

Arkansas Businesses Should Prepare for New Laws Passed by the State Legislature



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The Arkansas General Assembly adjourned from its 94th Regular Session on May 1, 2023, starting a 90-day clock until acts passed by the General Assembly become the law of Arkansas.

Business owners, professionals and entrepreneurs should be aware of these acts set to become law on July 31.

1. Act 256 makes it easier to get the name you want. Legal entities are required to have their chosen name approved by the Secretary of State before being formed. If a name was “confusingly similar” to another name already in use in Arkansas, the Secretary of State could reject the name and not form the entity until another name was chosen. When Act 256 becomes law, the standard will be that the name be “distinguishable” from those names already in use. The Act also includes a list of what makes a name “distinguishable” from another.

2. Act 795 makes it harder to foreclose a charging order against a multimember LLC. LLCs protect the personal assets of their owners from business liabilities. However, creditors who obtain a personal judgment against an individual can indirectly reach that individual’s ownership interest in an LLC via a charging order. But what happens if the LLC never pays any distributions to “charge” under the order? In that case, a charging order can be “foreclosed” and the creditor will own the LLC interest directly. Before Act 795, the standard to foreclose of a charging order against a member of a multimember LLC was whether or not the LLC’s distributions would pay the creditor “within a reasonable time.” After Act 795, a charging order against a member of a multimember LLC can only be foreclosed where “one or more members of the LLC have engaged in bad faith or intentional misconduct...so as to reduce or eliminate distributions to the [individual] judgment debtor.”

3. Act 196 lowers unemployment insurance taxes for most employers. Act 196 had an emergency clause and became the law when the governor signed it on March 6, 2023. Arkansas’ unemployment is lower than the national average, and so starting in 2024 the period of time unemployment benefits can be claimed is reduced. This reduction in payouts should increase the amount in the unemployment insurance fund. If the fund exceeds a certain amount, Act 196 will set the amount of taxable wages per employee at a lower number, and that should mean employers will pay less in unemployment insurance taxes.

4. Acts 195 and 687 simultaneously loosen – and add criminal penalties to – Arkansas’ child labor laws. Under Act 195, employers no longer need an employment certificate to hire someone under 16. Under Act 687, any person who knowingly employs a child in violation of the child labor laws is committing a misdemeanor. If the violation results in serious physical injury or death to a minor, that is yet another

misdemeanor (in addition to the knowing violation of the child labor laws) and the second such occurrence of serious physical injury or death of a minor is a felony for the employer.

Business owners, professionals and entrepreneurs should review these new acts to prepare for their becoming law and consult with their advisers, if warranted.

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