

University of Arkansas Legal e-Source

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The University of Arkansas Legal e-Source is a collaborative effort of the School of Law, School of Continuing Education and Academic Outreach, and the Survey Research Center.

Welcome, to the new Legal e-Source Newsletter

Special points of interest:

- *Important deadlines may be approaching for your organization.*
- *Need more information on nonprofit organizations? Check out the Fayetteville Public Library's Non-profit Resource Center*

Welcome, to the new Legal e-Source e-Newsletter. The feature on our website to have this newsletter sent directly to your e-mail account will be available soon.

The University of Arkansas Legal e-Source is a collaborative effort of the School of Law, School of Continuing Education and Academic Outreach, and the Survey Research Center.

Legal e-Source informs and educates non-profit organizations on legal issues so they may achieve and maintain legal compliance, to improve their chances for overall success. Our primary goals are: to raise awareness of the legal needs and concerns of non-profit organizations; to educate and assist these organizations with timely and relevant legal information; and to guide them toward convenient problem-solving resources.

We hope you find the information in this newsletter and on our website helpful. We wish you and your organization success in your non-profit endeavors.

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Sincerely,



Tim Tarvin,
Asst. Professor of Law

Important Dates and Filings for Your Organization

Your organization may need to file an informational return, income return, or other filings soon.



- IRS Form 990, 990-EZ, or 990-N e-Postcard
 - Form 990, 990-EZ and Instructions
 - <http://www.irs.gov/charities/article/0,,id=185561,00.html>
 - Form 990-N e-Postcard and Instructions
 - <http://www.irs.gov/charities/article/0,,id=169250,00.html>
 - Due May 15, if your organization operates on a calendar year. If your organization operates on an other than calendar year cycle this form is due on the 15th day of the 5th month after the end of your tax year.
- Arkansas Filings
 - The Arkansas Department of Finance and Administration (DFA) does not require an income return for an exempt organization unless it has unrelated business income.
 - Report Unrelated Business Income to the DFA on Form AR1100CT
 - http://www.arkansas.gov/dfa/income_tax/documents/AR1100CT_2008.pdf
 - http://www.arkansas.gov/dfa/income_tax/documents/Corporate_Booklet_2008.pdf
 - Due by the 15th day of the 3rd month after the end for your tax year. For filers on the calendar year, the due date was March 15.
 - Annual Financial Reporting with the AR Attorney General
 - File a copy of your 990 form and/or the Charitable Organization Annual Report. Scroll down to the “Charitable Organizations Annual Financial Reporting” page for the form and instructions.
 - http://www.ag.state.ar.us/pdfs/charitables/Charity_Registration.pdf
 - Due by May 15, unless your organization operates on an other than calendar year cycle AND has applied for and been granted an extension from the Attorney General.
 - Annual Report with the AR Secretary of State
 - http://www.sos.arkansas.gov/corp_ucc/corp_forms/forms/NPD-Ann_Rept_AR.pdf
 - Required for all Arkansas nonprofit corporations and due by August 1.



The Arkansas Nonprofit Corporation Act of 1993: Key Differences for Those Considering Election

Is your nonprofit a corporation organized under the Arkansas Nonprofit Corporation Act of 1963? Are you considering election to become subject to the 1993 Act instead?

This article aims to describe key differences to consider when deciding whether to elect under the 1993 Act. All organizations are unique and should investigate the effects of election under the 1993 Act thoroughly and contact an attorney to advise you on specific changes before making your decision. This election is irrevocable, so it is important that you make a decision only after research, advice of counsel, and thorough investigation by directors, officers, staff, and members.

The 1993 Act was created to remedy areas in the 1963 Act that were unclear or lacking altogether. Some of these areas include: provisions for conduct of members' and directors' meetings, action by consent, how to approve amendments, procedures for approving extraordinary transactions (voluntary dissolution or sale of substantially all corporate assets), director and officer duties of care and loyalty, and authority for indemnification of officers and directors.

The 1993 Act's main advantage is that it gives detailed guidance on corporate governance, actions, and duties. Key differences in the 1993 Act include:

- 1) Three categories of nonprofit corporations — public benefit, mutual benefit, and religious.
- 2) Judicial Supervision — allows for judicial intervention in certain situations.
- 3) Consent to Action — allows members and directors to take any action which could be taken at a board meeting by written consent. The written consent must describe the action, contain the signatures of all directors, and must be included in the minutes. This consent has the same effect as a vote at a board meeting.
- 4) Member Meeting Requirements — provides long and detailed procedures that must be followed.
- 5) Director Meetings — rules are simple. Meetings can be conducted through any means of communication, so long as all directors can hear each other simultaneously. Regular meetings may be held without notice. Special meetings usually re-

quire 2 days' notice.

- 6) Emergency Bylaws and Powers — gives directors a few special powers and allows directors to adopt bylaws including procedures for managing the corporation during a natural disaster or other emergency that prevents the board from assembling a quorum.
- 7) Fiduciary Duties and Standard of Conduct for Directors — provides detailed guidance on general standards, conflicts of interest, prohibition of loans to directors, and liability for unlawful distributions.
- 8) Indemnification of Directors and Officers — provides for mandatory and discretionary indemnification of officers and directors. This may be included in the articles, bylaws, resolutions, or in a written contract and must be consistent with the Act.

These are just some of the areas in which the 1963 Act and the 1993 Act differ. If you are considering election under the 1993 Act, be sure to research and assess the advantages and disadvantages for your organization and consult with an attorney.



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Resources for Comparing the Arkansas Nonprofit Corporation Acts

- Statutes — available at <http://www.arkleg.state.ar.us/SearchCenter/Pages/ArkansasCodeSearchResultPage.aspx>
 - Arkansas Nonprofit Corporation Act of 1993
 - Ark. Code Ann. § 4-33-101 to 1707
 - Arkansas Nonprofit Corporation Act of 1963
 - Ark. Code Ann. § 4-28-201 to 225
- Article — available at the Robert A. and Vivian Young Law Library
 - James Edward Harris, *The Nonprofit Corporation Act of 1993: Considering Election to Apply the New Law to Old Corporations*, 16 U. Ark. Little Rock L.J. 1 (1994).
- University of Arkansas School of Law — Legal Clinic
 - (479) 575-3056
- Fayetteville Public Library Nonprofit Resource Center
 - <http://www.faylib.org/services/nonprofit-resource-center.asp>

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