

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 560

5 By: Senators B. Johnson, J. Hendren
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS PERTAINING TO THE
9 ADMINISTRATION OF STATE TAXES; TO AMEND THE
10 ADMINISTRATIVE HEARING PROCEDURES FOR STATE TAXES; TO
11 AMEND THE PROCEDURES OF TAXPAYER JUDICIAL RELIEF; TO
12 CREATE THE TAX APPEALS COMMISSION ACT; TO CREATE A
13 FUND FOR THE TAX APPEALS COMMISSION; AND FOR OTHER
14 PURPOSES.
15

Subtitle

16
17
18 AN ACT TO AMEND THE ADMINISTRATION OF
19 STATE TAXES; TO AMEND THE ADMINISTRATIVE
20 HEARING PROCEDURES FOR STATE TAXES; TO
21 CREATE THE TAX APPEALS COMMISSION ACT;
22 AND TO CREATE A FUND FOR THE TAX APPEALS
23 COMMISSION.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 26, Chapter 18, is amended to add an
29 additional subchapter to read as follows:

30 Subchapter 11 – Tax Appeals Commission Act

31
32 26-18-1101. Title.

33 This subchapter shall be known and may be cited as the “Tax Appeals
34 Commission Act”.
35

36 26-18-1102. Legislative purpose.



1 The purpose of this subchapter is to increase public confidence in the
 2 fairness of the state tax system by establishing an independent tax appeals
 3 commission within the executive branch of state government to ensure due
 4 process in the resolution of tax disputes between taxpayers and the
 5 Department of Finance and Administration.

6
 7 26-18-1103. Legislative intent - Construction.

8 This subchapter shall be interpreted and construed to further the
 9 intent of the General Assembly to provide the people of Arkansas with a fair
 10 and independent Tax Appeals Commission to hear and resolve tax disputes
 11 between taxpayers and the Department of Finance and Administration.

12
 13 26-18-1104. Definition.

14 As used in this subchapter, "taxpayer" means a supplier, distributor,
 15 partnership, limited liability company, corporation, person, user, off-road
 16 consumer, or any entity that:

17 (1) Is challenging the state's jurisdiction over the taxpayer;

18 or

19 (2) Has standing to challenge a decision by the Department of
 20 Finance and Administration:

21 (A) Imposing a liability for tax, penalty or interest;

22 (B) Denying a refund or credit application;

23 (C) Canceling, refusing, or revoking a license or permit
 24 under § 26-18-601, § 26-55-219, § 26-55-231, or § 26-56-311;

25 (D) Proposing an assessment of taxes;

26 (E) Closing a noncompliant taxpayer's business;

27 (F) Relating to a jeopardy assessment;

28 (G) Seizing a vending device or a coin-operated amusement
 29 device; or

30 (H) Taking any other action that provides a taxpayer the
 31 right to a hearing with the Tax Appeals Commission under state law.

32
 33 26-18-1105. Tax Appeals Commission - Creation.

34 (a) The Tax Appeals Commission is created in the executive branch of
 35 state government.

36 (b) The commission shall be separate from and independent of the

1 authority, control, and supervision of the Department of Finance and
2 Administration.

3 (c) The commission shall have a seal.

4
5 26-18-1106. Appointment of commissioners.

6 (a)(1) The Tax Appeals Commission shall consist of five (5)
7 commissioners.

8 (2) Each commissioner shall be subject to the requirements under
9 § 26-18-1107.

10 (b)(1) The commissioners shall be appointed by the Governor, subject
11 to confirmation by the Senate.

12 (2) However, if a commissioner is appointed while the General
13 Assembly is not in session, the commissioner may qualify and hold the
14 position of commissioner unless the appointment is rejected by the Senate
15 under § 10-2-113.

16 (c)(1) The Governor shall designate one (1) of the commissioners as
17 Chief Commissioner.

18 (2)(A) The Chief Commissioner shall serve at the pleasure of the
19 Governor.

20 (B) The Governor may revoke the designation of Chief
21 Commissioner and may designate a new Chief Commissioner at any time.

22 (3) The Chief Commissioner shall:

23 (A) Be an attorney licensed to practice law in the State
24 of Arkansas;

25 (B) Act as the executive officer of the commission;

26 (C) Be charged with the administration of the commission;

27 (D) Apportion among the commissioners all causes, matters,
28 and hearings coming before the commission; and

29 (E) Take any actions necessary to enable the commission to
30 properly exercise the duties, functions, and powers of the commission
31 provided under this subchapter.

32 (d)(1) Except as provided in subdivision (d)(3) of this section,
33 commissioners shall be appointed to terms of five (5) years.

34 (2) A commissioner shall not serve more than two (2) terms.

35 (3) The commissioners who are appointed during the creation of
36 the commission shall be given initial terms of differing lengths as follows:

1 (A) Two (2) of the commissioners who are initially
 2 appointed shall serve an initial term of four (4) years and shall be eligible
 3 for appointment to one (1) subsequent term of five (5) years after the
 4 initial term; and

5 (B) The Chief Commissioner and two (2) other commissioners
 6 shall serve an initial term of five (5) years and may be appointed to one (1)
 7 subsequent term of five (5) years after the initial term.

8 (e) Each commissioner shall receive an annual salary comparable to the
 9 salary provided to district court judges in the state.

10 (f) Once appointed, each commissioner shall continue his or her term
 11 until the:

12 (1) Commissioner is removed from his or her position under
 13 subsection (i) of this section;

14 (2) Commissioner is not appointed to a second term;

15 (3) Commissioner's second term expires;

16 (4) Commissioner retires his or her position;

17 (5) Commissioner relinquishes his or her position; or

18 (6) Commissioner is unable to perform his or her duties.

19 (g)(1) Once appointed, each commissioner shall take an oath or make an
 20 affirmation that he or she will faithfully discharge his or her duties.

21 (2) The oath or affirmation required under subdivision (g)(1) of
 22 this section shall be filed in the office of the Secretary of State.

23 (h)(1) If a vacancy occurs on the commission, the Governor shall
 24 appoint a commissioner to fill the vacancy, subject to confirmation by the
 25 Senate.

26 (2) However, if an appointment is made while the General
 27 Assembly is not in session, a commissioner may qualify and hold the position
 28 unless the appointment is rejected by the Senate under § 10-2-113.

29 (i)(1) The Governor may remove a commissioner for:

30 (A) Neglect of duty;

31 (B) Inability to perform duties;

32 (C) Malfeasance in office; or

33 (D) Other good cause.

34 (2) The Governor shall provide notice and an opportunity to be
 35 heard before removing a commissioner.

36 (j) A commissioner shall conduct himself or herself in an impartial

1 manner and may withdraw from a hearing at any time if he or she deems himself
2 or herself disqualified from performing his or her duties in an impartial
3 manner.

4 (k)(1) A commissioner shall not:

5 (A) Engage in a business or be employed outside of his or
6 her position as commissioner; or

7 (B) Hold office or a position of profit in this state or a
8 political subdivision of this state, another state, or the United States of
9 America.

10 (2) However, a commissioner may own passive interests in
11 business entities and earn income from incidental teaching and scholarly
12 activities, unless such activities conflict with his or her duties as an
13 impartial commissioner.

14
15 26-18-1107. Qualifications of commissioners.

16 (a) Each commissioner of the Tax Appeals Commission shall:

17 (1) Be a qualified elector of the State of Arkansas;

18 (2) Have obtained a minimum of a bachelor's degree from an
19 accredited college or university; and

20 (3) Possess substantial knowledge of Arkansas tax and revenue
21 law.

22 (b)(1) Including the Chief Commissioner, two (2) commissioners shall
23 be attorneys licensed to practice law in the State of Arkansas.

24 (2) Two (2) commissioners shall be non-attorneys.

25 (3) One (1) commissioner may either be an attorney or a non-
26 attorney.

27 (4) Each of the commissioners shall satisfy the requirements of
28 subsection (a) of this section.

29 (c) To assist with the creation of the commission, one (1) of the two
30 (2) initial attorney commissioners appointed by the Governor shall be an
31 Administrative Law Judge serving in the Office of Hearings and Appeals of the
32 Department of Finance and Administration as of December 31, 2019.

33
34 26-18-1108. Location of the Tax Appeals Commission.

35 (a)(1) The principal office of the Tax Appeals Commission shall be
36 located in Little Rock, Arkansas.

1 (2) The principal office of the commission shall be located in a
2 building that is separate and apart from a building in which a division of
3 the Department of Finance and Administration is located.

4 (b) To provide taxpayers a reasonable opportunity to appear before the
5 commission, the commission may conduct its hearings at:

6 (1) Its principal office; or

7 (2) Buildings or facilities, or both, leased or owned by state
8 or local public agencies or entities, within the State of Arkansas.

9 (c) The commission may contract only with state and local public
10 agencies or entities in the State of Arkansas to arrange for hearing rooms,
11 chambers, offices, or other appropriate facilities:

12 (1) For its principal office in Little Rock, Arkansas; and

13 (2) For hearings not held at the commission’s principal office.

14
15 26-18-1109. Employees.

16 (a) The Tax Appeals Commission may employ clerks, court reporters, and
17 other employees as necessary to carry out the duties of the commission.

18 (b) An employee of the commission shall not act as an attorney, a
19 representative, or an accountant for a taxpayer in a matter involving a tax
20 imposed or levied under state law by the Department of Finance and
21 Administration.

22 (c) In addition to employing a court reporter, the commission may
23 contract for the reporting of its hearings and, in the contract, fix the
24 terms and conditions under which the contractor will supply transcripts to
25 the commission or parties.

26
27 26-18-1110. Jurisdiction of the Tax Appeals Commission.

28 (a) Except as provided by § 26-18-1119, the Arkansas Administrative
29 Procedure Act, § 25-15-201 et seq., and the Arkansas Constitution, the Tax
30 Appeals Commission shall:

31 (1) Have jurisdiction over any administrative hearing by a
32 taxpayer who seeks administrative relief from a decision by the Department of
33 Finance and Administration:

34 (A) Imposing a liability for tax, penalty, or interest;

35 (B) Denying a refund or credit application;

36 (C) Canceling, refusing, or revoking a license or permit

1 under § 26-18-601, § 26-55-219, § 26-55-231, or § 26-56-311;

2 (D) Proposing an assessment of taxes;

3 (E) Closing a noncompliant taxpayer's business;

4 (F) Relating to a jeopardy assessment;

5 (G) Seizing a vending device or a coin-operated amusement
6 device; or

7 (H) Taking any other action that provides a taxpayer the
8 right to a hearing with the commission under state law; and

9 (2) Reduce, set aside, alter, change, or remedy the decision by
10 the department subject to appeal, if the commission finds that the decision:

11 (A) Was made in bad faith; or

12 (B) May be reduced, set aside, altered, changed, or
13 remedied for any reason under state law.

14 (3) The commission shall compel the Director of the Arkansas
15 Department of Finance and Administration to issue a final assessment,
16 decision, determination, or take other appropriate action, consistent with a
17 decision issued by the commission.

18 (b) Upon the creation of the commission:

19 (1) Existing hearings pending with the Office of Hearings and
20 Appeals of the Department of Finance and Administration shall remain with the
21 office;

22 (2) Hearings initiated on or after January 1, 2021 shall be
23 heard by the commission.

24 (c) The commission shall not have jurisdiction to hear disputes
25 involving the following:

26 (1) Ad valorem property taxes; and

27 (2) Taxes not administered by the department.

28
29 26-18-1111. Settlement of tax disputes.

30 (a) A taxpayer and the Director of the Department of Finance and
31 Administration, or his or her designee at any time may enter into an
32 agreement to compound, settle, or compromise any controversy relating to a
33 state tax or any admitted or established tax liability in accordance with the
34 provisions of § 26-18-705.

35 (b) A taxpayer's attempt to enter into an agreement to compound,
36 settle, or compromise any controversy relating to a state tax or any admitted

1 or established tax liability under § 26-18-705 shall not:

2 (1) Constitute a failure to exhaust administrative remedies to
3 dispute a state tax or any admitted or established tax liability; or

4 (2) Preclude the taxpayer from commencing a hearing with the Tax
5 Appeals Commission with respect to any issue not resolved by settlement or
6 concession.

7
8 26-18-1112. Service of process.

9 (a) Mailing by first class or postage prepaid with a return receipt
10 request, or certified or registered mail, to any of the following shall
11 constitute service on the other party under this subchapter:

12 (1) The address of the taxpayer given on the taxpayer's
13 petition;

14 (2) The address of the taxpayer's representative of record; or

15 (3) The address designated by the Department of Finance and
16 Administration as the proper place of service on the department.

17 (b) The commission may:

18 (A) Prescribe other methods of service of process; and

19 (B) Order that notice be given to additional persons.

20
21 26-18-1113. Pleadings.

22 (a) A taxpayer may commence an action under this subchapter by filing
23 a petition with the Tax Appeals Commission protesting a decision by the
24 Department of Finance and Administration:

25 (1) Imposing a liability for tax, penalty, or interest;

26 (2) Denying a refund or credit application;

27 (3) Canceling, refusing, or revoking a license or permit under §
28 26-18-601, § 26-55-219, § 26-55-231, or § 26-56-311;

29 (4) Proposing an assessment of taxes;

30 (5) Closing a noncompliant taxpayer's business;

31 (6) Relating to a jeopardy assessment;

32 (7) Seizing a vending device or a coin-operated amusement
33 device; or

34 (8) Taking any other action that provides a taxpayer the right
35 to a hearing with the commission under state law.

36 (b)(1) A petition under subsection (a) of this section shall be filed

1 with the commission no later than ninety (90) days from the date the
2 department issues a decision or course of action, or both, to be taken
3 against the taxpayer by the department.

4 (2) The commission shall notify and serve a copy of the petition
5 to the department within fifteen (15) days of receipt of the petition by the
6 commission.

7 (c)(1) The department shall file an answer to the petition filed under
8 this section within sixty (60) days of receipt of the notice from the
9 commission under subsection (b)(2) of this section.

10 (2) The department shall serve a copy of the answer on the
11 taxpayer's representative, or if the taxpayer is not represented, on the
12 taxpayer directly, and shall file proof of such service with the answer.

13 (3) Material facts alleged in the petition, if not expressly
14 admitted or denied in the answer, are deemed admitted.

15 (4) If the department fails to file an answer within the
16 prescribed time under subsection (c)(1) of this section, all material facts
17 alleged in the petition shall be deemed admitted.

18 (d)(1) The taxpayer may file a reply to an answer filed under
19 subsection (c) of this section within thirty (30) days after the taxpayer
20 receives the answer from the department.

21 (2) The taxpayer shall:

22 (A) Serve a copy of a reply filed under subdivision (d)(1)
23 of this section on the authorized representative of the department; and

24 (B) File proof of service of the reply filed under
25 subdivision (d)(1) of this section with the reply.

26 (3) If the taxpayer fails to reply within thirty (30) days after
27 the taxpayer receives the answer from the department, all material facts
28 alleged in the answer shall be deemed denied.

29 (4) The commission shall schedule a hearing:

30 (A) No later than thirty (30) days after a reply has been
31 filed under this section; or

32 (B) If no reply has been filed within thirty (30) days, no
33 later than seven (7) days after the deadline for filing an answer under this
34 section.

35 (e)(1) Either party may amend a pleading once without leave at any
36 time before the period for responding to the pleading expires.

1 (2) After the period for responding to a pleading expires, a
 2 pleading may be amended only with the written consent of the adverse party or
 3 with the permission of the commission.

4 (3) The commission may allow a party to file an answer or reply,
 5 or both, to an amended pleading.

6 (4) The filing of an answer or an amended answer shall be made
 7 no later than sixty (60) days after the filing of an amended petition.

8 (5)(A) The filing of a reply or an amended reply shall be made
 9 within thirty (30) days after the filing of the amended answer.

10 (B) If a party fails to file a reply or an amended reply
 11 within the prescribed time, all material facts alleged in the answer or
 12 amended answer shall be deemed denied.

13 (6) A taxpayer may not amend a pleading for a petition after the
 14 expiration of the time for filing a petition if the amended petition would
 15 have the effect of conferring jurisdiction over a matter that would otherwise
 16 not come within the jurisdiction of the commission.

17 (7) An amended pleading shall relate back to the time of the
 18 filing of the original pleading, unless the commission orders otherwise,
 19 either on motion of a party or on the commission's own initiative.

20 (f) Subsections (b)-(e) of this section do not apply to the following
 21 administrative hearings before the commission:

22 (1) A cancelation or refusal to issue, extend, or reinstate a
 23 license, permit, or registration under § 26-18-601;

24 (2) A decision by the director to close a noncompliant
 25 taxpayer's business under §§ 26-18-1001 and 26-18-1002;

26 (3) A revocation or cancelation of a license under the Motor
 27 Fuel Tax Law, § 26-55-231;

28 (4) A revocation or cancelation of a supplier's license or
 29 dealer's license under § 26-56-311; and

30 (5) A revocation or cancellation of a license to operate or sell
 31 a coin-operated amusement device under §§ 26-57-413 and 26-57-419.

32
 33 26-18-1114. Fees.

34 (a) The Tax Appeals Commission shall not impose any filing fees for
 35 petitions filed with the commission.

36 (b) The commission may charge fees that do not exceed the fees charged

1 and collected by the clerks of the courts of Arkansas for the following
2 services:

3 (1) Comparing, or preparing and comparing, a transcript of the
4 record; and

5 (2) Copying a record, entry, or other paper and the comparison
6 and certification of the record, entry, or other paper.

7 (c) All fees and moneys assessed and collected by the commission under
8 this subchapter shall be deposited into the State Treasury and credited to
9 the Tax Appeals Commission Fund.

10
11 26-18-1115. Discovery and stipulation.

12 (a) Subject to reasonable limitation as prescribed by the Tax Appeals
13 Commission, each party shall make every effort to achieve discovery by
14 informal consultation or communication.

15 (b)(1) Upon the request of any party to the hearing, a commissioner or
16 any duly authorized clerk of the commission shall issue a subpoena requiring:

17 (A) The attendance of a witness to give testimony;

18 (B) The production of evidence or a thing; or

19 (C) Both the attendance of a witness and the production of
20 evidence or a thing.

21 (2) However, a commissioner or any duly authorized clerk of the
22 commission shall not issue a subpoena requiring a party to produce evidence
23 or a thing that:

24 (A) Was previously available to the Department of Finance
25 and Administration during an audit between the taxpayer and the department;
26 and

27 (B) Is not directly related to the petition filed with the
28 commission.

29 (c) A commissioner may designate one (1) or more of the employees of
30 the commission to administer oaths.

31 (d) A witness subpoenaed under this subchapter shall be allowed fees
32 as provided under § 16-43-801, which shall be part of the expense of
33 administering this subchapter and shall be paid by the commission.

34
35 26-18-1116. Hearings.

36 (a) Hearings under this subchapter shall be tried de novo and without

1 a jury.

2 (b) Except as stated in this subchapter or the Arkansas Administrative
3 Procedure Act, § 25-15-201 et seq., the Tax Appeals Commission shall:

4 (1) Receive evidence;

5 (2) Conduct hearings; and

6 (3) Render decisions.

7 (c)(1) Hearings shall be open to the public and shall be conducted in
8 accordance with the rules of practice and procedure as the commission may
9 promulgate in conformity with the Arkansas Administrative Procedure Act, §
10 25-15-201 et seq.

11 (2) However, on motion of either party, the commission shall
12 issue a protective order or an order closing part or all of the hearing to
13 the public if the party shows good cause to protect certain information from
14 disclosure to the public.

15 (d) Hearings shall:

16 (1) Not be bound by the rules of evidence applicable to civil
17 cases in state courts;

18 (2) Admit relevant evidence, including hearsay, if it is
19 probative of a material fact in controversy; and

20 (3) Exclude irrelevant and repetitious evidence.

21 (e) The rules of privilege recognized by state law shall apply to
22 hearings under this subchapter.

23 (f) Testimony shall be given on oath or affirmation.

24 (g) The petition and other pleadings in the hearing are deemed to
25 conform to the proof presented at the hearing unless:

26 (1) A party satisfies to the commission that the presentation of
27 the evidence would unfairly prejudice the party in maintaining its position
28 on the merits; or

29 (2) Deeming the taxpayer's petition to conform to the proof
30 would confer jurisdiction on the commission over a matter that would not
31 otherwise come within the jurisdiction of the commission.

32 (h) Both the taxpayer and the Department of Finance and Administration
33 shall have the burden of persuasion by a preponderance of the evidence in the
34 record.

35 (i)(1) The Chief Commissioner shall:

36 (A) Be the presiding commissioner at all hearings; and

1 (B) Assign at least two (2) other commissioners to preside
2 at the hearing.

3 (2) However, at least one (1) of the presiding commissioners
4 shall not be an attorney.

5 (j) Except in a case involving the denial of a claim for refund, the
6 taxpayer shall have the right to have his or her case heard before paying any
7 of the amounts asserted as due by the department and before posting a bond.

8 (k) If a taxpayer pays all or part of the tax or other amount in
9 issue, with or after the filing of a timely petition, the commission shall
10 treat the taxpayer's petition as a protest of a denial of a claim for refund
11 of the amount paid by the taxpayer.

12 (1)(1) The commission shall schedule and hold a hearing pursuant to §
13 26-18-1113(d)(4).

14 (2) However, the commission shall schedule and hold a hearing:

15 (A) Under § 26-18-601(b) within three (3) days after a
16 taxpayer has filed a petition with the commission;

17 (B) Under § 26-18-601(c) within twenty (20) days after a
18 taxpayer has filed a petition with the commission;

19 (C) Under § 26-18-1002 within fourteen (14) days after a
20 taxpayer has filed a petition with the commission;

21 (D) Under § 26-57-413 within fifteen (15) days subsequent
22 to the expiration of the fifteen-day period to file a petition with the
23 commission; and

24 (E) Under § 26-57-419 within fifteen (15) days subsequent
25 to the expiration of the fifteen-day period to file a petition with the
26 commission.

27
28 26-18-1117. Decisions.

29 (a)(1) The Tax Appeals Commission shall render a decision in writing,
30 including a concise statement of the facts and conclusions of law.

31 (2) The commission's decision shall grant relief, invoke
32 remedies, and issue orders as the commission deems appropriate to carry out
33 its decision.

34 (3) The Chief Commissioner shall prepare a written decision that
35 reflects the view of the majority of the presiding commissioners at the
36 hearing.

1 (4) The written decision shall be officially published as
2 provided in § 26-18-1121.

3 (b)(1)(A) A decision shall be issued no later than three (3) months
4 after the submission of the last brief filed or the completion of the
5 hearing, whichever is later.

6 (B) However, the commission shall issue a decision within
7 three (3) days after a hearing is concluded under § 26-18-601(b).

8 (2)(A) The commission may extend the three-month period to
9 render a decision up to an additional forty-five (45) days for good cause.

10 (B) However, the commission shall not extend the period to
11 render a decision under subdivision (b)(1)(B) of this section after a hearing
12 has been held under § 26-18-601(b).

13 (c) If a decision is not issued within the prescribed period, either
14 party may institute a hearing in the Pulaski County Circuit Court or the
15 circuit court of the county in which the taxpayer resides or has his or her
16 principal place of business to compel the issuance of a decision.

17 (d)(1)(A) A party may apply for a rehearing from a decision issued by
18 the commission.

19 (B) An application for a rehearing under subdivision
20 (d)(1)(A) of this section shall:

21 (i) Be filed within fifteen (15) days from the date
22 of entry of the decision on which a rehearing is requested; and

23 (ii) Specify the reasons and supporting arguments why
24 the decision of the commission is incorrect and should be reconsidered.

25 (2) The timely filing of an application for rehearing from a
26 decision under this subsection shall suspend the time periods for filing an
27 appeal to the circuit court under this subchapter and §§ 26-18-406, 26-18-
28 507, 26-18-602, 26-18-1003, 26-55-219, 26-55-231, 26-56-311, 26-57-413, and
29 26-57-419.

30 (3)(A) If an application for rehearing is timely filed, the
31 Chief Commissioner shall issue a decision on the application for rehearing.

32 (B) The Chief Commissioner may grant or deny an
33 application for rehearing without a hearing under § 26-18-1116.

34 (4) The time for filing a notice of appeal to the circuit court
35 under this subchapter and §§ 26-18-406, 26-18-507, 26-18-602, 26-18-1003, 26-
36 55-219, 26-55-231, 26-56-311, 26-57-413, and 26-57-419 shall begin anew on

1 the date of entry of the decision on rehearing.

2 (e) A decision of the commission has the same effect and shall be
3 enforced in the same manner as a judgment of a circuit court, unless the
4 decision is altered or amended on appeal or rehearing.

5 (f)(1) The interpretation of a taxing statute by the commission shall
6 be followed by the commission in subsequent cases involving the same statute.

7 (2) The commission's application of a statute to the facts of a
8 case shall be followed by the commission in subsequent cases involving
9 similar facts.

10 (3) However, the commission is not required to follow a prior
11 interpretation or application of law by the commission if:

12 (A) The interpretation or application conflicts with an
13 interpretation or application of a federal or state court; or

14 (B) The commission provides satisfactory reasons for
15 reversing precedent.

16
17 26-18-1118. Small Claims Division.

18 (a) The Tax Appeals Commission may establish a Small Claims Division
19 within the commission to provide additional means for a taxpayer to file a
20 petition protesting a decision by the Department of Finance and
21 Administration that falls within the jurisdiction of the commission under
22 this subchapter.

23 (b) The commission shall promulgate rules governing pleadings, service
24 of process requirements, hearings, discovery, and decisions for the division.

25
26 26-18-1119. Judicial relief.

27 (a) A taxpayer or the Department of Finance and Administration may
28 seek judicial relief of a decision of the Tax Appeals Commission in
29 accordance with the procedures under this subchapter and §§ 26-18-406, 26-18-
30 507, 26-18-602, 26-18-1003, 26-55-219, 26-55-231, 26-56-311, 26-57-413, 26-
31 57-419, the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the
32 Arkansas Tax Procedure Act, § 26-18-101 et seq., and the Arkansas
33 Constitution.

34 (b) A taxpayer or the department, or both, may seek judicial relief
35 for an interlocutory decision of the commission under the same conditions and
36 in the same manner as an interlocutory decision of the district court or

1 circuit court.

2 (c) The record for judicial relief shall include the decision of the
3 commission, the transcript of the hearing before the commission, the
4 pleadings, and all exhibits and documents admitted into evidence by the
5 commission.

6
7 26-18-1120. Representation.

8 (a) The taxpayer may be represented by an authorized representative at
9 a hearing.

10 (b) The Department of Finance and Administration shall be represented
11 by an authorized representative at a hearing.

12
13 26-18-1121. Publication of decisions.

14 (a) The Tax Appeals Commission shall index and publish a decision in
15 print or electronic form that the commission deems best adapted for public
16 convenience or as required by the Arkansas Administrative Procedure Act, §
17 25-15-201 et seq., or both.

18 (b) Any identifying facts and information that the commission
19 determines to be confidential in nature concerning a taxpayer or other
20 individual or entities shall be redacted from a publication.

21 (c) A publication of a decision shall be made permanently available
22 and constitute an official report of the commission.

23
24 26-18-1122. Promulgation of rules.

25 (a) The Tax Appeals Commission may promulgate rules and forms as
26 necessary to carry out the intent and purpose of this subchapter and
27 implement the duties assigned to the commission.

28 (b) The commission may promulgate rules governing pleadings and
29 service of process requirements to commence a hearing under this subchapter
30 and the practice and procedure rules of the commission and the Small Claims
31 Division of the Tax Appeals Commission.

32
33 SECTION 2. DO NOT CODIFY. Creation of the Tax Appeals Commission.

34 (a) The Tax Appeals Commission shall be created by August 1, 2020.

35 (b) The initial commissioners shall be appointed by September 1, 2020.

36 (c) The Chief Commissioner shall be designated by September 1, 2020.

1 (d) This act does not affect any hearing, prosecution, action, suit or
2 appeal, commenced in the judicial branch before the creation of the
3 commission.

4
5 SECTION 3. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
6 amended to add an additional section to read as follows:

7 19-5-1263. Tax Appeals Commission Fund.

8 (a) There is created on the books of the Treasurer of State, the
9 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
10 fund to be known as the "Tax Appeals Commission Fund".

11 (b) The fund shall consist of fees and moneys assessed and collected
12 by the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-
13 1101 et seq., and any other revenues authorized by law.

14 (c) The fund shall be administered by the commission.

15 (d) The fund shall be used by the commission for the administration,
16 maintenance, and operation of the commission.

17
18 SECTION 4. Arkansas Code § 25-18-224(b), concerning the distribution
19 of quasijudicial opinions and orders, is amended to read as follows:

20 ~~(b) Administrative decisions of the Office of Hearings and Appeals of~~
21 ~~the Department of Finance and Administration Tax Appeals Commission and~~
22 ~~opinions of the Department of Finance and Administration which that contain~~
23 ~~information which that is confidential pursuant to under Arkansas Tax~~
24 ~~Procedure Act, § 26-18-101 et seq., shall be are exempt from the disclosure~~
25 ~~provisions of subsection (a) of this section.~~

26
27 SECTION 5. Arkansas Code § 26-18-303(b), concerning confidential
28 records, is amended to add an additional subdivision to read as follows:

29 (26) Disclosure of information to the Tax Appeals Commission of
30 information relevant to any case or controversy before the Tax Appeals
31 Commission.

32
33 SECTION 6. Arkansas Code § 26-18-314(b), concerning the transparency
34 of legal opinions regarding tax decisions, is amended to read as follows:

35 ~~(b)(1) A final determination of a hearing officer or the director~~
36 ~~issued under § 26-18-405 decision issued by the Tax Appeals Commission under~~

1 the Tax Appeals Commission Act, § 26-18-1101 et seq., on or after January 1,
 2 ~~2016~~ 2019, shall be posted on the Arkansas.gov website.

3 (2) Any identifying facts and information that the ~~director~~
 4 commission determines to be confidential in nature concerning taxpayers or
 5 other individuals or entities under the Tax Appeals Commission Act, § 26-18-
 6 1101 et seq., shall be redacted from a ~~final determination~~ decision posted
 7 under this section.

8 (3) The ~~director~~ commission may post a synopsis that fully
 9 describes the subject matter, facts, and conclusions reached by the ~~hearing~~
 10 ~~officer or director~~ commission instead of posting the complete ~~determination~~
 11 decision.

12 (4) An administrative appeal to the commission that is settled or
 13 withdrawn from consideration before a ~~final determination~~ decision is made by
 14 the commission shall not be posted under this section.

15
 16 SECTION 7. Arkansas Code § 26-18-401(b), concerning the assessment and
 17 collection of taxes, is amended to read as follows:

18 (b)(1) The director shall collect all taxes imposed by any state tax
 19 law.

20 (2)(A)(i) The director shall issue a final assessment to each
 21 taxpayer liable for the unpaid tax.

22 (ii) The final assessment shall state the amount of
 23 the assessment and demand payment within ten (10) days of the assessment.

24 (iii) The final assessment shall not be issued
 25 before the expiration of time for the taxpayer to request an administrative
 26 hearing ~~under § 26-18-404~~ with the Tax Appeals Commission under the Tax
 27 Appeals Commission Act, § 26-18-1101 et seq.

28 (B) If the taxpayer has requested administrative relief
 29 ~~under § 26-18-404 the final assessment shall be issued according to § 26-18-~~
 30 ~~405,~~ under the Tax Appeals Commission Act, § 26-18-1101 et seq., the director
 31 shall issue a final assessment according to the decision of the commission.

32 (C)(i) If the taxpayer has paid the assessment before the
 33 time for the issuance of the final assessment, no final assessment shall be
 34 issued.

35 (ii) The taxpayer may seek to recover the payment of
 36 the assessment only if § 26-18-403 or § 26-18-406 applies.

1 (3) Upon receipt of the final assessment from the director, the
 2 person liable for the tax shall pay the stated amount including any interest,
 3 additions to tax, and assessable penalties at the place and time stated in
 4 the final assessment.

5
 6 SECTION 8. Arkansas Code § 26-18-402(b) and (c), concerning jeopardy
 7 assessments, are amended to read as follows:

8 (b)(1) Within five (5) days after the date on which a notice and
 9 demand for payment is made under subsection (a) of this section, the director
 10 shall provide the taxpayer with a written statement of the information upon
 11 which the director relies in making such assessment.

12 (2) If the taxpayer fails or refuses to pay the tax upon demand
 13 of the director or ~~requests a hearing before the director within five (5)~~
 14 ~~business days after the day the taxpayer is furnished the written statement~~
 15 ~~described in subdivision (1) of this subsection~~ the taxpayer fails to file a
 16 petition with the Tax Appeals Commission under the Tax Appeals Commission
 17 Act, § 26-18-1101 et seq., the tax shall become delinquent and the director
 18 shall proceed to issue a certificate of indebtedness.

19 (c)(1) When the taxpayer ~~requests a hearing, the director shall hold~~
 20 ~~the hearing within five (5) business days of receipt of the request. After a~~
 21 ~~hearing, the director shall~~ files a petition with the commission, a hearing
 22 shall be held pursuant to the Tax Appeals Commission Act, § 26-18-1101 et
 23 seq., and the commission shall render a decision and determine whether the
 24 ~~making of the assessment~~ director's assessment under subsection (a) of this
 25 section is reasonable under the circumstances ~~and shall render his or her~~
 26 ~~decision.~~

27 (2) The taxpayer has ~~three (3)~~ fifteen (15) days after ~~the~~
 28 ~~receipt of the director's commission's decision is issued~~ either to pay the
 29 tax and applicable penalty and interest due as instructed by the commission's
 30 decision, request a rehearing with the commission, or to protest file a
 31 petition protesting the decision of the director commission as provided by §
 32 26-18-406(a) ~~prior to the director's issuing a certificate of indebtedness,~~
 33 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

34 (3) The tax shall become delinquent and the director shall issue
 35 a certificate of indebtedness if:

36 (A) The taxpayer fails to pay the tax and applicable

1 penalty and interest due as indicated in the commission's decision within
2 fifteen (15) days after the commission's decision is issued; or

3 (B) The taxpayer fails to:

4 (i) Request a rehearing with the commission; or

5 (ii) File a petition protesting the decision of the
6 commission as provided under § 26-18-406(a) and the Tax Appeals Commission
7 Act, § 26-18-1101 et seq. within fifteen (15) days after the commission's
8 decision is issued.

9
10 SECTION 9. Arkansas Code § 26-18-403(a)(2)(B), concerning proposed
11 assessments, is amended to read as follows:

12 (B) The notice required under subdivision (a)(2)(A) of
13 this section shall:

14 (i) Explain the basis for the proposed assessment;

15 (ii)(a) State that a final assessment, as provided
16 by § 26-18-401, will be made if the taxpayer does not ~~protest~~ file a petition
17 with the Tax Appeals Commission protesting the proposed assessment as
18 provided by ~~§ 26-18-404~~ under the Tax Appeals Commission Act, § 26-18-1101 et
19 seq.

20 (b) The taxpayer does not have to ~~protest~~ file a
21 petition with the commission protesting the proposed assessment under the Tax
22 Appeals Commission Act, § 26-18-1101 et seq., to later be entitled to
23 exercise the right to seek a judicial ~~review~~ relief of the assessment under §
24 26-18-406; and

25 (iii) Provide contact information for the taxpayer
26 to use if the taxpayer wants to obtain his or her tax records, including
27 without limitation the facts and evidence supporting the proposed assessment,
28 from the Department of Finance and Administration.

29
30 SECTION 10. Arkansas Code § 26-18-403(c), concerning proposed
31 assessments, is amended to read as follows:

32 (c)(1) An erroneously paid refund is a tax deficiency and is subject
33 to assessment under this section.

34 (2)(A) When an erroneously paid refund is issued to a taxpayer,
35 the director shall issue a notice of proposed assessment for the amount of
36 the erroneously paid refund, plus interest and any penalty authorized under

1 this chapter.

2 (B) The notice of proposed assessment to recover an erroneously
 3 paid refund shall explain the basis for the proposed assessment and shall
 4 inform the taxpayer that a final assessment under § 26-18-401 shall be made
 5 if the taxpayer fails to ~~protest~~ file a petition with the commission
 6 protesting the assessment under § 26-18-404 the Tax Appeals Commission Act, §
 7 26-18-1101 et seq.

8 (3) ~~Sections 26-18-404—26-18-406 and 26-18-701 apply~~ Sections 26-18-
 9 406, 26-18-701, and the Tax Appeals Commission Act, § 26-18-1101 et seq.,
 10 apply to assessments of erroneously paid refunds.

11 (4) Interest and penalties imposed on a tax deficiency are subject to
 12 waiver or abatement in accordance with the procedure established in § 26-18-
 13 705(b) if the tax deficiency arose from an error by the Department of Finance
 14 and Administration that resulted in the issuance of an erroneously paid
 15 refund.

16
 17 SECTION 11. Arkansas Code § 26-18-404 is repealed.

18 ~~26-18-404. Taxpayer relief.~~

19 ~~(a) Any taxpayer who wishes to seek administrative relief from any~~
 20 ~~proposed assessment of taxes or from a denial of a claim for refund by the~~
 21 ~~director shall follow the procedure provided by this section.~~

22 ~~(b)(1) A taxpayer may at his or her option either request the director~~
 23 ~~to consider his or her request for relief solely upon written documents~~
 24 ~~furnished by the taxpayer or upon the written documents and any evidence~~
 25 ~~produced by the taxpayer at a hearing.~~

26 ~~(2) A taxpayer who requests the director to render his or~~
 27 ~~her decision based on written documents is not entitled by law to any other~~
 28 ~~administrative hearing prior to the director's rendering of his or her~~
 29 ~~decision and, if necessary, the issuing of a final assessment and demand for~~
 30 ~~payment or issuing of a certificate of indebtedness.~~

31 ~~(c)(1) Within sixty (60) days after service of notice of the proposed~~
 32 ~~assessment or denial of a claim for refund, the taxpayer may file with the~~
 33 ~~director a written protest under oath, signed by the taxpayer or the~~
 34 ~~taxpayer's authorized agent, setting forth the taxpayer's reasons for~~
 35 ~~opposing the proposed assessment or the denial of a claim for refund.~~

36 ~~(2) No administrative relief will be available to a~~

1 ~~taxpayer who fails to protest or to a taxpayer who fails to request an~~
2 ~~extension of time to protest a proposed assessment of tax or denial of a~~
3 ~~claim for refund within the sixty (60) days following the service of notice~~
4 ~~of the proposed assessment or denial of a claim for refund.~~

5 ~~(d) The director may, in his or her discretion, extend the time for~~
6 ~~filing a protest for any period of time not to exceed an additional ninety-~~
7 ~~day period.~~

8
9 SECTION 12. Arkansas Code § 26-18-405 is repealed.

10 ~~26-18-405. Hearing on proposed assessments.~~

11 ~~(a)(1) The director shall appoint a hearing officer to review all~~
12 ~~written protests submitted by taxpayers, hold all hearings, and make written~~
13 ~~findings as to the applicability of the proposed assessment or the denial of~~
14 ~~the claim for refund.~~

15 ~~(2) Decisions of the hearing officer shall be final unless~~
16 ~~revised by the director.~~

17 ~~(3) The hearings on written and oral protests and determinations~~
18 ~~made by the hearing officer shall not be subject to the provisions of the~~
19 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

20 ~~(b) The director may appoint one (1) or more hearing officers, but the~~
21 ~~persons occupying these appointments shall not contemporaneously with the~~
22 ~~holding of these appointments have any other administrative duties within the~~
23 ~~Revenue Division of the Department of Finance and Administration.~~

24 ~~(c) The actual hearing on the written protest shall be held in any~~
25 ~~city in which the division maintains a field audit district office or in such~~
26 ~~other city as the director shall, in his or her discretion, designate.~~

27 ~~(d)(1)(A) All written protests filed with the director shall be~~
28 ~~delivered promptly to the hearing officer.~~

29 ~~(B) The hearing officer shall set the time and place for~~
30 ~~the hearing on a written protest and shall give the taxpayer reasonable~~
31 ~~notice of the hearing.~~

32 ~~(C) If it is not possible for the hearing officer to hold~~
33 ~~a hearing and issue a decision on a protest of a proposed assessment within~~
34 ~~one hundred eighty (180) days after the taxpayer files a written protest for~~
35 ~~reasons that the hearing officer determines are beyond the taxpayer's~~
36 ~~control, the director shall waive the interest for the period from the time~~

1 ~~the written protest is filed until the final assessment is issued.~~

2 ~~(2) At the hearing, the taxpayer may be represented by an~~
 3 ~~authorized representative and may present evidence in support of his or her~~
 4 ~~position.~~

5 ~~(3) After the hearing, the hearing officer shall render his or~~
 6 ~~her decision in writing and shall serve copies upon both the taxpayer and the~~
 7 ~~section or division of the Department of Finance and Administration which~~
 8 ~~proposed the assessment or the denial of the claim for refund.~~

9 ~~(4)(A)(i) If the proposed assessment or denial of a claim for~~
 10 ~~refund is sustained, in whole or part, the taxpayer or legal counsel for the~~
 11 ~~director may request in writing, within twenty (20) days of the mailing of~~
 12 ~~the decision, that the director revise the decision of the hearing officer.~~

13 ~~(ii) No request for revision will be considered~~
 14 ~~unless it is received by the director within twenty (20) days of the mailing~~
 15 ~~of the hearing decision.~~

16 ~~(iii) Either the taxpayer or legal counsel for the~~
 17 ~~director shall provide a copy of any written request for revision to the~~
 18 ~~other.~~

19 ~~(iv) The director may hold the supplemental~~
 20 ~~proceedings on any request for revision and shall issue a decision on the~~
 21 ~~request within sixty (60) days of the receipt of the request for revision.~~

22 ~~(B) If the director refuses to make a revision or if the~~
 23 ~~taxpayer or legal counsel for the director does not make a request for~~
 24 ~~revision, then the director shall send either:~~

25 ~~(i) A final assessment to the taxpayer, as provided~~
 26 ~~by § 26-18-401, that is made upon the final determination of the hearing~~
 27 ~~officer that sustained a proposed assessment of tax; or~~

28 ~~(ii) A notice in writing to both the taxpayer and~~
 29 ~~legal counsel for the director, if a revision was requested, of his or her~~
 30 ~~decision not to revise a decision that resulted in no tax due, including the~~
 31 ~~denial of a claim for refund.~~

32 ~~(C)(i) If the director revises the decision of the hearing~~
 33 ~~officer, the director shall send the final decision of the director to the~~
 34 ~~taxpayer and to the legal counsel for the director.~~

35 ~~(ii) A notice of final assessment shall be made upon~~
 36 ~~the decision of the director if the director's decision sustained a proposed~~

1 ~~assessment of tax.~~

2 ~~(iii) No further notice will be issued for a final~~
3 ~~decision of the director that results in no tax due, including the denial of~~
4 ~~a claim for refund.~~

5 ~~(D) A taxpayer may not request revision of a decision~~
6 ~~issued by the director under this subdivision (d)(4).~~

7 ~~(e) A taxpayer may seek relief from the final decision of the hearing~~
8 ~~officer or the director on a final assessment of a tax deficiency or a notice~~
9 ~~of denial of a claim for refund by following the procedure set forth in § 26-~~
10 ~~18-406.~~

11 ~~(f)(1) In addition to the hearing procedures set out in subsections~~
12 ~~(a) (e) of this section, the director may hold administrative hearings by~~
13 ~~telephone, video conference, or other electronic means if the director~~
14 ~~determines that conducting the hearing in such a manner:~~

15 ~~(A) Is in the best interest of the taxpayer and the~~
16 ~~department;~~

17 ~~(B) Is agreed to by both parties;~~

18 ~~(C) Is not fiscally unsound or administratively~~
19 ~~burdensome; and~~

20 ~~(D) Adequately protects the confidentiality of the~~
21 ~~taxpayer's information.~~

22 ~~(2) The director may contract with third parties for all~~
23 ~~services necessary to conduct hearings by telephone, video, or other~~
24 ~~electronic means.~~

25 ~~(3) Any person who enters into a contract with the director to~~
26 ~~provide services necessary to conduct hearings by telephone, video, or other~~
27 ~~electronic means shall be subject to the requirements of this chapter~~
28 ~~providing for the confidentiality of all taxpayer records.~~

30 SECTION 13. Arkansas Code § 26-18-406 is amended to read as follows:
31 26-18-406. Judicial relief.

32 (a) After the issuance and service on the taxpayer of ~~the final a~~
33 decision of the Tax Appeals Commission under the Tax Appeals Commission Act,
34 § 26-18-1101 et seq., or the final assessment of a deficiency in tax by the
35 Director of the Department of Finance and Administration or a final decision
36 by the director, that is not protested by the taxpayer ~~under § 26-18-403 or a~~

1 ~~final determination of the hearing officer or the director under § 26-18-405,~~
 2 a taxpayer may seek judicial relief from the decision of the commission, or
 3 the final assessment or ~~determination~~ decision by the director by:

4 (1)(A) Filing suit for judicial relief from ~~the final~~ a decision
 5 of the commission, or a final assessment or ~~determination~~ decision by the
 6 director, within one hundred eighty (180) days of the date of the decision or
 7 final assessment or ~~determination~~.

8 (B) A taxpayer filing suit under this subdivision (a)(1)
 9 shall not be required to pay the state tax, penalties, and interest due
 10 before filing suit;

11 (2) Paying the entire amount of state tax due within one (1)
 12 year of the date of ~~the final~~ a decision of the commission or a final
 13 assessment or ~~determination~~ decision by the director, and filing suit to
 14 recover that amount within one (1) year of the date of payment; or

15 (3) Filing suit to recover assessed tax, penalty, and interest
 16 paid prior to the time for issuance of the final assessment by the director
 17 within one (1) year of the date of the ~~final determination of the hearing~~
 18 ~~officer or the director under § 26-18-405~~ decision of the commission under
 19 the Tax Appeals Commission Act, § 26-18-1101 et seq., or the final assessment
 20 or decision of the director.

21 (b) A taxpayer may seek judicial relief from a ~~final determination~~
 22 ~~denying~~ decision by the commission or director to deny a claim for refund by
 23 filing suit to recover the amount claimed within one (1) year from the
 24 mailing of the denial of the director under § 26-18-507, or a ~~final~~
 25 ~~determination of the hearing officer or the director under § 26-18-405~~
 26 decision of the commission under the Tax Appeals Commission Act, § 26-18-1101
 27 et seq., whichever is later.

28 (c)(1) Jurisdiction for a suit to contest a ~~final~~ decision by the
 29 commission or final assessment or ~~determination~~ decision by the director
 30 under this section shall be in the Pulaski County Circuit Court or the
 31 circuit court of the county in which the taxpayer resides or has his or her
 32 principal place of business, where the matter shall be tried de novo.

33 (2) An appeal will lie from the circuit court to the Supreme
 34 Court, as in other cases provided by law.

35 (3) A presumption of correctness or weight of authority shall
 36 not attach to a ~~final~~ decision of the commission or final assessment or

1 ~~determination of~~ decision by the director in a trial de novo or an appeal
2 under this section.

3 (d)(1) The methods provided in this section and the Tax Appeals
4 Commission Act, § 26-18-1101 et seq., shall be the sole alternative methods
5 for seeking relief from a ~~written~~ decision by the commission or a final
6 assessment or decision of the director establishing a deficiency in tax or
7 disallowing a claim for refund.

8 (2) An injunction shall not issue to stay proceedings for
9 assessment or collection of taxes levied under state tax law.

10 (e)(1) In a court proceeding under this section, the:

11 (A) Prevailing party may be awarded a judgment for court
12 costs; and

13 (B) Taxpayer may be awarded reasonable attorney’s fees if
14 the taxpayer is the prevailing party+

15 ~~(i) Director revised a decision of the hearing~~
16 ~~officer in favor of the taxpayer under § 26-18-405;~~

17 ~~(ii) Taxpayer is the prevailing party in an action~~
18 ~~for judicial relief from the determination of the director under this~~
19 ~~section; and~~

20 ~~(iii) Court finds that the director’s revision was~~
21 ~~without a reasonable basis in law and fact.~~

22 (2) A judgment of court costs entered by the court in favor of
23 either party or of attorney’s fees awarded in favor of the taxpayer shall be
24 treated, for purposes of this chapter, in the same manner as an overpayment
25 or deficiency of tax, except that interest or penalty shall not be allowed or
26 assessed with respect to a judgment for court costs or attorney’s fees.

27 (f) If a taxpayer pays the tax, penalty, and interest assessed under §
28 26-18-403 and does not request administrative relief according to ~~§ 26-18-404~~
29 the Tax Appeals Commission Act, § 26-18-1101 et seq., then:

30 (1) The taxpayer may seek judicial relief from the assessment
31 only if the taxpayer files suit in circuit court within one (1) year from the
32 date of payment of the assessment; and

33 (2) The provisions of § 26-18-507 ~~shall~~ do not apply to the
34 payments.

35 (g) The Arkansas Rules of Civil Procedure and § 16-56-126 concerning
36 nonsuit and commencement of new actions apply to appeals under this section.

1
2 SECTION 14. Arkansas Code § 26-18-507(e), concerning claims for refunds
3 of overpayments, is amended to read as follows:

4 (e)(1)(A) The director shall make a written determination and give
5 notice to the taxpayer concerning whether or not a refund is due.

6 (B)(i) If a refund is due, the director shall certify that the
7 claim is to be paid to the taxpayer as provided by law or credited against
8 state taxes due or to become due.

9 (ii)(a) If the director determines that the taxpayer
10 entitled to the refund has an outstanding state tax delinquency for which a
11 certificate of indebtedness has been filed, the director shall apply the
12 refund due as payment against the outstanding state tax delinquency. If the
13 amount of the state tax refund exceeds the amount of the outstanding state
14 tax delinquency, the excess amount shall be paid to the taxpayer in
15 accordance with subdivision (e)(1)(B)(i) of this section.

16 (b) The director shall notify each taxpayer in
17 writing whose refund results from the filing of a joint return that the joint
18 refund will be applied against the outstanding state tax delinquency.

19 (c) A taxpayer who claims that only the
20 taxpayer's spouse owes the delinquent state tax debt may seek administrative
21 relief ~~by filing a written protest under oath within thirty (30) days by~~
22 filing a petition protesting the director's written determination within
23 ninety (90) days with the Tax Appeals Commission under the Tax Appeals
24 Commission Act, § 26-18-1101 et seq., after the notice under subdivision
25 (e)(1)(B)(ii)(b) of this section is received that includes information
26 regarding why the taxpayer does not owe the delinquent state tax debt and
27 either requests a hearing in person or based upon the information submitted
28 with the petition of protest.

29 (d) A hearing ~~on a written protest made~~ under
30 this subdivision (e)(1)(B)(ii) and any judicial relief requested following
31 the administrative hearing process with the commission shall be provided in
32 accordance with the applicable provisions of ~~§§ 26-18-405 and 26-18-406,~~ §
33 26-18-406 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

34 (2)(A) If the director's ~~determination~~ decision is to disallow
35 the claim for refund, in whole or in part, then the director shall
36 immediately issue a written decision giving notice to the taxpayer of the

1 denial of the claim for refund.

2 (B) The taxpayer may seek administrative review and relief
 3 from the director's decision to deny a claim for refund ~~by protesting as~~
 4 ~~provided in §§ 26-18-404 and 26-18-405,~~ by filing a petition of protest with
 5 the commission under the Tax Appeals Commission Act, § 26-18-1101 et seq.

6 (3) The taxpayer may seek judicial relief under the provisions
 7 of § 26-18-406 and the Tax Appeals Commission Act, § 26-18-1101 et seq.,
 8 from:

9 (A) A notice of a denial of a claim for refund issued by
 10 the director; ~~or~~

11 (B) The director's failure to issue a written decision
 12 after the claim for refund has been filed for six (6) months; or

13 (C) A decision by the commission.

14
 15 SECTION 15. Arkansas Code § 26-18-601 is amended to read as follows:
 16 26-18-601. Cancellation or refusal of license or permit.

17 (a)(1) The ~~director~~ Director of the Department of Finance and
 18 Administration may cancel or refuse to issue, extend, or reinstate a license,
 19 permit, or registration under any state tax law to any person or taxpayer who
 20 has within the last three (3) years failed to comply with a state law
 21 concerning the timely reporting and payment of a state tax administered by
 22 the director or failed to observe or fulfill the conditions upon which the
 23 license or permit was issued.

24 (2) A failure to pay assessed interest and penalties on a
 25 delinquent state tax is grounds for a decision to cancel or refuse to issue,
 26 extend, or reinstate a license, permit, or registration under this
 27 subsection.

28 (b)(1) When the director determines, in his or her sole discretion,
 29 that an emergency situation exists and that the public welfare and safety are
 30 endangered, he or she may issue an order temporarily suspending a license,
 31 permit, or registration pending a hearing before ~~him or her~~ the Tax Appeals
 32 Commission on the subject of the cancellation of the license, permit, or
 33 registration.

34 (2) The director shall give notice of the temporary suspension
 35 at the same time that he or she gives notice of his or her intention to
 36 cancel or to refuse to issue, extend, or reinstate any license, permit, or

1 duplicate copy thereof, as provided by this section.

2 (3)(A) The provisions of § 26-18-1113(b)-(e) do not apply to a
3 hearing with the commission under this subsection.

4 (B) ~~The director~~ commission shall as soon as practicable,
5 but in any event within three (3) days after the request of the taxpayer,
6 hold a hearing on whether the temporary suspension should be made permanent.

7 (C) The commission shall issue a decision under this
8 subsection within three (3) days.

9 (4) The temporary suspension shall be made permanent without a
10 hearing unless the taxpayer requests a hearing with the commission within
11 twenty (20) days of receipt of notice of the temporary suspension.

12 (c)(1) Except as set out in subsection (b) of this section, before the
13 director may cancel or refuse to issue, extend, or reinstate any license,
14 permit, or registration, he or she shall give notice of his or her proposed
15 action, and the owner or applicant shall have twenty (20) days after receipt
16 of the director's decision to request a hearing with the commission.

17 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
18 hearing with the commission under this subsection.

19 (3) The commission shall issue a decision under this subsection
20 within twenty (20) days.

21 (d)(1) When a license, permit, or registration is cancelled by the
22 director, all accrued fees, taxes, and penalties, even though not due and
23 payable at the time of cancellation under the state tax law imposing and
24 levying the tax, shall become due concurrently with the cancellation of the
25 license, permit, or registration.

26 (2) The licensee or permittee shall within five (5) business
27 days of cancellation make a report to the director covering the period not
28 previously covered by reports filed by that person and ending with the date
29 of the cancellation and shall pay all accrued fees, taxes, and penalties at
30 the time the report is made.

31 (3) Violation of this subsection is a Class C misdemeanor.

32 (e)(1) The affected taxpayer may seek relief from the decision of the
33 director cancelling a license, permit, or registration by requesting a
34 hearing, pursuant to subsections (b) and (c) of this section, by filing a
35 ~~written protest of the action~~ petition ~~with the hearing officer appointed by~~
36 ~~the director, pursuant to § 26-18-405~~ the commission pursuant to the Tax

1 Appeals Commission Act, § 26-18-1101 et seq., and the ~~hearing officer~~
2 commission shall hold all hearings requested pursuant to this section.

3 (2) The ~~hearing officer~~ commission shall issue a written decision
4 on all hearings which shall be final ~~unless revised by the director.~~

5 ~~(3) The hearings and determinations of the hearing officer shall~~
6 ~~not be subject to the provisions of the Arkansas Administrative Procedure~~
7 ~~Act, § 25-15-201 et seq.~~

8 ~~(4)(A) A taxpayer may request a revision by the director of the~~
9 ~~hearing officer's determination which is adverse to him or her within twenty~~
10 ~~(20) days of the date of the mailing of the hearing officer's decision.~~

11 ~~(B)(3) If the director refuses to make a revision, or if~~
12 ~~the taxpayer does not request a revision, then the~~ The affected taxpayer may
13 seek relief from the ~~hearing officer's~~ commission's decision ~~or the final~~
14 ~~revision determination by the director~~ by following the method provided in §
15 26-18-602 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

16 (f) Violations of this section shall be punished as provided in § 26-
17 18-206. The director may seek to enjoin any violation of any state tax law
18 the director is charged to enforce.

19
20 SECTION 16. Arkansas Code § 26-18-602 is amended to read as follows:

21 26-18-602. Judicial ~~review~~ relief of cancellation decision.

22 (a)(1) The affected taxpayer may seek judicial relief from ~~the a~~
23 decision of the ~~director, rendered after a hearing,~~ Tax Appeals Commission
24 under the Tax Appeals Commission Act, § 26-18-1101 et seq., affirming the
25 decision of the Director of the Department of Finance and Administration to
26 eancelling cancel a license, permit, or registration.

27 (2) The taxpayer's petition seeking an order to stay the effect
28 of the ~~director's~~ commission's decision shall be filed within thirty (30)
29 days after receipt of notice of that decision by the taxpayer with the
30 Pulaski County Circuit Court or the circuit court of the county in which the
31 taxpayer resides or has his or her principal place of business, where the
32 matter shall be tried de novo.

33 (b)(1) Judicial Relief relief from the decision of the ~~director~~
34 eancelling commission to affirm the director's decision to cancel a license,
35 permit, or registration may be taken only as provided in this section.

36 (2)(A) To stay the effect of the ~~director's~~ commission's

1 decision, the person or taxpayer shall file a bond not to exceed twenty-five
 2 thousand dollars (\$25,000) with and in an amount fixed by the ~~director~~
 3 commission, payable to the State of Arkansas.

4 (B) The bond shall be conditioned upon:

5 (i) The faithful and diligent prosecution of the
 6 appeal by the taxpayer to a final determination; and

7 (ii) The immediate compliance of the taxpayer with
 8 the ~~director's~~ commission's decision if the ~~director's~~ commission's decision
 9 is not enjoined by the circuit court or upon appeal is upheld by the Supreme
 10 Court.

11 (3) The ~~director~~ commission may, ~~in his or her discretion,~~
 12 refuse to stay the effect of ~~his or her~~ its decision and permit a bond to be
 13 posted when ~~he or she~~ it determines ~~in his or her sole discretion~~ that the
 14 public safety and welfare would be endangered by the stay.

15 (c) The venue for all actions seeking relief from a decision of the
 16 ~~director concerning the cancellation of or refusal of the issuance of~~
 17 commission to affirm the director's decision to cancel or refuse to issue a
 18 license or permit shall be the Pulaski County Circuit Court or the circuit
 19 court of the county in which the taxpayer resides or has his or her principal
 20 place of business.

21
 22 SECTION 17. Arkansas Code § 26-18-701(a)(1)(A), concerning issuance of
 23 certificates of indebtedness and execution, is amended to read as follows:

24 (a)(1)(A) If a taxpayer does not timely and properly pursue his or her
 25 remedies seeking relief from a decision of the Director of the Department of
 26 Finance and Administration or a decision made by the Tax Appeals Commission
 27 under the Tax Appeals Commission Act, § 26-18-1101 et seq., and a final
 28 assessment is made against the taxpayer, or if the taxpayer fails to pay the
 29 deficiency assessed upon notice and demand, then the director shall, as soon
 30 as practicable thereafter, issue to the circuit clerk of any county of the
 31 state a certificate of indebtedness certifying that the person named in the
 32 certificate of indebtedness is indebted to the state for the amount of the
 33 tax established by the director as due.

34
 35 SECTION 18. Arkansas Code § 26-18-705(c), concerning settlement or
 36 compromise of liability controversies, is amended to read as follows:

1 (c)(1) In settling or compromising any controversy relating to the
 2 liability of a person for any state tax for any taxable period, the director
 3 may enter into a written closing agreement concerning the liability.

4 (2) When the closing agreement is signed by the director, it
 5 shall be final and conclusive, and except upon a showing of fraud or
 6 misrepresentation of a material fact, no additional assessment or collection
 7 shall be made by the director, and the taxpayer shall not institute any
 8 hearing with the Tax Appeals Commission under the Tax Appeals Commission Act,
 9 § 26-18-1101 et seq., or a judicial proceeding to recover such liabilities as
 10 agreed to in the closing agreement.

11
 12 SECTION 19. Arkansas Code § 26-18-1002 is amended to read as follows:
 13 26-18-1002. Administrative hearing.

14 (a) A noncompliant taxpayer may request an administrative hearing
 15 concerning the decision of the Director of the Department of Finance and
 16 Administration to close the noncompliant taxpayer's business with the Tax
 17 Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101 et
 18 seq., by following the procedures in this section.

19 (b)(1) ~~Within five (5) business days~~ The noncompliant taxpayer shall
 20 have five (5) days after the delivery or attempted delivery of the notice
 21 required by § 26-18-1001(c), ~~the noncompliant taxpayer may file a written~~
 22 ~~protest to file a petition with the commission protesting the decision of the~~
 23 director, signed by the noncompliant taxpayer or his or her authorized agent,
 24 stating the reasons for opposing the closure of the business and requesting
 25 an administrative hearing.

26 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
 27 hearing with the commission under this section.

28 ~~(c)(1) A noncompliant taxpayer may request that an administrative~~
 29 ~~hearing be held in person, by telephone, upon written documents furnished by~~
 30 ~~the noncompliant taxpayer, or upon written documents and any evidence~~
 31 ~~produced by the noncompliant taxpayer at an administrative hearing.~~

32 ~~(2) The director has the discretion to determine whether an~~
 33 ~~administrative hearing at which testimony is to be presented will be~~
 34 ~~conducted in person or by telephone.~~

35 ~~(3) A noncompliant taxpayer who requests an administrative~~
 36 ~~hearing based upon written documents is not entitled to any other~~

~~administrative hearing prior to the hearing officer's rendering a decision.~~

~~(d) The administrative hearing will be conducted by a hearing officer appointed by the director under § 26-18-405.~~

~~(e)(1)(c)(1) The hearing officer commission will conduct the administrative hearing under the Tax Appeals Commission Act, § 26-18-1101 et seq., and will set the time and place for a hearing and will give the noncompliant taxpayer notice of the hearing.~~

~~(2) At the administrative hearing, the noncompliant taxpayer may be represented by an authorized representative and may present evidence in support of his or her position.~~

~~(f)(1) The hearing may be held in any city in which the Revenue Division of the Department of Finance and Administration maintains a field audit district office or in such other city as the director may designate.~~

(2) The administrative hearing will be held within fourteen (14) calendar days of receipt by the ~~director~~ commission of the ~~request for hearing petition~~.

~~(g) The administrative hearing and determinations made by the hearing officer under this subchapter are not subject to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

~~(h)(d)~~ (d) The defense or defenses to the closure of a business under this subchapter are:

(1) Written proof that the noncompliant taxpayer filed all delinquent returns and paid the delinquent tax due including interest and penalty; or

(2) That the noncompliant taxpayer has entered into a written payment agreement, approved by the director, to satisfy the tax delinquency.

~~(i)(e)~~ (e) The decision of the ~~hearing officer~~ commission ~~must~~ shall be in writing with copies delivered to the noncompliant taxpayer and the Department of Finance and Administration by the United States Postal Service or by hand delivery.

~~(j)(f)~~ (f) A decision of the ~~hearing officer~~ commission after a hearing or rehearing, or both to sustain the director's decision to close the business of the noncompliant taxpayer is effective twenty (20) days after the date of the decision and, except as provided under § 26-18-1003, acts as an injunction prohibiting further operation of the business.

1 SECTION 20. Arkansas Code § 26-18-1003(a) and (b), regarding judicial
 2 relief, is amended to read as follows:

3 (a) As used in this section:

4 (1) "Administrative decision" means a decision by the Tax
 5 Appeals Commission issued under § 26-18-1002 and the Tax Appeals Commission
 6 Act, § 26-18-1101 et seq., to affirm the decision of the Director of the
 7 Department of Finance and Administration to close the business of a
 8 noncompliant taxpayer;

9 (2) "Business" means a business subject to an administrative
 10 decision; and

11 (3) "Business closure order" means a notice of closure issued by
 12 the director under § 26-18-1001.

13 (b)(1) A noncompliant taxpayer may seek judicial relief from an
 14 administrative decision by the commission by filing suit within twenty (20)
 15 calendar days of the date of the administrative decision.

16 (2) Jurisdiction for a suit under this section shall be in the
 17 Pulaski County Circuit Court or the circuit court of the county where the
 18 noncompliant taxpayer resides or has his or her principal place of business,
 19 where the matter shall be tried de novo.

20
 21 SECTION 21. Arkansas Code § 26-36-315 is amended to read as follows:
 22 26-36-315. Joint refunds.

23 (a) When a taxpayer who is a debtor as defined in this subchapter has
 24 filed a joint return for which he or she is due a refund or has filed a
 25 separate return on the same form resulting in a joint refund, the entire
 26 amount of the refund shall be subject to setoff.

27 (b)(1) The Director of the Department of Finance and Administration
 28 shall notify each taxpayer due a joint refund of the amount and the date of a
 29 proposed setoff for a debt certified by a claimant agency to the Revenue
 30 Division of the Department of Finance and Administration.

31 (2) The notice under subdivision (b)(1) of this section shall be in
 32 writing and sent to the address listed on the taxpayer's most recently filed
 33 income tax return.

34 (c)(1)(A) A taxpayer who claims that he or she is not a debtor of a
 35 claimant agency may seek administrative relief by filing a ~~written protest~~
 36 ~~under oath within thirty (30) days after the notice under subdivision (b)(1)~~

1 ~~of this section is received, petition protesting the director's decision with~~
2 ~~the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101~~
3 ~~et seq.~~

4 (B) The ~~written protest~~ petition of protest shall be
5 signed by the nondebtor taxpayer or the nondebtor taxpayer's authorized agent
6 and include the nondebtor taxpayer's reasons for opposing the proposed
7 setoff.

8 ~~(2) The nondebtor taxpayer may request the director to consider~~
9 ~~his or her request for relief upon written documents furnished by the~~
10 ~~nondebtor taxpayer or upon the written document and the evidence produced by~~
11 ~~the nondebtor taxpayer at a hearing conducted under the Arkansas Tax~~
12 ~~Procedure Act, § 26-18-101 et seq.~~

13 ~~(3)~~ (2) The nondebtor taxpayer's petition of protest shall
14 include documentation supporting the proportionate share of the nondebtor
15 taxpayer's payment of tax and the resulting amount of the joint refund that
16 the nondebtor taxpayer claims is not subject to setoff.

17 ~~(d) A nondebtor taxpayer who requests the director to render his or~~
18 ~~her decision based on written documents is not entitled by law to any other~~
19 ~~administrative hearing before the director's rendering of his or her~~
20 ~~decision.~~

21 ~~(e)~~(d) Administrative relief ~~shall not be~~ is not available to a
22 nondebtor taxpayer who fails to ~~protest~~ file a petition protesting a proposed
23 setoff within the ~~thirty (30)~~ ninety (90) days after the notice under
24 subdivision (b)(1) of this section is received.

25 ~~(f)(1) If a taxpayer requests a hearing in person rather than on~~
26 ~~written documents, a hearing officer shall set the time and place for hearing~~
27 ~~on the written protest and shall give the nondebtor taxpayer reasonable~~
28 ~~notice of the hearing.~~

29 ~~(2) At the hearing, the nondebtor taxpayer may be represented by~~
30 ~~an authorized representative and may present evidence in support of his or~~
31 ~~her position.~~

32 ~~(3) After the hearing, the hearing officer shall render his or~~
33 ~~her decision in writing and shall serve copies upon both the nondebtor~~
34 ~~taxpayer and the claimant agency.~~

35 ~~(g) The hearings on written protests and determinations made by the~~
36 ~~hearing officer are not subject to the Arkansas Administrative Procedure Act,~~

1 ~~§ 25-15-201 et seq.~~

2 ~~(h)(1)(e)(1)~~ After the issuance and service on the taxpayer of a
 3 decision of the ~~hearing officer~~ commission to sustain the setoff of the joint
 4 refund, a nondebtor taxpayer may seek judicial relief from the decision by
 5 filing suit within thirty (30) days after the date of the ~~final determination~~
 6 decision of the ~~hearing officer~~ commission under § 26-18-1119.

7 (2) Jurisdiction for a suit to contest a ~~determination~~ decision
 8 of the ~~hearing officer~~ commission under this section shall be in the Pulaski
 9 County Circuit Court or the circuit court of the county where the nondebtor
 10 taxpayer resides, and the matter shall be tried de novo.

11 ~~(i)(f)~~ This section is the sole means by which a nondebtor taxpayer
 12 may challenge a proposed setoff for the benefit of a claimant agency.

13
 14 SECTION 22. Arkansas Code § 26-55-219 is amended to read as follows:

15 26-55-219. Distributor’s license – Refusal.

16 (a)(1) ~~In the event that any~~ If an application for a license to
 17 transact business as a distributor in the State of Arkansas ~~shall be~~ is filed
 18 by ~~any a~~ a person whose license ~~shall at any time have~~ has been cancelled ~~at~~
 19 any time for cause by the Director of the Department of Finance and
 20 Administration, or ~~in case~~ if the director ~~shall be of the opinion~~ determines
 21 that the application is not filed in good faith or ~~in the event~~ that the
 22 application is filed by some person as a subterfuge for the real person in
 23 interest whose license ~~or registration shall theretofore have~~ has been
 24 cancelled for cause by the director, ~~or for any other valid reason, then and~~
 25 ~~in any of said events the director, after a hearing of which the applicant~~
 26 ~~shall have been given five (5) days’ notice in writing and at which the~~
 27 ~~applicant shall have the right to appear in person or by counsel and present~~
 28 ~~testimony, shall have and is given the right and authority to~~ the director
 29 may refuse to issue to the person a license ~~certificate~~ to transact business
 30 as a distributor in the State of Arkansas unless a petition protesting the
 31 decision of the director is properly filed under the Tax Appeals Commission
 32 Act, § 26-18-1101 et seq.

33 (2) If a petition is properly filed under the Tax Appeals
 34 Commission Act, § 26-18-1101 et seq., the Tax Appeals Commission shall hold a
 35 hearing and render a decision directing the director to either issue or
 36 refuse to issue to the person a license to transact business as a distributor

1 in the State of Arkansas.

2 (b)(1) ~~Any~~ A distributor may seek judicial relief of an action by
3 either the director or the commission who is aggrieved by the action of the
4 ~~director~~ in refusing to issue the license applied for, within thirty (30)
5 days from the time of the refusal, may appeal by appealing to the circuit
6 court of the county of the distributor's residence where the distributor
7 ~~shall be~~ is entitled to a hearing de novo.

8 (2) An appeal shall lie from the circuit court to the Supreme
9 Court as in other cases now provided by law.

10
11 SECTION 23. Arkansas Code § 26-55-231(a), concerning the failure to
12 report or pay tax relating to the revocation or cancellation of licenses
13 under the Motor Fuel Tax Law, is amended to read as follows:

14 (a)(1) If a distributor at any time files a false monthly report of
15 the data or information required by this subchapter or fails, refuses, or
16 neglects to file the monthly report required by this subchapter, or to pay
17 the full amount of the tax as required by this subchapter, the Director of
18 the Department of Finance and Administration may give notice to the
19 distributor of an intention to revoke the license of the distributor.

20 (2)(A) ~~The distributor shall be entitled to a period of five (5)~~
21 ~~days after receipt of the notice from the director, within which to apply for~~
22 ~~a hearing before the director on the question of having the distributor's~~
23 ~~license revoked. The director shall grant a hearing at such time and place as~~
24 ~~the director may designate of which the distributor shall have five (5) days'~~
25 ~~advance notice in writing, shall have five (5) days to file a petition with~~
26 the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101
27 et seq., after receiving notice from the director that the director has
28 revoked, or intends to revoke, the distributor's license.

29 (B) The provisions of § 26-18-1113(b)-(e) do not apply to
30 a hearing with the commission under this section.

31 (C) The commission shall grant a hearing at such time and
32 place as the commission may designate and provide to the distributor five (5)
33 days' advance notice in writing.

34 (3) After the hearing, ~~at which time the distributor shall be~~
35 ~~entitled to present evidence and argument of counsel, the director~~ the
36 commission shall decide whether the distributor's license shall be revoked.

1 (4)(A) Upon the issuance of an order revoking the license, the
2 distributor shall be entitled to an appeal to the circuit court in the county
3 where the distributor may do business where the question shall be tried de
4 novo.

5 (B) An appeal shall lie from the circuit court of that
6 county as in other cases provided by law.

7 (5)(A) If the distributor fails to ~~apply for a hearing~~ file a
8 petition with the commission within the time set out in subdivision (a)(2)(A)
9 of this section, the director may ~~forthwith cancel~~ revoke the license of the
10 distributor and notify the distributor of the ~~cancellation~~ revocation by
11 registered mail to the last known address of the distributor appearing on the
12 files of the director.

13 (B) The director shall also notify the surety company on
14 the distributor's bond in like manner.

15

16 SECTION 24. Arkansas Code § 26-56-311 is amended to read as follows:
17 26-56-311. Revocation of supplier's or dealer's license.

18 (a) If a licensed liquefied gas special fuels supplier or dealer fails
19 to file any report required by this subchapter, or falsely or fraudulently
20 files a report, or fails to pay the full amount of the tax levied by this
21 subchapter, or if at any time the surety on the licensee's bond becomes
22 unsatisfactory or inaccessible to the Director of the Department of Finance
23 and Administration or the bond is discharged or cancelled, and a new bond is
24 not furnished by the licensee within five (5) days after the demand of the
25 director, the director may give notice to the licensee of an intention to
26 revoke his or her license.

27 (b)(1) The licensee shall be entitled to a period of ten (10) days
28 after the mailing of the notice within which to apply for a hearing with the
29 Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101 et
30 seq., on the question of having his or her license revoked, and the ~~director~~
31 commission shall designate a time and place for the hearing, giving the
32 licensee five (5) days' notice thereof.

33 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
34 hearing with the commission under this section.

35 (c)(1) After the hearing, ~~at which the licensee shall be entitled to~~
36 ~~present evidence and be represented by counsel, the director shall determine~~

1 ~~whether licensee's license shall be revoked,~~ the commission shall determine
 2 whether to revoke or reinstate the licensee's license.

3 (2) The commission shall direct the director to either revoke or
 4 reinstate the licensee's license consistent with the commission's decision.

5 (d)(1) ~~Upon the issuance of an order revoking the license, the~~ The
 6 ~~licensee shall be entitled to~~ may ~~appeal a decision from either the director~~
 7 ~~or the commission revoking the license~~ to the circuit court in any county in
 8 which the licensee may do business, where the question shall be tried de
 9 novo, but the ~~director's order~~ decision of the director or the commission
 10 shall be affirmed if supported by substantial evidence.

11 (2) An appeal may be had from the judgment of the circuit court
 12 as in other cases as provided by law.

13 (e)(1) If the licensee fails to apply for a hearing within the
 14 prescribed time under the Tax Appeals Commission Act, § 26-18-1101 et seq.,
 15 the director may immediately revoke the license of the licensee and notify
 16 the licensee by registered mail, addressed to the last known address of the
 17 licensee appearing in the files of the director.

18 (2) The director shall also notify the surety company on the
 19 licensee's bond in like manner.

20
 21 SECTION 25. Arkansas Code § 26-57-413(c) and (d), concerning the
 22 revocation of licenses for coin-operated amusement devices, are amended to
 23 read as follows:

24 (c)(1) ~~The licensee shall have fifteen (15) days in which to notify~~
 25 ~~the director that a hearing is desired, after which time a hearing shall be~~
 26 ~~had not less than fifteen (15) days subsequent to the expiration of the~~
 27 ~~fifteen day period of notice,~~ to file a petition protesting revocation or
 28 suspension of the licensee's license with the Tax Appeals Commission under
 29 the Tax Appeals Commission Act, § 26-18-1101 et seq.

30 (2) The provisions of § 26-18-1113(b)-(e) do not apply to a
 31 hearing with the commission under this section.

32 (3) The commission shall schedule and hold a hearing within
 33 fifteen (15) days after the date a petition is filed by the licensee with the
 34 commission.

35 (d)(1) Any licensee whose license has been revoked or suspended by a
 36 decision by the director or by a decision by the commission, or both, may

1 appeal to the Pulaski County Circuit Court within twenty (20) days after
2 revocation or suspension by filing a copy of the notice of the revocation or
3 suspension with the clerk of the circuit court and causing a summons to be
4 served on the director or commission.

5 (2) The case shall be tried de novo in the circuit court.

6 (3) Either party may prosecute an appeal to the Supreme Court as
7 in other cases.

8

9 SECTION 26. Arkansas Code § 26-57-419(f), concerning the revocation of
10 licenses to sell coin-operated amusement devices, is amended to read as
11 follows:

12 (f)(1) The director may revoke or suspend the licenses for cause.

13 (2) Any licensee shall be notified in writing that the
14 revocation or suspension of ~~its~~ the licensee's license is being considered
15 and the reason therefor.

16 (3)(A) The licensee shall have fifteen (15) days ~~in which to~~
17 ~~notify the director that a hearing is desired, after which time a hearing~~
18 ~~shall be held not less than fifteen (15) days subsequent to the expiration of~~
19 ~~the fifteen day period of notice.~~ to file a petition protesting the
20 revocation or suspension of the licensee's license with the Tax Appeals
21 Commission under the Tax Appeals Commission Act, § 26-18-1101 et seq.

22 (B) The provisions of § 26-18-1113(b)-(e) do not apply to
23 a hearing with the commission under this section.

24 (C) The commission shall schedule and hold a hearing
25 within fifteen (15) days after the date a petition is filed by the licensee
26 with the commission.

27 (4)(A)(i) ~~Any A~~ Any A licensee whose license has been revoked or
28 suspended by a decision by the director or by a decision by the commission,
29 or both, may appeal to the Pulaski County Circuit Court by filing a copy of
30 the notice of revocation or suspension with the clerk of the court within
31 twenty (20) days of receipt ~~thereof~~ of the notice of revocation or suspension
32 and causing the issuance of a summons to be served on the director or the
33 commission, or both.

34 (ii) The hearing shall be de novo in the Pulaski
35 County Circuit Court.

36 (B) Either party may appeal to the Supreme Court as in

1 other cases.

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SECTION 27. Arkansas Code § 26-57-1212(c), concerning the procedure upon forfeiture of vending devices, is amended to read as follows:

(c)(1) The owner of the vending device shall be given at least thirty (30) days' written notice of the date of the hearing on the forfeiture of the vending device.

(2) The notice shall be considered a notice of proposed assessment under § 26-18-403, and the owner shall be entitled to an administrative hearing pursuant to § 26-18-405 with the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101 et seq.