

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 207

5 By: Senator B. Johnson
6 By: Representative Richmond
7

For An Act To Be Entitled

8
9 AN ACT TO MODIFY THE ARKANSAS CORPORATE FRANCHISE TAX
10 ACT OF 1979; AND FOR OTHER PURPOSES.
11

Subtitle

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14 TO MODIFY THE ARKANSAS CORPORATE
15 FRANCHISE TAX ACT OF 1979.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 4-27-1622(a)(4), concerning the location of
21 a corporation's principal office for annual franchise tax reports under the
22 Arkansas Business Corporation Act of 1987, is amended to read as follows:

23 (4) the address of its principal office, as defined in § 4-27-
24 140, wherever it is located;
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26 SECTION 2. Arkansas Code § 26-54-102(a), concerning the definition of
27 "corporation" used in the Arkansas Corporate Franchise Tax Act of 1979, is
28 amended to read as follows:

29 (a) As used in this chapter, "corporation" means any corporation or
30 limited liability company, domestic and foreign, active and inactive, which
31 is organized in or qualified under the laws of the State of Arkansas and
32 includes, but is not limited to, any person or group of persons, any
33 association, joint-stock company, business trust, or other organizations with
34 or without charter constituting a separate legal entity of relationship with
35 the purpose of obtaining some corporate privilege or franchise which is not
36 allowed to them as individuals and which is exercising, or attempting to



1 exercise, corporate-type acts, whether or not existing by virtue of a
 2 particular statute.

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4 SECTION 3. Arkansas Code § 26-54-104 is amended to read as follows:
 5 26-54-104. Annual franchise tax.

6 (a) Unless exempted under § 26-54-105, every corporation shall file an
 7 annual franchise tax report and pay an annual franchise tax as follows:

8 (1)(A) Each life, fire, accident, surety, liability, steam
 9 boiler, tornado, health, or other kind of insurance company of whatever
 10 nature, having an outstanding capital stock of less than five hundred
 11 thousand dollars (\$500,000) shall pay three hundred dollars (\$300).

12 (B) Each company having an outstanding capital stock of
 13 five hundred thousand dollars (\$500,000) or more shall pay four hundred
 14 dollars (\$400);

15 (2)(A) Each legal reserve mutual insurance corporation having
 16 assets of less than one hundred million dollars (\$100,000,000) shall pay
 17 three hundred dollars (\$300).

18 (B) Each corporation having assets of one hundred million
 19 dollars (\$100,000,000) or more shall pay four hundred dollars (\$400);

20 (3) Each mutual assessment insurance corporation shall pay three
 21 hundred dollars (\$300);

22 (4)(A) Each mortgage loan corporation shall pay an amount
 23 equivalent to three-tenths of one percent (0.3%) of that proportion of the
 24 par value of its outstanding capital stock that its aggregate outstanding
 25 loans made in Arkansas bears to the total aggregate outstanding loans made in
 26 all states.

27 (B) No corporation shall pay an annual tax of less than
 28 three hundred dollars (\$300);

29 (5) Each corporation, other than those in subdivisions (2)-(4)
 30 of this section, without authorized capital stock shall pay three hundred
 31 dollars (\$300);

32 (6)(A) Each corporation, other than those in subdivisions (1)-
 33 (5) of this section, shall pay an amount equivalent to three-tenths of one
 34 percent (0.3%) of that proportion of the par value of its outstanding capital
 35 stock that the value of its real and personal property in Arkansas bears to
 36 the total value of the real and personal property of the corporation.

1 (B) No corporation shall pay an annual tax of less than
 2 one hundred fifty dollars (\$150);

3 (7) Each corporation actually and actively in the process of
 4 liquidation and which does not rent or lease its property but which retains
 5 its corporate charter or authority for the sole purpose of winding up its
 6 affairs shall pay an annual tax as provided in subdivision (6) of this
 7 section or an amount equivalent to three-tenths of one percent (0.3%) of the
 8 value of its real and tangible personal property in Arkansas, whichever is
 9 smaller, but in no instance shall the tax be less than one hundred fifty
 10 dollars (\$150); and

11 (8) An organization formed pursuant to the Uniform Limited
 12 Liability Company Act, § 4-38-101 et seq., shall pay the minimum franchise
 13 tax.

14 (b)(1) In addition to the filing fees prescribed by law, the Secretary
 15 of State shall collect a processing fee for each document required under this
 16 chapter when delivered by electronic means.

17 (2) The processing fee collected by the Secretary of State under
 18 subdivision (b)(1) of this section shall be:

19 (A) Four dollars (\$4.00) when the filing fee is fifty
 20 dollars (\$50.00) or less;

21 (B) Five dollars (\$5.00) when the filing fee is between
 22 fifty-one dollars (\$51.00) and one hundred sixty-seven dollars (\$167.00); and

23 (C) Three percent (3%) of the total amount of the filing
 24 fee if the filing fee is more than one hundred sixty-seven dollars (\$167.00).

25
 26 SECTION 4. Arkansas Code § 26-54-105(a)-(c), concerning the filing of
 27 a franchise tax report under the Arkansas Corporate Franchise Act of 1979, is
 28 amended to read as follows:

29 (a)(1) The Secretary of State shall furnish ~~report forms~~ notice to
 30 each corporation subject to this chapter by mailing or emailing them the
 31 notice to the corporation's current agent for service or other person
 32 identified by the corporation.

33 (2) When filing the franchise tax report, a corporation may
 34 state who is to receive a franchise tax form the following year if that
 35 person is different from the agent for service on file for the corporation at
 36 that time.

1 (b) A corporation that fails to receive ~~the report forms~~ the notice
 2 under subdivision (a)(1) of this section by March 20 of the reporting year
 3 shall make written request for ~~them~~ the notice to the Secretary of State on
 4 or before March 31.

5 (c)(1) Each corporation subject to the requirements of this chapter
 6 shall file a franchise tax report with the Secretary of State that shows the
 7 condition and status of the corporation as of the close of business on the
 8 last day of the corporation's preceding ~~fiscal year~~ calendar year and other
 9 information required by the Secretary of State.

10 (2)(A) The franchise tax as computed on the report shall be
 11 remitted with the franchise tax report.

12 (B) The franchise tax as computed on the report shall be
 13 remitted with the franchise tax report on or before May 1 of the reporting
 14 year for franchise tax due.

15
 16 SECTION 5. Arkansas Code § 26-54-105(g) and (h), concerning the
 17 requirements of a franchise tax report under the Arkansas Corporate Franchise
 18 Act of 1979, is amended to read as follows:

19 (g)(1) Every franchise tax report shall contain the following
 20 statement:

21 "I declare, under the penalties of perjury, that the foregoing statements are
 22 true to the best of my knowledge and belief."

23 (2) The statement shall be signed by the president, vice
 24 president, secretary, treasurer, or controller of the corporation or any
 25 other authorized ~~person~~ individual as determined by the Secretary of State.

26 (h)(1) ~~All information contained in a franchise tax report shall be~~
 27 ~~confidential and not available for public inspection, except for the~~
 28 ~~following~~ Only the following information contained in a franchise tax report
 29 shall be available for public inspection:

- 30 (A) The name and address of the corporation;
- 31 (B) The name of the corporation's president, vice
- 32 president, secretary, treasurer, and controller;
- 33 (C) The total authorized capital stock with par value;
- 34 (D) The total issued and outstanding capital stock with
- 35 par value; and
- 36 (E) The state of incorporation.

1 (2) In the case of a franchise tax report filed by an
 2 organization formed under the Uniform Limited Liability Company Act, § 4-38-
 3 101 et seq., the names of members, except those designated in the
 4 organizations' franchise tax report as a manager, president, vice president,
 5 secretary, treasurer, or controller of the organization, shall be
 6 confidential and not available for public inspection unless the organization
 7 has no registered agent for service of process.

8
 9 SECTION 6. Arkansas Code § 26-54-107(b)(2), concerning the penalty for
 10 failure to file and remit a franchise tax report under the Arkansas Corporate
 11 Franchise Tax Act of 1979, is amended to read as follows:

12 (2) On or before November 1 of each year, the Secretary of State
 13 shall mail notice to the corporation at its last known address stating that
 14 the corporation is subject to ~~forfeiture~~ revocation of its corporate charter
 15 under § 26-54-111 for the failure to pay corporate franchise tax.

16
 17 SECTION 7. Arkansas Code § 26-54-111 is amended to read as follows:
 18 26-54-111. Charter ~~forfeiture~~ revocation for failure to pay tax -
 19 Procedure.

20 (a) On or before January 31 of each year, the Secretary of State shall
 21 proclaim as ~~forfeited~~ revoked the corporate charters or authorities of all
 22 corporations, both domestic and foreign, that according to the Secretary of
 23 State's records are delinquent in the payment of the annual franchise tax for
 24 a prior year.

25 (b)(1) A copy of the proclamation under subsection (a) of this
 26 section, or applicable portion thereof, shall be furnished to each other
 27 official or agency of the state that is authorized to issue corporation
 28 charters or authorities.

29 (2) Upon their receipt of the proclamation, the several
 30 officials shall at once correct their respective records in accordance with
 31 the proclamation.

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 33 SECTION 8. Arkansas Code § 26-54-112 is amended to read as follows:
 34 26-54-112. Reinstatement of corporations.

35 (a)(1)(A)(i) A corporation whose charter or permit authority to do
 36 business in the state has been declared ~~forfeited~~ revoked by proclamation of

1 the Governor or the Secretary of State may be reinstated to all its rights,
 2 powers, and property.

3 (ii) Reinstatement shall be retroactive to the time
 4 that the corporation's authority to do business in the state was declared
 5 ~~forfeited~~ revoked.

6 (B) The reinstatement shall be made after the filing of
 7 all delinquent franchise tax reports satisfactory to the Secretary of State
 8 and the payment of all taxes and penalties due for each year of delinquency.

9 (2) However, reinstatement is not allowed after ~~seven~~ (7) five
 10 (5) years from the date the charter or permit authority to do business in the
 11 state ~~if the corporation was~~ is declared:

12 (A) ~~forfeited~~ Revoked by proclamation of the Governor or
 13 the Secretary of State; and

14 (B) A forfeited charter.

15 (b) If the Secretary of State issued the original corporate charter,
 16 permit, or authority, the Secretary of State shall reinstate the corporation
 17 upon payment by the corporation of all amounts due, as provided in subsection
 18 (a) of this section.

19 (c)(1) If the original corporate charter, permit, or authority was
 20 issued by an official other than the Secretary of State, the official shall
 21 reinstate the corporation upon the corporation's filing with the official the
 22 receipt of the Secretary of State showing payment of all amounts due, as
 23 provided in subsection (a) of this section.

24 (2) Thereafter, the corporation shall stand in all respects as
 25 though its name had never been declared ~~forfeited~~ revoked.

26
 27 SECTION 9. Arkansas Code § 26-54-114 is amended to read as follows:

28 26-54-114. Nonpayment of franchise taxes – Definitions.

29 (a) A corporation or limited liability company ~~is not allowed to file~~
 30 ~~any forms or documentation related to that corporation or limited liability~~
 31 ~~company if the corporation or limited liability company owes~~ owing past-due
 32 franchise taxes to the Secretary of State may not:

33 (1) File forms or documents related to that corporation or
 34 limited liability company;

35 (2) Create a new legal entity in this state; or

36 (3) Obtain authority to do business in this state.

1 (b) A person or individual ~~is not allowed to file any initial forms or~~
 2 ~~documentation with the Secretary of State to create any legal entity in the~~
 3 ~~State of Arkansas or to obtain authority to do business in the State of~~
 4 ~~Arkansas if that person is~~ substantially connected to any corporation or
 5 limited liability company that owes past-due franchise taxes to the Secretary
 6 of State may not:

7 (1) File forms or documents related to that corporation or
 8 limited liability company;

9 (2) Create a new legal entity in this state; or

10 (3) Obtain authority to do business in this state.

11 (c) As used in this section:

12 (1) "Past-due franchise taxes" means only those taxes owed three
 13 (3) years prior to the year in which the current filing is presented;

14 (2) "Past officer or director" means a person or individual who
 15 was associated with the corporation or limited liability company ~~during the~~
 16 at any time that its charter was revoked during its charter that the
 17 corporation or limited liability company was responsible for nonpayment of
 18 franchise taxes; and

19 (3) "Substantially connected" means a present officer, ~~or~~
 20 director, member, or manager or a past officer, ~~or~~ director, member, or
 21 manager of a corporation.

22 (d) An individual who is an incorporator or organizer of a corporation
 23 or limited liability company shall not be considered to be substantially
 24 connected to a corporation or limited liability company that owes past-due
 25 franchise taxes to the Secretary of State.

26 (e) Each corporation, subject to this chapter, shall file with its
 27 original articles of incorporation or certificate of organization the name of
 28 at least one (1) individual who is substantially connected to the corporation
 29 and is responsible for payment of franchise taxes.

30 (f) Any current or past officer or director that has been added to a
 31 corporation without their permission shall be removed as an officer or
 32 director of the corporation by the Secretary of State and not held
 33 responsible for past-due franchise taxes, if the officer or director submits:

34 (1) A copy of a report filed with a local, state, or federal law
 35 enforcement entity that states the officer or director has been fraudulently
 36 added to the corporation; and

1 (2) A statement, prescribed by the Secretary of State, signed by
2 the officer or director, that states the officer or director was added to the
3 corporation without their permission, with the following declaration:
4 "I declare, under the penalties of perjury, that the foregoing statements are
5 true to the best of my knowledge and belief."

6
7 SECTION 10. Arkansas Code Title 26, Chapter 54, Subchapter 1, is
8 amended to add an additional section to read as follows:

9 26-54-116. Powers of Secretary of State.

10 The Secretary of State is authorized to perform any of the duties that
11 are required of him or her under this chapter.

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