

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 2186

4
5 By: Representative Courtway
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For An Act To Be Entitled

9 "TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMIN-
10 ISTRATION TO DECERTIFY ANY PARTICIPANT RECEIVING
11 BENEFITS UNDER AN INCENTIVE PROGRAM WHEN THE
12 PARTICIPANT DOES NOT QUALIFY FOR BENEFITS UNDER THE
13 PROGRAM; AND FOR OTHER PURPOSES."

Subtitle

15 "TO AUTHORIZE THE DEPARTMENT OF FINANCE
16 AND ADMINISTRATION TO DECERTIFY
17 UNQUALIFIED PARTICIPANTS RECEIVING
18 BENEFITS UNDER AN INCENTIVE PROGRAM."
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. (1) "Department" means the Arkansas Department of Finance
25 and Administration.

26 (2) "Director" means the director of the department.

27 (3) "Incentive Program" means any statutory program which allows a
28 taxpayer to apply for and receive financial benefits that the department
29 administers either solely or jointly with another state agency or department.
30 Incentive programs include, but are not limited to the following:

<u>Program Name</u>	<u>A. C. A.</u>
<u>Arkansas Economic Development Act of 1995</u>	<u>beginning at § 15-4-1901</u>
<u>Arkansas Economic Development Incentive Act of 1993</u>	<u>beginning at § 15-4-1601</u>
<u>Arkansas Enterprise Zone Act of 1993</u>	<u>beginning at § 15-4-1701</u>
<u>Manufacturer's Investment Sales & Use Tax Credit</u> <u>Act of 1985</u>	<u>beginning at § 26-52-1701</u>

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 2 Arkansas Tourism Development Act beginning at § 15-11-501
 3 Motion Picture Incentive Act of 1997 beginning at 15-4-2001
 4 All future incentive programs which come within the above definition.

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 6 SECTION 2. If the department determines that a participant receiving
 7 benefits under an incentive program is not qualified to participate in the
 8 program, the department shall decertify the company. The decertification
 9 shall specify the date on which the participant did not qualify for benefits.
 10 Any participant decertified shall not receive any benefits under the incentive
 11 program. Grounds for decertification are:

12 (1) If the participant does not meet the statutory requirements for
 13 participation in the incentive program; or

14 (2) The participant has failed to comply with the incentive program
 15 rules or regulations; or

16 (3) The participant did not comply with the terms of the incentive plan
 17 or agreement entered into establishing the incentives.

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 19 SECTION 3. (a) Participants decertified by the department shall be
 20 liable for the repayment of benefits. If the statutes governing the incentive
 21 program specify the parameters for repaying the benefits, those provisions
 22 shall control. Otherwise, a decertified participant must repay all benefits
 23 which were received after it no longer qualified for the benefits, plus
 24 penalty and interest at the rate of ten percent (10%) per annum from the date
 25 the participant received the benefit.

26 (b) The director may bring any lawful action to recover any amount for
 27 which the participant is liable.

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 29 SECTION 4. The Arkansas Department of Economic Development, or other
 30 state agency with primary authority for administering an incentive program,
 31 shall notify each applicant for participation in an incentive program that
 32 participants are liable for the repayment of benefits plus penalty and
 33 interest if they are decertified by the department.

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 35 SECTION 5. The prohibitions against disclosure of confidential tax
 36 information provided in ACA § 26-18-301 shall not apply to information

1 regarding any action the department takes in decertifying a participant in an
2 incentive program.

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4 SECTION 6. The director is authorized to promulgate rules and
5 regulations necessary to implement the provisions of this act.

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7 SECTION 7. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 8. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 9. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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