

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Hopkins**

A BILL ACT 841 OF 1991
SENATE BILL 65

For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 4, CHAPTER 28, TITLE 4,
9 ARKANSAS CODE ANNOTATED TO TRANSFER RESPONSIBILITIES
10 REGARDING FILINGS OF CHARITABLE ORGANIZATIONS FROM THE
11 SECRETARY OF STATE'S OFFICE TO THE ATTORNEY GENERAL'S
12 OFFICE; AND FOR OTHER PURPOSES."

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

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16 SECTION 1. Arkansas Code Annotated §4-28-401 is amended to read as
17 follows:

18 "4-28-401. Definitions.

19 As used in this subchapter, unless the context otherwise requires:

20 (1) 'Person' means an individual, organization, group, association,
21 partnership, corporation, or any combination of them;

22 (2) 'Charitable organization' means any benevolent,
23 philanthropic, patriotic, or eleemosynary person or one purporting to be such;
24 and

25 (3) 'Contribution' means the promise or grant of any money or
26 property of any kind or value."

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28 SECTION 2. Arkansas Code Annotated §4-28-402 is amended to read as
29 follows:

30 "4-28-402. Penalties.

31 Any person conducting a solicitation in violation of the provisions of
32 this subchapter or filing false information pursuant to the provisions of this
33 subchapter shall be punished by a fine not to exceed five hundred dollars
34 (\$500) or by imprisonment for not more than six (6) months, or both, and every
35 officer or agent of a charitable organization who authorizes or conducts the
36 solicitation shall be jointly and severally liable for the fine."

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SECTION 3. Arkansas Code Annotated §4-28-403 is amended to read as follows:

"4-28-403. Injunctions.

Upon complaint of any person, or other information coming to the attention of the prosecuting attorney, that any charitable organization is violating or intends to violate the provisions of this subchapter, the prosecuting attorney may institute action in the proper chancery court to enjoin the soliciting of contributions by or on behalf of the charitable organization."

SECTION 4. Arkansas Code Annotated §4-28-404 is amended to read as follows:

"4-28-404. Prerequisite filings.

(a) (1) No charitable organization shall solicit contributions from persons in this state by any means whatsoever until the charitable organization has provided certain information concerning the solicitation as required by this subchapter on forms to be provided by the Attorney General and has filed the information with the Attorney General.

(2) The information so filed shall be available to the general public as a matter of public record.

(b) The forms containing such information shall be sworn to and shall include, but not be limited to:

- (1) The identity of the charitable organization by or for whom the solicitation is to be conducted;
- (2) The address of the charitable organization;
- (3) The purpose for which the contributions solicited are to be used;
- (4) The individual or officer who will have custody of the contributions;
- (5) The individuals responsible for the distribution of the contributions;
- (6) The period of time during which such solicitation is to be conducted;
- (7) A description of the method or methods of solicitation in

1 such detail as may from time to time be determined by the Attorney General;

2 (8) Whether the solicitation is to be conducted by voluntary
3 unpaid solicitors, by paid solicitors, or both; and

4 (9) If in whole or in part by paid solicitors, the name and
5 address of each professional fund-raiser supplying the solicitors, the basis
6 of payment, and the nature of the arrangement."

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8 SECTION 5. Arkansas Code Annotated §4-28-405 is amended to read as
9 follows:

10 "4-28-405. Reciprocal agreements with other states regarding required
11 information.

12 (a) The Attorney General may enter into reciprocal agreements with a
13 like authority of any other state or states for the purpose of exchanging
14 information made available to the Attorney General under this subchapter.

15 (b) Pursuant to such agreements, the Attorney General may accept
16 information filed by a charitable organization with another state in lieu of
17 the information required to be filed by a charitable organization in
18 accordance with the provisions of 4-28-404 if the information is substantially
19 similar to the information required to be filed under 4-28-404."

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21 SECTION 6. Arkansas Code Annotated §4-28-406 is amended to read as
22 follows:

23 "4-28-406. Reports.

24 (a) On or before March 31 of each year, every charitable organization
25 subject to the provisions of this subchapter which has received contributions
26 during the previous calendar year shall file the following information in the
27 manner hereinbefore provided and on forms to be provided by the Attorney
28 General:

29 (1) The gross amount of the contributions pledged or collected;

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31 (2) The amount given or to be given to the charitable purpose
32 represented;

33 (3) The aggregate amount paid and to be paid for the expense of
34 the solicitation; and

35 (4) The aggregate amount paid to and to be paid to professional

1 fund-raisers and solicitors.

2 (b) A charitable organization which maintains its books on other than a
3 calendar year basis may, upon application to the Attorney General, be
4 permitted to file its report within ninety (90) days after the close of its
5 fiscal year.

6 (c) In addition, the Attorney General may require that within ninety
7 (90) days after the close of any special period of solicitation, the
8 charitable organization conducting the solicitation shall file a special
9 report of the information specified in this section for the special period of
10 solicitation."

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12 SECTION 7. Arkansas Code Annotated §4-28-407 is amended to read as
13 follows:

14 "4-28-407. Records - Exemptions.

15 (a) (1) Every charitable organization subject to the provisions of this
16 subchapter shall keep a full and true record in such form as will enable the
17 charitable organization accurately to provide the information required by this
18 subchapter.

19 (2) All records required hereunder shall be open to inspection at
20 all times by the Attorney General and upon demand shall be presented to the
21 Attorney General for inspection.

22 (b) (1) This subchapter shall not apply to any solicitation made by the
23 members of a charitable organization where the contributions are solicited
24 solely from persons who are members thereof at the time of the solicitation
25 nor shall this subchapter apply to solicitations made solely for church,
26 missionary, or religious purposes.

27 (2) (A) This subchapter shall not apply to any charitable
28 organization which does not intend to solicit and receive, and does not
29 actually receive, contributions in excess of one thousand dollars (\$1,000)
30 during a calendar year if all of its functions, including its fund-raising
31 functions, are carried on by persons who are unpaid for their services, and
32 provided that no part of its assets or income inures to the benefit of or is
33 paid to any officer or member.

34 (B) However, if the gross contributions received by the
35 charitable organization during any calendar year shall be in excess of one

1 thousand dollars (\$1,000), it shall, within thirty (30) days after the date it
2 shall have received total contributions in excess of one thousand dollars
3 (\$1,000), register with and report to the Attorney General as required by this
4 subchapter."

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6 SECTION 8. Arkansas Code Annotated §4-28-408 is amended to read as
7 follows:

8 "4-28-408. Nonresident organizations - Service of process.

9 (a) A nonresident charitable organization desiring to solicit funds
10 within the State of Arkansas shall file with the information required in
11 4-28-404 an irrevocable written consent that in suits, proceedings, and
12 actions growing out of the violation of any provision of this subchapter, or
13 as a result of any activities conducted within this state giving rise to a
14 cause of action, service on the Attorney General shall be as valid and binding
15 as if due service had been made on the said charitable organization.

16 (b) In case any process or pleadings are served upon the Attorney
17 General, they shall be in duplicate, one (1) copy of which shall be filed in
18 the office of the Attorney General, and the other immediately forwarded by the
19 Attorney General by registered or certified mail to the principal office or
20 place of business of the nonresident charitable organization. Any service so
21 had on the Attorney General shall be returnable in not less than thirty (30)
22 days."

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24 SECTION 9. Arkansas Code Annotated §4-28-409 is amended to read as
25 follows:

26 "4-28-409. City ordinances provisionally authorized.

27 Nothing contained in the provisions of this subchapter shall prohibit
28 any city in the State of Arkansas from enacting ordinances regulating a
29 solicitation of contributions within the limits of the city, unless the
30 charitable organization subject to the provisions of this subchapter complies
31 with the filing, reporting, and registration requirements thereof."

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33 SECTION 10. All provisions of this act of a general and permanent
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
35 Code Revision Commission shall incorporate the same in the Code.

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SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 12. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 3/29/91