ARKANSAS ETHICS COMMISSION
ADVISORY OPINION 96-EC-008

ISSUE PRESENTED   ISSUED: January 22, 1997

*With the Passage of Initiated Act 1 of 1996, how much may a candidate
accept from a contributor in future efforts to retire campaign debts?*

SUMMARY OF FACTS

A candidate ended a campaign prior to the passage of Initiated Act 1 of 1996 in debt. The candidate wishes to solicit contributions from persons in order to retire the debt. Some of these people may have given the candidate contributions during the election which ended in debt. Initiated Act 1 prohibits the giving or receiving of any contribution in excess of $300 to candidates for constitutional offices and $100 to candidates for all other offices. The candidate wishes to know if the limits in Act 1 apply to efforts to retire a debt for a campaign which occurred prior to the passage of Act 1 and, if so, may the candidate accept contributions from persons who gave more than the new limit in the prior campaign.

DECISION

Initiated Act 1 of 1996 was a comprehensive campaign finance law which was passed by a substantial margin at the November 5, 1996 election. Act 1's provisions included several which set substantially smaller campaign contribution limits applicable to all races in Arkansas. Two sections of this new law go into effect as of Wednesday, November 6, 1996. Included in these sections are those parts of Initiated Act 1 which limit campaign contributions to $300 for campaigns for constitutional offices and $100 for all other campaigns. The Act does not specifically reference debt retirement.

When a candidate ends his/her campaign in debt, Ark. Code Ann.§7-6-219 allows the candidate an opportunity to retire the debt. The amount of money a contributor may give to this candidate is dependent upon how much money the contributor gave the candidate during the election which created the debt. Prior to the passage of Act 1 of 1996, if, for example, a contributor gave $500.00 to a candidate during the general election, the contributor could give another $500.00 to the candidate in an effort to retire the debt. If the contributor had given $1,000.00 during the general election, s/he could not give any money to the candidate to retire the debt related to the general election.

Money given for the purpose of retiring a debt is considered a contribution under existing law and maximum contribution limits apply to these contributions as well. Since the contribution limits for campaigns went into effect immediately after the November 5 election, contributors are now prohibited from giving more than the new maximum limit ($100/$300) to any candidate in any effort

to retire a campaign debt. To the extent that a contributor did not already contribute the maximum amount, that same contributor may give up to $100 to retire the debt provided the total contributed to retire the debt, when added to the amount contributed by the same contributor during the election does not exceed $1,000.00. The chart below illustrates the limits in effect for debt retirement after the passage of Initiated Act 1 of 1996:

CONSTITUTIONAL RACES

Amount Contributed During Election	Maximum Amount which may be Contributed for Debt Retirement
$ 1.00 -- $700.00	$300.00
$700 -- $ 1,000.00	Difference between $1,000.00 and contribution not exceeding $300

ALL OTHER RACES

$ 1.00 -- $900.00	$100.00
$900 -- $ 1,000.00	Difference between $1,000.00 and contribution not exceeding $100

In reaching this conclusion, the Commission is mindful of the fact that several candidates have dates which relate to elections prior to 1996 which greater contribution limits were in place and Initiated Act was not being considered. Regardless, the language of Initiated Act 1 of 1996 is clear. As long as the Act is in effect, the maximum amount a contributor may give a candidate during an election or afterwards in order to assist in retiring a debt is either $300 or $100 depending on the candidate's race.