

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

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: H3/21/07*

# A Bill

HOUSE BILL 2762

5 By: Representative Saunders  
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## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE APPLICABILITY OF  
10 ENVIRONMENTAL DISCLOSURE REQUIREMENTS TO ARKANSAS  
11 BUSINESSES; AND FOR OTHER PURPOSES.  
12

### Subtitle

14 TO CLARIFY THE APPLICABILITY OF  
15 ENVIRONMENTAL DISCLOSURE REQUIREMENTS TO  
16 ARKANSAS BUSINESSES.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 8-1-106(b), concerning environmental  
22 disclosure requirements is amended to read as follows:

23 (b)(1) Except as provided in ~~subdivision (4)~~ subdivisions (b)(2) and  
24 (b)(4) of this section, all applicants for the issuance or transfer of any  
25 permit, license, certification, or operational authority issued by the  
26 Arkansas Department of Environmental Quality shall file a disclosure  
27 statement with their applications. Deliberate falsification or omission of  
28 relevant information from disclosure statements shall be grounds for civil or  
29 criminal enforcement action or administrative denial of a permit, license,  
30 certification, or operational authorization.

31 (2) The following persons or entities are not required to file a  
32 disclosure statement pursuant to this section:

33 (A)(i) Governmental entities, consisting only of  
34 subdivisions or agencies of the federal government, agencies of the state  
35 government, counties, municipalities, or duly authorized regional solid waste  
36 authorities as defined by § 8-6-707.



1 (ii) This exemption shall not extend to improvement  
2 districts or any other subdivision of government which is not specifically  
3 instituted by an act of the General Assembly; ~~and~~

4 (B) Applicants for a general permit to be issued by the  
5 department pursuant to its authority to implement the National Pollutant  
6 Discharge Elimination System for storm water discharge; and

7 (C)(i) Applicants for the issuance or transfer of any  
8 permit, license, certification, or other operational authority to a regulated  
9 entity with at least one (1) year of authorized operations under the  
10 regulatory oversight of the department.

11 (ii) The disclosure requirements of this  
12 section shall not apply to the application process for renewal of expiring  
13 permits, licenses, certifications, or operational authorizations.

14 (3) Nothing in this subsection, including the exemptions in  
15 ~~subdivision (2) of this subsection~~ subdivision (b)(2) of this section, shall  
16 be construed as a limitation upon the authority of the director to deny a  
17 permit based upon a history of noncompliance to any applicant or for other  
18 just cause.

19 (4) If the applicant is a publicly held company required to file  
20 periodic reports under the Securities and Exchange Act of 1934 or a wholly  
21 owned subsidiary of a publicly held company, the applicant shall not be  
22 required to submit a disclosure statement, but shall submit the most recent  
23 annual and quarterly reports required by the Securities and Exchange  
24 Commission which provide information regarding legal proceedings in which the  
25 applicant has been involved. The applicant shall submit such other  
26 information as the director may require that relates to the competency,  
27 reliability, or responsibility of the applicant and affiliated persons.

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29 *SECTION 2. Arkansas Code § 8-1-106(a)(1), concerning environmental*  
30 *disclosure requirements, is amended to read as follows:*

31 *(a) For the purposes of this section:*

32 *(1) "Affiliated person" ~~includes, but is not limited to~~ means:*

33 *(A) Any officer, director, or partner of the applicant;*

34 *(B) Any person employed by the applicant in a supervisory*  
35 *capacity over operations of the facility which is the subject of the*  
36 *application which may adversely impact the environment, or with discretionary*

1 authority over such operations;

2 (C) Any person owning or controlling more than five  
3 percent (5%) of the applicant's debt or equity; and

4 (D) Any person who is not now in compliance or has a  
5 history of noncompliance with the environmental laws or regulations of this  
6 state or any other jurisdiction and who through relationship by affinity or  
7 consanguinity or through any other relationship could be reasonably expected  
8 to significantly influence the applicant in a manner which could adversely  
9 affect the environment;

10 (2) "Disclosure statement" means a written statement by the  
11 applicant which contains:

12 (A) The full name, business address, and social security  
13 number of the applicant and all affiliated persons;

14 (B) The full name and business address of any legal entity  
15 in which the applicant holds a debt or equity interest of at least five  
16 percent (5%) or which is a parent company or subsidiary of the applicant, and  
17 a description of the ongoing organizational relationships as they may impact  
18 operations within the state;

19 (C) A description of the experience and credentials of the  
20 applicant, including any past or present permits, licenses, certifications,  
21 or operational authorizations relating to environmental regulation;

22 (D) A listing and explanation of any civil or criminal  
23 legal actions by government agencies involving environmental protection laws  
24 or regulations against the applicant and affiliated persons in the ten (10)  
25 years immediately preceding the filing of the application, including  
26 administrative enforcement actions resulting in the imposition of sanctions,  
27 permit or license revocations or denials issued by any state or federal  
28 authority, actions that have resulted in a finding or a settlement of a  
29 violation, and actions that are pending;

30 (E) A listing of any federal environmental agency and any  
31 other environmental agency outside this state that has or has had regulatory  
32 responsibility over the applicant; and

33 (F) Any other information the Director of the Arkansas  
34 Department of Environmental Quality may require that relates to the  
35 competency, reliability, or responsibility of the applicant and affiliated  
36 persons; and

