

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

A Bill ACT 842 OF 1991

SENATE BILL 66

For An Act To Be Entitled

8 "AN ACT TO AMEND CHAPTER 34, TITLE 17, ARKANSAS CODE
9 ANNOTATED TO TRANSFER RESPONSIBILITIES REGARDING
10 REGISTRATION OF PROFESSIONAL FUND RAISERS AND SOLICITORS
11 FROM THE SECRETARY OF STATE'S OFFICE TO THE ATTORNEY
12 GENERAL'S OFFICE; AND FOR OTHER PURPOSES."

13

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

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16 SECTION 1. Arkansas Code Annotated §17-34-101 is amended to read as
17 follows:

18 "17-34-101. Definitions.

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

20 (1) 'Charitable organization' means any benevolent, philanthropic,
21 patriotic, or eleemosynary person or one purporting to be such;

22 (2) 'Professional fund raiser' means any person who, for
23 compensation or any other consideration, plans, conducts, or manages in this
24 state the solicitation of contributions for or on behalf of any charitable
25 organization or any other person, or any person who engages in the business
26 of, or holds himself out to persons in this state as independently engaged in
27 the business of, soliciting contributions for such purpose, but shall not
28 include a bona fide officer or employee of a charitable organization;

29 (3) 'Professional solicitor' means any person who is employed or
30 retained for compensation by a professional fund raiser to solicit
31 contributions in this state for charitable purposes;

32 (4) 'Person' means any individual, organization, group,
33 association, partnership, corporation, or any combination of them."

34

35 SECTION 2. Arkansas Code Annotated §17-34-102 is amended to read as
36 follows:

1 "17-34-102. Exemptions.

2 This chapter shall not apply to any solicitation made by or on behalf of
3 any church, missionary, or religious organization."

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5 SECTION 3. Arkansas Code Annotated §17-34-103 is amended to read as
6 follows:

7 "17-34-103. Penalties - Injunction.

8 (a) Any professional fund raiser violating a provision of this chapter
9 shall be punished by a fine not to exceed five hundred dollars (\$500) or by
10 imprisonment for not more than six (6) months in jail, or both.

11 (b) Any person employing any device, scheme, or artifice to defraud or
12 obtaining money or property by means of any false pretense, misrepresentation,
13 or promise which the actor does not intend to perform shall be a felony and
14 shall be punished by a fine not to exceed ten thousand dollars (\$10,000) or by
15 imprisonment for not more than five (5) years, or both.

16 (c) Upon complaint of any person or other information coming to the
17 attention of the prosecuting attorney, he may institute an action in the
18 proper court to enjoin a professional fund raiser or professional solicitor
19 from violating any provision of this chapter."

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21 SECTION 4. Arkansas Code Annotated §17-34-104 is amended to read as
22 follows:

23 "17-34-104. Fund raisers - Registration and renewal.

24 (a) No person shall act as a professional fund raiser for any
25 charitable organization until he has first registered with the Attorney
26 General.

27 (b) Applications for registration shall be in writing, under oath, in
28 the form prescribed by the Attorney General, and shall be accompanied by an
29 annual fee in the sum of fifty dollars (\$50.00).

30 (c) At the time of making application, the applicant shall file with,
31 and have approved by, the Attorney General a bond in which the applicant shall
32 be the principal obligor, in the sum of five thousand dollars (\$5,000), with
33 one (1) or more sureties whose liability in the aggregate as sureties will at
34 least equal that sum.

35 (d) The bond shall run to the Attorney General for the use of the state

1 and to any person, including a charitable organization, who may have a cause
2 of action against the obligor of the bond for any malfeasance or misfeasance
3 of the obligor or any professional solicitor employed by him in the conduct of
4 a solicitation. However, the aggregate liability of the surety to the state
5 and to all such persons, including charitable organizations, shall, in no
6 event, exceed the sum of the bond.

7 (e) Registration when effected shall be for a period of one (1) year
8 and may be renewed upon the filing of the bond and fee prescribed herein for
9 additional one-year periods."

10

11 SECTION 5. Arkansas Code Annotated §17-34-105 is amended to read as
12 follows:

13 "17-34-105. Solicitors - Registration and renewal.

14 (a) Every professional solicitor employed or retained by a professional
15 fund raiser required to register pursuant to this chapter shall, before
16 accepting employment by a professional fund raiser, register with the Attorney
17 General.

18 (b) Application for registration shall be in writing under oath in the
19 form prescribed by the Attorney General and shall be accompanied by a fee in
20 the sum of ten dollars (\$10.00).

21 (c) When effected, the registration shall be for a period of one (1)
22 year and may be renewed upon the payment of the fee prescribed in this section
23 for additional one-year periods."

24

25 SECTION 6. Arkansas Code Annotated §17-34-106 is amended to read as
26 follows:

27 "17-34-106. Nonresident fund raisers and solicitors - Service of
28 process.

29 (a) Every nonresident professional fund raiser and professional
30 solicitor shall file, in addition to the application for registration required
31 by 17-34-104, with the Attorney General an irrevocable written consent that in
32 suits, proceedings, and actions growing out of the violation of any provision
33 of this chapter, or as a result of any activities conducted within this state,
34 giving rise to a cause of action, service on the Attorney General, shall be as
35 valid and binding as if the service had been made on the professional fund

1 raiser or professional solicitor.

2 (b) In case any process or pleadings is served upon the Attorney
3 General, it shall be in duplicate. One (1) copy shall be filed in the office
4 of the Attorney General and the other copy immediately forwarded by the
5 Attorney General by registered or certified mail to the principal office or
6 place of business of the nonresident charitable organization.

7 (c) Any service so had on the Attorney General shall be returnable in
8 not less than thirty (30) days."

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10 SECTION 7. Arkansas Code Annotated §17-34-107 is amended to read as
11 follows:

12 "17-34-107. Contracts with charitable organizations.

13 (a) All contracts entered into by professional fund raisers and
14 charitable organizations shall be in writing, and true and correct copies of
15 the contracts shall be kept on file in the offices of the charitable
16 organization and the professional fund raiser for a period of three (3) years
17 from the date the solicitation of contributions provided for therein actually
18 commences.

19 (b) The contracts shall be available for inspection and examination by
20 the Attorney General and other authorized agencies."

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22 SECTION 8. Arkansas Code Annotated §17-34-108 is amended to read as
23 follows:

24 "17-34-108. Disposition of funds.

25 All fees collected by the Attorney General under this chapter shall be
26 deposited in the State Treasury, and the State Treasurer shall credit them, as
27 general revenues, to the various funds in the respective amounts to each and
28 to be used for the purposes as provided in the Revenue Stabilization Law,
29 19-5-101 et seq."

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31 SECTION 9. Arkansas Code Annotated §17-34-109 is amended to read as
32 follows:

33 "17-34-109. City regulations.

34 Nothing contained in the provisions of §§ 4-28-401 - 4-28-408 or this
35 chapter shall prohibit any city from enacting ordinances regulating a

1 solicitation of contributions within the limits of the city, unless the
2 charitable organization or professional fund raiser subject to the provisions
3 of those sections complies with the filing, reporting, and registration
4 requirements thereof."

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

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

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

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20 APPROVED: 3/29/91

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