State of Arkansas *As Engrossed: H2/8/21 H2/10/21*
93rd General Assembly **A Bill**
Regular Session, 2021 HOUSE BILL 1361

By: Representatives Eaves, Beaty Jr., L. Fite, Fortner, D. Garner, Hawks, M. Hodges, Jean, Jett, Lundstrum, Lynch, J. Mayberry, McClure, McCollum, M. McElroy, McGrew, McNair, Milligan, Vaught, Warren, Wooten
By: Senators J. Dismang, *B. Ballinger, Beckham, Bledsoe, Caldwell, L. Chesterfield, A. Clark, B. Davis, L. Eads, Elliott, J. English, Flippo, T. Garner, Gilmore, K. Hammer, Hester, Hickey, Hill, K. Ingram, Irvin, B. Johnson, M. Johnson, G. Leding, M. Pitsch, Rapert, Rice, B. Sample, G. Stubblefield, J. Sturch, D. Sullivan, Teague, D. Wallace*

For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE TAX TREATMENT OF CERTAIN LOANS, PAYMENTS, AND EXPENSES RELATED TO CORONAVIRUS 2019 (COVID-19) RELIEF PROGRAMS; TO PROVIDE CORONAVIRUS 2019 (COVID-19) RELIEF BY CONFORMING TO FEDERAL TAX TREATMENT OF CORONAVIRUS 2019 (COVID-19) RELIEF PROGRAMS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR THE TAX TREATMENT OF CERTAIN LOANS, PAYMENTS, AND EXPENSES RELATED TO CORONAVIRUS 2019 (COVID-19) RELIEF PROGRAMS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to provide relief to small businesses and others affected by the coronavirus 2019 (COVID-19) pandemic and to ease their tax compliance burdens by:

(1) Amending the Arkansas income tax laws to conform to the federal tax treatment of Paycheck Protection Program loan forgiveness and other coronavirus 2019 (COVID-19) relief, as clarified by the recent enactment of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, on December 27, 2020; and

(2) Providing similar tax treatment to payments made under the Coronavirus Food Assistance Program as described in 7 C.F.R. Part 9, as it existed on January 19, 2021.

SECTION 2. Arkansas Code § 26-51-404(b), concerning exclusions from gross income under the Income Tax Act of 1929, is amended to add additional subdivisions to read as follows:

(31)(A) The following, which are adopted for purposes of computing Arkansas income tax liability:

(i) Title 15 U.S.C. § 636A(i), as in effect on January 1, 2021, after the redesignation provided by § 304(b) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, and the amendment provided by § 276(a) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, regarding the Paycheck Protection *Program loan forgiveness;*

(ii) Section 276(b) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, regarding *subsequent Paycheck Protection Program loan forgiveness;*

(iii) Section 277 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, concerning the tax treatment of certain emergency financial aid grants; and

(iv) Section 278 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, concerning the clarification of tax treatment of certain loan forgiveness and other business financial assistance.

(B) Amounts excluded under this subdivision (b)(31) are includable in the adjustments specified in § 26-51-427(2).

(C) The Department of Finance and Administration may provide an exception from any requirement to file an information return with respect to any amount excluded from gross income under this subdivision (b)(31); and

(32)(A) Payments received under the Coronavirus Food Assistance Program, described in 7 C.F.R. Part 9, as it existed on January 19, 2021.

(B) A tax deduction or a basis increase shall not be denied as a result of the exclusion from gross income provided in subdivision (32)(A) of this section.

(C) Amounts excluded under this subdivision (b)(32) are includable in the adjustments specified in § 26-51-427(2).

(D) The department may provide an exception from any requirement to file an information return with respect to any amount excluded from gross income under this subdivision (b)(32).

SECTION 3. EFFECTIVE DATE. Section 2 of this act is effective for tax years beginning on or after January 1, 2019.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic caused an economic crisis in the state; that the intent of the Paycheck Protection Program and other coronavirus 2019 (COVID-19) federal relief programs was to allow businesses to receive a tax break during the coronavirus 2019 (COVID-19) pandemic and the resulting economic downturn, which would enable more businesses to continue to operate and provide employment thereby preventing further economic collapse; that the enactment of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, on December 27, 2020, clarified the federal income tax treatment of Paycheck Protection Program loan forgiveness and other coronavirus 2019 (COVID-19) relief payments; that Arkansas should conform its income tax laws to the federal tax treatment of these loans, payments, and expenses to enable Arkansas taxpayers to receive the full benefit of the tax laws so that they can continue to provide jobs for Arkansans and avoid higher rates of unemployment and financial distress; and that this act is immediately necessary because the 2020 tax return season is underway and immediate conformity to the federal tax laws will assist the state with its economic recovery and will enable businesses to continue providing jobs that are necessary to the public peace, health, and safety. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(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.

/s/Eaves