

1 State of Arkansas
2 94th General Assembly
3 Fiscal Session, 2024

SR 5

4
5 By: Senator J. Bryant
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7 **SENATE RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023,
10 TO CREATE REQUIREMENTS FOR NOISE REDUCTION IN THE
11 OPERATION OF A DIGITAL ASSET MINING BUSINESS, TO
12 CLARIFY THE ABILITY OF AN ARKANSAS RESIDENT TO ENGAGE
13 IN HOME DIGITAL ASSET MINING, AND TO PROHIBIT
14 FOREIGN-PARTY-CONTROLLED OWNERSHIP OF A DIGITAL ASSET
15 MINING BUSINESS IN ARKANSAS.
16

17
18 **Subtitle**

19 TO AUTHORIZE THE INTRODUCTION OF A
20 NONAPPROPRIATION BILL TO AMEND THE
21 ARKANSAS DATA CENTERS ACT OF 2023 AND TO
22 PROHIBIT FOREIGN-PARTY-CONTROLLED
23 OWNERSHIP OF A DIGITAL ASSET MINING
24 BUSINESS.
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27 BE IT RESOLVED BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE
28 STATE OF ARKANSAS:
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30 THAT Senator Bryant is authorized to introduce a bill which as
31 introduced will read substantially as follows:
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33 "Title

34 AN ACT TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO CREATE REQUIREMENTS
35 FOR NOISE REDUCTION IN THE OPERATION OF A DIGITAL ASSET MINING BUSINESS; TO
36 CLARIFY THE ABILITY OF AN ARKANSAS RESIDENT TO ENGAGE IN HOME DIGITAL ASSET



1 MINING; TO PROHIBIT FOREIGN-PARTY-CONTROLLED OWNERSHIP OF A DIGITAL ASSET
2 MINING BUSINESS IN ARKANSAS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

3
4 Subtitle

5 TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO PROHIBIT FOREIGN-PARTY-
6 CONTROLLED OWNERSHIP OF A DIGITAL ASSET MINING BUSINESS; AND TO DECLARE AN
7 EMERGENCY.

8
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
10 ARKANSAS:

11
12 SECTION 1. Arkansas Code § 14-1-603(10), concerning the definition of
13 "ordinance" under the Arkansas Data Centers Act of 2023, is amended to read
14 as follows:

- 15 (10) "Ordinance" means an ordinance, resolution, or other
- 16 appropriate legislative enactment of a legislative body ~~that~~
- 17 ~~(A) Prohibits an individual from operating a business from~~
- 18 ~~a residence; or~~
- 19 ~~(B) Requires an individual to obtain approval before~~
- 20 ~~operating a business from a residence;~~

21
22 SECTION 2. Arkansas Code § 14-1-604(a), concerning requirements that a
23 digital asset mining business shall comply with to operate in Arkansas, is
24 amended to read as follows:

- 25 (a) A digital asset mining business may operate in this state if the
- 26 digital asset mining business complies with:
- 27 ~~(1) State law concerning business guidelines and tax policies;~~
- 28 ~~(2)(1) Any ordinance concerning operations and safety ordinance;~~
- 29 ~~(3)(2) Any rule or rate for utility service provided by or on~~
- 30 ~~behalf of a public entity; and~~
- 31 ~~(4)(3) State and federal employment laws law.~~

32
33 SECTION 3. Arkansas Code § 14-1-604(b), concerning requirements that a
34 digital asset mining business shall comply with, is amended to add an
35 additional subdivision to read as follows:

- 36 (3) Apply noise-reduction techniques, including without

1 limitation:

2 (A) Using liquid cooling or submerged cooling;

3 (B)(i) Fully enclosing the envelope.

4 (ii) As used in subdivision (b)(3)(B)(i) of this
5 section, "fully enclosing the envelope" means enfolding the envelope where
6 noise from the operation of a digital asset mining business is directly
7 produced around all sides, including above and below the equipment producing
8 the noise, with material that is reasonably calculated by industry standards
9 to reduce noise emissions to a level that is acceptable to a reasonable
10 person under similar circumstances; or

11 (C) Upon approval by the local government, locating or
12 relocating to:

13 (i) A minimum of two thousand feet (2,000') from the
14 nearest residential or commercial use structure; or

15 (ii) An area zoned for industrial use.

16
17 SECTION 4. Arkansas Code § 14-1-604, concerning requirements that a
18 digital asset mining business shall comply with, is amended to add an
19 additional subsection to read as follows:

20 (f) A local government shall not pass an ordinance that:

21 (1) Prohibits an individual from engaging in home digital asset
22 mining; or

23 (2) Requires an individual to obtain approval from a local
24 government before engaging in home digital asset mining.

25
26 SECTION 5. Arkansas Code § 14-1-605(a), concerning prohibiting a local
27 government from imposing ordinances or zoning regulations on a digital asset
28 mining business with the intent to discriminate against the digital asset
29 mining business, is amended to read as follows:

30 (a) Except as provided by subsection (d) of this section, a local
31 government shall not+

32 ~~(1) Enact or adopt an ordinance, policy, or action that limits~~
33 ~~the sound decibels generated from home digital asset mining other than the~~
34 ~~limits set for sound pollution generally;~~

35 ~~(2) Impose a different requirement for a digital asset mining~~
36 ~~business than is applicable to any requirement for a data center;~~

1 ~~(3) Rezone rezone an area in which a digital asset mining~~
2 business is located without complying with applicable state law and local
3 zoning ordinances; ~~or~~

4 ~~(4) Rezone an area with the intent or effect of discriminating~~
5 ~~against a digital asset mining business.~~

6
7 SECTION 6. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
8 to add an additional section to read as follows:

9 14-1-606. Ownership of digital asset mining business by prohibited
10 foreign-party-controlled business prohibited – Definitions – Penalty –
11 Reporting.

12 (a) As used in this section:

13 (1) "Controlling interest" means an ownership interest of
14 fifteen percent (15%) or more, in the aggregate;

15 (2) "Prohibited foreign-party-controlled business" means a
16 corporation, company, association, firm, partnership, society, joint-stock
17 company, trust, estate, or other legal entity whose controlling interest is
18 owned by a prohibited foreign party; and

19 (3) "Prohibited foreign party" means:

20 (A) A citizen, resident, or agent of a country subject to
21 § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. § 120.1
22 et seq.;

23 (B) A foreign government formed within a country subject
24 to § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. §
25 120.1 et seq.;

26 (C) A party other than an individual or a government that
27 is created or organized under the laws of a foreign government within a
28 country subject to § 126.1 of the International Traffic in Arms Regulations,
29 22 C.F.R. § 120.1 et seq.;

30 (D) Any party other than an individual or a government:

31 (i) That is created or organized under the laws of
32 any state; and

33 (ii) In which a significant interest or substantial
34 control is directly or indirectly held or is capable of being exercised by:

35 (a) An individual referred to in subdivision
36 (a)(3)(A) of this section;

1 (b) A foreign government referred to in
2 subdivision (a)(3)(B) of this section;

3 (c) A party referred to in subdivision
4 (a)(3)(C) of this section; or

5 (d) A combination of the individuals, parties,
6 or governments referred to in this subdivision (a)(3)(D)(ii);

7 (E) An Entity of Particular Concern designated by the
8 United States Department of State; or

9 (F) An agent, trustee, or other fiduciary of a person or
10 entity enumerated in subdivisions (a)(3)(A)-(E) of this section.

11 (b)(1) A prohibited foreign-party-controlled business shall not
12 acquire or hold by grant, purchase, devise, descent, or otherwise any
13 interest in a digital asset mining business in this state.

14 (2) A person shall not acquire or hold a digital asset mining
15 business as an agent, trustee, or other fiduciary for a prohibited foreign-
16 party-controlled business.

17 (c)(1) A prohibited foreign-party-controlled business in operation
18 before the effective date of this act shall have six (6) months from the
19 effective date of this act to divest itself of the digital asset mining
20 business.

21 (2)(A) If the Office of Agricultural Intelligence determines
22 that a prohibited foreign party has acquired or may be holding a digital
23 asset mining business with assets in Arkansas in violation of this section,
24 the office shall report the potential violation to the Attorney General.

25 (B) If the Attorney General has received notice under
26 subdivision (c)(2)(A) of this section, the Attorney General may:

27 (i) Receive sworn statements; and

28 (ii) Issue subpoenas to compel the:

29 (a) Testimony of witnesses subpoenaed before
30 him or her; and

31 (b) Production of records and other documents
32 under § 25-16-705.

33 (d)(1) If as a result of the investigation under subdivision (c)(2) of
34 this section the Attorney General concludes that a violation of this section
35 has occurred, the Attorney General may commence an action in a circuit court
36 with proper jurisdiction over the digital asset mining business.

1 (2)(A) If the digital asset mining business is held to be in
2 violation of this section, the circuit court shall issue an order for the
3 digital asset mining business to be sold through judicial foreclosure.

4 (B) The proceeds of the sale under subdivision (d)(2)(A)
5 of this section shall be disbursed to the lienholders, in order of priority,
6 except for liens that under the terms of the sale are to remain.

7 (C) If the assets of the digital asset mining business
8 include real property, the Attorney General shall promptly record a copy of
9 the following in the local land records:

10 (i) Upon commencement, notice of the pendency of the
11 action under subdivision (d)(1) of this section; and

12 (ii) The order for the sale of the digital asset
13 mining business under subdivision (d)(2)(A) of this section.

14 (3) The Attorney General may pursue other remedies in an action
15 brought under subdivision (d)(1) of this section, including without
16 limitation:

17 (A) A civil penalty of fifteen thousand dollars (\$15,000);

18 (B) Prejudgment interest and postjudgment interest at the
19 maximum rates permitted by law; and

20 (C) Reasonable attorney’s fees.

21 (4) In addition to the remedies under subdivision (d)(3) of this
22 section, the Attorney General may pursue treble damages against a digital
23 asset mining business if the digital asset mining business:

24 (A) Is held in violation of this section;

25 (B) Is ordered to pay a civil penalty under subdivision
26 (d)(3)(A) of this section; and

27 (C) Fails to pay a civil penalty under subdivision
28 (d)(3)(A) of this section within the scope of the order of the circuit court.

29 (5) The approval of a digital asset mining business by a local
30 government shall not be a defense to a cause of action brought under
31 subdivision (d)(1) of this section.

32 (e) A digital asset mining business that is composed of greater than
33 fifteen-percent ownership by a prohibited foreign-party-controlled business
34 shall report the composition of its ownership to the Attorney General.

35 (f) Title to real property is not invalid due to a violation of this
36 section by any former owner of the real property.

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SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that increased circulation of digital currency and adoption of digital transformation have led to an influx of digital asset mining businesses in Arkansas in recent years; that digital asset mining businesses have potential to generate excessive noise and that without adequate regulation, digital asset mining businesses can place a strain on, and reduce the quality of life of, residents and communities near them; and that growth of this business sector has been capitalized upon by foreign corporations and other foreign entities and aliens that pose potential threats to the welfare and safety of Arkansas and its residents. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective thirty (30) days after:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill;
or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."