

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

As Engrossed: S4/10/19

A Bill

SENATE BILL 560

5 By: Senators B. Johnson, J. Hendren
6 *By: Representative Richmond*
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS PERTAINING TO THE
10 ADMINISTRATION OF STATE TAXES; TO AMEND THE
11 ADMINISTRATIVE HEARING PROCEDURES FOR STATE TAXES; TO
12 AMEND THE PROCEDURES OF TAXPAYER JUDICIAL RELIEF; TO
13 CREATE THE TAX APPEALS COMMISSION ACT; TO CREATE A
14 FUND FOR THE TAX APPEALS COMMISSION; AND FOR OTHER
15 PURPOSES.
16
17

Subtitle

19 AN ACT TO AMEND THE ADMINISTRATION OF
20 STATE TAXES; TO AMEND THE ADMINISTRATIVE
21 HEARING PROCEDURES FOR STATE TAXES; TO
22 CREATE THE TAX APPEALS COMMISSION ACT;
23 AND TO CREATE A FUND FOR THE TAX APPEALS
24 COMMISSION.
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

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

31 Subchapter 11 – Tax Appeals Commission Act
32

33 26-18-1101. Title.

34 This subchapter shall be known and may be cited as the “Tax Appeals
35 Commission Act”.
36



1 26-18-1102. Legislative purpose.

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

7
8 26-18-1103. Legislative intent - Construction.

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

13
14 26-18-1104. Definition.

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

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

19 or

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

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

23 (B) Denying a refund or credit application;

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

26 (D) Proposing an assessment of taxes;

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

28 (F) Relating to a jeopardy assessment;

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

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

33
34 26-18-1105. Tax Appeals Commission - Creation.

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

1 (b) The commission shall be separate from and independent of the
2 authority, control, and supervision of the Department of Finance and
3 Administration.

4 (c) The commission shall have a seal.

5
6 26-18-1106. Appointment of commissioners.

7 (a)(1) The Tax Appeals Commission shall consist of three (3)
8 commissioners.

9 (2) Each commissioner shall be subject to the requirements under
10 § 26-18-1107.

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

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

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

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

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

23 (3) The Chief Commissioner shall:

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

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

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

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

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

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

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

36 (3) The commissioners who are appointed during the creation of

1 the commission shall be given initial terms of differing lengths as follows:

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

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

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

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

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

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

16 (3) Commissioner's second term expires;

17 (4) Commissioner retires his or her position;

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

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

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

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

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

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

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

31 (A) Neglect of duty;

32 (B) Inability to perform duties;

33 (C) Malfeasance in office; or

34 (D) Other good cause.

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

1 (j) A commissioner shall conduct himself or herself in an impartial
2 manner and may withdraw from a hearing at any time if he or she deems himself
3 or herself disqualified from performing his or her duties in an impartial
4 manner.

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

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

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

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

15
16 26-18-1107. Qualifications of commissioners.

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

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

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

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

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

25 (2) One (1) commissioner shall be a non-attorney who is a
26 certified public accountant or a tax professional admitted to practice before
27 the Internal Revenue Service.

28 (3) Each of the commissioners shall satisfy the requirements of
29 subsection (a) of this section.

30 (c) To assist with the creation of the commission, one (1) of the two
31 (2) initial attorney commissioners appointed by the Governor shall be an
32 Administrative Law Judge serving in the Office of Hearings and Appeals of the
33 Department of Finance and Administration as of July 1, 2020.

34
35 26-18-1108. Location of the Tax Appeals Commission.

36 (a)(1) The principal office of the Tax Appeals Commission shall be

1 located in Little Rock, Arkansas.

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

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

7 (1) Its principal office; or

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

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

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

14 (2) For hearings not held at the commission's principal office.

15
16 26-18-1109. Employees.

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

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

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

27
28 26-18-1110. Jurisdiction of the Tax Appeals Commission.

29 (a) Except as provided under § 26-18-1118, the Tax Appeals Commission:

30 (1) Shall have jurisdiction to hear disputes involving all state
31 taxes except those stated in § 26-18-102 and taxes not administered by the
32 Director of the Department of Finance and Administration;

33 (2) May reduce, set aside, alter, change, or remedy the decision
34 by the department subject to appeal, if the commission finds that the
35 decision:

36 (A) Was made in bad faith; or

1 (B) May be reduced, set aside, altered, changed, or
2 remedied for any reason under state law; and

3 (3) Shall compel the Director of the Arkansas Department of
4 Finance and Administration to issue a final assessment, decision,
5 determination, or take other appropriate action, consistent with a decision
6 issued by the commission.

7 (b) Upon the creation of the commission:

8 (1) Existing hearings pending with the Office of Hearings and
9 Appeals of the Department of Finance and Administration shall remain with the
10 office;

11 (2) Hearings initiated on or after July 1, 2021 shall be heard
12 by the commission.

13 (c) The commission shall not have jurisdiction:

14 (1) To hear disputes involving exceptions to the Arkansas Tax
15 Procedure Act under § 26-18-102; or

16 (2)(A) Over protests filed before July 1, 2021, unless a protest
17 is transferred to the commission from the Office of Hearings and Appeals of
18 the Department of Finance and Administration.

19 (B) A protest may be transferred to the commission from
20 the office only upon the agreement of both the Chief Commissioner and the
21 Director of the Department of Finance and Administration.

22 (C) A protest shall not be transferred to the commission
23 before July 1, 2021.

24
25 26-18-1111. Settlement of tax disputes.

26 A taxpayer and legal counsel for the Department of Finance and
27 Administration may settle or compromise controversies at any time under § 26-
28 18-705.

29
30 26-18-1112. Service of process.

31 (a) Mailing by first class mail to any of the following constitutes
32 service on the other party under this subchapter:

33 (1) The address of the taxpayer given on the taxpayer's
34 petition;

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

36 (3) The address designated by the Department of Finance and

1 Administration as the proper place of service on the department.

2 (b) The commission may:

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

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

5
6 26-18-1113. Pleadings.

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

10 (b)(1) A petition under subsection (a) of this section shall be filed
11 with the commission no later than ninety (90) days from the date the
12 department issues a decision or course of action, or both, to be taken
13 against the taxpayer by the department.

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

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

20 (2)(A) The department shall serve a copy of the answer on the
21 taxpayer's representative, or if the taxpayer is not represented, on the
22 taxpayer directly, and shall file proof of service with the answer.

23 (B) An attorney's certification that the attorney sent the
24 pleading by first class mail, postage prepaid, or email to the taxpayer or
25 the authorized representative of the taxpayer is sufficient proof of service
26 under this subdivision (c)(2).

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

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

32 (d)(1) The taxpayer may file a reply to an answer filed under
33 subsection (c) of this section within thirty (30) days of the date the answer
34 was mailed or emailed to the taxpayer or the authorized representative of the
35 taxpayer, as reflected by the postmark on the envelope or the date stamp on
36 the email.

1 (2) The taxpayer shall:

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

4 (B)(i) File proof of service of the reply filed under
5 subdivision (d)(1) of this section with the reply.

6 (ii) A certification by the taxpayer or the
7 authorized representative of the taxpayer stating that he or she mailed the
8 pleading by first class mail, postage prepaid, or e-mailed the pleading to
9 the department's authorized representative is sufficient proof of service
10 under this subdivision (d)(2)(B).

11 (3) If the taxpayer fails to reply within thirty (30) days after
12 the date the answer was mailed or emailed to the taxpayer or the authorized
13 representative of the taxpayer, a hearing shall be scheduled under
14 subdivision (d)(4) of this section.

15 (4) The commission shall schedule a hearing:

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

18 (B) If no reply has been filed within thirty (30) days, no
19 later than thirty (30) days after the deadline for filing an answer under
20 this section.

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

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

26 (3) The commission shall allow a party to file an answer or
27 reply, or both, to an amended pleading.

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

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

32 (B) If a party fails to file a reply or an amended reply
33 within the prescribed time, a hearing shall be scheduled under subdivision
34 (d)(4) of this section.

35 (6) A taxpayer may not amend a pleading for a petition after the
36 expiration of the time for filing a petition if the amended petition would

1 have the effect of conferring jurisdiction over a matter that would otherwise
2 not come within the jurisdiction of the commission.

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

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

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

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

12 (3) A jeopardy assessment by the Director of the Department of
13 Finance and Administration under § 26-18-402.

14
15 26-18-1114. Fees.

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

18 (b) The commission may charge fees that do not exceed the fees charged
19 and collected by the clerks of the courts of Arkansas for the following
20 services:

21 (1) Comparing, or preparing and comparing, a transcript of the
22 record; and

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

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

28
29 26-18-1115. Discovery and stipulation.

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

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

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

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

1 (C) Both the attendance of a witness and the production of
2 evidence or a thing.

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

6 (A) Was previously produced to the Department of Finance
7 and Administration during an audit between the taxpayer and the department;
8 and

9 (B) Is not directly related to the petition filed with the
10 commission.

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

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

16
17 26-18-1116. Hearings.

18 (a) Hearings under this subchapter shall be tried before the appointed
19 commissioners of the Tax Appeals Commission and are not subject to the
20 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

21 (b) Except as stated in this subchapter, the Tax Appeals Commission
22 shall:

23 (1) Receive evidence;

24 (2) Conduct hearings; and

25 (3) Render decisions.

26 (c)(1) Hearings shall be conducted in accordance with the rules of
27 practice and procedure as the commission may promulgate in conformity with
28 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

29 (2) Hearings shall be conducted in private and shall not be
30 scheduled to begin at the same time as an unrelated hearing.

31 (3) Hearings, files, and records of the commission are:

32 (A) Confidential to the same extent as tax records under §
33 26-18-303; and

34 (B) Closed and exempt from disclosure under the Freedom of
35 Information Act of 1967, § 25-19-101 et seq.

36 (d) Hearings shall:

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

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

5 (3) Exclude irrelevant and repetitious evidence.

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

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

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

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

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

17 (h) Both the taxpayer and the Department of Finance and Administration
18 shall have the burden of persuasion by a preponderance of the evidence in the
19 record.

20 (i)(1) The Chief Commissioner shall be the presiding commissioner at
21 all hearings.

22 (2) The Chief Commissioner and the other commissioner who is an
23 attorney shall attend each hearing.

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

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

31 (l)(1) The commission shall schedule and hold a hearing pursuant to §
32 26-18-1113(d)(4).

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

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

36 (B) Under § 26-18-601(c) within twenty (20) days after a

1 taxpayer has filed a petition with the commission;

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

4 (D) Under § 26-18-402 within five (5) business days after
5 a taxpayer has filed a petition with the commission.

6 (m)(1) A taxpayer may elect to have his or her petition heard in-
7 person, by telephone, or solely upon the documents filed with the commission.

8 (2) The taxpayer shall make an election under this subsection in
9 the taxpayer's initial petition.

10 (3) If the taxpayer fails to make an election under this
11 subsection in the taxpayer's initial petition, the petition shall be set for
12 an in-person hearing in Little Rock.

13 (4) The taxpayer may amend his or her election only up to the
14 date the taxpayer's reply is filed or due to be filed.

15
16 26-18-1117. Decisions.

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

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

22 (3) The Chief Commissioner or the other commissioner who is an
23 attorney shall prepare a written decision that reflects the view of the
24 majority of the presiding commissioners at the hearing.

25 (4) The written decision shall be officially published as
26 provided in § 26-18-1120.

27 (b)(1)(A) A decision shall be issued no later than thirty (30) days
28 after the submission of the last brief filed or the completion of the
29 hearing, whichever is later.

30 (B) However, the commission shall issue a decision:

31 (i) Within five (5) days after a hearing is
32 concluded under § 26-18-402;

33 (ii) Within three (3) days after a hearing is
34 concluded under § 26-18-601(b); and

35 (iii) Within five (5) days after a hearing is
36 concluded under § 26-18-1002.

1 (2)(A) The commission may extend the thirty-day period to render
2 a decision up to an additional thirty (30) days for good cause.

3 (B) However, the commission shall not extend the period to
4 render a decision under subdivision (b)(1)(B) of this section with regard to
5 hearings held under:

6 (i) Section 26-18-402;

7 (ii) Section 26-18-601(b); and

8 (iii) Section 26-18-1002.

9 (c) A decision of the commission has the same effect and shall be
10 enforced in the same manner as a judgment of a circuit court, unless the
11 decision is overturned on appeal.

12 (d)(1) The interpretation of a taxing statute by the commission shall
13 be followed by the commission in subsequent cases involving the same statute.

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

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

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

21 (B) The commission provides satisfactory reasons for
22 reversing precedent.

23
24 26-18-1118. Judicial relief.

25 (a) A taxpayer may seek judicial relief from a decision of the Tax
26 Appeals Commission by following the procedures stated in §§ 26-18-406 and 26-
27 18-507.

28 (b) The Department of Finance and Administration may seek judicial
29 relief from a decision of the commission by filing suit in the Pulaski County
30 Circuit Court.

31
32 26-18-1119. Representation.

33 (a) A taxpayer may be represented at a hearing by an authorized
34 representative who has provided a completed power of attorney form to the Tax
35 Appeals Commission in the form prescribed by the commission.

36 (b) The Department of Finance and Administration shall be represented

1 by an authorized representative at a hearing.

2
3 26-18-1120. Publication of decisions.

4 (a) The Tax Appeals Commission shall index and publish a decision in
5 print or electronic form that the commission deems best adapted for public
6 convenience.

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

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

12
13 26-18-1121. Promulgation of rules.

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

17 (b) The commission may promulgate rules governing pleadings and
18 service of process requirements to commence a hearing under this subchapter
19 and the practice and procedure rules of the commission.

20
21 SECTION 2. DO NOT CODIFY. Creation of the Tax Appeals Commission.

22 (a) The Tax Appeals Commission shall be created by January 1, 2021.

23 (b) The initial commissioners shall be appointed by January 1, 2021.

24 (c) The Chief Commissioner shall be designated by January 1, 2021.

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

28
29 SECTION 3. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
30 amended to add an additional section to read as follows:

31 19-5-1263. Tax Appeals Commission Fund.

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

35 (b) The fund shall consist of fees and moneys assessed and collected
36 by the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-

1 1101 et seq., and any other revenues authorized by law.

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

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

5
6 SECTION 4. Arkansas Code § 25-18-224(b), concerning the distribution
7 of quasijudicial opinions and orders, is amended to read as follows:

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

14
15 SECTION 5. Arkansas Code § 26-18-303(b), concerning confidential
16 records, is amended to add an additional subdivision to read as follows:

17 (26) Disclosure of information to the Tax Appeals Commission of
18 information relevant to any case or controversy before the Tax Appeals
19 Commission.

20
21 SECTION 6. Arkansas Code § 26-18-314(b), concerning the transparency
22 of legal opinions regarding tax decisions, is amended to read as follows:

23 (b)(1) ~~A final determination of a hearing officer or the director~~
24 decision issued under § 26-18-405 on or after January 1, 2016, under § 26-18-
25 405 or the Tax Appeals Commission Act, § 26-18-1101 et seq., shall be posted
26 on the Arkansas.gov website.

27 (2) Any identifying facts and information that the ~~director~~
28 commission determines to be confidential in nature concerning taxpayers or
29 other individuals or entities under the Tax Appeals Commission Act, § 26-18-
30 1101 et seq., shall be redacted from a final determination decision posted
31 under this section.

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

36 (4) An administrative appeal to the commission that is settled or

1 withdrawn from consideration before a ~~final determination~~ decision is made by
2 the commission shall not be posted under this section.

3
4 SECTION 7. Arkansas Code § 26-18-401(b), concerning the assessment and
5 collection of taxes, is amended to read as follows:

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

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

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

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

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

20 (C)(i) If the taxpayer has paid the assessment before the
21 time for the issuance of the final assessment, no final assessment shall be
22 issued.

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

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

29
30 SECTION 8. Arkansas Code § 26-18-402(b) and (c), concerning jeopardy
31 assessments, are amended to read as follows:

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

36 (2) *If the taxpayer fails or refuses to pay the tax upon demand*

1 of the director or requests a hearing before the ~~director~~ Tax Appeals
2 Commission within five (5) business days after the day the taxpayer is
3 furnished the written statement described in subdivision ~~(1)~~ of this
4 subsection (b)(1) of this section, the tax shall become delinquent and the
5 director shall proceed to issue a certificate of indebtedness.

6 (c)(1) When the taxpayer requests a hearing, the ~~director~~ commission
7 shall hold the hearing within five (5) business days of receipt of the
8 request. After a hearing, the ~~director~~ commission shall determine whether the
9 making of the assessment under subsection (a) of this section is reasonable
10 under the circumstances and shall render ~~his or her~~ its decision.

11 (2) The taxpayer has three (3) days after the receipt of the
12 ~~director's~~ commission's decision either to pay the tax and applicable penalty
13 and interest due or to protest the decision of the director as provided by §
14 26-18-406(a) prior to the director's issuing a certificate of indebtedness.

15
16 SECTION 9. Arkansas Code § 26-18-403(a)(2)(B), concerning proposed
17 assessments, is amended to read as follows:

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

20 (i) Explain the basis for the proposed assessment;
21 (ii)(a) State that a final assessment, as provided
22 by § 26-18-401, will be made if the taxpayer does not ~~protest~~ file a petition
23 with the Tax Appeals Commission protesting the proposed assessment as
24 provided by ~~§ 26-18-404~~ under the Tax Appeals Commission Act, § 26-18-1101 et
25 seq.

26 (b) The taxpayer does not have to ~~protest~~ file a
27 petition with the commission protesting the proposed assessment under the Tax
28 Appeals Commission Act, § 26-18-1101 et seq., to later be entitled to
29 exercise the right to seek a judicial ~~review~~ relief of the assessment under §
30 26-18-406; and

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

35
36 SECTION 10. Arkansas Code § 26-18-403(c), concerning proposed

1 assessments, is amended to read as follows:

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

4 (2)(A) When an erroneously paid refund is issued to a taxpayer,
5 the director shall issue a notice of proposed assessment for the amount of
6 the erroneously paid refund, plus interest and any penalty authorized under
7 this chapter.

8 (B) The notice of proposed assessment to recover an erroneously
9 paid refund shall explain the basis for the proposed assessment and shall
10 inform the taxpayer that a final assessment under § 26-18-401 shall be made
11 if the taxpayer fails to ~~protest~~ file a petition with the commission
12 protesting the assessment under ~~§ 26-18-404~~ the Tax Appeals Commission Act, §
13 26-18-1101 et seq.

14 (3) ~~Sections 26-18-404—26-18-406 and 26-18-701 apply~~ Sections 26-18-
15 406, 26-18-701, and the Tax Appeals Commission Act, § 26-18-1101 et seq.,
16 apply to assessments of erroneously paid refunds.

17 (4) Interest and penalties imposed on a tax deficiency are subject to
18 waiver or abatement in accordance with the procedure established in § 26-18-
19 705(b) if the tax deficiency arose from an error by the Department of Finance
20 and Administration that resulted in the issuance of an erroneously paid
21 refund.

22

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

24 ~~26-18-404. Taxpayer relief.~~

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

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

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

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

6 ~~(2) No administrative relief will be available to a~~
7 ~~taxpayer who fails to protest or to a taxpayer who fails to request an~~
8 ~~extension of time to protest a proposed assessment of tax or denial of a~~
9 ~~claim for refund within the sixty (60) days following the service of notice~~
10 ~~of the proposed assessment or denial of a claim for refund.~~

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

14
15 SECTION 12. Arkansas Code § 26-18-405 is repealed.

16 ~~26-18-405. Hearing on proposed assessments.~~

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

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

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

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

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

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

35 ~~(B) The hearing officer shall set the time and place for~~
36 ~~the hearing on a written protest and shall give the taxpayer reasonable~~

1 ~~notice of the hearing.~~

2 ~~(C) If it is not possible for the hearing officer to hold~~
3 ~~a hearing and issue a decision on a protest of a proposed assessment within~~
4 ~~one hundred eighty (180) days after the taxpayer files a written protest for~~
5 ~~reasons that the hearing officer determines are beyond the taxpayer's~~
6 ~~control, the director shall waive the interest for the period from the time~~
7 ~~the written protest is filed until the final assessment is issued.~~

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

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

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

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

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

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

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

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

34 ~~(ii) A notice in writing to both the taxpayer and~~
35 ~~legal counsel for the director, if a revision was requested, of his or her~~
36 ~~decision not to revise a decision that resulted in no tax due, including the~~

1 ~~denial of a claim for refund.~~

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

5 ~~(ii) A notice of final assessment shall be made upon~~
6 ~~the decision of the director if the director's decision sustained a proposed~~
7 ~~assessment of tax.~~

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

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

13 ~~(e) A taxpayer may seek relief from the final decision of the hearing~~
14 ~~officer or the director on a final assessment of a tax deficiency or a notice~~
15 ~~of denial of a claim for refund by following the procedure set forth in § 26-~~
16 ~~18-406.~~

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

21 ~~(A) Is in the best interest of the taxpayer and the~~
22 ~~department;~~

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

24 ~~(C) Is not fiscally unsound or administratively~~
25 ~~burdensome; and~~

26 ~~(D) Adequately protects the confidentiality of the~~
27 ~~taxpayer's information.~~

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

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

35
36 SECTION 13. Arkansas Code § 26-18-406 is amended to read as follows:

1 26-18-406. Judicial relief.

2 (a) After the issuance and service on the taxpayer of the final
3 assessment of a deficiency in tax that is not protested by the taxpayer ~~under~~
4 ~~§ 26-18-403~~ or the issuance of a final ~~determination~~ decision of the hearing
5 ~~officer or the director under § 26-18-405~~ Tax Appeals Commission, a taxpayer
6 may seek judicial relief from the final assessment or ~~determination~~ decision
7 by:

8 (1)(A) Filing suit for judicial relief from ~~the final~~ a decision
9 of the commission, or a final assessment ~~or determination~~ issued by the
10 director, within one hundred eighty (180) days of the date of the decision or
11 final assessment or determination.

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

15 (2) Paying the entire amount of state tax due within one (1)
16 year of the date of ~~the final~~ a decision of the commission or a final
17 ~~assessment or determination~~ and filing suit to recover that amount within one
18 (1) year of the date of payment; or

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

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

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

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

3 (3) A presumption of correctness or weight of authority shall
4 not attach to a ~~final decision of the commission or final assessment or~~
5 ~~determination of~~ issued by the director in a trial de novo or an appeal under
6 this section.

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

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

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

15 (A) Prevailing party may be awarded a judgment for court
16 costs; and

17 (B) Taxpayer may be awarded reasonable attorney's fees if
18 *the:*

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

21 ~~(ii) Taxpayer is the prevailing party in an action~~
22 ~~for judicial relief from the a determination of the director under this~~
23 ~~section or a decision of the commission under the Tax Appeals Commission Act,~~
24 § 26-18-1101 et seq.; and

25 ~~(iii)(ii) Court finds that the director's revision~~
26 ~~determination or the commission's decision was without a reasonable basis in~~
27 ~~law and fact clearly erroneous.~~

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

33 (f) If a taxpayer pays the tax, penalty, and interest assessed under §
34 26-18-403 and does not request administrative relief according to ~~§ 26-18-404~~
35 the Tax Appeals Commission Act, § 26-18-1101 et seq., then:

36 (1) The taxpayer may seek judicial relief from the assessment

1 only if the taxpayer files suit in circuit court within one (1) year from the
2 date of payment of the assessment; and

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

5 (g) The Arkansas Rules of Civil Procedure and § 16-56-126 concerning
6 nonsuit and commencement of new actions apply to appeals under this section.
7

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

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

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

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

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

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

35 (d) A hearing ~~on a written protest made~~ under
36 this subdivision (e)(1)(B)(ii) and any judicial relief requested following

1 the administrative hearing process with the commission shall be provided in
2 accordance with the applicable provisions of ~~§§ 26-18-405 and 26-18-406~~, §
3 26-18-406 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

4 (2)(A) If the director's ~~determination~~ decision is to disallow
5 the claim for refund, in whole or in part, then the director shall
6 immediately issue a written decision giving notice to the taxpayer of the
7 denial of the claim for refund.

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

12 (3) The taxpayer or the director may seek judicial relief under
13 the provisions of § 26-18-406 and the Tax Appeals Commission Act, § 26-18-
14 1101 et seq., from:

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

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

19 (C) A decision by the commission.

20
21 SECTION 15. Arkansas Code § 26-18-601 is amended to read as follows:

22 26-18-601. Cancellation or refusal of license or permit.

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

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

34 (b)(1) When the director determines, in his or her sole discretion,
35 that an emergency situation exists and that the public welfare and safety are
36 endangered, he or she may issue an order temporarily suspending a license,

1 permit, or registration pending a hearing before ~~him or her~~ the Tax Appeals
2 Commission on the subject of the cancellation of the license, permit, or
3 registration.

4 (2) The director shall give notice of the temporary suspension
5 at the same time that he or she gives notice of his or her intention to
6 cancel or to refuse to issue, extend, or reinstate any license, permit, or
7 duplicate copy thereof, as provided by this section.

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

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

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

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

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

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

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

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

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

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

2 (e)(1) The affected taxpayer may seek relief from the decision of the
3 director cancelling a license, permit, or registration by requesting a
4 hearing, pursuant to subsections (b) and (c) of this section, by filing a
5 ~~written protest of the action~~ petition with the ~~hearing officer appointed by~~
6 ~~the director, pursuant to § 26-18-405~~ the commission pursuant to the Tax
7 Appeals Commission Act, § 26-18-1101 et seq., and the ~~hearing officer~~
8 commission shall hold all hearings requested pursuant to this section.

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

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

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

17 ~~(B)(3) If the director refuses to make a revision, or if~~
18 ~~the taxpayer does not request a revision, then the~~ The affected taxpayer may
19 seek relief from the ~~hearing officer's~~ commission's decision ~~or the final~~
20 ~~revision determination by the director~~ by following the method provided in §
21 26-18-602 and the Tax Appeals Commission Act, § 26-18-1101 et seq.

22 (f) Violations of this section shall be punished as provided in § 26-
23 18-206. The director may seek to enjoin any violation of any state tax law
24 the director is charged to enforce.

25
26 SECTION 16. Arkansas Code § 26-18-602 is amended to read as follows:

27 26-18-602. Judicial ~~review~~ relief of cancellation decision.

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

33 (2) The taxpayer's petition seeking an order to stay the effect
34 of the ~~director's~~ commission's decision shall be filed within thirty (30)
35 days after receipt of notice of that decision by the taxpayer with the
36 Pulaski County Circuit Court or the circuit court of the county in which the

1 taxpayer resides or has his or her principal place of business, where the
2 matter shall be tried de novo.

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

6 (2)(A) To stay the effect of the ~~director's commission's~~
7 decision, the person or taxpayer shall file a bond not to exceed twenty-five
8 thousand dollars (\$25,000) with and in an amount fixed by the ~~director~~
9 commission, payable to the State of Arkansas.

10 (B) The bond shall be conditioned upon:

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

13 (ii) The immediate compliance of the taxpayer with
14 the ~~director's commission's~~ decision if the ~~director's commission's~~ decision
15 is not enjoined by the circuit court or upon appeal is upheld by the Supreme
16 Court.

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

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

27
28 SECTION 17. Arkansas Code § 26-18-701(a)(1)(A), concerning issuance of
29 certificates of indebtedness and execution, is amended to read as follows:

30 (a)(1)(A) If a taxpayer does not timely and properly pursue his or her
31 remedies seeking relief from ~~a decision of~~ the assessment of a tax deficiency
32 by the Director of the Department of Finance and Administration or a decision
33 made by the Tax Appeals Commission under the Tax Appeals Commission Act, §
34 26-18-1101 et seq., and a final assessment is made against the taxpayer, or
35 if the taxpayer fails to pay the deficiency assessed upon notice and demand,
36 then the director shall, as soon as practicable thereafter, issue to the

1 circuit clerk of any county of the state a certificate of indebtedness
2 certifying that the person named in the certificate of indebtedness is
3 indebted to the state for the amount of the tax established by the director
4 as due.

5
6 SECTION 18. Arkansas Code § 26-18-705(c), concerning settlement or
7 compromise of liability controversies, is amended to read as follows:

8 (c)(1) In settling or compromising any controversy relating to the
9 liability of a person for any state tax for any taxable period, the *director,*
10 the director's legal counsel, or another authorized representative of the
11 director may enter into a written closing agreement concerning the liability.

12 (2) When the closing agreement is signed by the director, it
13 shall be final and conclusive, and except upon a showing of fraud or
14 misrepresentation of a material fact, no additional assessment or collection
15 shall be made by the director, and the taxpayer shall not institute any
16 hearing with the Tax Appeals Commission under the Tax Appeals Commission Act,
17 § 26-18-1101 et seq., or a judicial proceeding to recover such liabilities as
18 agreed to in the closing agreement.

19
20 SECTION 19. Arkansas Code § 26-18-1002 is amended to read as follows:

21 26-18-1002. Administrative hearing.

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

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

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

36 (c)(1) A noncompliant taxpayer may request that ~~an administrative a~~

1 ~~hearing be held in person, in Little Rock or by telephone, upon written~~
2 ~~documents furnished by the noncompliant taxpayer, or upon written documents~~
3 ~~and any evidence produced by the noncompliant taxpayer at an administrative~~
4 ~~hearing.~~

5 (2) ~~The director has the discretion to~~ commission may determine
6 whether an administrative hearing at which testimony is to be presented will
7 be conducted in person or by telephone.

8 (3) ~~A noncompliant taxpayer who requests an administrative~~
9 ~~hearing based upon written documents is not entitled to any other~~
10 ~~administrative hearing prior to the hearing officer's rendering a decision.~~

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

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

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

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

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

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

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

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

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

36 (i)(e) The decision of the ~~hearing officer~~ commission ~~must~~ shall be in

1 writing with copies delivered to the noncompliant taxpayer and the Department
2 of Finance and Administration by the United States Postal Service or by hand
3 delivery.

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

9

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

12 (a) As used in this section:

13 (1) "Administrative decision" means a decision by the Tax
14 Appeals Commission issued under § 26-18-1002 and the Tax Appeals Commission
15 Act, § 26-18-1101 et seq., to affirm the decision of the Director of the
16 Department of Finance and Administration to close the business of a
17 noncompliant taxpayer;

18 (2) "Business" means a business subject to an administrative
19 decision; and

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

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

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

29

30 SECTION 21. Arkansas Code § 26-36-315 is amended to read as follows:
31 26-36-315. Joint refunds.

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

36 (b)(1) The Director of the Department of Finance and Administration

1 shall notify each taxpayer due a joint refund of the amount and the date of a
2 proposed setoff for a debt certified by a claimant agency to the Revenue
3 Division of the Department of Finance and Administration.

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

7 (c)(1)(A) A taxpayer who claims that he or she is not a debtor of a
8 claimant agency may seek administrative relief by filing a ~~written protest~~
9 ~~under oath within thirty (30) days after the notice under subdivision (b)(1)~~
10 ~~of this section is received.~~ petition protesting the director's decision with
11 the Tax Appeals Commission under the Tax Appeals Commission Act, § 26-18-1101
12 et seq.

13 (B) The ~~written protest~~ petition of protest shall be
14 signed by the nondebtor taxpayer or the nondebtor taxpayer's authorized agent
15 and include the nondebtor taxpayer's reasons for opposing the proposed
16 setoff.

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

22 ~~(3)~~ (2) The nondebtor taxpayer's petition of protest shall
23 include documentation supporting the proportionate share of the nondebtor
24 taxpayer's payment of tax and the resulting amount of the joint refund that
25 the nondebtor taxpayer claims is not subject to setoff.

26 (d) A nondebtor taxpayer who requests the ~~director~~ commission to
27 render ~~his or her~~ its decision based on ~~written documents~~ pleadings filed
28 with the commission is not entitled by law to any other administrative
29 hearing before the ~~director's~~ commission's rendering of ~~his or her~~ its
30 decision.

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

35 ~~(f)(1) If a taxpayer requests a hearing in person rather than on~~
36 ~~written documents, a hearing officer shall set the time and place for hearing~~

1 ~~on the written protest and shall give the nondebtor taxpayer reasonable~~
2 ~~notice of the hearing.~~

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

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

9 ~~(g) The hearings on written protests and determinations made by the~~
10 ~~hearing officer are not subject to the Arkansas Administrative Procedure Act,~~
11 ~~§ 25-15-201 et seq.~~

12 ~~(h)(1) (f)(1)~~ After the issuance and service on the taxpayer of a
13 decision of the ~~hearing officer~~ commission to sustain the setoff of the joint
14 refund, a nondebtor taxpayer may seek judicial relief from the decision by
15 filing suit within thirty (30) days after the date of the ~~final determination~~
16 decision of the ~~hearing officer~~ commission under § 26-18-1118.

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

21 (g) This section is the sole means by which a nondebtor taxpayer may
22 challenge a proposed setoff for the benefit of a claimant agency.

23
24 *SECTION 22. Arkansas Code § 26-52-209 is amended to read as follows:*
25 *26-52-209. Applicability of tax procedure provisions.*

26 *All proceedings relative to the issuance, revocation, or suspension of*
27 *a permit under this subchapter shall be governed by the provisions of the*
28 *Arkansas Tax Procedure Act, § 26-18-101 et seq. and the Tax Appeals*
29 *Commission Act, § 26-18-1101 et seq.*

30
31 *SECTION 23. Arkansas Code § 26-55-219 is amended to read as follows:*
32 *26-55-219. Distributor's license – Refusal.*

33 ~~(a)(1) In the event that any~~ If an application for a license to
34 transact business as a distributor in the State of Arkansas ~~shall be~~ is filed
35 by ~~any~~ a person whose license ~~shall at any time have~~ has been cancelled at
36 any time for cause by the Director of the Department of Finance and

1 Administration, or ~~in case~~ if the director ~~shall be of the opinion~~ determines
2 that the application is not filed in good faith or ~~in the event~~ that the
3 application is filed by some person as a subterfuge for the real person in
4 *interest whose license or registration shall theretofore have has been*
5 *cancelled for cause by the director, or for any other valid reason, then ~~and~~*
6 *~~in any of said events~~ the director Tax Appeals Commission, after a hearing ~~of~~*
7 *~~which the applicant shall have been given five (5) days' notice in writing~~*
8 *~~and at which the applicant shall have the right to appear in person or by~~*
9 *~~counsel and present testimony, shall have and is given the right and~~*
10 *~~authority to~~ under the Arkansas Tax Procedure Act, § 26-18-101 et seq., and*
11 *the Tax Appeals Commission Act, § 26-18-1101 et seq., may refuse to issue to*
12 *the person a license certificate to transact business as a distributor in the*
13 *State of Arkansas.*

14 (b)(1) ~~Any A distributor may seek judicial relief of an action by the~~
15 ~~commission who is aggrieved by the action of the director~~ in refusing to
16 issue the license applied for, within thirty (30) days from the time of the
17 refusal, ~~may appeal~~ by appealing to the circuit court of the county of the
18 distributor's residence where the distributor ~~shall be~~ is entitled to a
19 hearing de novo.

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

22 (c) If the licensee fails to commence an action within the time
23 prescribed under § 26-18-601 and the Tax Appeals Commission Act, § 26-18-1101
24 et seq., the director may immediately revoke the license of the licensee and
25 notify the licensee by registered mail, addressed to the last known address
26 of the licensee appearing in the files of the director.

27
28 SECTION 24. Arkansas Code § 26-55-231(a), concerning the failure to
29 report or pay tax relating to the revocation or cancellation of licenses
30 under the Motor Fuel Tax Law, is amended to read as follows:

31 (a)(1) If a distributor at any time files a false monthly report of
32 the data or information required by this subchapter or fails, refuses, or
33 neglects to file the monthly report required by this subchapter, or to pay
34 the full amount of the tax as required by this subchapter, the Director of
35 the Department of Finance and Administration may give notice to the
36 distributor of an intention to revoke the license of the distributor.

1 (2) ~~The distributor shall be entitled to a period of five (5)~~
2 ~~days after receipt of the notice from the director, within which to apply for~~
3 ~~a hearing before the director on the question of having the distributor's~~
4 ~~license revoked. The director shall grant a hearing at such time and place as~~
5 ~~the director may designate of which the distributor shall have five (5) days'~~
6 ~~advance notice in writing hearing under § 26-18-601(c) and the Tax Appeals~~
7 ~~Commission Act, § 26-18-1101 et seq.~~

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

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

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

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

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

25
26 SECTION 25. Arkansas Code § 26-56-311 is amended to read as follows:

27 26-56-311. Revocation of supplier's or dealer's license.

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

1 (b)(1) ~~The licensee shall be entitled to a period of ten (10) days~~
2 ~~after the mailing of the notice within which to apply for a hearing on the~~
3 ~~question of having his or her license revoked, and the director shall~~
4 ~~designate a time and place for the hearing, giving the licensee five (5)~~
5 ~~days' notice thereof under § 26-18-601(c) and the Tax Appeals Commission Act,~~
6 § 26-18-1101 et seq.

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

9 (c)(1) ~~After the hearing, at which the licensee shall be entitled to~~
10 ~~present evidence and be represented by counsel, the director shall determine~~
11 ~~whether the licensee's license shall be revoked, the commission shall render~~
12 a decision as to whether the licensee's license should be revoked.

13 (2) If the commission decides that a licensee's license should
14 be revoked, the commission shall authorize the director to immediately revoke
15 the licensee's license.

16 (d)(1) Upon the commission's issuance of an order revoking the
17 license, the licensee ~~shall be entitled to~~ may appeal to the circuit court in
18 any county in which the licensee may do business, where the question shall be
19 tried de novo, but the ~~director's~~ commission's order shall be affirmed if
20 supported by substantial evidence.

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

23 (e)(1) If the licensee fails to apply for a hearing within the
24 prescribed time under § 26-18-601(c) and the Tax Appeals Commission Act, §
25 26-18-1101 et seq., the director may immediately revoke the license of the
26 licensee and notify the licensee by registered mail, addressed to the last
27 known address of the licensee appearing in the files of the director.

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

30
31 SECTION 26. Arkansas Code § 26-57-413(c) and (d), concerning the
32 revocation of licenses for coin-operated amusement devices, are amended to
33 read as follows:

34 (c) ~~The licensee shall have fifteen (15) days in which to notify the~~
35 ~~director that a hearing is desired, after which time a hearing shall be had~~
36 ~~not less than fifteen (15) days subsequent to the expiration of the fifteen-~~

1 ~~day period of notice is entitled to a hearing under § 26-18-601(c) and the~~
2 ~~Tax Appeals Commission Act, § 26-18-1101 et seq.~~

3 (d)(1)(A) ~~Any~~ A licensee whose license has been revoked or suspended
4 may appeal to the Pulaski County Circuit Court within twenty (20) days after
5 revocation or suspension by filing a copy of the notice of the revocation or
6 suspension with the clerk of the circuit court and causing a summons to be
7 served on the director.

8 ~~(2)(B)~~ The case shall be tried de novo in the circuit
9 court.

10 ~~(3)(C)~~ Either party may prosecute an appeal to the Supreme
11 Court as in other cases.

12 (2) If the licensee fails to commence an action under § 26-18-
13 601(c) or the Tax Appeals Commission Act, § 26-18-1101 et seq., the director
14 may immediately revoke the license of the licensee and notify the licensee by
15 registered mail, addressed to the last known address of the licensee
16 appearing in the files of the director.

17
18 SECTION 27. Arkansas Code § 26-57-419(f), concerning the revocation of
19 licenses to sell coin-operated amusement devices, is amended to read as
20 follows:

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

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

25 (3) ~~The licensee shall have fifteen (15) days in which to notify~~
26 ~~the director that a hearing is desired, after which time a hearing shall be~~
27 ~~held not less than fifteen (15) days subsequent to the expiration of the~~
28 ~~fifteen day period of notice is entitled to a hearing under § 26-18-601(c)~~
29 ~~and the Tax Appeals Commission Act, § 26-18-1101 et seq.~~

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

36 (ii) The hearing shall be de novo in the Pulaski

1 County Circuit Court.

2 (B) Either party may appeal to the Supreme Court as in
3 other cases.

4
5 SECTION 28. Arkansas Code § 26-57-419, concerning licenses to sell
6 coin-operated amusement devices, is amended to add an additional subsection
7 to read as follows:

8 (g) If the licensee fails to commence an action within the time
9 prescribed under § 26-18-601(c) and the Tax Appeals Commission Act, § 26-18-
10 1101 et seq., the director may immediately revoke the license of the licensee
11 and notify the licensee by registered mail, addressed to the last known
12 address of the licensee appearing in the files of the director.

13
14 SECTION 29. Arkansas Code § 26-57-1212(c), concerning the procedure
15 upon forfeiture of vending devices, is amended to read as follows:

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

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

23
24 SECTION 30. EFFECTIVE DATE. Sections 4-29 of this act are effective
25 on and after July 1, 2021.

26
27
28 /s/B. Johnson
29
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