

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H2/28/17

A Bill

HOUSE BILL 1008

5 By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker
6 By: Senator K. Ingram
7

For An Act To Be Entitled

9 AN ACT TO INCREASE THE PENALTY FOR TAKING CAMPAIGN
10 FUNDS AS PERSONAL INCOME; TO AMEND PROVISIONS OF
11 ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF 1990
12 AND INITIATED ACT 1 OF 1996; AND FOR OTHER PURPOSES.
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Subtitle

15 TO INCREASE THE PENALTY FOR TAKING
16 CAMPAIGN FUNDS AS PERSONAL INCOME; AND TO
17 AMEND PROVISIONS OF ARKANSAS LAW
18 RESULTING FROM INITIATED ACT 1 OF 1990
19 AND INITIATED ACT 1 OF 1996.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 7-6-202, concerning penalties, is amended
26 to read as follows:

27 7-6-202. Penalties.

28 A person who knowingly fails to comply with this subchapter shall upon
29 conviction be guilty of a Class A misdemeanor unless a different penalty
30 applies under this subchapter.
31

32 SECTION 2. *Arkansas Code § 7-6-203(f), concerning use of campaign*
33 *contributions and resulting from Initiated Act 1 of 1990 and Initiated Act 1*
34 *of 1996, is amended to add an additional subdivision to read as follows:*

35 (f)(1) *A candidate shall not take any campaign funds as personal*
36 *income.* ~~*This subdivision (f)(1) shall not apply to campaign funds that were:*~~



1 ~~(A) Accumulated prior to the passage of Initiated Act 1 of~~
2 ~~1990; or~~

3 ~~(B) Disposed of prior to July 28, 1995.~~

4 (2) A candidate shall not take any campaign funds as income for
5 his or her spouse or dependent children, except that:

6 (A) This subsection shall not prohibit a candidate who has
7 an opponent from employing his or her spouse or dependent children as
8 campaign workers; and

9 (B) Any candidate who has an opponent and who, during the
10 campaign and before the election, takes a leave of absence without pay from
11 his or her primary place of employment shall be authorized to take campaign
12 funds during the campaign and before the election as personal income up to
13 the amount of employment income lost as a result of such leave of absence.

14 (3) A candidate who takes campaign funds during the campaign and
15 before the election under a leave of absence pursuant to the provisions of
16 subdivision (f)(2) of this section may elect to treat the campaign funds as a
17 loan from the campaign fund to the candidate to be paid back to the campaign
18 fund by the candidate.

19 ~~(4)(A) For purposes of this subsection, a candidate who uses~~
20 ~~campaign funds to fulfill any commitment, obligation, or expense that would~~
21 ~~exist regardless of the candidate's campaign shall be deemed to have taken~~
22 ~~campaign funds as personal income.~~

23 ~~(B) The use of campaign funds to purchase a cake or other~~
24 ~~perishable item of food at a fund raising event held by a volunteer agency,~~
25 ~~as defined in § 16-6-103, shall not be considered a taking of campaign funds~~
26 ~~as personal income.~~

27 ~~(C) The use of campaign funds to purchase advertising~~
28 ~~prior to the date the final report is due to be filed thanking voters for~~
29 ~~their support shall not be considered a taking of campaign funds as personal~~
30 ~~income.~~

31 ~~(D) The use of campaign funds to pay a candidate's own~~
32 ~~personal expenses for food, lodging, or travel to attend a national~~
33 ~~presidential nominating convention shall not be considered a taking of~~
34 ~~campaign funds as personal income.~~

35 (4) A candidate or officeholder is deemed to have taken campaign
36 or carryover funds as personal income under this section if the candidate or

1 officeholder uses the campaign or carryover funds for a reason unrelated to a
2 legitimate campaign or officeholder activity, including without limitation:

3 (A) To fulfill any commitment, obligation, or expense that
4 would exist regardless of the campaign of the candidate or duties of the
5 officeholder while in office;

6 (B)(i) For household food items and supplies.

7 (ii) This prohibition under subdivision
8 (f)(4)(B)(i) of this section applies to food purchased for day-to-day
9 consumption in the personal residence and supplies purchased to maintain the
10 personal residence.

11 (iii) This prohibition under subdivision
12 (f)(4)(B)(i) of this section does not apply to food and supplies for
13 fundraising activities, including a fundraising activity that takes place in
14 the home of the candidate, or to food or refreshments for activities related
15 to the campaign of the candidate or duties of the officeholder while in
16 office;

17 (C)(i) For clothing.

18 (ii) This prohibition under subdivision (f)(4)(C)(i)
19 of this section applies to all attire for political or personal functions.

20 (iii) This prohibition under subdivision
21 (f)(4)(C)(i) of this section does not apply to clothing of nominal value such
22 as t-shirts or caps imprinted with a campaign logo or slogan or the name of a
23 candidate as such items may be purchased with campaign funds and are a
24 legitimate campaign expense; and

25 (D)(i) To make mortgage, rent, or utility payments at the
26 personal residence of the candidate or officeholder or his or her family,
27 even if a portion of the residence is used by the campaign.

28 (ii) This prohibition under subdivision
29 (f)(4)(D)(i) of this section does not apply to payments made by a:

30 (a) Candidate concerning other buildings or
31 offices or office space used solely for campaign purposes, such as the
32 headquarters of the campaign, even if the candidate owns the space used, so
33 long as the space is not the personal residence of the candidate or his or
34 her family and the campaign pays a fair market value for use of the space; or

35 (b) Member of the General Assembly concerning
36 an apartment leased solely for use while in the capital so long as the

1 apartment is not maintained as the primary personal residence of the
2 officeholder.

3 (5) A candidate or officeholder shall not be deemed to have
4 taken campaign or carryover funds as personal income under this section if
5 the candidate or officeholder uses the campaign or carryover funds:

6 (A) To purchase a cake or other perishable item of food at
7 a fund-raising event held by a volunteer agency, as defined under § 16-6-103;

8
9 (B) To purchase advertising prior to the date the final
10 report is due to be filed thanking voters for their support;

11 (C) To pay a candidate's own personal expenses for food,
12 lodging, or travel to attend a national presidential nominating convention;

13 (D)(i) To reimburse himself or herself or otherwise pay
14 for attendance to in-state or out-of-state conferences or seminars on general
15 political issues.

16 (ii) During the campaign, funds may be used to
17 reimburse campaign staff and spouses provided their attendance to these
18 conferences relates to the campaign;

19 (E) In any manner permitted at the time by any rule of the
20 Arkansas Ethics Commission; and

21 (F) In any way reasonably and legitimately related to
22 campaign or officeholder activity.

23 (6) If a candidate loses an election or if an officeholder is no
24 longer in office, and after disposing of surplus funds, has carryover funds
25 remaining, personal use of funds remains prohibited by this section for
26 expenses unless the expenses relate to a future candidacy and comply with
27 subdivision (f)(5) of this section.

28 (7) Taking campaign funds as personal income is a:

29 (A) Class B felony if the value of the benefit is twenty-
30 five thousand dollars (\$25,000) or more;

31 (B) Class C felony if the value of the benefit is five
32 thousand dollars (\$5,000) or more but less than twenty-five thousand dollars
33 (\$25,000);

34 (C) Class D felony if the value of the benefit is five
35 hundred dollars (\$500) or more but less than five thousand dollars (\$5,000);
36 or

1 (D) Class A misdemeanor if the value of the benefit is
2 less than five hundred dollars (\$500).

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/s/Tucker