

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senators Everett and Hardin

A Bill

SENATE BILL 579

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 17, CHAPTER 34
9 CONCERNING PROFESSIONAL FUND RAISERS AND SOLICITORS; AN
10 ACT TO AMEND ARKANSAS CODE TITLE 4, CHAPTER 28, SUBCHAPTER
11 4 CONCERNING SOLICITATION OF CONTRIBUTIONS; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "TO AMEND THE ARKANSAS LAWS CONCERNING
16 PROFESSIONAL FUND RAISERS AND SOLICITORS
17 AND REGARDING THE SOLICITATION OF
18 CONTRIBUTIONS."

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

22 SECTION 1. Arkansas Code § 17-34-103 is amended by adding new
23 subsections (d), (e), and (f) to read as follows:

24 "(d) The Attorney General may enter an order imposing one or more of
25 the penalties set forth in subsection (e) of this section if he finds that a
26 charitable organization, professional solicitor or professional fund raiser,
27 or their officers, agents, directors, or employees have engaged in any of the
28 following acts:

29 (1) Violated or is operating in violation of any of the
30 provisions of this chapter or of the rules adopted or orders issued under
31 them;

32 (2) Made a false statement in an application, statement, or
33 report required to be filed under this chapter;

34 (3) Refused or failed, after notice, to produce any records to
35 disclose any information required to be disclosed under this chapter or any

1 rules promulgated by the Attorney General's Office for the purpose of
2 implementing this chapter;

3 (4) Made a false statement in response to any request or
4 investigation by the Attorney General; or

5 (5) Violated any provisions of Arkansas Code § 4-88-110.

6 (e) Upon a finding that any provisions of this chapter have been
7 violated, the Attorney General may enter an order as follows:

8 (1) Imposing an administrative penalty not to exceed one
9 thousand dollars (\$1,000) for each act or omission which constitutes a
10 violation of the provisions of this chapter.

11 (2) Issuing a cease and desist order that directs that the
12 person cease and desist specified fund raising activities.

13 (3) Refusing to license or canceling or suspending a license.

14 (4) Placing the registrant on probation for a period of time,
15 subject to conditions as the Attorney General's Office may specify.

16 (5) Issuing a letter of concern.

17 (f) Except as otherwise provided in this section, the administrative
18 proceedings which could result in the entry of an order imposing any of the
19 penalties specified in subsection (e) of this section are governed by
20 Arkansas Administrative Procedure Act, Arkansas Code §§ 25-15-201 et seq."

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22 SECTION 2. Arkansas Code § 17-34-104 is amended to read as follows:

23 "17-34-104. Fund Raisers.

24 (a) Unless exempted by this chapter, a person shall not act as a
25 professional fund raiser in Arkansas unless that person has obtained a
26 license from the Attorney General and paid the applicable fees.

27 (b) Applications for a license or renewal of a license shall be
28 submitted on a form provided by the Attorney General, shall be signed under
29 oath, and shall include the following information:

30 (1) The street address and telephone number of the principal
31 place of business of the applicant and any Arkansas street addresses if the
32 principal place of business is located outside of the state;

33 (2) The form of the applicant's business;

34 (3) The place and date when the applicant, if other than an
35 individual, was legally established;

1 (4) The names and residence addresses of all officers,
2 directors, and owners;

3 (5) A statement as to whether any of the owners, directors,
4 officers, or employees of the applicant are related as parent, spouse, child,
5 or sibling, to:

6 (A) Any other directors, officers, owners, or employees of
7 the applicant;

8 (B) Any officer, director, trustee, or employee of any
9 charitable organization under contract to the applicant; or

10 (C) Any supplier or vendor providing goods or services to
11 any charitable organization under contract to the applicant.

12 (6) A statement as to whether the applicant or any of the
13 directors, officers, persons with a controlling interest in the applicant, or
14 employees or agents involved in solicitation have been convicted, within the
15 last five (5) years, of any felony, or of a misdemeanor arising from the
16 conduct of a solicitation for any charitable organization or charitable
17 purpose, or been enjoined from violating a charitable solicitation law in
18 Arkansas or any other state; and

19 (7) The names of all persons in charge of any solicitation
20 activity.

21 (c) The application for an initial or renewal license shall be
22 accompanied by a fee of two hundred (\$200.00). A professional fund raiser
23 that is a partnership or corporation may register for and pay a single fee on
24 behalf of all of the partners, members, officers, directors, agents, and
25 employees. In that case the names and street addresses of all of the
26 officers, employees, and agents of the professional fund raiser and all other
27 persons with whom the professional fund raiser has contracted to work under
28 that professional fund raiser's direction, including solicitors, shall be
29 listed in the license application or furnished to the Attorney General within
30 five (5) days after the date of employment or contractual arrangement. Each
31 license is valid for one (1) year, and may be renewed on the anniversary date
32 of each year for an additional one (1) year period upon application to the
33 Attorney General and payment of the license fee.

34 (d)(1) A professional fund raiser shall, at the time of application or
35 renewal of the license, file with and have approved by the Attorney General a

1 bond with a surety authorized to do business in Arkansas and to which the
2 professional fund raiser is the principal obligor. The amount of the bond
3 shall be determined as follows:

4 (A) Twenty thousand dollars (\$20,000), if the
5 contributions received for the last fiscal year were less than one hundred
6 thousand dollars (\$100,000).

7 (B) Thirty thousand dollars (\$30,000), if the
8 contributions received for the last fiscal year were at least one hundred
9 thousand dollars (\$100,000) but less than two hundred thousand dollars
10 (\$200,000).

11 (C) Fifty thousand dollars (\$50,000), if the contributions
12 received for the last fiscal year were at least two hundred thousand dollars
13 (\$200,000).

14 (2) The professional fund raiser shall maintain the bond in
15 effect as long as the license is in effect. The liability of the surety
16 under the bond shall not exceed an all-time aggregate liability of fifty
17 thousand dollars (\$50,000). The bond, which may be in the form of a rider to
18 a larger blanket liability bond, shall be payable to the State of Arkansas
19 and to any person who may have a cause of action against the principal
20 obligor of the bond for any liability arising out of a violation by the
21 obligor of any provision of this chapter or any rule adopted under it.

22 (e) The Attorney General shall examine each application filed by a
23 professional fund raiser. If the Attorney General determines that the
24 requirements are not satisfied, he shall notify the professional fund raiser
25 within twenty (20) days after his receipt of the application. If the
26 Attorney General does not respond within twenty (20) days, the license is
27 deemed approved. Within seven (7) days after receipt of a notification that
28 the requirements are not satisfied, the applicant may request a hearing. The
29 state shall bear the burden of proof of such hearing. The hearing shall be
30 held within seven (7) days after receipt of the request. Any recommended
31 order, if one is issued, shall be rendered within three (3) days after the
32 hearing. The final order shall then be issued within two (2) days after the
33 recommended order. If there is no recommended order, the final order shall
34 be issued within five (5) days after the hearing. The proceedings shall be
35 conducted in accordance with the Arkansas Administrative Procedure Act,

1 Arkansas Code §§ 25-15-201 et seq., except that the time limits and
2 provisions set forth in this section prevail to the extent of any conflict.
3 The applicant shall be permitted to continue to operate or continue
4 operations pending judicial review of the Office's denial of the application.
5 The Attorney General shall make rules regarding the custody and control of
6 any funds collected during the review period and disposal of such funds in
7 the event the denial of the application is affirmed on appeal."

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9 SECTION 3. Arkansas Code § 17-34-105 is amended to read as follows:

10 "17-34-105. Solicitors.

11 Every professional solicitor must be employed in a principal-agent
12 relationship by a professional fund raiser licensed pursuant to this
13 chapter."

14

15 SECTION 4. Arkansas Code § 17-34-106 is amended to read as follows:

16 "17-34-106. Nonresident fund raisers and solicitors - Service of
17 process.

18 (a) Every nonresident professional fund raiser and professional
19 solicitor shall file with the Attorney General, in addition to the
20 application for licensure required by § 17-34-104, an irrevocable written
21 consent on behalf of himself and any nonresident charitable organization for
22 which solicitations are to be made that in suits, proceedings, and actions
23 growing out of the violation of any provision of this chapter, or as a result
24 of any activities conducted within this state, giving rise to a cause of
25 action, service on the Attorney General shall be as valid and binding as if
26 the service had been made on the professional fund raiser, professional
27 solicitor, or charitable organization.

28 (b) In case any process or pleading is served upon the Attorney General,
29 it shall be in triplicate. One (1) copy shall be filed in the office of the
30 Attorney General and the other copies immediately forwarded by the Attorney
31 General by registered or certified mail to the principal office or place of
32 business of the nonresident professional fund raiser, professional solicitor,
33 or charitable organization.

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

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SECTION 5. Chapter 34 of Title 17 of the Arkansas Code of 1987 Annotated is amended by adding a new section to read as follows:

"17-34-112. Rules and Regulations.

(a) The Attorney General shall have the power to promulgate rules and regulations in order to carry out the intent and purposes of this chapter.

(b) The rules and regulations promulgated by the Attorney General pursuant to this section shall be adopted in accordance with the procedure prescribed in the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq., and these rules and regulations shall be filed and shall be subject to judicial review as provided in that act."

SECTION 6. Chapter 34 of Title 17 of the Arkansas Code of 1987 Annotated is amended by adding a new section to read as follows:

"17-34-113. Violation - Deceptive Trade Practices Act.

A violation of any of the provisions of this chapter shall also constitute an unfair or deceptive act or practice as defined by the Deceptive Trade Practices Act, Arkansas Code §§ 4-88-101 et seq. All remedies, penalties and authority granted to the Attorney General under the Deceptive Trade Practices Act shall be available to him for the enforcement of the provisions of this chapter."

SECTION 7. Arkansas Code § 4-28-403 is amended to read as follows:

"4-28-403. Remedies and Enforcement.

(a) Upon complaint of any person, or other information coming to the attention of the prosecuting attorney or Attorney General, the prosecuting attorney or Attorney General may institute an action in the proper court to enjoin a solicitation of contributions which would violate any provisions of this subchapter.

(b) The Attorney General may enter an order imposing one or more of the penalties set forth in subsection (c) of this section if he finds that a charitable organization, professional solicitor or professional fund raiser, or their officers, agents, directors, or employees have engaged in any of the following acts:

(1) Violated or is operating in violation of any of the

1 provisions of this subchapter or of the rules adopted or orders issued
2 hereunder;

3 (2) Made a false statement in an application, statement, or
4 report required to be filed under this subchapter;

5 (3) Refused or failed, after notice, to produce any records or
6 to disclose any information required to be disclosed under this subchapter,
7 or any rules promulgated by the Attorney General's Office for the purpose of
8 implementing this subchapter;

9 (4) Made a false statement in response to any request or
10 investigation by the Attorney General; or

11 (5) Violated any provisions of Arkansas Code § 4-88-110.

12 (c) Upon a violation of any of the provisions of this subchapter, the
13 Attorney General may enter an order as follows:

14 (1) Imposing an administrative penalty not to exceed one
15 thousand dollars (\$1,000) for each act or omission which constitutes a
16 violation of this subchapter.

17 (2) Issuing a cease and desist order that directs that the
18 person cease and desist specified fund raising activities.

19 (3) Refusing to license or canceling or suspending a license.

20 (4) Placing the registrant on probation for a period of time,
21 subject to conditions as the Attorney General's Office may specify.

22 (5) Issuing a letter of concern.

23 (d) Except as otherwise provided in this section, the administrative
24 proceedings which could result in the entry of an order imposing any of the
25 penalties specified in subsection (c) of this section are governed by
26 Arkansas Administrative Procedure Act, Arkansas Code §§ 25-15-201 et seq.

27 (e) A violation of any of the provisions of this subchapter shall also
28 constitute an unfair or deceptive act or practice as defined by the Deceptive
29 Trade Practices Act, Arkansas Code § 4-88-101 et seq. All remedies,
30 penalties and authority granted to the Attorney General under the Deceptive
31 Trade Practices Act shall be available to him for the enforcement of the
32 provisions of this subchapter."

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34 SECTION 8. Arkansas Code § 4-28-404 is hereby repealed.

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1 SECTION 9. Arkansas Code § 4-28-406 is hereby repealed.

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3 SECTION 10. Arkansas Code § 4-28-405 is amended to read as follows:

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

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

9 (b) Pursuant to such agreements, the Attorney General may accept
10 information filed by a charitable organization with another state in lieu of
11 the information required to be filed by a charitable organization in
12 accordance with the provisions of § 4-28-411 and § 4-28-412 if the
13 information is substantially similar to the information required to be filed
14 under § 4-28-411 and § 4-28-412."

15

16 SECTION 11. Arkansas Code § 4-28-409 is amended to read as follows:

17 "4-28-409. Nonresident organization - Service of process.

18 (a) A nonresident charitable organization desiring to solicit funds
19 within the State of Arkansas shall file with the information required in
20 § 4-28-411 and § 4-28-412 an irrevocable written consent that in suits,
21 proceedings, and actions growing out of the violation of any provision of
22 this subchapter, or as a result of any activities conducted within this state
23 giving rise to a cause of action, service on the Attorney General shall be as
24 valid and binding as if due service had been made on the said charitable
25 organization.

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

33

34 SECTION 12. Subchapter 4 of Chapter 28 of Title 4 of the Arkansas Code
35 of 1987 Annotated is amended by adding the following new sections:

1 "4-28-411. License Required.

2 (a) Unless exempted under Arkansas Code § 4-28-408, a charitable
3 organization that intends to solicit contributions in Arkansas, to have funds
4 solicited on its behalf, or to participate in a charitable sales promotion,
5 shall obtain a license by filing an application with the Attorney General,
6 obtaining approval of that application by the Attorney General, and paying
7 the applicable fee.

8 (b) The Attorney General shall examine each application filed by a
9 charitable organization and shall determine whether the licensing
10 requirements are satisfied. If the Attorney General determines that the
11 requirements are not satisfied, the Attorney General shall notify the
12 charitable organization within twenty (20) days after its receipt of the
13 application. If the Attorney General does not notify the charitable
14 organization within twenty (20) days, the application is deemed to be
15 approved and the license shall be granted. Within seven (7) days after
16 receipt of a notification that the requirements are not satisfied, the
17 charitable organization may file a petition for a contested case. The State
18 has the burden of proof in the contested case. The contested case hearing
19 must be held within seven (7) days after the petition is filed. A
20 recommended decision must be made within three (3) days of the hearing. A
21 final decision must be made within two (2) days after the recommended
22 decision. The contested case hearing proceedings shall be conducted in
23 accordance with the Arkansas Administrative Procedure Act, Arkansas Code
24 §§ 25-15-201 et seq., except that time limits and provisions set forth in
25 this section shall prevail to the extent of any conflict. The applicant
26 shall be permitted to continue to operate or continue operations pending
27 judicial review of the Office's denial of the application. The Attorney
28 General shall make rules regarding the custody and control of any funds
29 collected during the review period and disposal of the funds in the event the
30 denial of the application is affirmed on appeal.

31 (c) The license shall be renewed on an annual basis. Any change in
32 information from the original application for a license shall be filed
33 annually on or before the fifteenth (15th) day of the fifth (5th) calendar
34 month after the close of each fiscal year in which the charitable
35 organization solicited in this State, or by the date of any applicable

1 extension of the federal filing date, whichever is later, provided that
2 extensions given under this section shall not exceed three (3) months after
3 the initial renewal date or eight (8) months after the conclusion of the year
4 for which financial information is due at the time of renewal. A charitable
5 organization whose federal filing date has been extended shall, within seven
6 (7) days of receipt, forward a copy of the document granting the extension to
7 the Attorney General.

8 (d) For good cause shown, the Attorney General may extend the time for
9 the license renewal and the annual filing of updated information for a period
10 not to exceed sixty (60) days, during which time the previous license shall
11 remain in effect.

12

13 4-28-412. Initial Information.

14 (a) The initial application for a license for a charitable
15 organization shall be submitted on a form provided by the Attorney General,
16 signed under oath by the treasurer or chief fiscal officer of the charitable
17 organization, and shall include the following:

18 (1) The name of the charitable organization, the purpose for
19 which it is organized, the name under which it intends to solicit
20 contributions, and the purpose for which the contributions to be solicited
21 will be used;

22 (2) The principal street address and telephone number of the
23 charitable organization and the street address and telephone numbers of any
24 offices in Arkansas or, if the charitable organization or sponsor does not
25 maintain an office in this state, the name, street address, and telephone
26 number of the person who has custody of its financial records. The parent
27 organization that files a consolidated application or renewal statement under
28 the provisions of this subchapter on behalf of its chapters, branches, or
29 affiliates shall additionally provide the street addresses and telephone
30 numbers of all of its locations in Arkansas;

31 (3) The names and street addresses of the officers, directors,
32 trustees, and the salaried executive personnel;

33 (4) The date when the charitable organization's fiscal year
34 ends;

35 (5) A list or description of the major program activities;

1 (6) The names, street addresses, and telephone numbers of the
2 individuals or officers who have final responsibility for the custody of the
3 contributions and who will be responsible for the final distribution of the
4 contributions;

5 (7) The name of the individuals or officers who are in charge of
6 any solicitation activities;

7 (8) Whether or not the charitable organization is authorized by
8 any other state to solicit contributions;

9 (9) Whether or not the charitable organization or any of its
10 officers, directors, trustees, or salaried executive personnel have been
11 enjoined in any jurisdiction from soliciting contributions, or have been
12 found to have engaged in unlawful practices in the solicitation of
13 contributions or administration of charitable assets;

14 (10) Whether or not the charitable organization has had its
15 authority denied, suspended, or revoked by any governmental agency, together
16 with the reasons for the denial, suspension, or revocation;

17 (11) Whether or not the charitable organization has voluntarily
18 entered into an assurance of voluntary compliance or agreement similar to
19 that set forth in Arkansas Code § 4-88-114 together with a copy of that
20 agreement;

21 (12) The names, street addresses, and telephone number of any
22 professional fund raiser or solicitor, who is acting or has agreed to act on
23 behalf of the charitable organization, together with a statement setting
24 forth the specific terms of the arrangements for salaries, bonuses,
25 commissions, expenses, or other compensation to be paid the professional fund
26 raiser; and

27 (13) A financial report for the immediately preceding fiscal
28 year upon a form provided by the Attorney General. The report shall include
29 the following:

30 (A) The balance sheet;

31 (B) A statement of support, revenue, and expenses, and any
32 change in the fund balance;

33 (C) The names and addresses of any professional fund
34 raiser or professional solicitors used, if any, and the amounts received from
35 each of them, if any;

1 (D) A statement of expenses in the following categories:
2 (i) Program;
3 (ii) Management and general;
4 (iii) Fund raising.

5 (b) In substitution for the financial report described in subdivision
6 (a)(13) of this section, a charitable organization may submit a copy of its
7 Internal Revenue Service Form 990 and Schedule A filed for the preceding
8 fiscal year, or a copy , of its Form 990-EZ filed for the preceding fiscal
9 year.

10 (c) A charitable organization may include a financial report which has
11 been audited by an independent certified public accountant or an audit with
12 opinion by an independent certified public accountant.

13 (d) In lieu of a financial report as required by subsection (a) of
14 this section, a newly organized charitable organization with no financial
15 history shall file a budget for the current fiscal year along with its
16 application for licensure.

17 (e) With initial licensing only, when and where the organization was
18 established, the tax-exempt status of the organization and a copy of any
19 federal tax exemption determination letter. If the charitable organization
20 has not received a federal tax exemption determination letter at the time of
21 initial licensing, a copy of the determination shall be filed with the Office
22 within thirty (30) days after receipt of the determination by the charitable
23 organization. If the organization is subsequently notified by the Internal
24 Revenue Service of any challenge to its continued entitlement to federal tax
25 exemption, the charitable organization shall notify the Attorney General of
26 this fact within thirty (30) days after receipt.

27 (f) A license shall be renewed on an annual basis. The charitable
28 organization shall submit any changes in the information submitted from the
29 initial application.

30 (g) Upon the request of a charitable organization, the Attorney
31 General may determine if there is a legitimate public safety reason for
32 denying public access to information required in subdivisions (a)(2), (3),
33 (6), (7) of this section. Upon such a determination, the Attorney General
34 shall deny such information to the public, but shall retain such information
35 for use in the event of complaint concerning the fund raising activities of

1 the particular organization.

2

3 4-28-413. Consolidated Application.

4 (a) Each chapter, branch, member, or affiliate of a parent
5 organization or association that is required to obtain a license under this
6 subchapter shall either file a separate application or shall report the
7 required information to its parent organization or association. The parent
8 organization or association may then file, on a form provided by the Attorney
9 General, a consolidated application for the parent organization or
10 association and its chapters, branches, members, and affiliates located in
11 Arkansas.

12 (b) If all contributions received by chapters, branches, or affiliates
13 are remitted directly into the parent organization's centralized accounting
14 system from which all disbursements are made, the parent organization may
15 submit one consolidated financial report as part of the application on a form
16 provided by the Attorney General.

17 (c) The parent organization or association may file the information
18 required for a renewal of a license in a consolidated form provided by the
19 Attorney General.

20

21 4-28-414. Required Fees.

22 (a) Except as provided in subsections (b) and (c) of this section,
23 every charitable organization shall pay the following fees with each license
24 application:

25 (1) Fifty dollars (\$50.00), if the contributions received for
26 the last fiscal year were less than one hundred thousand dollars (\$100,000).

27 (2) One hundred dollars (\$100.00), if the contributions received
28 for the last fiscal year were one hundred thousand dollars (\$100,000) or
29 more, but less than two hundred thousand dollars (\$200,000).

30 (3) Two hundred dollars (\$200), if the contributions received
31 for the last fiscal year were two hundred thousand dollars (\$200,000) or
32 more.

33 (b) A licensed charitable organization that received less than five
34 thousand dollars (\$5,000) in the last calendar or fiscal year shall not pay a
35 fee.

1 (c) A parent organization or association filing on behalf of one or
2 more chapters, branches, members, or affiliates shall pay a single license
3 fee for itself and its other chapters, branches, members, or affiliates.
4 These license fees shall be imposed as follows:

5 (1) One hundred dollars (\$100) for a parent organization or
6 association and one (1) to five (5) chapters, branches, members, or
7 affiliates, unless said chapters, branches, members or affiliates in the
8 aggregate, raised more than two hundred thousand (\$200,000) in the previous
9 fiscal year. In that event the fee shall be two hundred dollars (\$200).

10 (2) Two hundred dollars (\$200) for a parent organization or
11 association and six (6) to ten (10) chapters, branches, members or
12 affiliates.

13 (3) Two hundred fifty dollars (\$250) for a parent organization or
14 association and eleven (11) to fifteen (15) chapters, branches, members, or
15 affiliates.

16 (4) Four hundred dollars (\$400) for a parent organization or
17 association and sixteen (16) or more chapters, branches, members, or
18 affiliates.

19 (d) A charitable organization which fails to file the renewal
20 information by the due date may be assessed an additional fee for the late
21 filing. The late filing fee shall be established by rule of the Attorney
22 General and shall not exceed twenty-five dollars (\$25.00) for each month or
23 part of a month after the date on which the information was due to be filed
24 or after the period of extension granted for the filing."

25

26 SECTION 13. Arkansas Code § 4-28-408 is amended to read as follows:

27 "4-28-408. Exemptions.

28 (a) This subchapter shall not apply to any promotion by the members of
29 a charitable organization where the contributions are solicited solely from
30 persons who are members thereof at the time of the promotion nor shall this
31 subchapter apply to promotions made solely for church, missionary, or
32 religious purposes.

33 (b) The provisions of § 4-28-411 and § 4-28-412 shall not apply to the
34 following organizations:

35 (1) Any duly organized religious corporation, institution or

1 society;

2 (2) Any parent-teacher association or educational institution,
3 the curricula of which in whole or in part are registered or approved by any
4 state or the United States either directly or by acceptance of accreditation
5 by an accrediting body;

6 (3) Any civic organization, including any local service club,
7 veteran's post, fraternal society, volunteer fire or rescue group or local
8 civic league not organized for profit;

9 (4) Any nonprofit hospital licensed by this state or in any
10 other state;

11 (5) Any governmental unit or instrumentality of any state or the
12 United States; or

13 (6) Any broadcast media owned or operated by an educational
14 institution or governmental entity, or any entity organized solely for the
15 support of such broadcast media.

16 (c) This subchapter shall not apply to any charitable organization
17 which does not intend to solicit and receive, and does not actually receive,
18 contributions in excess of ten thousand dollars (\$10,000) during a calendar
19 year if all of its functions, including its fund-raising functions, are
20 carried on by persons who are unpaid for their services, and provided that no
21 part of its assets or income inures to the benefit of or is paid to any
22 officer or member.

23 (d) Any organization claiming exemption under this section shall keep
24 full and accurate records in such form as will enable the organization to
25 provide to the Attorney General, upon request, the information specified in
26 §4-28-411 and §4-28-412 for each promotion conducted. Each such organization
27 shall submit such information as the Attorney General may require to
28 substantiate an exemption under this section."

29

30 SECTION 14. Subchapter 4 of Chapter 28 of Title 4 of the Arkansas Code
31 of 1987 Annotated is amended by adding the following new section:

32 "4-28-415. Rules and regulations.

33 (a) The Attorney General shall have the power to promulgate rules and
34 regulations in order to carry out the intent and purposes of this subchapter.

35 (b) The rules and regulations promulgated by the Attorney General

1 pursuant to this section shall be adopted in accordance with the procedure
2 prescribed in the Arkansas Administrative Procedure Act, Arkansas Code
3 §§ 25-15-201 et seq., and these rules and regulations shall be filed and
4 shall be subject to judicial review as provided in that act."

5

6 SECTION 15. Nothing in this act shall be construed to alter, repeal,
7 or modify any of the provisions of the Arkansas Deceptive Trade Practices,
8 Arkansas Code §§ 4-88-101 et seq.

9

10 SECTION 16. This act becomes effective January 1, 1996.

11

12 SECTION 17. All provisions of this act of a general and permanent
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
14 Code Revision Commission shall incorporate the same in the Code.

15

16 SECTION 18. If any provision of this act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 act are declared to be severable.

21

22 SECTION 19. All laws and parts of laws in conflict with this act are
23 hereby repealed.

24

25

/s/Everett et al