 ~~The franchise holder shall provide such information necessary to reflect the~~
18 ~~increase in simuleast expenses. Any portion of this amount not needed to~~
19 ~~offset increased simuleast expenses shall be paid to the commission for the~~
20 ~~use and benefit of the State of Arkansas; and~~

21 ~~(v) Five one hundredths of one percent (0.05%) to be~~
22 ~~distributed as provided in § 23-111-515(b)(1)(B).~~

23 ~~(C)(i) The commission shall seek the assistance of the~~
24 ~~Department of Finance and Administration to audit and verify receipts and~~
25 ~~expenditures of the franchise holder in determining compliance with this~~
26 ~~section. The franchise holder must deliver to the department any documents~~
27 ~~requested to check and verify compliance with this section within thirty (30)~~
28 ~~days of receiving a written request for the documents. If the department does~~
29 ~~not receive the requested documents within the time provided, the Secretary~~
30 ~~of the Department of Finance and Administration shall notify the commission,~~
31 ~~which shall issue an order to show cause why such documents have not been~~
32 ~~provided.~~

33 ~~(ii) The franchise holder shall not be permitted~~
34 ~~credit for expenditures under this section until the franchise holder submits~~
35 ~~documentation of each expenditure listing the specific expenditure and the~~
36 ~~payee of the expenditure and stating in specific terms the benefit created by~~

1 ~~the expenditure.~~

2 ~~(iii) In the case of patronage and tourism promotion~~
3 ~~and capital improvements, the commission may use a multiyear approach based~~
4 ~~on a multiyear program's being undertaken by the franchise holder so that~~
5 ~~accountability for expenditures may be based on expenditures made during the~~
6 ~~entire multiyear period out of the patronage and tourism promotion and~~
7 ~~capital improvement moneys derived during the multiyear period, provided that~~
8 ~~the multiyear period shall not exceed five (5) years, unless the commission~~
9 ~~makes a specific determination that a longer period is necessary to finance~~
10 ~~long term construction projects for the joint benefit of patrons, dogmen, and~~
11 ~~the franchise holder.~~

12 ~~(iv) The franchise holder may seek prior approval of~~
13 ~~expenditures from the commission for expenditures. The application for such~~
14 ~~approval must contain the information required by this section. The prior~~
15 ~~approval will be subject to final verification by the department and approval~~
16 ~~by the commission that the expenditure meets the requirements of this~~
17 ~~section.~~

18 ~~(3) The licensee shall withhold no more than nineteen percent~~
19 ~~(19%) of the total moneys wagered in simuleast racing, except when the state~~
20 ~~of the host race meet allows for withholding a greater percentage, then the~~
21 ~~licensee shall withhold no more than the percentage allowed by the state of~~
22 ~~the host meet.~~

23 ~~(d) The franchise holder shall withhold and pay to the city or town in~~
24 ~~which the race track is located two thirds (2/3) of the odd cents or breaks on~~
25 ~~all moneys wagered on live, on premises races and on simuleast races, or if~~
26 ~~the track is not located within the corporate limits of a city or town, then~~
27 ~~the two thirds (2/3) of the odd cents or breaks on all money wagered on live,~~
28 ~~on premises races and on simuleast races shall be paid to the county in which~~
29 ~~the track is located.~~

30 ~~(e)(1) Excepting only the moneys retained for the use and benefit of~~
31 ~~the franchise holder, the amounts paid to the commission for the use and~~
32 ~~benefit of the State of Arkansas, and the amount paid to the city, town, or~~
33 ~~county, as provided in subsection (d) of this section, all moneys received by~~
34 ~~the franchise holder from wagers shall be paid over to patrons holding~~
35 ~~winning pari mutuel tickets, as their respective interests may appear, upon~~
36 ~~presentation of the tickets.~~

1 ~~(2)(A) — However, all winning pari-mutuel tickets not presented to~~
2 ~~the franchise holder for redemption on or before the one hundred eightieth~~
3 ~~day next following the last racing day of each racing meet hereafter held~~
4 ~~shall be void.~~

5 ~~(B) — Of the moneys represented by the void pari-mutuel~~
6 ~~tickets, the franchise holder shall immediately distribute the proceeds as~~
7 ~~follows:~~

8 ~~(i) — One half ($\frac{1}{2}$) of the amount thereof shall be paid~~
9 ~~to the treasurer of the county in which the racing track is located for~~
10 ~~credit to the general fund of the county; and~~

11 ~~(ii) — One half ($\frac{1}{2}$) of the amount thereof shall be~~
12 ~~paid to the treasurer of the city in which the racing track is located and~~
13 ~~shall be credited to the general fund of the city.~~

14 ~~(C) — The money shall be used for charitable purposes only,~~
15 ~~benefiting young females and young males of the city as determined by the~~
16 ~~mayor and the governing body of the city. It is the intent that the funds~~
17 ~~shall be made available to and used by the Boys and Girls Clubs or similar~~
18 ~~nonprofit charitable organizations providing recreational youth services~~
19 ~~benefiting young females and young males of the city.~~

20 ~~(f) — Breaks or breakage shall be computed as the amount of odd cents~~
21 ~~remaining in each pari-mutuel pool after redistributions are made in a sum~~
22 ~~equal to the next lowest multiple of ten cents (10¢). Provided, in the event~~
23 ~~of a minus pool, the commission shall have the authority to establish the~~
24 ~~minimum payout on winning wagers.~~

25 ~~(g) — All moneys due the State of Arkansas by the permit holder under~~
26 ~~subsection (c) of this section shall be paid to the commission daily, and all~~
27 ~~amounts due the city, town, or county under subsection (d) of this section~~
28 ~~shall be paid over to the treasurer of the city, town, or county immediately~~
29 ~~following the close of the racing meet.~~

30 ~~(h) — The rate of tax on any additional methods of wagering shall be~~
31 ~~established by law.~~

32
33 ~~23-111-510. — Admission tax.~~

34 ~~(a)(1) — Each franchise holder authorized to conduct a race meeting~~
35 ~~under this chapter shall pay to the Arkansas Racing Commission for the use~~
36 ~~and benefit of the State of Arkansas either ten percent (10%) of all moneys~~

1 received each day from admissions paid by persons attending the races at the
2 meeting or the sum of ten cents (10¢) on each and every paid admission,
3 whichever sum is the greater.

4 (2) All payments provided in this section shall be made each day
5 of any and every race meeting.

6 (b)(1) The issuance of all tax free passes shall be by the franchise
7 holder or its employees or agents. The commission shall have no authority
8 over the issuance or distribution of the passes.

9 (2) It shall be unlawful for any person, corporation, firm,
10 partnership, or any other entity to sell or offer for sale for any
11 consideration any tax-free pass issued by the commission for general
12 admission to the racing facility of any franchise holder.

13 (3) Any person, corporation, firm, partnership, or other entity
14 that sells or offers for sale tax-free passes shall upon conviction be guilty
15 of a Class B misdemeanor.

16
17 23-111-511. Record keeping by franchise holder — Audit.

18 (a) Every franchise holder conducting race meetings under this chapter
19 shall keep its books and records so as to clearly show the true number of
20 admissions, the total amount of money contributed to each pari-mutuel pool on
21 each race separately, and the amount of money received daily from admission
22 fees.

23 (b) Within sixty (60) days after the conclusion of every race meeting,
24 the franchise holder shall submit to the Arkansas Racing Commission a
25 complete audit of the receipts and admissions.

26
27 23-111-512. Commission's access to meets, books, records, etc.

28 (a) The Arkansas Racing Commission shall at all times have access to
29 any portion of the space or enclosure where a race meeting is held, including
30 the space or enclosure where the pari-mutuel or certificate system of
31 wagering is conducted or supervised at any racing meet, for the purpose of
32 ascertaining whether or not the franchise holder is retaining only the
33 commission provided in this chapter.

34 (b) The commission shall have full and free access to the books,
35 records, machines, and papers pertaining to the pari-mutuel or certificate
36 method of wagering, and admission tickets.

1 ~~(c) The commission may also at any time investigate and ascertain~~
2 ~~whether or not any of the provisions of this chapter or the rules of the~~
3 ~~commission are being violated at the race track or enclosure.~~

4
5 ~~23-111-513. Failure to pay tax.~~

6 ~~(a) Any franchise holder failing or refusing to pay the amount found~~
7 ~~to be due the Arkansas Racing Commission from any tax provided for or imposed~~
8 ~~by this chapter shall be guilty of a violation and upon conviction shall be~~
9 ~~punished by a fine of not more than five thousand dollars (\$5,000) in~~
10 ~~addition to the amount due from the franchise holder as provided in this~~
11 ~~chapter.~~

12 ~~(b) All fines paid into any court of this state by a franchise holder~~
13 ~~found guilty of violating this section shall be paid over by the clerk of the~~
14 ~~court to the commission within ten (10) days after the fines shall have been~~
15 ~~paid to the clerk by the franchise holder.~~

16
17 ~~23-111-514. Franchise holder required to give bond.~~

18 ~~Every franchise holder to which a license may be granted under this~~
19 ~~chapter at its own cost and expense shall, before the license is delivered,~~
20 ~~give a bond, in the penal sum of ten thousand dollars (\$10,000) payable to~~
21 ~~the Arkansas Racing Commission with a surety to be approved by the~~
22 ~~commission, conditioned to faithfully make the payments to the commission~~
23 ~~provided for in this chapter, and keep its books and records and make reports~~
24 ~~provided in this chapter and to conduct its race meeting in conformity with~~
25 ~~the provisions of this chapter.~~

26
27 ~~23-111-515. Additional racing days for the benefit of small~~
28 ~~municipalities and community colleges.~~

29 ~~(a)(1) The Arkansas Racing Commission is authorized to allow each dog~~
30 ~~racing franchise holder to conduct six (6) additional days of racing during~~
31 ~~each twelve-month period.~~

32 ~~(2) The additional days of racing may be divided between each of~~
33 ~~the two (2) racing meets allowed by this section, or all the additional days~~
34 ~~of racing may be added to a single racing meet as determined by the~~
35 ~~commission.~~

36 ~~(3) In the event the additional days allowed by the commission~~

1 ~~fall upon a Saturday or Saturdays, then the franchise holder, at its option,~~
2 ~~may conduct daylight racing as authorized for a regular racing meet.~~

3 ~~(b)(1) The franchise holder shall distribute the net proceeds, as~~
4 ~~defined in subdivision (b)(2) of this section, from the additional days of~~
5 ~~dog racing as follows:~~

6 ~~(A) Twenty five percent (25%) thereof shall be remitted at~~
7 ~~the end of each racing meet at which such additional days of racing are~~
8 ~~conducted to the various municipalities in the county where the dog racing~~
9 ~~meet is held which have a population of fewer than five thousand (5,000)~~
10 ~~inhabitants according to the most recent federal census, with each such~~
11 ~~municipality to receive an equal share of the funds; and~~

12 ~~(B) Seventy five percent (75%) of the proceeds shall be~~
13 ~~deposited with the Treasurer of State as special revenues and credited to an~~
14 ~~institution of higher education fund in the county in which the dog racing~~
15 ~~track is located. Such funds shall be considered local taxes for the purposes~~
16 ~~of § 6-61-601.~~

17 ~~(2) Net proceeds derived from the additional days of dog racing~~
18 ~~shall be all revenue derived from the pari-mutuel wagering at the dog racing~~
19 ~~track during the additional days of racing, less the amount of the purses~~
20 ~~paid by the franchise holder.~~

21 ~~(c) The commission shall establish appropriate rules to assure~~
22 ~~compliance with the provisions of this section and shall audit and verify all~~
23 ~~receipts and expenditures of the franchise holder in determining compliance~~
24 ~~with this section.~~

25
26 ~~23-111-516. Health insurance.~~

27 ~~From the amount withheld and retained by the dog racing franchise~~
28 ~~holder pursuant to § 23-111-509, the franchise holder shall set aside for the~~
29 ~~use and benefit of his or her employees for the purpose of maintaining health~~
30 ~~insurance benefits, one half of one percent (0.5%) of all moneys wagered on~~
31 ~~live racing and on racing performances simultaneously televised by the~~
32 ~~franchise holder but conducted at another race track facility. This set aside~~
33 ~~shall be in addition to any other credits or payments made by the dog racing~~
34 ~~franchise holder in accordance to law. Any surplus funds shall be carried~~
35 ~~forward the next calendar year and shall not be used for any other purposes.~~
36 ~~However, the amount set aside shall be applied only to the first one hundred~~

1 ~~twenty five million dollars (\$125,000,000) of the amount of moneys wagered~~
 2 ~~per calendar year.~~

3
 4 ~~23-111-517. Disposition of pari-mutuel tax revenue.~~

5 ~~(a) Each year, the first eighty five thousand dollars (\$85,000) of the~~
 6 ~~pari-mutuel tax revenue derived from § 23-111-505(a) shall be remitted~~
 7 ~~directly to Arkansas State University Mid-South and shall be used by the~~
 8 ~~college for facilities, programming, and personnel in the support of a~~
 9 ~~nursing program.~~

10 ~~(b) The revenue received by the college under this section shall be~~
 11 ~~considered local taxes for the purposes of § 6-61-601.~~

12
 13 ~~23-111-518. Legislative intent—Definitions—Payable winnings~~
 14 ~~agreements.~~

15 ~~(a) It is the intent of the General Assembly to recognize the rich~~
 16 ~~history of greyhound racing in the state and to provide clarity in the law~~
 17 ~~regarding payable winnings agreements to ensure that the purpose of The~~
 18 ~~Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment~~
 19 ~~100, is met while maintaining the traditions related to greyhound racing.~~

20 ~~(b) As used in this section:~~

21 ~~(1) “Owner” means the person whose name the greyhound is registered~~
 22 ~~under with the National Greyhound Association;~~

23 ~~(2)(A) “Payable winnings” means moneys payable to a payee~~
 24 ~~entitled to collect the moneys due to the owner’s greyhound’s winning a~~
 25 ~~greyhound race.~~

26 ~~(B) “Payable winnings” does not include net casino gaming~~
 27 ~~receipts as defined in The Arkansas Casino Gaming Amendment of 2018, Arkansas~~
 28 ~~Constitution, Amendment 100;~~

29 ~~(3) “Payee” means the person to whom the payable winnings are~~
 30 ~~due; and~~

31 ~~(4) “Payor” means an individual, corporation, partnership,~~
 32 ~~association, trust, or other entity holding a franchise to conduct greyhound~~
 33 ~~racing under this chapter.~~

34 ~~(c) At the payee’s direction, a payee may enter into a written payable~~
 35 ~~winnings agreement that authorizes:~~

36 ~~(1) A percentage or agreed-upon amount of the payable winnings~~

1 ~~to be deducted from the payable winnings by the payor at the payee's request;~~
2 ~~and~~

3 ~~(2) The payment of moneys from the payable winnings to be paid~~
4 ~~to a nonprofit organization described in 26 U.S.C. § 501(c), as in effect on~~
5 ~~January 1, 2019, as designated by the payee.~~

6 ~~(d) Payable winnings included in a payable winnings agreement shall be~~
7 ~~paid first to the nonprofit organization listed in the payable winnings~~
8 ~~agreement, with the remainder paid to the payee.~~

9
10 SECTION 2. Arkansas Code § 4-102-104(e), concerning exemptions to the
11 statutes regulating prize promotion, is amended to read as follows:

12 (e) This chapter does not apply to pari-mutuel wagering on horse
13 racing ~~and greyhound racing~~ permitted and regulated by Arkansas law.

14
15 SECTION 3. Arkansas Code § 15-11-503(14)(B)(vi)(b), concerning the
16 exceptions to the definition of "tourism attraction" under the Arkansas
17 Tourism Development Act, is amended to read as follows:

18 (b) However, a facility regulated under the Arkansas Horse Racing Law,
19 § 23-110-101 et seq., ~~or the Arkansas Greyhound Racing Law, § 23-111-101 et~~
20 ~~seq.,~~ shall be a tourism attraction for purposes of this subchapter for any
21 approved tourism attraction project as outlined in subdivision (14)(A) of
22 this section or for an approved tourism attraction project relating to pari-
23 mutuel racing at the facility and not for establishing a casino or for
24 offering casino-style gambling; and

25
26 SECTION 4. Arkansas Code § 19-5-303(u)(3), concerning the revenues
27 that comprise the Arkansas State University Mid-South Fund, is amended to
28 read as follows:

29 (3) The Arkansas State University Mid-South Fund shall consist of:
30 (A) Those general revenues as may be provided by law; and
31 (B) ~~Those special revenues as set out in § 19-6-301(183); and~~
32 ~~(C) Any other funds made available for the support of~~
33 Arkansas State University Mid-South which are required to be deposited into
34 the State Treasury by law.

35
36 SECTION 5. Arkansas Code § 19-5-601(b)(3), concerning revenues that

1 comprise the Municipal Aid Fund, is repealed.

2 ~~(3) Those special revenues as specified in § 19-6-301(135) of the~~
3 ~~Revenue Classification Law, § 19-6-101 et seq.~~

4
5 SECTION 6. Arkansas Code § 19-6-201(21), concerning the enumerated
6 general revenues of the state, is repealed.

7 ~~(21) Dog racing taxes and fees, including three percent (3%) of~~
8 ~~all moneys wagered up to and including one hundred twenty five million~~
9 ~~dollars (\$125,000,000) and seven percent (7%) of all moneys wagered in excess~~
10 ~~of one hundred twenty five million dollars (\$125,000,000) per calendar year~~
11 ~~at two hundred forty four (244) days of racing, one third (1/3) of the odd~~
12 ~~cents or breaks, the daily operating license fee and fees paid by each~~
13 ~~greyhound owner and trainer, simuleast taxes of two percent (2%) of all~~
14 ~~moneys wagered up to and including three hundred fifty thousand dollars~~
15 ~~(\$350,000), three percent (3%) in excess of three hundred fifty thousand~~
16 ~~dollars (\$350,000) but less than or equal to five hundred thousand dollars~~
17 ~~(\$500,000), and six percent (6%) in excess of five hundred thousand dollars~~
18 ~~(\$500,000), per racing performance and ten percent (10%) of admissions or ten~~
19 ~~cents (10¢) per admission, whichever sum is greater, as enacted by Acts 1957,~~
20 ~~No. 191, known as the "Arkansas Greyhound Racing Law", §§ 23-111-101—23-~~
21 ~~111-104, 23-111-201—23-111-205, 23-111-301—23-111-308, 23-111-501, 23-~~
22 ~~111-506, §23-111-507 [repealed], and §§23-111-508—23-111-514, and all laws~~
23 ~~amendatory thereto, and the additional four (4) of six (6) days of racing~~
24 ~~authorized in § 23-111-504;~~

25
26 SECTION 7. Arkansas Code § 19-6-301(15), concerning the enumerated
27 special revenues of the state, is repealed.

28 ~~(15) Dog racing taxes derived from all revenues from the pari-~~
29 ~~mutuel tax of fifteen (15) additional days of dog races authorized by §§ 23-~~
30 ~~111-502—23-111-505, and all laws amendatory thereto;~~

31
32 SECTION 8. Arkansas Code § 19-6-301(16), concerning the enumerated
33 special revenues of the state, is repealed.

34 ~~(16) Dog racing taxes derived from two thirds (2/3) of the net~~
35 ~~proceeds of three (3) additional days of dog races at each meet, as~~
36 ~~authorized by § 23-111-503(a)(2), and all laws amendatory thereto;~~

1
2 SECTION 9. Arkansas Code § 19-6-301(135), concerning the enumerated
3 special revenues of the state, is repealed.

4 ~~(135) Dog racing taxes derived from the net proceeds of two (2)~~
5 ~~of the additional six (6) days of dog races, as authorized by § 23-111-504;~~
6

7 SECTION 10. Arkansas Code § 19-6-301(183), concerning the enumerated
8 special revenues of the state, is repealed.

9 ~~(183) Dog racing taxes derived from seventy five percent (75%) of~~
10 ~~the net proceeds of six (6) additional days of dog races during each twelve-~~
11 ~~month period, § 23-111-515;~~
12

13 SECTION 11. Arkansas Code § 19-6-421 is repealed.

14 ~~19-6-421. Indigent Patient's Fund.~~

15 ~~The Indigent Patient's Fund shall consist of those special revenues as~~
16 ~~specified in § 19-6-301(15), there to be used to defray the cost of~~
17 ~~hospitalization and medical services provided to indigent Arkansas patients~~
18 ~~and for such other purposes as may be authorized or appropriated by law.~~
19

20 SECTION 12. Arkansas Code § 19-6-458 is repealed.

21 ~~19-6-458. Developmental Disabilities Services—Dog Track Special~~
22 ~~Revenue Fund.~~

23 ~~There is created on the books of the Treasurer of State, the Auditor of~~
24 ~~State, and the Chief Fiscal Officer of the State a fund to be known as the~~
25 ~~“Developmental Disabilities Services—Dog Track Special Revenue Fund” that~~
26 ~~shall consist of those special revenues as specified in § 19-6-301(16), there~~
27 ~~to be used for the sole benefit of community programs of the Division of~~
28 ~~Developmental Disabilities Services of the Department of Human Services~~
29 ~~licensed by the division.~~
30

31 SECTION 13. Arkansas Code § 20-27-2601(a)(1), concerning the
32 requirement that advertisements for gambling activities include information
33 concerning compulsive gambling disorders, is amended to read as follows:

34 (1) “Gambling activity” means:

35 (A) Casino gambling;

36 (B) Horse racing;

- 1 (C) ~~Greyhound racing;~~
- 2 ~~(D)~~ Electronic games of skill under § 23-113-103;
- 3 ~~(E)~~(D) Lotteries conducted under the Arkansas Scholarship
- 4 Lottery Act, § 23-115-101 et seq.; and
- 5 ~~(F)~~(E) Lotteries of other states advertising in the state;
- 6 and
- 7

8 SECTION 14. Arkansas Code § 23-110-405(e)(1), concerning the penalty
 9 for improper wagering, is amended to read as follows:

10 (e)(1) With the prior approval of the commission and pursuant to rules
 11 adopted by the commission, a franchise holder's patrons with money on deposit
 12 in an account with the franchise holder may place wagers by communication
 13 through telephone or other mobile device or through other electronic means on
 14 races conducted at the franchise holder's race track facility and horse races
 15 ~~or greyhound races~~ at other racetracks, whether or not the patron is located
 16 on the grounds of the franchise holder's race track facility when placing the
 17 wager.

18
 19 SECTION 15. Arkansas Code §§ 23-113-101 – 23-113-103 are amended to
 20 read as follows:

21 23-113-101. Legislative findings.

22 (a) It is found and determined by the General Assembly that:

23 (1) Horse racing ~~and greyhound racing~~ parks in the State of
 24 Arkansas promote economic and agribusiness activity in the state and
 25 especially in the local communities where the horse racing ~~and greyhound~~
 26 ~~racing~~ parks are located;

27 (2) Arkansas horse racing ~~and greyhound racing~~ parks also often
 28 promote tourism and positive publicity for the state, including recent
 29 national publicity surrounding the racehorse Smarty Jones, the winner of the
 30 2004 Arkansas Derby and the 2004 Kentucky Derby, that went on to be honored
 31 as the 2004 best three-year-old thoroughbred horse in the country;

32 (3) Many states, including Louisiana and Oklahoma, have
 33 authorized racetracks to offer wagering on additional forms of electronic
 34 games. The State of Texas is considering doing the same;

35 (4) Many Arkansans travel to adjoining states in order to wager
 36 at legal gambling establishments in those states. This adversely impacts

1 Arkansas tourism and results in certain economic activity leaving Arkansas
2 for the benefit of adjoining states;

3 (5) Economic and agribusiness benefits derived by the State of
4 Arkansas from horse racing ~~and greyhound racing~~ parks in Arkansas, including
5 Arkansas farms and breeding operations, are and will continue to be adversely
6 impacted by these developments in adjoining and other states;

7 (6) Although Arkansas horse racing ~~and greyhound racing~~ parks
8 presently are allowed to offer wagering on electronic games based on
9 previously run horse ~~and greyhound~~ races, racetracks in adjoining and other
10 states are allowed to offer more types of electronic wagering games; and

11 (7) These developments place Arkansas horse racing ~~and greyhound~~
12 ~~racing~~ parks at a competitive disadvantage to their counterparts in other
13 states and especially affect the economies of the local Arkansas communities
14 and related agribusinesses where the horse racing ~~and greyhound racing~~ parks
15 are located in Arkansas.

16 (b) It is further found and determined by the General Assembly that:

17 (1) If no effort is made to address these issues:

18 (A) Arkansans will continue to spend money out of state
19 which might otherwise be spent in Arkansas;

20 (B) Arkansas horse racing ~~and greyhound racing~~ parks will
21 remain at a competitive disadvantage to their out-of-state counterparts, and
22 this will not only adversely impact horse racing ~~and greyhound racing~~ parks
23 in Arkansas, but also related Arkansas agribusinesses, including farms and
24 breeding operations, and other Arkansas businesses that realize economic
25 benefits from horse racing ~~and greyhound racing~~ activities in Arkansas; and

26 (C) Jobs at Arkansas horse racing ~~and greyhound racing~~
27 parks and at related Arkansas agribusinesses, including farms and breeding
28 operations, along with jobs at other Arkansas businesses that realize
29 economic benefits from horse racing ~~and greyhound racing~~ activities in
30 Arkansas, may become in jeopardy; and

31 (2) If this chapter is enacted and becomes law and local voters
32 in the communities where the horse racing ~~and greyhound racing~~ parks are
33 located approve the wagering on additional games of skill at Arkansas horse
34 racing ~~and greyhound racing~~ parks as provided in this chapter:

35 (A) Arkansans will spend money in Arkansas which might
36 otherwise have been spent out of state;

1 (B) Arkansas horse racing ~~and greyhound racing~~ parks will
 2 become more competitive, and this will provide economic benefits to related
 3 Arkansas agribusinesses, including farms and breeding operations, as well as
 4 other related Arkansas businesses; and

5 (C) Jobs at Arkansas horse racing ~~and greyhound racing~~
 6 parks and at related agribusinesses, along with jobs at other businesses that
 7 realize economic benefits from horse racing ~~and greyhound racing~~ activities
 8 in Arkansas, will be better protected and more secure, and additional job
 9 opportunities may be created.

10 (c) For the reasons stated in subsections (a) and (b) of this section
 11 and other reasons, the General Assembly finds that cities or counties where
 12 horse racing ~~or greyhound racing~~ parks are located in Arkansas should have
 13 the opportunity to address these issues and promote economic development,
 14 tourism, and agribusiness by allowing the voters in those cities or counties
 15 to have the opportunity by local election to authorize horse racing ~~or~~
 16 ~~greyhound racing~~ parks in their communities to offer wagering on additional
 17 forms of electronic games of skill.

18
 19 23-113-102. Title.

20 This chapter shall be known and may be cited as the “Local Option Horse
 21 Racing ~~and Greyhound Racing~~ Electronic Games of Skill Act”.

22
 23 23-113-103. Definitions.

24 As used in this chapter:

25 (1) ~~“Arkansas Greyhound Racing Law” means the Arkansas Greyhound~~
 26 ~~Racing Law, § 23-111-101 et seq.;~~

27 ~~(2)~~ “Arkansas Horse Racing Law” means the Arkansas Horse Racing
 28 Law, § 23-110-101 et seq.;

29 ~~(3)~~(2) “Commission” means the Arkansas Racing Commission or its
 30 successor having jurisdiction over horse racing ~~and greyhound racing~~ in this
 31 state;

32 ~~(4)~~ ~~[Repealed.]~~

33 ~~(5)~~(A)(3)(A) “Electronic games of skill” means games played
 34 through any electronic device or machine that afford an opportunity for the
 35 exercise of skill or judgment when the outcome is not completely controlled
 36 by chance alone.

1 (B) "Electronic games of skill" does not include pari-
 2 mutuel wagering on horse racing ~~and greyhound racing~~ governed by the Arkansas
 3 Horse Racing Law, § 23-110-101 et seq., ~~or the Arkansas Greyhound Racing Law,~~
 4 ~~§ 23-111-101 et seq.,~~ whether pari-mutuel wagering on live racing, simulcast
 5 racing, or races conducted in the past and rebroadcast by electronic means;

6 ~~(6)(4)~~ "Franchise holder" means any person holding a franchise
 7 to conduct horse racing under the Arkansas Horse Racing Law, § 23-110-101 et
 8 seq., ~~or greyhound racing under the Arkansas Greyhound Racing Law, § 23-111-~~
 9 ~~101 et seq.;~~

10 ~~(7)(5)~~ "Net wagering revenues from electronic games of skill"
 11 means the gross wagering revenues received by a franchise holder from wagers
 12 placed by patrons on electronic games of skill, less amounts paid out or
 13 separately reserved under rules of the commission for future pay out to
 14 patrons on the wagers; and

15 ~~(8)(6)~~ "Person" means any individual, corporation, partnership,
 16 association, trust, or other entity.

17
 18 SECTION 16. Arkansas Code § 23-113-201(a)(1), concerning wagering on
 19 electronic games of skill conducted by franchise holders under the Local
 20 Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, is
 21 amended to read as follows:

22 (a)(1) In addition to pari-mutuel wagering on horse racing ~~and~~
 23 ~~greyhound racing~~ authorized by the Arkansas Horse Racing Law, § 23-110-101 et
 24 seq., ~~and the Arkansas Greyhound Racing Law, § 23-111-101 et seq.,~~
 25 ~~respectively,~~ any franchise holder may conduct wagering on electronic games
 26 of skill in accordance with this chapter at any time or times during the
 27 calendar year at locations on the grounds of the franchise holder's racetrack
 28 park site where the franchise holder is authorized by the Arkansas Racing
 29 Commission to conduct pari-mutuel wagering on horse racing ~~or greyhound~~
 30 ~~racing~~ pursuant to the Arkansas Horse Racing Law, § 23-110-101 et seq., ~~or~~
 31 ~~the Arkansas Greyhound Racing Law, § 23-111-101 et seq., as the case may be.~~

32
 33 SECTION 17. Arkansas Code § 23-113-201(b), concerning wagering on
 34 electronic games of skill conducted by franchise holders under the Local
 35 Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, is
 36 amended to read as follows:

1 (b)(1) In order to conduct wagering on electronic games of skill
 2 during a calendar year, the franchise holder must have been licensed by the
 3 Arkansas Racing Commission to conduct a live racing meet within the calendar
 4 year or the immediately preceding calendar year of ~~either~~

5 ~~(A) Horse~~ horse racing under the Arkansas Horse Racing Law,
 6 § 23-110-101 et seq. ~~or~~

7 ~~(B) Greyhound racing under the Arkansas Greyhound Racing~~
 8 ~~Law, § 23-111-101 et seq.~~

9 (2) However, the commission may waive the requirement of
 10 subdivision (b)(1) of this section if the license was not issued because of
 11 events such as fire, storm, accident or other casualty, epidemic, shortages
 12 of horses ~~or greyhounds~~, war, sabotage, acts of a public enemy, civil
 13 disturbances, strikes, labor disputes, work stoppages, or similar events.
 14

15 SECTION 18. Arkansas Code § 23-113-201(f)(1)(B), concerning the
 16 information a franchise holder is required to present to the Arkansas Racing
 17 Commission before conducting wagering on electronic games of skill under the
 18 Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act,
 19 is amended to read as follows:

20 (B) Evidence of anticipated economic benefits to the horse
 21 racing ~~or greyhound racing~~ industries in Arkansas, including Arkansas horse
 22 ~~or greyhound~~ farms and breeding operations and related agribusinesses, which
 23 may result, directly or indirectly, from the authorization of wagering on the
 24 electronic game of skill.
 25

26 SECTION 19. Arkansas Code § 23-113-201(f)(2)(A)(ii), concerning
 27 findings a franchise holder is required to make before conducting wagering on
 28 electronic games of skill under the Local Option Horse Racing and Greyhound
 29 Racing Electronic Games of Skill Act, is amended to read as follows:

30 (ii) Economic benefits to the horse racing ~~or greyhound~~
 31 ~~racing~~ industries in Arkansas, including Arkansas horse ~~or greyhound~~ farms
 32 and breeding operations and related agribusinesses, may result, directly or
 33 indirectly, from the authorization of wagering on the electronic game of
 34 skill.
 35

36 SECTION 20. Arkansas Code § 23-113-201(f)(3)(A)(i), concerning the

1 ability of a franchise holder to conduct wagering on electronic games of
 2 skill if certain findings are concluded under the Local Option Horse Racing
 3 and Greyhound Racing Electronic Games of Skill Act, is amended to read as
 4 follows:

5 (i) Economic benefits to the horse racing ~~or greyhound~~
 6 ~~racing~~ industries in Arkansas, including Arkansas horse ~~or greyhound~~ farms
 7 and breeding operations and related agribusinesses, may result, directly or
 8 indirectly, from the authorization of wagering on the electronic game of
 9 skill; and

10
 11 SECTION 21. Arkansas Code § 23-113-201(f)(4), concerning wagering on
 12 electronic games of skill conducted by franchise holders under the Local
 13 Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, is
 14 amended to read as follows:

15 (4) If the finding concludes that the game and electronic device
 16 or machine does not constitute an electronic game of skill authorized by this
 17 chapter, recommends changes in the proposed rules of play, or concludes that
 18 neither direct nor indirect economic benefits to the horse racing ~~or~~
 19 ~~greyhound racing~~ industries in Arkansas, including Arkansas horse ~~or~~
 20 ~~greyhound~~ farms and breeding operations and related agribusinesses, will
 21 result from the authorization of wagering on the electronic game of skill,
 22 the commission shall provide the franchise holder with the opportunity for a
 23 hearing by the commission before the finding is made final by the commission.
 24

25 SECTION 22. Arkansas Code § 23-113-303(a), concerning licenses for
 26 employees and suppliers under the Local Option Horse Racing and Greyhound
 27 Racing Electronic Games of Skill Act, is amended to read as follows:

28 (a) The Arkansas Racing Commission may require persons employed by the
 29 franchise holder in the conduct of wagering on electronic games of skill to
 30 obtain a license from the commission under procedures generally consistent
 31 with the licensing procedures otherwise applicable to other employees of the
 32 franchise holder engaged in the conduct of pari-mutuel wagering on horse
 33 racing ~~or greyhound racing, as the case may be.~~

34
 35 SECTION 23. Arkansas Code § 23-113-401 is amended to read as follows:
 36 23-113-401. Contribution to purses and promotion of Arkansas

1 thoroughbred ~~and greyhound~~ breeding activities.

2 (a) An amount equal to fourteen percent (14%) of the net wagering
3 revenues from electronic games of skill shall be set aside by the franchise
4 holder in a separate account and used only for purses for live horse racing
5 ~~or live greyhound racing~~ conducted by the franchise holder, as the case may
6 be.

7 (b) With respect to a franchise holder operating a franchise to
8 conduct horse racing, an amount equal to one percent (1%) of the net wagering
9 revenues from electronic games of skill conducted by the horse racing
10 franchise holder shall be paid by the franchise holder to the Arkansas Racing
11 Commission for deposit into the Arkansas Racing Commission Purse and Awards
12 Fund to be used for purse supplements, breeders' awards, owners' awards, and
13 stallion awards as provided in § 23-110-409 in order to promote and encourage
14 thoroughbred horse breeding activities in Arkansas.

15 ~~(c) With respect to a franchise holder operating a franchise to
16 conduct greyhound racing, an amount equal to one percent (1%) of the net
17 wagering revenues from electronic games of skill conducted by the greyhound
18 racing franchise holder shall be paid by the franchise holder to the
19 commission to be used for breeders' awards as provided in the commission's
20 rules governing greyhound racing in Arkansas in order to promote and
21 encourage greyhound breeding activities in Arkansas.~~

22 ~~(d)(1)(c)(1)~~ The dedication of net wagering revenues from electronic
23 games of skill to purses and breeding activities as set forth in this section
24 shall not be subject to any contract or agreement between the franchise
25 holder and any organization representing horsemen ~~or greyhound~~ owners or
26 trainers, to the end that any such contractual obligations for the use of
27 moneys for purses shall not apply to the funds dedicated to purses and
28 breeding activities as set forth in this section.

29 (2) The moneys dedicated to purses and breeding activities as
30 set forth in this section are intended to be in addition to any such
31 contractual purse obligations affecting moneys other than the amounts
32 dedicated to purses and breeding activities as set forth in this section, as
33 well as in addition to amounts required to be used for purses and breeding
34 activities under applicable provisions of the Arkansas Horse Racing Law, §
35 23-110-101 et seq., ~~and the Arkansas Greyhound Racing Law, § 23-111-101 et~~
36 ~~seq., as the case may be.~~

1 ~~(e)~~(d) The commission shall have jurisdiction to check and verify
 2 compliance by the franchise holder with the provisions of this section and
 3 shall make periodic determinations as to compliance under rules adopted by
 4 the commission.

5
 6 SECTION 24. Arkansas Code § 23-113-603 is amended to read as follows:

7 23-113-603. Pari-mutuel wagering on horse racing ~~and greyhound racing.~~

8 (a) Pari-mutuel wagering on horse racing ~~and greyhound racing~~, whether
 9 on live racing, simulcast racing, or races conducted in the past and
 10 rebroadcast by electronic means, shall continue to be governed by the
 11 Arkansas Horse Racing Law, § 23-110-101 et seq., ~~and the Arkansas Greyhound~~
 12 ~~Racing Law, § 23-111-101 et seq., respectively,~~ and not by this chapter.

13 (b)(1) Provisions of the Arkansas Horse Racing Law, § 23-110-101 et
 14 seq., ~~and the Arkansas Greyhound Racing Law, § 23-111-101 et seq.,~~
 15 prohibiting wagering other than on horse ~~or greyhound~~ races and other than
 16 under the pari-mutuel or certificate method of wagering shall not apply to
 17 wagering on electronic games of skill conducted pursuant to this chapter, and
 18 to this end the provisions of § 23-110-405(d)(1) and (2), ~~§ 23-111-508(b), §~~
 19 ~~23-111-508(d)(1) and (2), § 23-111-508(d)(4),~~ and any other inconsistent
 20 provisions of the Arkansas Horse Racing Law, § 23-110-101 et seq., ~~and the~~
 21 ~~Arkansas Greyhound Racing Law, § 23-111-101 et seq.,~~ shall not apply to
 22 wagering on electronic games of skill conducted in accordance with this
 23 chapter.

24 (2) Wagering under this chapter is not required to be pari-
 25 mutuel.

26
 27 SECTION 25. Arkansas Code § 23-115-103(13)(C), concerning the
 28 definition of "lottery" under the Arkansas Scholarship Lottery Act, is
 29 amended to read as follows:

30 (C) "Lottery" does not include:

31 (i) Casino gambling;

32 (ii) A video lottery;

33 (iii) Pari-mutuel wagering on horse racing ~~or~~
 34 ~~greyhound racing~~ governed by the Arkansas Horse Racing Law, § 23-110-101 et
 35 seq., ~~or the Arkansas Greyhound Racing Law, § 23-111-101 et seq.,~~ whether the
 36 pari-mutuel wagering is on live racing, simulcast racing, or races conducted

1 in the past and rebroadcast by electronic means;

2 (iv) Wagering on electronic games of skill under the
 3 Local Option Horse Racing ~~and Greyhound Racing~~ Electronic Games of Skill Act,
 4 § 23-113-101 et seq.; or

5 (v) Conducting or participating in charitable bingo
 6 and raffles under the Charitable Bingo and Raffles Enabling Act, § 23-114-101
 7 et seq.;

8
 9 SECTION 26. Arkansas Code § 23-115-408 is amended to read as follows:
 10 23-115-408. Video lotteries by institution or facility governed by
 11 other wagering laws prohibited.

12 This chapter does not permit the use of a video lottery for any
 13 purposes by any institution or facility governed by the:

- 14 (1) Arkansas Horse Racing Law, § 23-110-101 et seq.; or
- 15 (2) ~~Arkansas Greyhound Racing Law, § 23-111-101 et seq.; or~~
- 16 ~~(3) Local Option Horse Racing and Greyhound Racing~~ Electronic
 17 Games of Skill Act, § 23-113-101 et seq.

18
 19 SECTION 27. Arkansas Code § 23-115-409 is amended to read as follows:
 20 23-115-409. Laws under other wagering chapters not affected.

21 This chapter does not alter wagering that may be conducted under the
 22 Arkansas Horse Racing Law, § 23-110-101 et seq., ~~the Arkansas Greyhound~~
 23 ~~Racing Law, § 23-111-101 et seq.,~~ or the Local Option Horse Racing ~~and~~
 24 ~~Greyhound Racing~~ Electronic Games of Skill Act, § 23-113-101 et seq.

25
 26 SECTION 28. Arkansas Code § 23-116-102(5)(D), concerning conditions
 27 for a fantasy sports game or contest to meet the definition of "paid fantasy
 28 sports game" is amended to read as follows:

29 (D) The statistical results of the performance of
 30 individuals under subdivision (5)(B) of this section are not based on college
 31 or high school sports or on horse racing ~~or greyhound racing~~;

32
 33 SECTION 29. Arkansas Code § 23-118-102(1)(C)(iii), concerning
 34 exclusions from the definition of "esports" for the purpose of the laws
 35 governing paid esports tournaments, is amended to read as follows:

36 (iii) A game based on or otherwise involving horse

1 racing ~~or dog racing~~; or

2

3 SECTION 30. Arkansas Code § 26-18-102 is amended to read as follows:

4 26-18-102. Purpose.

5 The purpose of this chapter is to provide, as far as possible, uniform
6 procedures and remedies with respect to all state taxes except the following:

7 (1) The Motor Vehicle Administration, Certificate of Title, and
8 Antitheft Act, § 27-14-101 et seq.;

9 (2) Motor Vehicle License and Fees, §§ 26-55-101, 27-14-305, and
10 § 27-14-501 et seq.;

11 (3) The Motor Vehicle Driver's License Act, § 27-16-101 et seq.;

12 (4) The Uniform Act Regulating Traffic on Highways of Arkansas,
13 § 27-49-101 et seq.;

14 (5) The Arkansas Horse Racing Law, § 23-110-101 et seq.;

15 ~~(6) The Arkansas Greyhound Racing Law, § 23-111-101 et seq.;~~

16 ~~(7)~~ Boxing and Wrestling Exhibitions, §§ 17-22-201 – 17-22-205
17 and § 17-22-301 et seq.; and

18 ~~(8)~~(7) Ad valorem taxes collected pursuant to § 26-26-1614.

19

20 SECTION 31. Arkansas Code § 26-51-1302(2), concerning the definition
21 of "racing winnings" under the Winnings Withholding Act of 1987, is amended
22 to read as follows:

23 (2) "Racing winnings" means winnings from ~~live dog racing or~~
24 horse racing based on the amount paid with respect to the wager less the
25 amount of the wager.

26

27 SECTION 32. Arkansas Code § 26-51-1303(a), concerning the amount
28 deducted and withheld for racing winnings under the Winnings Withholding Act
29 of 1987, is amended to read as follows:

30 (a) Every holder of a franchise to conduct ~~dog racing or~~ horse racing
31 in this state making any single payment of racing winnings on a single
32 wagering transaction of more than one thousand dollars (\$1,000), if the
33 amount of the racing winnings is at least three hundred (300) times as large
34 as the amount wagered, shall deduct and withhold an amount equal to seven
35 percent (7%) from the racing winnings.

36

1 SECTION 33. Arkansas Code § 26-51-1305 is amended to read as follows:
2 26-51-1305. Liability of franchise holders.

3 Every holder of a franchise to conduct ~~dog racing~~, horse racing, or
4 electronic games of skill shall be liable for amounts required to be deducted
5 and withheld by this subchapter regardless of whether the amounts were in
6 fact deducted and withheld.

7
8 SECTION 34. Arkansas Code § 26-51-1308(a), concerning the duties of
9 franchise holders and payees under the Winnings Withholding Act, is amended
10 to read as follows:

11 (a) Every holder of a franchise to conduct ~~dog racing~~, horse racing,
12 or electronic games of skill who fails to withhold or pay to the Secretary of
13 the Department of Finance and Administration any sums required by this
14 subchapter to be withheld and paid shall be personally and individually
15 liable therefor. Any sum or sums withheld in accordance with the provisions
16 of this subchapter shall be deemed to be held in trust for the State of
17 Arkansas and shall be recorded by the franchise holder in a ledger account so
18 as to clearly indicate the amount of tax withheld and that the amount is the
19 property of the State of Arkansas.

20
21 SECTION 35. Arkansas Code § 26-63-401(3)(A), concerning the definition
22 of "tourist attraction" for tourism tax purposes, is amended to read as
23 follows:

24 (3)(A) "Tourist attraction" means a theme park, a water park, a
25 water slide, a river boat or lake boat cruise or excursion, a local
26 sightseeing or excursion tour, a helicopter tour, an excursion railroad, a
27 carriage ride, horse racing, ~~dog racing~~, car racing, an indoor or outdoor
28 play or music show, folk center, observation tower, a privately owned or
29 operated museum, a privately owned historic site or building, or a natural
30 formation such as a spring, bridge, rock formation, cave, or cavern.

31
32 SECTION 36. Arkansas Code § 26-73-103(c)(1), concerning exceptions to
33 the levy of new local taxes permitted, is amended to read as follows:

34 (c)(1) The provisions of this subchapter shall not apply to lands,
35 buildings, facilities, and equipment, also known as licensed facilities,
36 located in this state used by a franchise holder at any time for licensed

1 horse ~~or dog~~ racing in this state nor to any income of the franchise holder
2 derived from the use of such licensed facilities from every source whatever
3 except the sale of food and beverages at such licensed facilities.

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