



Secretary of State of the State of Arkansas

CHARITABLE REGISTRATION IN ARKANSAS

Arkansas Code Annotated § 4-28-401 through 416 sets out the registration and reporting requirements for charitable organizations, paid solicitors, professional telemarketers, and fund-raising counsel. The Secretary of State encourages each entity covered by the charitable registration statutes to review the statutes and consult an attorney regarding how the statutes apply to the entity and its operations. These instructions are provided to assist you in complying with applicable statutory provisions but they do not replace such provisions. These instructions should not be construed as or relied upon as legal advice.

I. Charitable Organization Filings

A. Registration of Charitable Organizations

Pursuant to Ark. Code Ann. §§ 4-28-401 through 416, Arkansas law requires a charitable organization to register with the Secretary of State prior to engaging in any of the following: soliciting contributions, using fund-raising counsel, paid solicitors, or professional telemarketers, or conducting a sales promotion. There is no fee to register a charitable organization in Arkansas.

The following documents must be submitted via email to charities@sos.arkansas.gov:

1. Charitable Organization Registration Form (Form CR-01);
2. A copy of the appropriate Internal Revenue Service tax-exempt status form or pending application;
3. A copy of the organization's Articles of Incorporation;
4. An executed Consent for Service (Form CR-02), if applicable;
5. A copy of Arkansas's Annual Financial Reporting Form (Form CR-03), including all required documents; and
6. A copy of current contracts with any paid solicitors, fund-raising counsel, or commercial coventurers.

B. Annual Financial Reports

Arkansas Code Annotated § 4-28-403 requires each charitable organization subject to the provisions of Ark. Code Ann. §§ 4-28-401 through 416 to file annual financial reports with the Secretary of State on or before August 1st.

The following documents must be submitted via email to charities@sos.arkansas.gov:

1. A completed Annual Financial Reporting Form;
2. A copy of the organization's Internal Revenue Service Form 990, Form 990-EZ, or 990-N, if required to file such form;
3. If contributions to the charitable organization are in excess of \$1,000,000 during its preceding fiscal year, the organization shall file an audited financial statement prepared by an independent certified public accountant;
4. If contributions to the charitable organization are in excess of \$500,000 but less than \$1,000,000 during its preceding fiscal year, the organization shall have its financial statement reviewed by an independent certified public accountant; and
5. New or updated relationships or contracts with fund-raising counsel, paid solicitors, or commercial coventurers.

Upon good cause shown, the Secretary of State may grant an extension of time for a period of no longer than six months. Please submit your request for an extension to charities@sos.arkansas.gov. Please include the words "Annual Financial Report Extension" in the subject line of the email.

All financial records shall be kept in a form that will enable the charity to provide the information requested in the Annual Financial Report. The Secretary of State may inspect and copy any financial records at any time. The records should be kept for no less than three years. Donor lists are not subject to disclosure under the Freedom of Information Act except by court order.

C. Notice of Sales Promotion with Coventurer

Arkansas Code Annotated § 4-28-408 requires that every charitable organization which agrees to permit a charitable sales promotion to be conducted on its behalf obtain a written agreement from the commercial coventurer and file a copy of the agreement with the Secretary of State prior to the commencement of the sales promotion.

The following constitutes appropriate notice to the Secretary of State and should be submitted via email to charities@sos.arkansas.gov:

1. A completed Notice of Sales Promotion with Commercial Coventurer (Form CR-04); and
2. A copy of the written agreement which includes the terms outlined in Ark. Code Ann. § 4-28-408(a)(2)(A) – (E).

D. Exempt Organizations

Pursuant to Ark. Code Ann. § 4-28-404, Arkansas law permits certain organizations to forego the filing and reporting requirements of §§ 4-28-402, -403, and -405 of the charitable registration statutes. Any

organization claiming an exemption must submit information to the Secretary of State to substantiate such exemption. The following organizations may claim an exemption:

- Religious Organizations: Any bona fide, duly constituted, religious entity that (1) is exempt from taxation pursuant to the Internal Revenue Code and (2) no part of the entity's income inures to the direct benefit of any individual.
- Educational Institutions: Any parent-teacher association or educational institution, the curricula of which, in whole or in part, are registered or approved by any state or the United States, either directly, or by acceptance of accreditation by an accrediting body.
- Political Candidates and Organizations: Any candidate for national, state, or local elective office or a political party or other committee required to file information with the Federal Election Commission or any state election commission or its equivalent agency.
- Governmental Organizations: Any department, brand, or other instrumentality of federal, state, or local governments.
- Nonprofit Hospitals: Any nonprofit hospital licensed by this state or any other state.
- Any charitable organization that does not intend to solicit and receive, and does not actually receive, contributions in excess of \$50,000 during a calendar year if (1) all of its functions, including its fund-raising, are carried on by persons who are unpaid for their services, and (2) no part of its assets or income inures to the benefit of, or is paid to, any officer or member.
- Any person or entity who solicits solely for the benefit of organizations exempt from registration.

The following must be submitted via email to charities@sos.arkansas.gov to verify the exempt status of the organization:

1. Exempt Organization Verification (Form EX-01);
2. A copy of the appropriate Internal Revenue Service tax-exempt status form, if applicable; and
3. A copy of the organization's Articles of Incorporation.

The submission will be examined for compliance with the appropriate statute. If the Secretary of State determines that the exemption statute does not apply to the organization, the organization will be asked to submit a Charitable Organization Registration Form.

II. Paid Solicitors and Professional Telemarketers Filings

A. Registration of Paid Solicitors

Pursuant to Ark. Code Ann. §§ 4-28-401 through 416, Arkansas law requires paid solicitors to register with the Secretary of State. Registration is only valid for one year but may be renewed for additional one-year periods. The application for registration and all required attachments must be submitted at least 15 days prior to commencing performance on the contract.

The following documents must be submitted via email to charities@sos.arkansas.gov:

1. Paid Solicitor Annual Application for Registration (Form PS-01);
2. A fee of \$200.00 made payable to Office of the Secretary of State;
3. A fully executed bond in the amount of \$10,000.00;
 - a. The bond must be on an appropriate form (Form PS-02),
 - b. The bond must run in favor of the Secretary of State, and
 - c. The bond must remain current at all times for registration to remain valid;
4. An executed Consent for Service (Form PS-03), if applicable;
5. A completed Notice of Entry Into a Contract with a Charitable Organization (Form PS-04);
6. If you employ professional telemarketers, you must also submit an application for each such individual (Form PT-01); and
7. A properly executed copy of the contract between the paid solicitor and the charitable organization.

B. Registration of Professional Telemarketers Employed by Paid Solicitors

Pursuant to Ark. Code Ann. §§ 4-28-401 through 416, Arkansas law requires the registration of any person employed or retained by a paid solicitor to solicit charitable contributions in Arkansas. This registration must be submitted within 72 hours after accepting employment. Registration is only valid for one year but may be renewed for additional one-year periods with the submission of the registration form and the applicable fee.

The following must be submitted via email to charities@sos.arkansas.gov:

1. Professional Telemarketer Annual Application for Registration (Form PT-01);
2. A fee of \$10.00 made payable to Office of the Secretary of State; and
3. An executed Consent for Service (Form PT-02), if applicable.

C. Notification of Contracts with Charitable Organizations

Each paid solicitor, in accordance with Ark. Code Ann. §§ 4-28-407(c), is required to provide a copy of the contract between it and each charitable organization that it contracts with, no less than 15 days prior to the commencement of the contract.

The following must be submitted by the paid solicitor:

1. A Notice of Entry into Contract with Charitable Organization (Form PS-04);
2. A fully executed copy of the contract between the paid solicitor and the charitable organization. The contract must include certain information as required by Ark. Code Ann. § 4-28-407(d),
 - a. State the obligations of the paid solicitor and the charitable organization,
 - b. State the compensation to be paid by the charitable organization to the paid solicitor, and
 - c. Require the paid solicitor to deliver the names and addresses of all persons making contributions and the amounts of the contributions to the charitable organization.

D. Financial Reporting Obligations for Solicitation Campaigns

Ninety days after a solicitation campaign has been completed, and on the anniversary of the commencement of any campaign lasting more than one (1) year, a paid solicitor shall file a financial report as required by Ark. Code Ann. § 4-28-407(h).

The following must be submitted via email to charities@sos.arkansas.gov:

1. A Financial Report for Solicitation Campaign (Form PS-05);
2. An itemized list of expenses; and
3. The certification, under oath, of an authorized official of the paid solicitor and two authorized officials of the charitable organization, that the report is true and correct.

III. Fund-raising Counsel Filings

Pursuant to Ark. Code Ann. §§ 4-28-401 through 416, Arkansas law requires fund-raising counsel to register with the Secretary of State. Fund-raising counsel is defined by Ark. Code Ann. § 4-28-401(6) as any person who, under a written agreement, plans, conducts, manages, carries on, advises, or acts as a consultant in connection with the solicitation of contributions on behalf of a charitable organization, but who does not actually solicit contributions. Registration is only valid for one year but may be renewed for additional one-year periods with the filing of a new application and fee. This form and all required attachments must be submitted at least 15 days prior to commencing performance on the contract.

The following must be submitted via email to charities@sos.arkansas.gov:

1. Fund-raising Counsel Annual Application for Registration;
2. A fee of \$100.00 made payable to Office of the Secretary of State; and
3. An executed Consent for Service (Form FC-02), if applicable.

IV. General Registration Information

All forms and attachments should be submitted via email to charities@sos.arkansas.gov.

Incomplete submissions will not be accepted.

Each registrant is obligated to immediately update or revise any changes to the information or documents submitted with the filing of any forms. Changes or updates should be submitted on the applicable registration form.

If you have questions or inquiries, please contact the Charities Bureau via email at charities@sos.arkansas.gov, via phone at (501) 683-0094, or via mail to Arkansas Secretary of State, Business and Commercial Services, ATTN: Charities Registration, 1401 W. Capitol, Suite 250, Little Rock, AR 72201.

V. Applicable Law and Prohibited Acts

Charitable organizations, paid solicitors, professional telemarketers, and fund-raising counsel must comply with all applicable consumer protection laws in Arkansas, including, but not limited to, the Charitable Registration Statutes discussed above, Ark. Code Ann. §§4-28-401 through 416, the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101 through 115, and Ark. Code Ann. §§ 4-103-201 through 205.

Section 4-28-412 prohibits certain acts by charitable organizations, paid solicitors, professional telemarketers, and fund-raising counsel. The list in section 412 is provided as a helpful tool but is not exhaustive.

It shall be a violation of this section for:

- (1) Any person to make any misrepresentation, either express or implied, during the course of soliciting funds for a charitable organization;
- (2) Any charitable organization to engage in any financial transaction that knowingly jeopardizes or interferes with the ability of the charitable organization to accomplish its charitable purpose;
- (3) Any person to knowingly use or exploit the fact of registration so as to lead the public to believe that such registration constitutes an endorsement or approval by the state;
- (4) Any person to knowingly misrepresent that any other person sponsors or endorses a solicitation;
- (5) Any person to knowingly either use the name of a charitable organization or display any emblem, device, or printed matter belonging to or associated with a charitable organization without the express written permission of the charitable organization;
- (6) Any charitable organization to knowingly use a name that is the same as or confusingly similar to the name of another charitable organization unless the latter organization consents in writing to its use;
- (7) Any charitable organization to represent itself as being associated with another charitable organization without the express written acknowledgment and endorsement of the other charitable organization;
- (8) Any person to knowingly make any false or misleading statements on any document required to be filed with the Secretary of State;
- (9) Any person to fail to substantially comply with the requirements of this subchapter;
- (10) Any charitable organization to use the services of an unregistered paid solicitor who is required to register pursuant to this subchapter;
- (11) Any paid solicitor to solicit contributions from citizens or entities located in this state on behalf of an unregistered charitable organization; and
- (12) Any person to use an Arkansas address, including a return address, in any solicitation unless the:
 - (A) Charitable organization maintains and staffs an office at that address;

- (B) Solicitation discloses in writing immediately proximate to the address located in this state both the address of the charitable organization's actual headquarters and the fact that the address is that of a mail drop box or is located in a mail-handling facility; or
- (C) Person, if soliciting by phone, discloses the address of the organization's actual headquarters in addition to any address maintained in this state.

If you have questions or inquiries, please contact the Charities Bureau via email at charities@sos.arkansas.gov, via phone at (501) 683-0094, or via mail to Arkansas Secretary of State, Business and Commercial Services, ATTN: Charities Registration, 1401 W. Capitol, Suite 250, Little Rock, AR 72201.