

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 134

By: Senate Revenue and Tax Committee

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 889 OF 1979 [ARK. STAT. 84-1833 THROUGH 84-1844] RELATING TO THE ARKANSAS CORPORATE FRANCHISE TAX."

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

SECTION 1. Section 2 of Act 889 of 1979, the same being Arkansas Statutes 84-1834, is hereby amended to read as follows:

"Section 2. As used in this Act unless the context requires otherwise 'Corporation' means any corporation, domestic and foreign, active and inactive, which is organized in or qualified under the laws of the State of Arkansas and includes, but is not limited to, any person or group of persons, any association, joint stock company, business trust, or other organizations with or without charter constituting a separate legal entity of relationship with the purpose of obtaining some corporate privilege or franchise which is not allowed to them as individuals and which is exercising, or attempting to exercise corporate type acts, whether or not existing by virtue of a particular statute; provided, that this definition does not include non-profit corporations, corporations which are organizations exempt from the federal income tax, or organizations formed pursuant to the Uniform Partnership Act or the Uniform Limited Partnership Act.

SECTION 2. Section 4 of Act 889 of 1979, the same being Arkansas Statutes 84-1836, is hereby amended to read as follows:

"Section 4. (a) The Secretary of State shall furnish report forms to each corporation subject to the provisions of this act by mailing them to the corporation's last known address on or before the 20th day of February each year.

(b) Any corporation that fails to receive the report forms by the 20th

day of March of the reporting year shall make written request for them to the Secretary of State on or before the 31st day of March.

(c) Each corporation, subject to the requirements of this act, shall file a franchise tax report with the Secretary of State which shows its condition and status as of the close of business on December 31st, last preceding or as of the close of business of the last day of the fiscal year of the corporation as established for federal income tax purposes, along with forms and other information required by the Secretary of State. The franchise tax as computed on the report shall be remitted with the franchise tax report on or before May 1st of the reporting year.

(d) Every corporation organizing or qualifying in this State through the Secretary of State shall pay an initial franchise tax upon the filing of the corporation's Articles of Incorporation with the Secretary of State. Corporations organizing or qualifying through any other office or agency of this State shall pay an initial franchise tax within thirty (30) days after being issued a corporate permit or authority to do business. The initial franchise tax shall be a portion of the annual franchise tax that would be paid by the corporation. The amount of the initial franchise tax shall be in proportion to the number of months remaining in the calendar year.

(e) Every corporation that dissolves or withdraws prior to May 1st of the reporting year shall not be required to pay the franchise tax for the year in which dissolved or withdrawn.

(f) The Secretary of State, upon written request, may grant an extension of time for the filing of a franchise tax report. The tax as computed on the report form shall be remitted with the report. Extensions may not be granted beyond July 1st of the year in which such report is due to be filed.

(g) Where the par value of the shares of a corporation is required to be stated in any franchise tax report and the shares of the corporation are without par value, the number of such shares shall be stated. For the purpose of computing the franchise tax prescribed by this act, such shares of no par value shall be considered to be of the par value of twenty-five dollars (\$25) per share.

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

(i) Every franchise tax report shall contain the following statement: 'I

declare, under the penalties of perjury, that the foregoing statements are true to the best of my knowledge and belief.' This statement shall be signed by the president, vice president, secretary, treasurer or controller of the corporation."

SECTION 3. Section 6 of Act 889 of 1979, the same being Arkansas Statutes 84-1838, is hereby amended to read as follows:

"Section 6. (a) The Secretary of State, from the information reported and from any other information received by him bearing upon the subject, shall compute the amount of tax of each corporation at the rate or rates provided by this act.

(b) If the tax so computed exceeds the payment remitted with the report filed by the taxpayer, the Secretary of State shall assess the corporation for the additional tax due and a penalty of ten percent (10%) of the total amount of the deficiency, in addition to interest to be collected on the deficiency at the rate of ten percent (10%) per annum.

(c) A corporation may seek relief from any proposed assessment of taxes pursuant to Act 434 of 1967, as amended, the Arkansas Administrative Procedure Act. This method shall be the exclusive method for seeking relief."

SECTION 4. Section 8 of Act 889 of 1979, the same being Arkansas Statutes 84-1840, is hereby amended to read as follows:

"Section 8. (a) The Bank Commissioner, Insurance Commissioner, and any other officer or agency of the State authorized to issue corporate permits or authorities to do business in this State shall prepare and maintain a correct list of all corporations organizing or qualifying through their respective offices or agencies. Each official or agency shall file with the Secretary of State a monthly report showing the name and address of each new corporation organized or qualified, authorized and outstanding capital stock, name changes, mergers, charter forfeitures, dissolutions, or withdrawals, and all other information concerning the corporation required by the Secretary of State.

(b) Upon request of the Secretary of State, each official or agency shall prepare and certify to the Secretary of State a complete list of the names and addresses of all corporations which have organized or qualified through their respective office or agency and which are subject to the provisions of this

act.

(c) Officials or agencies of the State, county or municipalities authorized to issue permits shall notify each corporation receiving a permit of the requirements to register the corporation with the Secretary of State prior to conducting business in Arkansas.

(d) Any corporation filing instruments providing for the organization of any common law or statutory trust or similar organization with any county clerk, or other clerk, of the various counties of this State, shall file the same in duplicate. The clerk receiving the documents for filing or recording shall file mark the same, and forward the file marked duplicate to the Secretary of State.

(e) The Commissioner of Revenues shall provide the Secretary of State a list of corporations doing business in this State and filing tax reports with the Commission. Provided, however, that the Commissioner of Revenues shall not include any information deemed confidential by any other law."

SECTION 5. Section 9 of Act 889 of 1979, the same being Arkansas Statutes 84-1841, is hereby amended to read as follows:

"Section 9. Applications for dissolution or withdrawal by a corporation, association or organization cannot be accepted by the authority which initially authorized or granted an authority to the corporation, to do business in Arkansas until receipt of a statement verified by the Secretary of State that the franchise tax due has been paid."

SECTION 6. Section 10 of Act 889 of 1979, the same being Arkansas Statutes 84-1842, is hereby amended to read as follows:

"Section 10. (a) On or before November 1 of each year, the Secretary of State shall file with the Governor four (4) copies of a certified list, of all corporations, both domestic and foreign, which according to his records, are delinquent in the payment of the annual franchise tax for the current year or a prior year or years.

(b) The Governor, within fifteen (15) days after receipt of the list, shall issue his proclamation proclaiming the corporate charters or authorities, as the case may be, of the corporations to be forfeited.

(c) A copy of the proclamation shall be furnished to the Secretary of State.

(d) A copy of the proclamation or applicable portion thereof, shall be furnished to each other official or agency of the State as are authorized to issue corporation charters or authorities. Upon their receipt of the proclamation, the several officials shall at once correct their respective records in accordance with the proclamation."

SECTION 7. Section 11 of Act 889 of 1979, the same being Arkansas Statutes 84-1843, is hereby amended to read as follows:

"Section 11. (a) Any corporation whose charter or permit authority to do business in the State has been declared forfeited by proclamation of the Governor may be reinstated to all its rights, powers and property. The reinstatement shall be made after filing of all delinquent franchise tax reports satisfactory to the Secretary of State and the payment of all taxes and penalties due for each year of delinquency; provided, however, that no reinstatement shall be allowed after three (3) years from the date the charter or permit authority to do business in the State has been declared forfeited by proclamation of the Governor.

(b) If the Secretary of State issued the original corporate charter, permit or authority, the Secretary of State shall reinstate the corporation upon payment by the corporation of all amounts due, as provided in subsection (a) of this section. If the original corporate charter, permit or authority was issued by an official other than the Secretary of State, the official shall reinstate the corporation upon the corporation's filing with the official the receipt of the Secretary of State showing payment of all amounts due, as provided in subsection (a) of this section. Thereafter, the corporation shall stand in all respects as though its name had never been declared forfeited."

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 9. This Act shall become effective on July 1, 1988.

