



STATE OF ARKANSAS  
ATTORNEY GENERAL  
LESLIE RUTLEDGE

Opinion No. 2016-109

November 7, 2016

Barry Emigh, Sponsor  
1104 West Seventh Street  
Hot Springs, AR 71913-4225

Dear Mr. Emigh:

I am writing in response to your request for certification, pursuant to Ark. Code Ann. § 7-9-107 (Supp. 2015), of the popular name and ballot title for a proposed initiated measure.

**At the outset, I wish to make clear to you that the decision to certify or reject a popular name and ballot title is in no way a reflection of my view of the merits of a particular proposal. I am not authorized to, and do not consider the merits of the measure when making my determination to certify or reject a popular name and ballot title.**

The Attorney General is required, pursuant to Ark. Code Ann. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General *may, if practicable*, substitute and certify a more suitable and correct popular name and ballot title. Or, if the proposed popular name and ballot title are sufficiently misleading, the Attorney General may reject the entire petition.

Section 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to

law,”<sup>1</sup> this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities.<sup>2</sup> Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposal.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.<sup>3</sup>

## REQUEST

**You have requested certification, pursuant to Ark. Code Ann. § 7-9-107, of the following popular name and ballot title for a proposed constitutional amendment:**

### Popular Name

An amendment to the Arkansas Constitution authorizing a business by the assumed name of ‘Fairdeal Holdings’ acting as a contracting agent, and only as a contracting agent, no later than one hundred and twenty (120) days before a general ballot without petition of signatures to request any city clerk in a city with a population greater than twenty four (24,000) thousand people, and or any county clerk within any county, to have the local ballot option which shall read, “FOR or AGAINST gambling with the sale, and service, of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, to be operated within one structure within this jurisdiction”, placed on the general ballot. The city, or county, clerk shall be required to place the local ballot option on the up coming [*sic*] general ballot within that jurisdiction. Upon passage

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<sup>1</sup> See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

<sup>2</sup> As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

<sup>3</sup> See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 848 (1984).

of a local ballot option the person(s), business, or corporation, contracted by 'Fairdeal Holdings' shall be authorized to operate gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within that city, or county. There shall be no limit, or restriction, on the number of times a failed local ballot option 'FOR or AGAINST' the operation of gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, to be operated within one structure can be placed on the general ballot by 'Fairdeal Holdings'. Upon passage of this amendment the General Assembly shall be empowered to authorize, and fund, an agency of the State to regulate gambling to include the requirement of any licenses, fees, permits, and age restriction. Upon passage of this amendment the General Assembly by a super majority shall be empowered to tax any income earned from gambling to include any winnings. Upon passage of this amendment the General Assembly shall be empowered to authorize, and fund, an agency of the State to regulate the sale, and service, of alcoholic beverages sold in connection to gambling. Unless otherwise provided in this amendment any, and all, laws, rules, regulations, age restrictions, taxes, licenses, fees, and permits of any kind, by any name, on the sale and service of alcoholic beverages shall apply. Upon passage of this amendment the business by the name of 'Fairdeal Holdings' as a sole proprietorship shall be authorized to do business in the State of Arkansas. Upon passage of this amendment 'Fairdeal Holdings' as a sole proprietorship shall be transferable. Upon passage of this amendment the gambling contracts shall be transferable from the gambling operator. Unless otherwise provided in this amendment any, and all, laws, rules, and regulation on the repeal of gambling with the sale, and service, of alcoholic beverages as local ballot option shall apply. The local ballot option shall read, "FOR or AGAINST, the repeal of gambling with the sale, and service, of alcoholic beverages within this jurisdiction". Upon repeal of gambling with the sale and service of alcoholic beverages the city, or county, within that jurisdiction shall assume full financial responsibility [*sic*] for the full assessed value by the assessor's office within that jurisdiction on any real property, the structure, equipment, and furnishings therein owned by the gambling contractor. The repeal of gambling with the sale and service of

alcoholic beverages shall take effect immediately after the full assessed value is paid in full, or a settlement for payment is accepted by the gambling contractor. Upon payment [sic] in full, or settlement for payment all assessed property shall be transferred to the ownership of that city, or county, without further contest. Upon passage of this amendment the voters are aware, and acknowledge, the risk of gambling, and alcohol, addiction. 'Fairdeal Holdings' means an assumed business name filed with the county clerk's office in the County of Garland, in the State of Arkansas, as a sole proprietorship, certificate number 4155. 'Gambling' means any game of chance to include, but not limited to, cards, dice, roulette wheels, in any way, and slot machines, of any kind, by any name. 'Structure' means any building, of any kind, of any size with any number of floors, and or, additions to include any structure floating on water. 'Alcoholic beverage' means any alcoholic beverage of any kind, by any name to include, but not limited to whiskey, beer, wine, and mixed beverages. 'Sale, and service, of alcoholic beverages' means the on site [sic] consumption of alcoholic beverages within the structure used to operate gambling. 'City' means a city incorporated in the State with a population greater than twenty four thousand (24,000) people. 'Gambling operator' means the person(s), business, or corporation contracted with 'Fairdeal Holdings' to operate gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within the jurisdiction of a city, and or county. 'Gambling operation' means gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within the jurisdiction of a city, and or county. Any law, rule, or regulation, not specifically mentioned, or provided, in this amendment shall be within the jurisdiction of the General Assembly. This amendment is self executing [sic]. Any part, or whole, of this amendment in conflict with any law, rule, or regulation, shall be superseded by this amendmennt [sic].

#### Ballot Title

An amendment authorizing 'Fairdeal Holdings' as a sole proprietorship to do business in the State, to be transferable, and to

contract, and place, gambling with the sale and service of alcoholic beverages on a general ballot as a local ballot option allowing for the repeal of gambling with the sale and service of alcoholic beverages as a local ballot option within that jurisdiction.

## RESPONSE

The popular name is primarily a useful legislative device.<sup>4</sup> It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.<sup>5</sup> The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.<sup>6</sup>

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.<sup>7</sup> According to the Court, a ballot title will not be legally sufficient unless it "adequately inform[s]" the voters of the contents of a proposed amendment or act so that they can make a "reasoned decision in the voting booth."<sup>8</sup> A ballot title's failure to "honestly and accurately reflect what is contained in the proposed [act or] Amendment" may lead the Court to conclude that the "omission is significant."<sup>9</sup> The Court has also disapproved the use of terms that are "technical and not readily understood by voters."<sup>10</sup> Without a definition of such terms in the ballot title, the title may be deemed insufficient.<sup>11</sup>

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<sup>4</sup> *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

<sup>5</sup> See, e.g., *Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). For a better understanding of the term "partisan coloring," see note 16 *infra*.

<sup>6</sup> *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

<sup>7</sup> *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980) (internal citations omitted).

<sup>8</sup> *Lange v. Martin*, 2016 Ark. 337, at n. 2, 2016 WL 5940309, at \*7.

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Wilson v. Martin*, 2016 Ark. 334, at 9, 2016 WL 5939735, at \*8.

<sup>11</sup> *Id.*

Additionally, if information omitted from the ballot title is an “essential fact which would give the voter serious ground for reflection, it must be disclosed.”<sup>12</sup> At the same time, however, a ballot title must be brief and concise;<sup>13</sup> otherwise voters could run afoul of Ark. Code Ann. § 7-5-309’s five-minute limit in voting booths when other voters are waiting in line.<sup>14</sup> The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.<sup>15</sup> The title, however, must be “free of any misleading tendency whether by amplification, omission, or fallacy, and it must not be tinged with partisan coloring.”<sup>16</sup> The ballot title must be honest and impartial,<sup>17</sup> and it must convey an intelligible idea of the scope and significance of a proposed change in the law.<sup>18</sup>

Furthermore, the Court has confirmed that a proposed measure cannot be approved if the text of the proposal itself contributes to confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.<sup>19</sup> The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”<sup>20</sup> Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my

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<sup>12</sup> *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

<sup>13</sup> *See* Ark. Code Ann. § 7-9-107(b).

<sup>14</sup> *Bailey* at 284, 884 S.W.2d at 944.

<sup>15</sup> *Id.* at 293, 844 S.W.2d at 946-47.

<sup>16</sup> *Id.* at 284, 884 S.W.2d at 942. Language “tinged with partisan coloring” has been identified by the Arkansas Supreme Court as language that “creates a fatally misleading tendency” (*Crochet v. Priest*, 326 Ark. 338, 347, 931 S.W.2d 128, 133 (1996)) or that “gives the voter only the impression that the proponents of the proposed amendment wish to convey of the activity represented by the words.” (*Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 249, 884 S.W.2d 605, 610 (1994)).

<sup>17</sup> *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

<sup>18</sup> *Christian Civic Action Committee*, 318 Ark. at 245, 884 S.W.2d at 607 (internal quotations omitted).

<sup>19</sup> *Cf. Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 382 (2000).

<sup>20</sup> *Id.*

statutory duty to the satisfaction of the Arkansas Supreme Court without (1) clarification or removal of the ambiguities in the proposal itself, and (2) conformance of the popular name and ballot title to the newly worded proposal.

It is my opinion, based on the above precepts, that a number of additions or changes to your ballot title are necessary in order to more fully and correctly summarize your proposal. I cannot, however, at this time, fairly or completely summarize the effect of your proposed measure to the electorate in a popular name or ballot title because of fatal errors with your proposed popular name and ballot title. Additionally, there are several fundamental problems and ambiguities in the text of the measure itself, some of which I pointed out to you in my earlier opinion to you<sup>21</sup> but that you have failed to correct. Because of these basic issues, I again have not conducted a thorough, point-by-point review of your proposal. Instead, I must point out the initial, central problems contained in your proposed measure.

- It would appear, from the face of your submission, that you have mislabeled your proposed ballot title as your proposed popular name and vice versa. Your proposed popular name reads like a ballot title and your ballot title reads like a popular name. Whether this was a mere drafting error or is indicative of a misunderstanding of the differences between a popular name and a ballot title, this is a fundamental mistake that precludes me from certifying either your proposed popular name or ballot title.

As I previously told you, the popular name must be a short, descriptive reference for your proposed measure.<sup>22</sup> “The popular name is designed to make it easy for voters to discuss the proposal prior to the election, by giving them a label to identify it.”<sup>23</sup> Moreover, it cannot be misleading. Your submission completely fails to meet this standard, and I cannot at this point substitute a more suitable and appropriate popular name. And your ballot title completely fails to meet the Court’s standards as recited above.<sup>24</sup> The total failure to summarize entire sections of your proposal renders your proposed ballot title utterly deficient. Despite my being legally authorized

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<sup>21</sup> See Op. Att’y Gen. 2016-099.

<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.* (quoting *Gaines v. McCuen*, 296 Ark. 513, 516, 758 S.W.2d 403, 404 (1988)). For recent examples of popular names this office has certified, please see Ops. Att’y Gen. 2016-105, 2016-058, 2016-007.

<sup>24</sup> See text accompanying notes 7-18 *supra*.

to craft a more suitable ballot title, I am not authorized, nor am I prepared, to craft one for you out of whole cloth.

- You again state that your proposed measure is “self executing” [*sic*]. But it purports to give the Legislature the power, or some might see as the duty, to legislate in furtherance of your proposed amendment. A document cannot be considered self-executing if it requires anything additional, such as subsequent legislation, to make it binding. Your proposal’s claim to be self-executing while giving the General Assembly legislative authority in areas connected with, but unaddressed by, your proposal creates a considerable ambiguity that must be clarified and clearly set forth in your proposal and ballot title.
- Your proposed measure repeatedly contains the phrase “[u]pon passage of this amendment....” You have been told that this language is wholly ambiguous in that it fails to give voters any precise way of knowing the effective date of your proposed amendment. This is especially troubling when your proposed measure, as noted above, purports to be “self executing [*sic*].” This ambiguity must be clarified and clearly set forth in your proposal and ballot title.
- Your proposed measure still contains many grammatical errors in spelling, capitalization, syntax, and punctuation—especially with respect to your use of periods and commas—that, if left uncorrected, create considerable ambiguities and would make it impossible for me to perform my statutory mandate with respect to your proposal.

## CONCLUSION

The serious problems and ambiguities noted above are not necessarily all of the issues contained in your proposal, but they are sufficiently serious to require me to reject your popular name and ballot title. I am unable to substitute an appropriate popular name or language in a ballot title for your measure because of these problems. Further, additional ambiguities may come to light on review of any revisions of your proposal.

My office, in the certification of ballot titles and popular names, does not address the merits, philosophy, or ideology of proposed measures. I have no constitutional role in the shaping or drafting of such measures. My statutory mandate is embodied only in Ark. Code Ann. § 7-9-107, and my duty is to the electorate. In line with that august duty, I am once more compelled to encourage you—should you truly and in good faith desire this office’s approval of a proposed popular

name and ballot title—to seek the advice or assistance of someone experienced in drafting legislation, editing legal documents, or both.<sup>25</sup>

As I wrote to you before, amending the Arkansas Constitution is a very serious matter, and the Arkansas Supreme Court holds popular names and ballot titles of proposed constitutional amendments to a standard that is commensurate with this seriousness. You must take this matter seriously. I must stress again that if you are intent upon passing a measure that will amend the constitution in such a significant way, then the assistance I mentioned above will be very helpful to you in avoiding wasted time and effort in trying to prepare a popular name and ballot title that will meet the high standards set by the Supreme Court.

Based on what has been submitted, my statutory duty is to reject your proposed popular name and ballot title for the foregoing reasons and instruct you, if you so choose, to redesign the proposed measure and ballot title.<sup>26</sup>

Sincerely,



LESLIE RUTLEDGE  
Attorney General

Enclosure

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<sup>25</sup> Once again, I must strongly reiterate my predecessors' exhortations to you regarding redesigns and resubmissions and their deep concern about "commit[ting] this office's limited resources to repeatedly telling you the same thing." Op. Att'y Gen. 2004-087 (emphasis added). See also Ops. Att'y Gen. 2000-312, 2000-193.

<sup>26</sup> Ark. Code Ann. § 7-9-107(c).

Ballot Title

AN AMENDMENT AUTHORIZING 'FAIRDEAL HOLDINGS' AS A SOLE PROPRIETORSHIP TO DO BUSINESS IN THE STATE, TO BE TRANSFERABLE, AND TO CONTRACT, AND PLACE, GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES ON A GENERAL BALLOT AS A LOCAL BALLOT OPTION ALLOWING FOR THE REPEAL OF GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES AS A LOCAL BALLOT OPTION WITHIN THAT JURISDICTION.

Popular Name

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING A BUSINESS BY THE ASSUMED NAME OF 'FAIRDEAL HOLDINGS' ACTING AS A CONTRACTING AGENT, AND ONLY AS A CONTRACTING AGENT, NO LATER THAN ONE HUNDRED AND TWENTY (120) DAYS BEFORE A GENERAL BALLOT WITHOUT PETITION OF SIGNATURES TO REQUEST ANY CITY CLERK IN A CITY WITH A POPULATION GREATER THAN TWENTY FOUR (24,000) THOUSAND PEOPLE, AND OR ANY COUNTY CLERK WITHIN ANY COUNTY, TO HAVE THE LOCAL BALLOT OPTION WHICH SHALL READ, "*FOR OR AGAINST GAMBLING WITH THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES WHICH MAY BE OPERATED TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, TO BE OPERATED WITHIN ONE STRUCTURE WITHIN THIS JURISDICTION*", PLACED ON THE GENERAL BALLOT. THE CITY, OR COUNTY, CLERK SHALL BE REQUIRED TO PLACE THE LOCAL BALLOT OPTION ON THE UP COMING GENERAL BALLOT WITHIN THAT JURISDICTION. UPON PASSAGE OF A LOCAL BALLOT OPTION THE PERSON(S), BUSINESS, OR CORPORATION, CONTRACTED BY 'FAIRDEAL HOLDINGS' SHALL BE AUTHORIZED TO OPERATE GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES WHICH MAY BE OPERATED TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, WITHIN ONE STRUCTURE WITHIN THAT CITY, OR COUNTY. THERE SHALL BE NO LIMIT, OR RESTRICTION, ON THE NUMBER OF TIMES A FAILED LOCAL BALLOT OPTION 'FOR OR AGAINST' THE OPERATION OF GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES WHICH MAY BE OPERATED TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, TO BE OPERATED WITHIN ONE STRUCTURE CAN BE PLACED ON THE GENERAL BALLOT BY 'FAIRDEAL HOLDINGS'. UPON PASSAGE OF THIS AMENDMENT THE GENERAL ASSEMBLY SHALL BE EMPOWERED TO AUTHORIZE, AND FUND, AN AGENCY OF THE STATE TO REGULATE GAMBLING TO INCLUDE THE REQUIREMENT OF ANY LICENSES, FEES, PERMITS, AND AGE RESTRICTION. UPON PASSAGE OF THIS AMENDMENT THE GENERAL ASSEMBLY BY A SUPER MAJORITY SHALL BE EMPOWERED TO TAX ANY INCOME EARNED FROM GAMBLING TO INCLUDE ANY WINNINGS. UPON PASSAGE OF THIS AMENDMENT THE GENERAL ASSEMBLY SHALL BE EMPOWERED TO AUTHORIZE, AND FUND, AN AGENCY OF THE STATE TO REGULATE THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES SOLD IN CONNECTION TO GAMBLING. UNLESS OTHERWISE PROVIDED IN THIS AMENDMENT ANY, AND ALL, LAWS, RULES, REGULATIONS, AGE RESTRICTIONS, TAXES, LICENSES, FEES, AND PERMITS OF ANY KIND, BY ANY NAME, ON THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES SHALL APPLY. UPON PASSAGE OF THIS AMENDMENT THE BUSINESS BY THE NAME OF 'FAIRDEAL HOLDINGS' AS A SOLE PROPRIETORSHIP SHALL BE AUTHORIZED TO DO BUSINESS IN THE STATE OF ARKANAS. UPON PASSAGE OF THIS AMENDMENT 'FAIRDEAL HOLDINGS' AS A SOLE PROPRIETORSHIP SHALL BE TRANSFERABLE. UPON PASSAGE OF THIS AMENDMENT THE GAMBLING CONTRACTS SHALL BE TRANSFERABLE FROM THE GAMBLING OPERATOR. UNLESS OTHERWISE PROVIDED IN THIS AMENDMENT ANY, AND ALL, LAWS, RULES, AND REGULATION ON THE REPEAL OF GAMBLING WITH THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES AS LOCAL BALLOT OPTION SHALL APPLY. THE LOCAL BALLOT OPTION SHALL READ, "*FOR OR AGAINST, THE REPEAL OF GAMBLING WITH THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES WITHIN THIS JURISDICTION*". UPON REPEAL OF GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES THE CITY, OR COUNTY, WITHIN THAT JURISDICTION SHALL ASSUME FULL FINANCIAL RESPONSABILITY FOR THE FULL ASSESSED VALUE BY THE ASSESSOR'S OFFICE WITHIN THAT JURISDICTION ON ANY REAL PROPERTY, THE STRUCTURE, EQUIPMENT, AND

FURNISHINGS THEREIN OWNED BY THE GAMBLING CONTRACTOR. THE REPEAL OF GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES SHALL TAKE EFFECT IMMEDIATELY AFTER THE FULL ASSESSED VALUE IS PAID IN FULL, OR A SETTLEMENT FOR PAYMENT IS ACCEPTED BY THE GAMBLING CONTRACTOR. UPON PAYMENT IN FULL, OR SETTLEMENT FOR PAYMENT ALL ASSESSED PROPERTY SHALL BE TRANSFERRED TO THE OWNERSHIP OF THAT CITY, OR COUNTY, WITHOUT FURTHER CONTEST. UPON PASSAGE OF THIS AMENDMENT THE VOTERS ARE AWARE, AND ACKNOWLEDGE, THE RISK OF GAMBLING, AND ALCOHOL, ADDICTION. 'FAIRFEAL HOLDINGS' MEANS AN ASSUMED BUSINESS NAME FILED WITH THE COUNTY CLERK'S OFFICE IN THE COUNTY OF GARLAND, IN THE STATE OF ARKANSAS, AS A SOLE PROPRIETORSHIP, CERTIFICATE NUMBER 4155. 'GAMBLING' MEANS ANY GAME OF CHANCE TO INCLUDE, BUT NOT LIMITED TO, CARDS, DICE, ROULETTE WHEELS, IN ANY WAY, AND SLOT MACHINES, OF ANY KIND, BY ANY NAME. 'STRUCTURE' MEANS ANY BUILDING, OF ANY KIND, OF ANY SIZE WITH ANY NUMBER OF FLOORS, AND OR, ADDITIONS TO INCLUDE ANY STRUCTURE FLOATING ON WATER. 'ALCOHOLIC BEVERAGE' MEANS ANY ALCOHOLIC BEVERAGE OF ANY KIND, BY ANY NAME TO INCLUDE, BUT NOT LIMITED TO WHISKEY, BEER, WINE, AND MIXED BEVERAGES. 'SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES' MEANS THE ON SITE CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE STRUCTURE USED TO OPERATE GAMBLING. 'CITY' MEANS A CITY INCORPORATED IN THE STATE WITH A POPULATION GREATER THAN TWENTY FOUR THOUSAND (24,000) PEOPLE. 'GAMBLING OPERATOR' MEANS THE PERSON(S), BUSINESS, OR CORPORATION CONTRACTED WITH 'FAIRDEAL HOLDINGS' TO OPERATE GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES WHICH MAY BE OPERATED TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, WITHIN ONE STRUCTURE WITHIN THE JURISDICTION OF A CITY, AND OR COUNTY. 'GAMBLING OPERATION' MEANS GAMBLING WITH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES WHICH MAY BE OPERATED TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, WITHIN ONE STRUCTURE WITHIN THE JURISDICTION OF A CITY, AND OR COUNTY. ANY LAW, RULE, OR REGULATION, NOT SPECIFICALLY MENTIONED, OR PROVIDED, IN THIS AMENDMENT SHALL BE WITHIN THE JURISDICTION OF THE GENERAL ASSEMBLY. THIS AMENDMENT IS SELF EXECUTING. ANY PART, OR WHOLE, OF THIS AMENDMENT IN CONFLICT WITH ANY LAW, RULE, OR REGULATION, SHALL BE SUPERSEDED BY THIS AMENDMENT.

#### **Section 1: Gambling as a Local Ballot Option**

1. Upon passage of this amendment a business by the assumed name of 'Fairdeal Holdings' acting as a contracting agent, and only as a contracting agent, shall be authorized.
  - a. No later than one hundred and twenty (120) days before any general ballot.
  - b. Without petition of signatures.
  - c. To request any city clerk in a city with a population greater than twenty four (24,000) thousand people, and or any county clerk, to have the local ballot option which shall read, *"for or against, gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, to be operated within one structure within this jurisdiction"*, placed on the up coming general ballot.
  - d. The city, or county, clerk shall be required to place the local ballot option, as provided in parts 1c of this Section, on the up coming general ballot within that jurisdiction for voter approval or rejection.
2. Upon passage of a local ballot option, as provided in part 1d, of this Section, the person, business, or corporation as contracted by 'Fairdeal Holdings' shall be authorized to operate gambling with the sale and service

of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within the jurisdiction of that city, or county.

3. There shall be no limit, or restrictions, on the number of times 'Fairdeal Holdings' acting as a contracting agent may request a failed local ballot option be placed on the general ballot within any city, and or county, as a local ballot option, as provided in 1d of this Section,

**Section 2: Laws, rules, regulations, license, fees, permits, and taxes**

1. Upon passage of this amendment the General Assembly shall be empowered to authorize, and fund, an agency of the state to regulate gambling, as provided in part 2 of Section 1, to include the requirement of any licenses, fees, permits, and age restriction.

2. Upon passage of this amendment the General Assembly shall be empowered by a super majority to tax any income earned from gambling to include winnings, as provided in part 2 of Section 1.

3. Upon passage of this amendment the General Assembly shall be empowered to authorize, and fund, an agency of the state to regulate the sale and service of alcoholic beverages sold and served in connection to gambling, as provided in part 2 of Section 1.

4. Unless otherwise provided in this amendment any, and all, state laws, rules, regulations, age restrictions, taxes, licenses, fees, and permits of any kind, by any name on the sale, and service, of alcoholic beverages, as provided in part 2 of Section 1, shall apply.

**Section 3: Doing Business in the State, Transfer of a Sole Proprietorship, Transfer of Contracts,**

1. Upon passage of this amendment the business by the assumed name of 'Fairdeal Holdings' as a sole proprietorship shall be authorized to conduct business in the State of Arkansas.

2. Upon passage of this amendment the business by the assumed name of 'Fairdeal Holdings' as a sole proprietorship to include any existing contracts, as provided in part 2 of Section 1, shall be transferable to another person, and from them, and so on.

3. Upon passage of this amendment any, and all, contracts by, and between, 'Fairdeal Holdings' and a 'gambling operator' shall be transferable by the 'gambling operator' to another person, business, or corporation, and from them, and so on.

**Section 4: Repeal of Gambling as a Local Ballot Option**

1. Upon passage of a local ballot option, as provided in part 2 of Section 1, unless otherwise provided in this amendment any, and all, laws, rules, and regulations, regarding a local ballot option to repeal gambling with the sale and service of alcoholic beverages within that jurisdiction shall apply.

a. The local ballot option shall read, *"for or against, the repeal of gambling with the sale and service of alcoholic beverages within this jurisdiction"*.

2. Upon repeal of the gambling operation by the voters as a local ballot option, as provided in part 1a of this Section, the city, and or county, shall assume full financial responsibility for the assessed value assessed by the Assessor's Office within that jurisdiction on any real property, the structure, equipment, and furnishings owned by the gambling contractor used in connection to the gambling operation.

3. The repeal of gambling with the sale and service of alcoholic beverages within a city, and or county, shall take effect immediately after the full assessed value, as provided in 2 of this Section, is paid in full to the 'gambling operator', or a settlement for payment(s) is accepted by the 'gambling operator'.

4. Upon payment in full, or settlement of payment, as provided in part 3 of this Section, all such property shall be transferred in ownership to that city, or county, within that jurisdiction without further contest.

#### **Section 5: Acknowledgement of Risk**

Upon passage of this amendment the voters are aware, acknowledge, and have consider, the risk of addiction to both gambling, and alcohol, associated with the operation of gambling.

#### **Section 6: Definitions**

a. 'Fairdeal Holdings' means a sole proprietorship under the assumed business name filed, with the county clerk's office in the County of Garland, in the State of Arkansas, certificate number 4155.

b. 'gambling' means any game of chance to include, but not limited to, the use of cards, dice, roulette wheels, used in any way, and slot machines of any kind, by any name.

c. sale, and service, of alcoholic beverages' means the on site consumption of alcoholic beverages within the structure where gambling is operated.

d. 'alcoholic beverages' means any alcoholic beverage of any kind, by any name, to include, but not limited to whiskey, beer, wine, and mixed beverages of any kind, by any name.

e. 'structure' means any building, of any kind, of any size with any number of floors, and or, additions to that building which may include structures floating on water.

f. 'city' means a city incorporated in the state with a population greater than twenty four (24,000) thousand people.

g. 'gambling operator' means the person(s), business, or corporation contracted with 'Fairdeal Holdings' to operate gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within the jurisdiction of a city, or county.

h. 'gambling operation' means gambling with the sale and service of alcoholic beverages which may be operated twenty four (24) hours a day, seven (7) days a week, within one structure within the jurisdiction of a city, or county.

#### **Section 7: Self Executing**

This amendment is for the Nov. 6th 2018 general ballot. Any law, rule, and or regulation, not specifically mentioned, or provided for, in this amendment shall be within the jurisdiction of the State General Assembly.

This amendment shall be self executing. If, any part, or whole, of this amendment is in conflict with any other law, rule, or regulation, that part, or whole, of the law, rule, or regulation, shall be superseded by this amendment.