

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

# A Bill

**SENATE BILL**

## 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."

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

1 follows:

2 "17-34-102. Exemptions.

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

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

8 "17-34-103. Penalties - Injunction.

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

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

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

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

24 "17-34-104. Fund raisers - Registration and renewal.

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

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

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

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

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

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

14 "17-34-105. Solicitors - Registration and renewal.

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

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

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

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

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

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

1 valid and binding as if the service had been made on the professional fund  
2 raiser or professional solicitor.

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

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

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

13 "17-34-107. Contracts with charitable organizations.

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

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

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

25 "17-34-108. Disposition of funds.

26 All fees collected by the Attorney General under this chapter shall be  
27 deposited in the State Treasury, and the State Treasurer shall credit them, as  
28 general revenues, to the various funds in the respective amounts to each and  
29 to be used for the purposes as provided in the Revenue Stabilization Law,  
30 19-5-101 et seq."

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

34 "17-34-109. City regulations.

35 Nothing contained in the provisions of §§ 4-28-401 - 4-28-408 or this

1 chapter shall prohibit any city from enacting ordinances regulating a  
2 solicitation of contributions within the limits of the city, unless the  
3 charitable organization or professional fund raiser subject to the provisions  
4 of those sections complies with the filing, reporting, and registration  
5 requirements thereof."

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

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

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

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