
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1970

Session of
1985

INTRODUCED BY DEAL, WAMBACH, HARPER, CAWLEY, OLIVER, SCHULER,
SEMMELE AND RAYMOND, DECEMBER 10, 1985

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, APRIL 28, 1986

AN ACT

1 Relating to charitable organizations; requiring the registration
2 of such organizations; and regulating the solicitation of
3 money and property by or on behalf of charitable
4 organizations.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Short title.

16 This act shall be known and may be cited as the Charitable
17 Organization Reform Act.

18 Section 2. Legislative intent.

19 It is the intention of the General Assembly that this shall
20 not be a mere registry statute but an act intended not only to
21 require proper registration of charitable organizations,
22 professional fundraisers and professional solicitors, but also
23 to regulate the soliciting of money and property by or on behalf
24 of charitable organizations, professional fundraisers and
25 professional solicitors and to require proper accounting for the
26 use and distribution of said funds.

27 Section 3. Definitions.

28 The following words and phrases when used in this act shall
29 have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Actual contributions." Gross contributions minus the actual
2 cost to the charitable organization or professional solicitor of
3 goods sold or service provided to the public in connection with
4 the soliciting of contributions.

5 "Bureau." The Bureau on Charitable Organizations of the
6 Department of State.

7 "Charitable organization." A person which is or holds itself
8 out to be a benevolent, educational, philanthropic, humane,
9 patriotic, religious or eleemosynary organization or any person
10 which solicits or obtains contributions solicited from the
11 public for charitable purposes after the effective date of this
12 act. A chapter, branch, area, office or similar affiliate or any
13 person soliciting contributions within this Commonwealth for a
14 charitable organization which has its principal place of
15 business outside this Commonwealth shall be a charitable
16 organization for the purposes of this act. ~~This definition shall~~ <—

17 ~~not be deemed to include duly constituted religious~~
18 ~~organizations or any group affiliated with and forming an~~
19 ~~integral part of said organization no part of the net income of~~
20 ~~which inures to the direct benefit of any individual and which~~
21 ~~have received a declaration of current tax exempt status from~~
22 ~~the government of the United States:~~ Provided, That no
23 affiliated group shall be required to obtain such declaration if
24 the parent or principal organization shall have obtained same.

25 "Charitable sales promotion." An advertising or sales
26 campaign, conducted by a commercial co-venturer, which
27 represents that the purchase or use of goods or services offered
28 by the commercial co-venturer will benefit a charitable
29 organization or purpose.

30 "Commercial co-venturer." A person who for profit is

1 regularly and primarily engaged in trade or commerce in this
2 Commonwealth other than in connection with the raising of funds
3 for charitable organizations or purposes and who conducts a
4 charitable sales promotion.

5 "Contributions." The promise or grant of any money or
6 property of any kind or value.

7 "Department." The Department of State of the Commonwealth.

8 "Federated fundraising organization." A federation of
9 independent charitable organizations which have voluntarily
10 joined together, including, but not limited to, a United Fund or
11 Community Chest, for purposes of raising and distributing money
12 for and among themselves and where membership does not confer
13 operating authority and control of the individual agencies upon
14 the federated group organization.

15 "Gross contributions." The aggregate amount of money,
16 pledges or other property raised or received by reason of any
17 solicitation activities or campaigns.

18 "Parent organization." That part of a charitable
19 organization which coordinates, supervises or exercises control
20 over policy, fundraising and expenditures, or assists or advises
21 one or more chapters, branches or affiliates in this
22 Commonwealth.

23 "Person." Any individual, organization, trust, foundation,
24 group, association, partnership, corporation, society or any
25 combination of them.

26 "Professional fundraising counsel." Any person who for a
27 flat fixed fee under a written agreement plans, conducts,
28 manages, carries on, advises or acts as a consultant, whether
29 directly or indirectly, in connection with soliciting
30 contributions for, or on behalf of any charitable organization

1 but who actually solicits no contributions as a part of such
2 services. A bona fide salaried officer or employee of a
3 charitable organization maintaining a permanent establishment
4 within this Commonwealth shall not be deemed to be a
5 professional fundraising counsel.

6 "Professional solicitor." Any person who, for a financial or
7 other consideration, solicits contributions for, or on behalf of
8 a charitable organization, whether such solicitation is
9 performed personally or through their agents, servants or
10 employees or through agents, servants or employees specially
11 employed by, or for a charitable organization, who are engaged
12 in the solicitation of contributions under the direction of such
13 person, or a person who plans, conducts, manages, carries on,
14 advises or acts as a consultant, whether directly or indirectly,
15 to a charitable organization in connection with the solicitation
16 of contributions but does not qualify as "professional
17 fundraising counsel" within the meaning of this act. A bona fide
18 full-time salaried officer or employee of a charitable
19 organization maintaining a permanent establishment within this
20 Commonwealth shall not be deemed to be a professional solicitor,
21 nor shall an individual who works as an independent contractor
22 under the direction and control of such officer or employee OF <—
23 NOT MORE THAN TWO CHARITABLE ORGANIZATIONS PER YEAR be deemed to
24 be a professional solicitor. No attorney, investment counselor
25 or banker, who advises any person to make a contribution to a
26 charitable organization, shall be deemed, as the result of such
27 advice, to be a professional fundraising counsel or a
28 professional solicitor.

29 "Solicitation." The asking, seeking, appealing, requesting,
30 directly or indirectly by means of mail, personal contact,

1 written material, radio, television, news media, magazines or
2 other periodicals or any other means of communication, of money
3 or property of any kind or value or pledges for the same.

4 Section 4. Powers and duties of the department.

5 (a) Powers and duties.--The department shall have the power,
6 and its duty shall be, to promulgate rules and regulations and
7 prescribe forms for registration or other purposes consistent
8 with the specific requirements of this act and, after due notice
9 to and consultation with representatives of charitable
10 organizations, professional fundraising counsel and professional
11 solicitors and an opportunity for all such to be heard to make
12 effective such rules, regulations, forms and procedures and when
13 necessary to hold hearings and make adjudications as provided in
14 this act and make recommendations to the Attorney General for
15 enforcement of this act.

16 (b) Advisory board.--An advisory board shall be created
17 within the Department of State made up of five individuals to be
18 appointed by the Secretary of the Commonwealth, to be called
19 upon by the department, or of their own volition, to offer
20 advice or consultation regarding registration and/or regulation
21 of charitable organizations in this Commonwealth as provided for
22 in this act. Three of the appointees shall be representatives
23 from registered charities, with one of the three to be a
24 certified public accountant experienced in examining financial
25 reports; two of the appointees shall be from the public at
26 large, who are currently neither an official nor an employee of
27 a registered charity. Such advisory board may elect a
28 chairperson from among its membership. Staff assistance to the
29 board shall be provided by the department.

30 (c) Rules and regulations.--The department shall develop

1 regulations for governing the manner and criteria for which
2 cases are referred to the Attorney General and local law
3 enforcement agencies.

4 ~~(d) Fees. All fees required under this act shall be fixed~~ <—
5 ~~by the department by regulation and shall be subject to the act~~
6 ~~of June 25, 1982 (P.L.633, No.181), known as the Regulatory~~
7 ~~Review Act. If the revenues raised by fees, fines and civil (D)~~ <—
8 FEES.--IF THE REVENUES RAISED BY FEES, FINES AND CIVIL penalties
9 imposed under this act are not sufficient to meet expenditures
10 over a two-year period, the department shall increase those fees
11 by regulation, SUBJECT TO THE ACT OF JUNE 25, 1982 (P.L.633, <—
12 NO.181), KNOWN AS THE REGULATORY REVIEW ACT, so that the
13 projected revenues will meet or exceed projected expenditures.

14 (e) Annual report.--The department shall submit annually to
15 the Governor, House and Senate State Government Committees, as
16 well as interested registered charities, a report on the number
17 of registered charities, number of charities ordered to cease
18 and desist, and the number of charities that applied but were
19 denied registration, and the number of alleged charities
20 referred to law enforcement agencies, along with the results of
21 such referrals.

22 Section 5. Bureau on Charitable Organizations.

23 The Bureau on Charitable Organizations shall be a bureau
24 within the Department of State. The bureau shall have the power,
25 and its duty shall be, to carry out the purposes consistent with
26 the specific requirements of this act and make recommendations
27 to the Attorney General and Secretary of the Commonwealth for
28 enforcement of this act.

29 Section 6. Registration of charitable organizations.

30 (a) Registration statement.--Every charitable organization

1 which intends to solicit contributions within this Commonwealth,
2 or have funds solicited on its behalf, shall, prior to any
3 solicitation, file a registration statement with the department
4 upon forms prescribed by the ~~bureau~~ DEPARTMENT, which shall be <—
5 good for one full year and which shall be refiled in the next
6 and each following year in which such charitable organization is
7 engaged in solicitation activities. It shall be the duty of the
8 president, chairman or principal officer of such charitable
9 organization to file the statements required under this act.
10 Such statements shall be sworn to and shall contain the
11 following information:

12 (1) The name of the organization and the purpose for
13 which it was organized.

14 (2) The principal address of the organization and the
15 address of any offices in this Commonwealth. If the
16 organization does not maintain an office, the name and
17 address of the person having custody of its financial
18 records.

19 (3) The names and addresses of any chapters, branches or
20 affiliates in this Commonwealth.

21 (4) The place where and the date when the organization
22 was legally established, the form of its organization, and a
23 reference to any determination of its tax-exempt status under
24 the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1
25 et seq.).

26 (5) The names and addresses of the officers, directors,
27 trustees and the principal salaried executive staff officer.

28 (6) (i) A copy of the financial statements of the
29 charitable organization's immediately preceding fiscal
30 year. If the gross contributions of the organization

1 exceed \$15,000, but are less than \$50,000, the financial
2 statements shall be audited or reviewed by an independent
3 public accountant or an independent certified public
4 accountant. If the gross contributions of the
5 organization exceeds \$50,000, the financial statements
6 shall be audited by an independent public accountant or
7 an independent certified public accountant. In the event
8 that the gross contributions of the organization are less
9 than \$15,000, the submission of an audit or review is
10 optional. The financial statements shall be completed in
11 accordance with the accounting standards set forth in the
12 rules and regulations promulgated by the department.

13 (ii) Government audits of government grants shall be
14 accepted and shall be included as part of the financial
15 statements.

16 (iii) The ~~bureau~~ DEPARTMENT shall have the <—
17 discretion to require that an audit or review be
18 submitted by any charitable organization which files a
19 registration statement. The ~~bureau~~ DEPARTMENT shall have <—
20 the discretion to accept the financial statements
21 submitted by the organization in lieu of the audit or
22 review in the event that special facts and circumstances
23 are presented.

24 (iv) For purposes of this clause all audits shall be
25 performed in accordance with the American Institute of
26 Certified Public Accountants Statements on auditing
27 standards and reviews shall be the same as and performed
28 in accordance with the standards and procedures set forth
29 in the American Institute of Certified Public Accountants
30 Statement on Standards for Accounting and Review

1 Services.

2 (7) Whether the organization intends to solicit
3 contributions from the public directly or have such done on
4 its behalf by others.

5 (8) Whether the organization is authorized by any other
6 governmental authority to solicit contributions and whether
7 it is or has ever been enjoined by any court from soliciting
8 contributions.

9 (9) The general purpose or purposes for which the
10 contributions to be solicited shall be used.

11 (10) The name or names under which it intends to solicit
12 contributions.

13 (11) The names of the individuals or officers of the
14 organization who will have final responsibility for the
15 custody of the contributions.

16 (12) The names of the individuals or officers of the
17 organization responsible for the final distribution of the
18 contributions.

19 (b) Approval of registration.--The ~~bureau~~ DEPARTMENT shall <—
20 examine each initial application of charitable organizations for
21 the right to solicit funds and each renewal application of
22 charitable organizations for the right to solicit funds and if
23 found to be in conformity with the requirements of this act and
24 all relevant rules and regulations it shall be approved for
25 registration. Any applicant who is denied approved registration
26 may, within 15 days from the date of notification of such
27 denial, request, in writing, a hearing before the Secretary of
28 the Commonwealth, or his designee, which hearing shall be held
29 within 15 days from the date of the request.

30 (c) Reports.--Each chapter, branch or affiliate, except an

1 independent member agency of a federated fundraising
2 organization, may separately report the information required by
3 this section, or report the information to its parent
4 organization which shall then furnish such information as to its
5 Pennsylvania affiliates, chapters and branches in a consolidated
6 form to the department. An independent member agency of a
7 federated fundraising organization, as hereinbefore defined,
8 shall comply with the provisions of this act independently,
9 unless specifically exempted from doing so.

10 (d) Forms.--The registration forms and any other documents
11 prescribed by the department shall be signed by an authorized
12 officer or by an independent public accountant and by the chief
13 fiscal officer of the charitable organization and shall be
14 verified under oath.

15 (e) Registration fee.--Every charitable organization which
16 submits a short form registration statement pursuant to section
17 4(e) or receives less than \$15,000 in gross contributions shall
18 pay an annual registration fee of \$10. Every charitable
19 organization which submits a full registration statement to the
20 department shall pay an annual registration fee of \$25 if the
21 charitable organization solicits and receives gross
22 contributions from the public which exceed \$15,000 but are less
23 than \$25,000 during the immediate preceding fiscal year. Every
24 charitable organization which submits a full registration
25 statement to the department shall pay an annual registration fee
26 of \$100 if the charitable organization solicits and receives
27 gross contributions in excess of \$25,000 during the immediate
28 preceding fiscal year. A parent organization filing on behalf of
29 one or more chapters, branches or affiliates and a federated
30 fundraising organization filing on behalf of its member agencies

1 shall pay a single annual registration fee for itself and such
2 chapters, branches, affiliates or member agencies included in
3 the registration statement.

4 (f) Applicability.--Both the chapter, branch, area office or
5 similar affiliate soliciting in this Commonwealth as well as the
6 parent of a charitable organization which has its principal
7 place of business outside of this Commonwealth shall be subject
8 to all of the provisions hereof.

9 (g) Investigations.--~~Upon receipt of a request from the~~ <—
10 ~~Secretary of the Commonwealth or upon its own initiative, the~~
11 ~~bureau shall~~ THE DEPARTMENT MAY make or cause to be made such <—
12 investigation of any applicant as it shall deem necessary. As a
13 result of its investigation and action, the ~~bureau~~ DEPARTMENT <—
14 shall certify ~~to the Secretary of the Commonwealth~~ its approval <—
15 or disapproval of the application. No applicant shall be
16 approved if one or more of the following facts is found to
17 exist:

18 (1) That one or more of the statements in the
19 application are not true.

20 (2) That the applicant is or has engaged in a fraudulent
21 transaction or enterprise.

22 (3) That a solicitation would be a fraud upon the
23 public.

24 (4) That solicitation and fundraising expenses
25 (including not only payments to professional solicitors, but
26 also payments to professional fundraisers, and internal
27 fundraising and solicitation salaries and expenses) during
28 any of the three years immediately preceding the date of
29 application have exceeded 35% of the actual contributions
30 received. As used in this subsection, the term "internal

1 fundraising and expenses" shall include, but not be limited
2 to, such portions of the charitable organization's salary and
3 overhead expenses as were fairly allocable (on a time or
4 other appropriate basis) to its solicitation and/or
5 fundraising expense. In the event special facts or
6 circumstances are presented showing that expenses higher than
7 35% were not unreasonable, the Secretary of the Commonwealth,
8 or his designee, has the discretion to allow such higher
9 expense.

10 (5) That the expected cost of solicitation and
11 fundraising expenses for the specific year in which the
12 application is submitted (including not only payments to
13 professional solicitors, but also payments to professional
14 fundraisers, and internal fundraising and solicitation
15 salaries and expenses) will exceed 35% of the actual
16 contributions received. As used in this subsection, the term
17 "internal fundraising and expenses" shall include, but not be
18 limited to, such portions of the charitable organization's
19 salary and overhead expenses as will be fairly allocable (on
20 a time or other appropriate basis) to its solicitation and/or
21 fundraising expense. In the event special facts or
22 circumstances are presented, showing that expenses higher
23 than 35% will not be unreasonable, the Secretary of the
24 Commonwealth, or his designee, has the discretion to allow
25 such higher expense.

26 (6) That such activities to be financed will be
27 incompatible with the health, safety or welfare of the
28 citizens of the Commonwealth of Pennsylvania.

29 Section 7. Exemptions and short form registration.

30 (a) Exemptions.--The following charitable organizations

1 shall be exempted from the registration requirements in this
2 act:

3 (1) RELIGIOUS ORGANIZATIONS WHICH ARE DULY CONSTITUTED, <—
4 OR A GROUP AFFILIATED WITH AND FORMING AN INTEGRAL PART OF
5 THE RELIGIOUS ORGANIZATIONS, AND IN WHICH NO PART OF THEIR
6 NET INCOME INURES TO THE DIRECT BENEFIT OF AN INDIVIDUAL AND
7 WHICH HAS RECEIVED A DECLARATION OF CURRENT TAX-EXEMPT STATUS
8 FROM THE FEDERAL GOVERNMENT.

9 ~~(1)~~ (2) Educational institutions, the curriculums of <—
10 which, in whole or in part, are registered or approved by the
11 State Board of Education of the Commonwealth of Pennsylvania,
12 either directly or by acceptance of accreditation by an
13 accrediting body recognized by the State Board of Education.

14 ~~(2)~~ (3) Hospitals which are nonprofit and charitable and <—
15 are required by law to file financial reports at least
16 annually with the Auditor General of the Commonwealth of
17 Pennsylvania: Provided, That a copy of the annual fiscal
18 report so filed is also filed simultaneously with the bureau.

19 ~~(3)~~ (4) A local post, camp, chapter or similarly <—
20 designated element or a county unit of such elements of a
21 bona fide veterans' organization which issues charters to
22 such local elements throughout this Commonwealth, a bona fide
23 organization of volunteer firemen, a bona fide ambulance
24 association or bona fide rescue squad association or a bona
25 fide auxiliary or affiliate of any such organization,
26 provided all its fundraising activities are carried on by
27 members of such an organization or an affiliate thereof, and
28 such members receive no compensation directly or indirectly
29 therefor.

30 ~~(4)~~ (5) Public nonprofit library organizations which <—

1 receive financial aid from municipal and State governments
2 and file an annual fiscal report with the State Library
3 System.

4 ~~(5)~~ (6) Senior citizen centers which are nonprofit and <—
5 charitable and which have been granted tax-exempt status
6 under the Internal Revenue Code of 1954 (68A Stat. 3, 26
7 U.S.C. § 1 et seq.), provided all fundraising activities are
8 carried on by members or officers of such an organization and
9 such members or officers receive no compensation directly or
10 indirectly therefor.

11 (7) BONA FIDE PARENT/TEACHER ASSOCIATIONS OR <—
12 ORGANIZATIONS AS RECOGNIZED IN A NOTARIZED LETTER FROM THE
13 SCHOOL DISTRICT IN WHICH THEY ARE LOCATED.

14 (b) Short form.--The following charitable organizations
15 shall be required to file a short form annual registration
16 statement with the department:

17 (1) Persons requesting contributions for the relief of
18 any individual specified by name at the time of solicitation
19 when all of the contributions collected without any
20 deductions whatsoever are turned over to the named
21 beneficiary for his use.

22 (2) Charitable organizations which do not intend to
23 solicit and receive and do not actually raise or receive
24 contributions from the public in excess of \$15,000 during a
25 calendar year and if no part of their assets or income inures
26 to the benefit of or is paid to any officer or member.

27 Nevertheless, if the contributions raised from the public
28 exceed \$15,000, the charitable organization shall, within 30
29 days after the date it has received said amount, file a full
30 registration statement with the department.

1 (3) Organizations which solicit only within the
2 membership of the organization by the members thereof. The
3 term "membership" shall not include persons who are granted a
4 membership upon making a contribution as the result of
5 solicitation.

6 Section 8. Limitations on amount of payments for solicitation
7 or fundraising activities.

8 (a) Limitation on payments.--No charitable organization
9 shall pay or agree to pay to a professional solicitor or his
10 agents, servants or employees in the aggregate a total amount in
11 excess of 15%, including reimbursement for expenses incurred and
12 direct payment of expenses incurred, of the actual contributions
13 received.

14 (b) Limitation on expense.--No charitable organization shall
15 incur solicitation and fundraising expenses (including not only
16 payments to professional solicitors, but also payments to
17 professional fundraisers, and internal fundraising and
18 solicitation salaries and expenses) in excess of 35% of the
19 actual contributions received. As used in this subsection, the
20 term "internal fundraising and expenses" shall include, but not
21 be limited to, such portions of the charitable organization's
22 salary and overhead expenses as are fairly allocable, on a time
23 or other appropriate basis, to its solicitation and/or
24 fundraising expense. In the event special facts or circumstances
25 are presented showing expenses higher than 35%, the department
26 has the discretion to allow such higher funds and may impose
27 such conditions as the Secretary of the Commonwealth, or his
28 designee, shall deem necessary for such exemption.

29 (c) Calculation of expense.--Fundraising expenses shall not
30 include the actual amount the charitable organization paid to

1 the United States Postal Service for postage in connection with
2 the solicitation of contributions. The postage costs shall be
3 allocated, on a time or other appropriate basis, to program
4 service costs or management in general costs.

5 (d) Filing contracts.--Every contract or written agreement
6 between professional fundraising counsel and a charitable
7 organization shall be filed with the Secretary of the
8 Commonwealth within ten days after such contract or written
9 agreement is concluded.

10 (e) Examination of contracts.--Every contract or a written
11 statement of the nature of the arrangement to prevail in the
12 absence of a contract between a professional solicitor and a
13 charitable organization shall be filed with the Secretary of the
14 Commonwealth within ten days after such contract or written
15 agreement is concluded. If the contract or arrangement with a
16 professional solicitor does not provide for compensation on a
17 percentage basis, the ~~bureau~~ DEPARTMENT shall examine the
18 contract to ascertain whether the compensation to be paid in
19 such circumstances is likely to exceed 15% of the actual
20 contributions received as a result of the contract or
21 arrangement; if the reasonable probabilities are that the
22 compensation will exceed 15% of the actual contributions
23 received, the secretary shall disapprove the contract or
24 arrangement within ten days after its filing. No registered
25 charitable organization or professional solicitor shall carry
26 out or execute a disapproved contract, or receive or perform
27 services, or receive or make payments pursuant to a disapproved
28 contract. Any party to a disapproved contract shall, upon
29 written request made within 30 days of disapproval, be given a
30 hearing before the Secretary of the Commonwealth, or his

<—

1 designee, within 30 days after such request is filed.

2 Section 9. Limitation on activities of charitable
3 organizations.

4 No charitable organization subject to this act shall solicit
5 funds from the public except for charitable purposes or expended <—
6 EXPEND funds raised for charitable purposes for noncharitable <—
7 purposes.

8 Section 10. Registration of professional fundraising counsel
9 and professional solicitor; bonds; records;
10 books.

11 (a) Registration.--No person shall act as a professional
12 fundraising counsel or professional solicitor for a charitable
13 organization subject to the provisions of this act, unless he
14 has first registered with the department. Applications for such
15 registration shall be in writing under oath or affirmation in
16 the form prescribed by the department and contain such
17 information as the department may require. The application for
18 registration by professional fundraising counsel or professional
19 solicitor shall be accompanied by an annual fee in the sum of
20 \$100. A partnership or corporation, which is a professional
21 fundraising counsel or professional solicitor, may register for
22 and pay a single fee on behalf of all its members, officers,
23 agents and employees. However, the names and addresses of all
24 officers, agents and employees of professional fundraising
25 counsel and all professional solicitors, their officers, agents,
26 servants or employees employed to work under the direction of a
27 professional solicitor must be listed in the application.

28 (b) Bond.--The applicant shall, at the time of making
29 application, file with and have approved by the department a
30 bond in which the applicant shall be the principal obligor in

1 the sum of \$10,000 with one or more sureties satisfactory to the
2 department, whose liability in the aggregate as such sureties
3 will at least equal the said sum and maintain said bond in
4 effect so long as a registration is in effect. The bond shall
5 run to the Commonwealth of Pennsylvania for the use of the
6 department and any person who may have a cause of action against
7 the obligor of said bonds for any losses resulting from
8 malfeasance, nonfeasance or misfeasance in the conduct of
9 solicitation activities. A partnership or corporation which is a
10 professional fundraising counsel or professional solicitor may
11 file a consolidated bond on behalf of all its members, officers
12 and employees.

13 (c) Term of registration.--Each registration shall be valid
14 throughout this Commonwealth for a period of one year and may be
15 renewed for additional one-year periods upon written application
16 under oath in the form prescribed by the department and the
17 payment of the fee prescribed herein.

18 (d) Approval of application.--The Secretary of the
19 Commonwealth, or his designee, shall examine each application,
20 and if he finds it to be in conformity with the requirements of
21 this act and all relevant rules and regulations and the
22 registrant has complied with the requirements of this act and
23 all relevant rules and regulations, he shall approve the
24 registration. Any applicant who is denied approved registration
25 may, within 15 days from the date of notification of such
26 denial, request, in writing, a hearing before the Secretary of
27 the Commonwealth, or his designee, which hearing shall be held
28 within 15 days from the date of the request.

29 Section 11. Information filed to become public records.

30 Registration statements and applications, reports,

1 professional fundraising counsel contracts or professional
2 solicitor contracts, and all other documents and information
3 required to be filed under this act or by the department or by
4 the bureau shall become public records in the office of the
5 department, and shall be open to the general public for
6 inspection at such time and under such conditions as the
7 department may prescribe.

8 Section 12. Records to be kept by charitable organizations,
9 professional fundraising counsel and professional
10 solicitors.

11 (A) GENERAL RULE.--Every charitable organization subject to <—
12 the provisions of this act shall, in accordance with the rules
13 and regulations prescribed by the department, keep true fiscal
14 records as to its activities in Pennsylvania as may be covered
15 by this act in such form as will enable it accurately to provide
16 the information required by this act. Upon demand, such records
17 shall be made available to the department, the bureau or the
18 Attorney General for inspection. Such records shall be retained
19 for a period of at least three years after the end of the period
20 of registration to which they relate.

21 (B) SOLICITING FOR NAMED INDIVIDUAL.--A PERSON OR CHARITABLE <—
22 ORGANIZATION SOLICITING CONTRIBUTIONS FOR THE BENEFIT OF A NAMED
23 INDIVIDUAL WHO RECEIVES IN EXCESS OF \$5,000 SHALL HOLD THE FUNDS
24 COLLECTED IN TRUST AND SHALL BE SUBJECT TO THE PROVISIONS OF 20
25 PA.C.S. CH. 71 (RELATING TO TRUST ESTATES). A PERSON WHO MAKES A
26 CONTRIBUTION TO A PERSON OR CHARITABLE ORGANIZATION IN RESPONSE
27 TO A SOLICITATION FOR THE BENEFIT OF A NAMED INDIVIDUAL SHALL
28 HAVE THE RIGHT TO PETITION THE COURT OF COMMON PLEAS OF THE
29 COUNTY IN WHICH THE TRUST IS LOCATED FOR AN ACCOUNTING ON BEHALF
30 OF ALL CONTRIBUTORS.

1 Section 13. Reciprocal agreements.

2 The department may enter into reciprocal agreements with the
3 appropriate authority of any other state for the purpose of
4 exchanging information with respect to charitable organizations,
5 professional fundraising counsel and professional solicitors.
6 Pursuant to such agreements, the department may accept
7 information filed by a charitable organization, professional
8 fundraising counsel or professional solicitor with the
9 appropriate authority of another state in lieu of the
10 information required to be filed in accordance with the
11 provisions of this act, if such information is substantially
12 similar to the information required under this act. The
13 department shall also grant exemption from the requirement for
14 the filing of annual registration statement with the department
15 to charitable organizations organized under the laws of another
16 state having their principal place of business outside this
17 Commonwealth whose funds are derived principally from sources
18 outside this Commonwealth and which have been granted exemption
19 from the filing of registration statements by the state under
20 whose laws they are organized if such state has a statute
21 similar in substance to the provisions of this act.

22 Section 14. Prohibited acts.

23 ~~(a) Exploitation of registration.~~

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24 ~~(1) No charitable organization, professional fundraising~~
25 ~~counsel or professional solicitor, subject to the provisions~~

26 (A) EXPLOITATION OF REGISTRATION.--NO CHARITABLE

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27 ORGANIZATION, PROFESSIONAL FUNDRAISING COUNSEL OR PROFESSIONAL
28 SOLICITOR, SUBJECT TO THE PROVISIONS of this act, shall use or
29 exploit the fact of registration so as to lead the public to
30 believe that such registration in any manner constitutes an

1 endorsement or approval by the Commonwealth: Provided, however,
2 That the use of the following statement shall not be deemed a
3 prohibited exploitation: "Registered with the Pennsylvania
4 Department of State as required by law. Registration does not
5 imply endorsement of a public solicitation for contributions."

6 ~~(2) No charitable organization, professional fundraiser, <—~~
7 ~~commercial co-venturer, professional solicitor or other~~
8 ~~person soliciting contributions for or on behalf of a~~
9 ~~charitable organization shall use a name, symbol or~~
10 ~~registered service mark so closely related or similar to that~~
11 ~~used by another charitable organization registered in this~~
12 ~~Commonwealth or a national organization with a chapter,~~
13 ~~branch or affiliate in this Commonwealth or a governmental~~
14 ~~agency that the use thereof would tend to confuse or mislead~~
15 ~~the public.~~

16 (b) Sale of goods.--No person shall, in connection with the
17 solicitation of contributions for or the sale of goods or
18 services of a person other than a charitable organization,
19 misrepresent to or mislead anyone by any manner, means, practice
20 or device whatsoever, to believe that the person on whose behalf
21 such solicitation or sale is being conducted is a charitable
22 organization or that the proceeds of such solicitation or sale
23 will be used for charitable purposes, if such is not the fact.

24 (c) Sponsors or endorsement.--No person shall in connection
25 with the solicitation of contributions or the sale of goods or
26 services for charitable purposes represent to or lead anyone by
27 any manner, means, practice or device whatsoever, to believe
28 that any other person sponsors or endorses such solicitation of
29 contributions, sale of goods or services for charitable purposes
30 or approves of such charitable purposes or a charitable

1 organization connected therewith when such other person has not
2 given consent to the use of his name for these purposes; any
3 member of the board of directors or trustees of a charitable
4 organization or any other person who has agreed either to serve
5 or to participate in any voluntary capacity in the campaign
6 shall be deemed thereby to have given his consent to the use of
7 his name in said campaign.

8 (d) Representations.--No person shall make any
9 representation that he is soliciting contributions for or on
10 behalf of a charitable organization or shall use or display any
11 emblem, device or printed matter belonging to or associated with
12 a charitable organization for the purpose of soliciting or
13 inducing contributions from the public without first being
14 authorized to do so by the charitable organization.

15 (e) Required authorization.--No professional solicitor shall
16 solicit in the name of or on behalf of any charitable
17 organization unless such solicitor has:

18 (1) Written authorization of two officers of such
19 organization, a copy of which shall be filed with the
20 department. Such written authorization shall bear the
21 signature of the solicitor and shall expressly state on its
22 face the period for which it is valid, which shall not exceed
23 one year from the date issued.

24 (2) Such authorization with him when making
25 solicitations and exhibits the same on request to persons
26 solicited or police officers or agents of the department.

27 (f) Similar marks.--No charitable organization, professional
28 fundraiser, commercial co-venturer, professional solicitor or
29 other person soliciting contributions for or on behalf of a
30 charitable organization shall use a name, symbol or registered

1 service mark so closely related or similar to that used by
2 another charitable organization, registered in this State or a
3 national organization with a chapter, branch or affiliate in
4 this State or a governmental agency that the use thereof would
5 tend to confuse or mislead the public.

6 Section 15. Enforcement and penalties.

7 (a) Notification by department.--If any charitable
8 organization, professional fundraising counsel or professional
9 solicitor fails to file any registration application or
10 statement, report or other information required to be filed by
11 the department or the bureau under this act, or otherwise
12 violates the provisions of this act, the department shall notify
13 the delinquent charitable organization, professional fundraising
14 counsel or professional solicitor by mailing a notice by
15 registered or certified mail, with return receipt requested, to
16 its or his last known address. If the required registration
17 application or statement, annual report or other information is
18 not filed or if the existing violation is not discontinued
19 within two weeks after the formal notification or receipt of
20 such notice, the department may cancel, suspend or refuse to
21 accept the registration of such delinquent charitable
22 organization, professional fundraising counsel or professional
23 solicitor.

24 (b) Department action.--The ~~bureau~~ DEPARTMENT, upon its own <—
25 motion or upon complaint of any person, may, if it has
26 reasonable ground to suspect a violation, investigate or request
27 an audit of any charitable organization, professional
28 fundraising counsel or professional solicitor to determine
29 whether such charitable organization, professional fundraising
30 counsel or professional solicitor has violated the provisions of

1 this act or has filed any application or other information
2 required under this act which contains false or misleading
3 statements. If the ~~bureau~~ DEPARTMENT finds that any application <—
4 or other information contains false or misleading statements, or
5 that a registrant under this act has violated the provisions
6 thereof, ~~it may recommend to the department that~~ MAY ORDER the <—
7 registration be suspended or canceled ~~and the department may so~~ <—
8 ~~order~~.

9 (c) False statements.--The registration of any charitable
10 organization, professional fundraising counsel or professional
11 solicitor, which or who knowingly makes a false or misleading
12 statement in any registration application or statement, report
13 or other information required to be filed by the department or
14 this act shall be revoked.

15 (d) Procedure.--All proceedings under this act shall be
16 conducted in accordance with Title 2 of the Pennsylvania
17 Consolidated Statutes (relating to administrative law and
18 procedure) and all department adjudications shall be subject to
19 review and appeal as provided therein.

20 (e) Penalty.--In addition to the foregoing, any person who
21 willfully and knowingly violates any provisions of this act, or
22 who shall willfully and knowingly give false or incorrect
23 information to the department in filing statements or reports
24 required by this act, whether such report or statement is
25 verified or not, commits a misdemeanor and shall, upon
26 conviction, be sentenced for the first offense to pay a fine of
27 not less than \$100 and not more than \$500 or to imprisonment for
28 not more than six months, or both, and for the second and any
29 subsequent offense to pay a fine of not less than \$500 and not
30 more than \$1,000 or to imprisonment for not more than one year,

1 or both.

2 (f) Attorney General or district attorney.--Whenever the
3 Attorney General or any district attorney shall have reason to
4 believe or shall be advised by the Secretary of the
5 Commonwealth, who shall have given due notice and full hearing
6 to the charitable organization, professional fundraiser or
7 professional solicitor, that the said fundraising counsel,
8 charitable organization or professional solicitor is operating
9 in violation of the provisions of this act or has knowingly and
10 willfully made any false statements in any initial or any
11 renewal application to solicit or in any other information
12 required to be filed by this act or whenever a charitable
13 organization, professional fundraising counsel or professional
14 solicitor has failed to file a registration statement required
15 by this act, or whenever there is employed or is about to be
16 employed in any solicitation or collection of contributions for
17 a charitable organization any device, scheme or artifice to
18 defraud or to obtain money or property by means of any false
19 pretense, representation or promise, or whenever the officers or
20 representatives of any charitable organization, professional
21 fundraising counsel or professional solicitor have refused or
22 failed after notice to produce any records of such organization,
23 or whenever the funds raised by solicitation activities are not
24 devoted or will not be devoted to the charitable purposes of the
25 charitable organization, in addition to all other actions
26 authorized by law, the Attorney General or district attorney may
27 bring an action in the name of the Commonwealth of Pennsylvania
28 against such charitable organization and its officers, such
29 professional fundraising counsel or professional solicitor or
30 any other person who has violated this act or who has

1 participated or is about to participate in any solicitation or
2 collection by employing any device, scheme, artifice, false
3 representation or promise, to defraud or obtain money or other
4 property, to enjoin such charitable organization or professional
5 fundraising counsel or professional solicitor or other person
6 from continuing such violation, solicitation or collection, or
7 engaging therein, or doing any acts in furtherance thereof and
8 for such other relief as to the court deems appropriate.

9 (g) Refusal by department.--The department may refuse to
10 grant an initial application to solicit, may refuse to renew an
11 application and may revoke a registration of any charitable
12 organization, professional fundraising counsel or professional
13 solicitor which or who knowingly makes a false statement in any
14 initial registration application or renewal application or
15 statement, annual report or other information required to be
16 filed by the department or the act.

17 Section 16. Appropriation.

18 All fees shall be paid to the State Treasurer and are hereby
19 appropriated to the Department of State for the administration
20 and enforcement of this act.

21 SECTION 17. RULES AND REGULATIONS. <—

22 RULES AND REGULATIONS PROMULGATED UNDER THE ACT OF AUGUST 9,
23 1963 (P.L.628, NO.337), KNOWN AS THE SOLICITATION OF CHARITABLE
24 FUNDS ACT, IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT SHALL
25 REMAIN IN EFFECT UNTIL AMENDED IN ACCORDANCE WITH THE PROVISIONS
26 OF THIS ACT.

27 SECTION 18. CONTINUATION OF REGISTRATION.

28 ANY CHARITABLE ORGANIZATION OR PERSON WHO HOLDS A VALID
29 REGISTRATION UNDER THE ACT OF AUGUST 9, 1963 (P.L.628, NO.337),
30 KNOWN AS THE SOLICITATION OF CHARITABLE FUNDS ACT, WILL BE

1 DEEMED REGISTERED UNDER THIS ACT.

2 Section ~~17~~ 19. Repeal.

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3 The act of August 9, 1963 (P.L.628, No.337), known as the
4 Solicitation of Charitable Funds Act, is repealed.

5 Section ~~18~~ 20. Effective date.

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6 This act shall take effect April 30, 1986.