

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Nelson

SENATE BILL 507

"AN ACT TO AMEND SUBSECTION (a) OF SECTION 6 OF ACT 401 OF 1979, AS AMENDED, [ARK. STATS. 84-4706 (a)], TO PROVIDE FOR THE CONFIDENTIALITY OF ALL TAX RETURNS, AUDIT REPORTS AND INFORMATION PERTAINING TO THE TAX RETURNS OF INDIVIDUALS, CORPORATIONS, PARTNERSHIPS, SOLE PROPRIETORSHIPS OR OTHER ORGANIZATIONS AND ASSOCIATIONS; TO AMEND SECTION 4 OF ACT 93 OF 1967, AS AMENDED, [ARK. STATS. 12-2804], TO PROVIDE THAT ALL TAX RETURNS, AUDIT REPORTS AND INFORMATION PERTAINING TO THE TAX RETURNS OF INDIVIDUALS, CORPORATIONS, PARTNERSHIPS, SOLE PROPRIETORSHIPS OR OTHER ORGANIZATIONS AND ASSOCIATIONS WHICH ARE IN THE CUSTODY OF THE COMMISSIONER OF REVENUES SHALL NOT BE SUBJECT TO DISCLOSURE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT; AND FOR OTHER PURPOSES."

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

Section 1. Subsection (a) of Section 6 of Act 401 of 1979, as amended, [Ark. Stats. 84-4706 (a)] is hereby amended to read as follows:

"(a) The Commissioner is the official custodian of all returns and records required by any state tax law to be filed with the Commissioner and is required to take all steps necessary to maintain their confidentiality. Except as otherwise provided by this Act, the returns, records and files of the Commissioner concerning the administration of any State Tax Law are confidential and privileged. These returns, records and files and any information obtained from these returns, records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the Commissioner or any other person who may have obtained these returns, records and files. It is the specific intent of this Act that all tax returns, audit reports and information pertaining to the tax

returns of any individual, corporation, partnership, sole proprietorship or other business or association shall not be subject to the provisions of Act 93 of 1967, as amended, the same being the Arkansas Freedom of Information Act, and shall not be subject to disclosure, after the passage of this Act, except as provided in Subsection (b) of this Section."

SECTION 2. Section 4 of Act 93 of 1967, as amended, [Ark. Stats. §12-2804] is hereby amended to read as follows:

"Section 4. Examination and copying of public records. - Except as otherwise specifically provided herein, by laws now in effect, or laws hereinafter specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records. It is the specific intent of this Section that all tax returns, audit reports and information pertaining to the tax returns of individuals, corporations, partnerships, sole proprietorships or other organizations and associations of which the Commissioner of Revenues is the official custodian; medical, scholastic, and adoption records; the site files and records maintained by the Arkansas Historic Preservation Program and the Arkansas Archeological Survey; grand jury minutes; unpublished drafts of judicial or quasi-judicial opinions and decisions; undisclosed investigations by law enforcement agencies of suspected criminal activity; unpublished memoranda, working papers, and correspondence of the Governor, Legislators, Supreme Court Justices, and the Attorney General; documents which are protected from disclosure by order or rule of court; files which, if disclosed, would give advantage to competitors or bidders; and other similar records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this Act.

Reasonable access to public records and reasonable comforts and facilities for the full exercise of the right to inspect and copy such records shall not be denied to any citizen.

If a public record is in active use or in storage and, therefore, not available, at the time a citizen asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within three (3) days, at which time the record will be available for the exercise of the right given by this Act."

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It is hereby found and determined by the General Assembly that as a result of the recent court decision of Ragland vs. Yeargan, 288, Ark. 81 (1986), certain tax returns, audit reports and tax information of taxpayers have become subject to review and inspection in violation of the rights of confidentiality and privacy which these taxpayers are entitled; and that the immediate passage of this Act is necessary to provide that tax returns, audit reports and tax information of all taxpayers shall be confidential. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

