
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

SENATOR WENGER, STATE GOVERNMENT, IN SENATE, AS AMENDED,
APRIL 21, 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
8 penalties imposed under this act are not sufficient to meet
9 expenditures over a two-year period, the department shall
10 increase those fees by regulation so that the projected revenues
11 will meet or exceed projected expenditures.

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

20 Section 5. Bureau on Charitable Organizations.

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

27 Section 6. Registration of charitable organizations.

28 (a) Registration statement.--Every charitable organization
29 which intends to solicit contributions within this Commonwealth,
30 or have funds solicited on its behalf, shall, prior to any

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

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

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

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

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

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

26 (6) (i) A copy of the financial statements of the
27 charitable organization's immediately preceding fiscal
28 year. If the gross contributions of the organization
29 exceed \$15,000, but are less than \$50,000, the financial
30 statements shall be audited or reviewed by an independent

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

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

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

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

30 (7) Whether the organization intends to solicit

1 contributions from the public directly or have such done on
2 its behalf by others.

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

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

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

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

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

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

28 (c) Reports.--Each chapter, branch or affiliate, except an
29 independent member agency of a federated fundraising
30 organization, may separately report the information required by

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

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

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

1 the registration statement.

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

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

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

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

20 (3) That a solicitation would be a fraud upon the
21 public.

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

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

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

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

27 Section 7. Exemptions and short form registration.

28 (a) Exemptions.--The following charitable organizations
29 shall be exempted from the registration requirements in this
30 act:

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

7 ~~(1)~~ (2) Educational institutions, the curriculums of <—
8 which, in whole or in part, are registered or approved by the
9 State Board of Education of the Commonwealth of Pennsylvania,
10 either directly or by acceptance of accreditation by an
11 accrediting body recognized by the State Board of Education.

12 ~~(2)~~ (3) Hospitals which are nonprofit and charitable and <—
13 are required by law to file financial reports at least
14 annually with the Auditor General of the Commonwealth of
15 Pennsylvania: Provided, That a copy of the annual fiscal
16 report so filed is also filed simultaneously with the bureau.

17 ~~(3)~~ (4) A local post, camp, chapter or similarly <—
18 designated element or a county unit of such elements of a
19 bona fide veterans' organization which issues charters to
20 such local elements throughout this Commonwealth, a bona fide
21 organization of volunteer firemen, a bona fide ambulance
22 association or bona fide rescue squad association or a bona
23 fide auxiliary or affiliate of any such organization,
24 provided all its fundraising activities are carried on by
25 members of such an organization or an affiliate thereof, and
26 such members receive no compensation directly or indirectly
27 therefor.

28 ~~(4)~~ (5) Public nonprofit library organizations which <—
29 receive financial aid from municipal and State governments
30 and file an annual fiscal report with the State Library

1 System.

2 ~~(5)~~ (6) Senior citizen centers which are nonprofit and <—
3 charitable and which have been granted tax-exempt status
4 under the Internal Revenue Code of 1954 (68A Stat. 3, 26
5 U.S.C. § 1 et seq.), provided all fundraising activities are
6 carried on by members or officers of such an organization and
7 such members or officers receive no compensation directly or
8 indirectly therefor.

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

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

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

20 (2) Charitable organizations which do not intend to
21 solicit and receive and do not actually raise or receive
22 contributions from the public in excess of \$15,000 during a
23 calendar year and if no part of their assets or income inures
24 to the benefit of or is paid to any officer or member.
25 Nevertheless, if the contributions raised from the public
26 exceed \$15,000, the charitable organization shall, within 30
27 days after the date it has received said amount, file a full
28 registration statement with the department.

29 (3) Organizations which solicit only within the
30 membership of the organization by the members thereof. The

term "membership" shall not include persons who are granted a membership upon making a contribution as the result of solicitation.

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

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

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

(c) Calculation of expense.--Fundraising expenses shall not include the actual amount the charitable organization paid to the United States Postal Service for postage in connection with the solicitation of contributions. The postage costs shall be

1 allocated, on a time or other appropriate basis, to program
2 service costs or management in general costs.

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

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

30 Section 9. Limitation on activities of charitable

1 organizations.

2 No charitable organization subject to this act shall solicit
3 funds from the public except for charitable purposes or expended
4 funds raised for charitable purposes for noncharitable purposes.

5 Section 10. Registration of professional fundraising counsel
6 and professional solicitor; bonds; records;
7 books.

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

25 (b) Bond.--The applicant shall, at the time of making
26 application, file with and have approved by the department a
27 bond in which the applicant shall be the principal obligor in
28 the sum of \$10,000 with one or more sureties satisfactory to the
29 department, whose liability in the aggregate as such sureties
30 will at least equal the said sum and maintain said bond in

1 effect so long as a registration is in effect. The bond shall
2 run to the Commonwealth of Pennsylvania for the use of the
3 department and any person who may have a cause of action against
4 the obligor of said bonds for any losses resulting from
5 malfeasance, nonfeasance or misfeasance in the conduct of
6 solicitation activities. A partnership or corporation which is a
7 professional fundraising counsel or professional solicitor may
8 file a consolidated bond on behalf of all its members, officers
9 and employees.

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

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

26 Section 11. Information filed to become public records.

27 Registration statements and applications, reports,
28 professional fundraising counsel contracts or professional
29 solicitor contracts, and all other documents and information
30 required to be filed under this act or by the department or by

1 the bureau shall become public records in the office of the
2 department, and shall be open to the general public for
3 inspection at such time and under such conditions as the
4 department may prescribe.

5 Section 12. Records to be kept by charitable organizations,
6 professional fundraising counsel and professional
7 solicitors.

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

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

28 Section 13. Reciprocal agreements.

29 The department may enter into reciprocal agreements with the
30 appropriate authority of any other state for the purpose of

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

19 Section 14. Prohibited acts.

20 (a) Exploitation of registration.--

21 (1) No charitable organization, professional fundraising
22 counsel or professional solicitor, subject to the provisions
23 of this act, shall use or exploit the fact of registration so
24 as to lead the public to believe that such registration in
25 any manner constitutes an endorsement or approval by the
26 Commonwealth: Provided, however, That the use of the
27 following statement shall not be deemed a prohibited
28 exploitation: "Registered with the Pennsylvania Department of
29 State as required by law. Registration does not imply
30 endorsement of a public solicitation for contributions."

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

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

19 (c) Sponsors or endorsement.--No person shall in connection
20 with the solicitation of contributions or the sale of goods or
21 services for charitable purposes represent to or lead anyone by
22 any manner, means, practice or device whatsoever, to believe
23 that any other person sponsors or endorses such solicitation of
24 contributions, sale of goods or services for charitable purposes
25 or approves of such charitable purposes or a charitable
26 organization connected therewith when such other person has not
27 given consent to the use of his name for these purposes; any
28 member of the board of directors or trustees of a charitable
29 organization or any other person who has agreed either to serve
30 or to participate in any voluntary capacity in the campaign

1 shall be deemed thereby to have given his consent to the use of
2 his name in said campaign.

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

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

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

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

22 (f) Similar marks.--No charitable organization, professional
23 fundraiser, commercial co-venturer, professional solicitor or
24 other person soliciting contributions for or on behalf of a
25 charitable organization shall use a name, symbol or registered
26 service mark so closely related or similar to that used by
27 another charitable organization, registered in this State or a
28 national organization with a chapter, branch or affiliate in
29 this State or a governmental agency that the use thereof would
30 tend to confuse or mislead the public.

1 Section 15. Enforcement and penalties.

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

19 (b) Department action.--The ~~bureau~~ DEPARTMENT, upon its own <—
20 motion or upon complaint of any person, may, if it has
21 reasonable ground to suspect a violation, investigate or request
22 an audit of any charitable organization, professional
23 fundraising counsel or professional solicitor to determine
24 whether such charitable organization, professional fundraising
25 counsel or professional solicitor has violated the provisions of
26 this act or has filed any application or other information
27 required under this act which contains false or misleading
28 statements. If the ~~bureau~~ DEPARTMENT finds that any application <—
29 or other information contains false or misleading statements, or
30 that a registrant under this act has violated the provisions

1 thereof, ~~it may recommend to the department that~~ MAY ORDER the <—
2 registration be suspended or canceled ~~and the department may so~~ <—
3 order.

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

10 (d) Procedure.--All proceedings under this act shall be
11 conducted in accordance with Title 2 of the Pennsylvania
12 Consolidated Statutes (relating to administrative law and
13 procedure) and all department adjudications shall be subject to
14 review and appeal as provided therein.

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

27 (f) Attorney General or district attorney.--Whenever the
28 Attorney General or any district attorney shall have reason to
29 believe or shall be advised by the Secretary of the
30 Commonwealth, who shall have given due notice and full hearing

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

1 from continuing such violation, solicitation or collection, or
2 engaging therein, or doing any acts in furtherance thereof and
3 for such other relief as to the court deems appropriate.

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

12 Section 16. Appropriation.

13 All fees shall be paid to the State Treasurer and are hereby
14 appropriated to the Department of State for the administration
15 and enforcement of this act.

16 Section 17. Repeal.

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

19 Section 18. Effective date.

20 This act shall take effect April 30, 1986.