
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1240 Session of
2015

INTRODUCED BY QUINN, DELOZIER, BARBIN, DEAN, DeLUCA, EVERETT,
MURT, MUSTIO, PASHINSKI, PICKETT, REESE AND WATSON,
AUGUST 10, 2015

REFERRED TO COMMITTEE ON COMMERCE, AUGUST 10, 2015

AN ACT

1 Amending the act of December 19, 1990 (P.L.1200, No.202),
2 entitled "An act providing for the registration and
3 regulation of solicitations by charitable organizations,
4 professional fundraisers and other solicitors; imposing
5 additional powers on the Department of State and the Office
6 of Attorney General; prescribing civil and criminal
7 penalties; and making a repeal," further providing for
8 definitions, for powers and duties of secretary and for
9 registration of charitable organizations, financial reports,
10 fees and failure to file; providing for supplemental
11 financial disclosure and for financial statements for
12 specific disaster relief solicitations; further providing for
13 registration of professional fundraising counsel and
14 contracts, for registration of professional solicitors,
15 contract and disclosure requirements, bonds, records and
16 books; providing for individual licensure of professional
17 solicitor officers, employees and agents; further providing
18 for investigation, subpoenas, injunctions and court orders,
19 for administrative enforcement and penalties and for criminal
20 penalties; and establishing the Charitable Organization
21 Regulation Account.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 3 of the act of December 19, 1990
25 (P.L.1200, No.202), known as the Solicitation of Funds for
26 Charitable Purposes Act, is amended by adding definitions to
27 read:

1 Section 3. Definitions.

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

5 * * *

6 "Crisis." An event that garners widespread national or
7 global media coverage due to an actual or perceived threat or
8 harm to an individual, a group or community.

9 * * *

10 "Disaster." A natural, technological or civil event,
11 including, but not limited to, an explosion, chemical spill,
12 earthquake, tsunami, landslide, volcanic activity, avalanche,
13 wildfire, tornado, hurricane, drought or flood, which affects
14 one or more countries and causes damage of sufficient severity
15 and magnitude to result in:

16 (1) an official declaration of a state of emergency; or

17 (2) an official request for international assistance.

18 * * *

19 "Program service costs." Expenses incurred primarily to
20 accomplish a charitable organization's stated purposes. The term
21 does not include fundraising costs.

22 * * *

23 Section 2. Section 4 of the act is amended by adding a
24 paragraph to read:

25 Section 4. Powers and duties of secretary.

26 The secretary shall have the following powers and duties to:

27 * * *

28 (2.1) Provide for the licensure of professional
29 solicitors and certain employees thereof.

30 * * *

1 Section 3. Section 5(p) and (q) of the act, amended July 9,
2 1992 (P.L.436, No.92), are amended and the section is amended by
3 adding subsections to read:

4 Section 5. Registration of charitable organizations; financial
5 reports; fees; failure to file.

6 * * *

7 (p) Annual registration fees.--A charitable organization
8 which submits a short form registration statement pursuant to
9 section 7 or receives contributions of \$25,000 or less during
10 the immediately preceding fiscal year shall pay an annual
11 registration fee of [~~\$15~~] \$30. A charitable organization which
12 receives contributions in excess of \$25,000 but less than
13 \$100,000 during the immediately preceding fiscal year shall pay
14 an annual registration fee of [~~\$100~~] \$200. A charitable
15 organization which receives contributions in excess of \$100,000
16 but not exceeding \$500,000 during the immediately preceding
17 fiscal year shall pay an annual registration fee of [~~\$150~~] \$300.
18 A charitable organization which receives contributions in excess
19 of \$500,000 during the immediately preceding fiscal year shall
20 pay an annual registration fee of [~~\$250~~] \$500. A parent
21 organization filing on behalf of one or more affiliates and a
22 federated fundraising organization filing on behalf of its
23 member agencies shall pay a single annual registration fee for
24 itself and such other affiliates or member agencies included in
25 the registration statement.

26 (q) Late filing fees.--In addition to the registration fee,
27 an organization failing to file a registration application by
28 the due date shall pay an additional fee of [~~\$25~~] \$50 for each
29 month or part of the month after the date on which the
30 registration statement and financial report were due to be filed

1 or after the period of extension granted for such filing.

2 * * *

3 (u) Prohibited conduct.--A charitable organization, or an
4 officer, director, trustee, or employee thereof, may not
5 knowingly allow an officer, director, trustee or employee of the
6 charitable organization to solicit contributions on behalf of
7 the charitable organization if the officer, director, trustee or
8 employee has, regardless of adjudication, been convicted by a
9 court of a state or the United States of a felony or misdemeanor
10 involving dishonesty or arising from the conduct of a
11 solicitation for a charitable organization or purpose.

12 (v) Denial or revocation of registration.--The department
13 may deny or revoke the registration of a charitable organization
14 if the charitable organization, or an officer, director or
15 trustee thereof, has had the right to solicit contributions
16 revoked in a state or has been ordered by a court or
17 governmental agency to cease soliciting contributions within a
18 state.

19 (w) Duty to notify department.--A charitable organization
20 registered under this section which ends solicitation activities
21 or participation in charitable sales promotions in this State
22 shall immediately notify the department in writing of the date
23 such activities ceased.

24 Section 4. The act is amended by adding sections to read:
25 Section 5.1. Supplemental financial disclosure.

26 (a) Duty to file.--If, for the immediately preceding fiscal
27 year, a charitable organization had more than \$1,000,000 in
28 total revenue and spent less than 25% of the organization's
29 total annual functional expenses on program service costs, in
30 addition to any financial report required, the charitable

1 organization shall file the following supplemental financial
2 information on a form prescribed by the department:

3 (1) The dollar amount and the percentage of total
4 revenue and charitable contributions allocated to funding
5 each of the following administrative functions:

6 (i) Total salaries of all persons employed by the
7 charitable organization.

8 (ii) Fundraising, including the names of any
9 professional solicitors, amounts paid to professional
10 solicitors and contributions received from professional
11 solicitors' campaigns.

12 (iii) Travel expenses.

13 (iv) Overhead and other expenses related to managing
14 and administering the charitable organization.

15 (2) The names of and specific sums earned by or paid to
16 all employees or consultants who earned or were paid more
17 than \$100,000 during the immediately preceding fiscal year.

18 (3) The names of and specific sums paid to all service
19 providers who were paid more than \$100,000 during the
20 immediately preceding fiscal year and a brief description of
21 the services provided.

22 (4) The dollar amount and percentage of total revenue
23 and charitable contributions allocated to programs.

24 (5) The details of any economic or business transaction
25 between the charitable organization and:

26 (i) an officer, trustee or director of the
27 charitable organization;

28 (ii) the immediate family of an officer, trustee or
29 director of the charitable organization;

30 (iii) an entity controlled by an officer, trustee or

1 director of the charitable organization;

2 (iv) an entity controlled by the immediate family of
3 an officer, trustee or director of the charitable
4 organization;

5 (v) an entity that employed or engaged for
6 consultation an officer, trustee or director of the
7 charitable organization; and

8 (vi) an entity that employed or engaged for
9 consultation the immediate family of an officer, trustee
10 or director of the charitable organization.

11 As used in this paragraph, the term "immediate family" means
12 a parent, spouse, child, sibling, grandparent, grandchild,
13 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
14 mother-in-law or father-in-law.

15 (6) Any additional clarifying information.

16 (b) Time period for filing.--The supplemental financial
17 information required under subsection (a) shall be filed with
18 the department by the charitable organization within 30 days
19 after receiving a request for the information from the
20 department.

21 Section 5.2. Financial statements for specific disaster relief
22 solicitations.

23 (a) Duty to file.--A charitable organization that solicits
24 contributions in this Commonwealth for a charitable purpose
25 related to a specific disaster or crisis and receives at least
26 \$50,000 in contributions in response to the solicitation shall
27 file quarterly disaster relief financial statements with the
28 department on a form prescribed by the department. The quarterly
29 statements shall detail the contributions secured as a result of
30 the solicitation and the manner in which the contributions were

1 expended.

2 (b) Time period for filing.--The first quarterly statement
3 shall be filed on the last day of the third month following the
4 accrual of at least \$50,000 in contributions after the
5 commencement of solicitations for the specific disaster or
6 crisis. The charitable organization shall continue to file
7 quarterly statements with the department until the quarter after
8 all contributions raised in response to the solicitation are
9 expended.

10 (c) Public posting.--The department shall post notice on its
11 publicly accessible Internet website of each disaster or crisis
12 subject to the reporting requirements of this section within 10
13 days after the disaster or crisis.

14 (d) Exemption.--A charitable organization that has been
15 registered with the department for at least four consecutive
16 years immediately before soliciting contributions for a
17 charitable purpose related to a specific disaster or crisis
18 shall be exempt from the reporting requirements of this section.

19 Section 5. Section 8(b) of the act, amended July 9, 1992
20 (P.L.436, No.92), is amended and the section is amended by
21 adding subsections to read:

22 Section 8. Registration of professional fundraising counsel and
23 contracts.

24 * * *

25 (b) Registration fee.--The application for registration
26 shall be accompanied by a fee of [~~\$250~~] \$500. A professional
27 fundraising counsel which is a partnership or corporation may
28 register for and pay a single fee on behalf of all of its
29 partners, members, officers, directors, agents and employees.
30 Each registration shall be valid for one year and may be renewed

1 for additional one-year periods upon application to the
2 department and payment of the registration fee.

3 * * *

4 (d.1) Prohibited conduct.--A person may not act as a
5 professional fundraising counsel, or an officer, director,
6 trustee or employee thereof, and may not knowingly employ an
7 officer, trustee, director or employee, if the person has,
8 regardless of adjudication, been convicted by a court of a state
9 or the United States of a felony or misdemeanor involving
10 dishonesty or arising from the conduct of a solicitation for a
11 charitable organization or purpose.

12 (d.2) Denial or revocation of registration.--The department
13 may deny or revoke the registration of a professional
14 fundraising counsel if the professional fundraising counsel, or
15 any of its officers, directors or trustees, has had the right to
16 solicit contributions revoked in a state or has been ordered by
17 a court or governmental agency to cease soliciting contributions
18 within a state.

19 * * *

20 Section 6. Section 9(a), (b), (e), (g), (j), (k) and (l) of
21 the act, amended July 9, 1992 (P.L.436, No.92) and June 22, 2001
22 (P.L.588, No.45), are amended to read:

23 Section 9. Registration of professional solicitors; contract
24 and disclosure requirements; bonds; records; books.

25 (a) Registration and approval required.--No person shall act
26 as a professional solicitor before obtaining department approval
27 of a registration statement pursuant to subsection (d) or after
28 the expiration, suspension or revocation of such registration. A
29 registration application shall be signed and made by the
30 principal officer of the professional solicitor subject to 18

1 Pa.C.S. § 4904 (relating to unsworn falsification to
2 authorities) and shall contain all of the following information:

3 (1) The address of the principal place of business of
4 the applicant and any Pennsylvania addresses, if the
5 principal place of business is located outside this
6 Commonwealth.

7 (2) The form of the applicant's business.

8 (3) The names and residence addresses of all principals
9 of the applicant, including all officers, directors and
10 owners.

11 (4) Whether any of the owners, directors, officers or
12 employees of the applicant are related by blood, marriage or
13 adoption to any other directors, officers, owners or
14 employees of the applicant, any officer, director, trustee or
15 employee of any charitable organization under contract to the
16 applicant or any supplier or vendor providing goods or
17 services to any charitable organization under contract to the
18 applicant.

19 (5) The name of all persons in charge of any
20 solicitation activity and the names and license numbers of
21 all individuals engaged in the solicitation.

22 (6) Any other information required by the regulations of
23 the department.

24 (b) Registration fee.--The application for registration
25 shall be accompanied by a fee of [~~\$250~~] \$500. A professional
26 solicitor which is a partnership or corporation may register for
27 and pay a single fee on behalf of all of its partners, members,
28 officers, directors, agents and employees. Each registration
29 shall be valid for one year and may be renewed for additional
30 one-year periods upon application to the department and payment

1 of the registration fee.

2 * * *

3 (e) Contract filing.--No less than ten working days prior to
4 the commencement of each solicitation campaign, event or
5 services, a professional solicitor shall file with the
6 department a copy of the contract described in subsection (f)
7 and a written solicitation notice. No solicitation or services
8 pursuant to the contract shall begin before the department has
9 approved the contract pursuant to subsection (g). The
10 solicitation notice shall be accompanied by a fee of [~~\$25~~] \$50
11 and shall be signed and sworn to by the authorized contracting
12 officer for the professional solicitor. If more than one event
13 or campaign is conducted under a contract, then a solicitation
14 notice addendum must be filed no less than ten working days
15 prior to the commencement of each additional event or campaign.
16 No additional fee is required to file the addendum. The
17 solicitation notice and addendum shall contain all of the
18 following information:

19 (1) A description of the solicitation event or campaign.

20 (2) Each location and telephone number from which the
21 solicitation is to be conducted.

22 (3) The legal name [and] resident address and license
23 number of each person responsible for directing and
24 supervising the conduct of the campaign and each person who
25 is to solicit during such campaign.

26 (4) A statement as to whether the professional solicitor
27 will at any time have custody or control of contributions.

28 (5) The account number and location of each bank account
29 where receipts from the campaign are to be deposited.

30 (6) A full and fair description of the charitable

1 program for which the solicitation campaign is being carried
2 out.

3 (7) The date the solicitation campaign or event will
4 begin or be held within this Commonwealth and the termination
5 date for each campaign or event.

6 (8) Any other information required by the regulations of
7 the department.

8 * * *

9 (g) Department review of contract.--

10 (1) The department shall examine each contract and
11 solicitation notice filed by a professional solicitor and
12 shall determine whether the contract and notice contain the
13 required information.

14 (2) If the department determines that the contract and
15 notice contain the required information, the department shall
16 notify the professional solicitor within five working days of
17 its approval of the contract and notice. The department shall
18 also post a copy of the contract on its publicly accessible
19 Internet website.

20 (3) If the department determines that the requirements
21 are not satisfied, the department must notify the
22 professional solicitor within ten working days of its receipt
23 of the contract and notice; otherwise the contract and notice
24 are deemed to be approved.

25 (4) Within seven days after receipt of a notification
26 that the requirements are not satisfied, the professional
27 solicitor may request a hearing. The hearing must be held
28 within seven days of receipt of the request, and a
29 determination must be rendered within three working days of
30 the hearing.

1 * * *

2 (j) Information on disclosure.--

3 (1) In the case of a solicitation campaign conducted
4 orally, whether by telephone or otherwise, any written
5 confirmation, receipt, and reminder sent to any person who
6 has contributed or has pledged to contribute shall include a
7 clear and conspicuous disclosure of the information required
8 by subsection (h).

9 (2) If requested by a person being solicited, the
10 professional solicitor shall:

11 (i) (A) provide in writing, within 14 days after
12 receipt of the request, the fixed percentage of the
13 gross revenue or the reasonable estimate of the
14 percentage of the gross revenue that the charitable
15 organization will receive as a benefit from the
16 solicitation campaign; or

17 (B) immediately notify the person being
18 solicited that the information is available on the
19 department's publicly accessible Internet website or
20 by calling the department's toll-free telephone
21 number; and

22 (ii) (A) provide in writing, within 14 days after
23 receipt of the request, the percentage of the
24 contribution which may be deducted as a charitable
25 contribution under Federal income tax laws; or

26 (B) immediately notify the person being
27 solicited that the information is available on the
28 department's publicly accessible Internet website or
29 by calling the department's toll-free telephone
30 number.

1 (k) Notice.--In addition to the information required by
2 subsection (j), any written confirmation, receipt and reminder
3 of a contribution made pursuant to an oral solicitation and any
4 written solicitation shall conspicuously state verbatim:

5 The official registration and financial information of
6 (insert the legal name of the charity as registered with
7 the department) may be obtained from the Pennsylvania
8 Department of State by visiting the department's publicly
9 accessible Internet website or by calling toll free,
10 within Pennsylvania, 1 (800) 000-0000. Registration does
11 not imply endorsement.

12 (l) Financial reports.--Within 90 days after a solicitation
13 campaign or event has been completed and on the anniversary of
14 the commencement of a solicitation campaign lasting more than
15 one year, a professional solicitor shall file with the
16 department a financial report for the campaign, including gross
17 revenue and an itemization of all expenses incurred. This report
18 shall be signed and sworn to by the authorized contracting agent
19 for the professional solicitor and two authorized officials of
20 the charitable organization. The report shall be posted on the
21 publicly accessible Internet website of the department.

22 * * *

23 Section 7. The act is amended by adding a section to read:

24 Section 9.1. Individual licensure of professional solicitor
25 officers, employees and agents.

26 (a) General rule.--No individual may engage in solicitation
27 for a professional solicitor without holding a valid current
28 license issued by the department. Each officer, director, owner,
29 employee, agent or servant of a professional solicitor shall
30 obtain a solicitor license from the department before engaging

1 in solicitation.

2 (b) Application.--An individual required to obtain a
3 solicitor license shall submit a written application in a form
4 prescribed by the department which application shall be subject
5 to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn
6 falsification to authorities). The application form shall
7 require disclosure of criminal convictions as specified in
8 subsection (d), and any consent orders, fines or disciplinary
9 action imposed by a registration or licensing authority in a
10 state.

11 (c) Fees.--The application shall be accompanied by a fee,
12 the amount of which shall be established by regulation by the
13 department. A solicitor license shall be valid for one year and
14 may be renewed for additional one-year periods upon application
15 to the department and payment of the licensure fee.

16 (d) Denial of license.--The department may deny a solicitor
17 license to an individual who has been convicted by a court of a
18 state or the United States of a felony or misdemeanor involving
19 dishonesty or arising from the conduct of a solicitation for a
20 charitable organization or purpose.

21 Section 8. Section 16(f) of the act is amended to read:

22 Section 16. Investigation; subpoenas; injunctions; court
23 orders.

24 * * *

25 (f) Compliance.--Any person upon whom a notice is served
26 pursuant to this section shall comply with the terms thereof
27 unless otherwise provided by an order of court. Any person who
28 fails to appear or, with intent to avoid, evade or prevent
29 compliance, in whole or in part, with any civil investigation
30 under this act, removes from any place, conceals, withholds or

1 destroys, mutilates, alters or by any other means falsifies any
2 documentary material in the possession, custody or control of
3 any person subject to any notice, or knowingly conceals any
4 relevant information, shall be assessed a civil penalty of not
5 more than [\$5,000] \$10,000. The Attorney General or the district
6 attorney may petition for an order of court for enforcement of
7 this section. Additionally, the secretary may take appropriate
8 action to petition for an order of court for the enforcement of
9 this section in accordance with the act of October 15, 1980
10 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Any
11 disobedience of any final order entered under this section by
12 any court shall be punished as contempt thereof.

13 * * *

14 Section 9. Sections 17, 18 and 19(a)(6) of the act are
15 amended to read:

16 Section 17. Administrative enforcement and penalties.

17 (a) General rule.--The secretary may refuse to license or
18 register or may revoke or suspend the license or registration of
19 any charitable organization, professional fundraising counsel or
20 professional solicitor whenever he finds that a charitable
21 organization, professional fundraising counsel or professional
22 solicitor, or an agent, servant or employee thereof:

23 (1) Has violated or is operating in violation of any of
24 the provisions of this act, the regulations of the
25 department, or an order issued by the secretary.

26 (2) Has refused or failed or any of its principal
27 officers has refused or failed, after notice, to produce any
28 records of such organization or to disclose any information
29 required to be disclosed under this act or the regulations of
30 the department.

1 (3) Has made a material false statement in an
2 application, statement or report required to be filed under
3 this act.

4 (b) Additional actions.--When the secretary finds that the
5 license or registration of any person may be refused, suspended
6 or revoked under the terms of subsection (a), the secretary may:

7 (1) Revoke a grant of exemption to any of the provisions
8 of this act.

9 (2) Issue an order directing that the person cease and
10 desist specified fundraising activities.

11 (3) Impose an administrative fine not to exceed [\$1,000]
12 \$2,000 for each act or omission which constitutes a violation
13 of this act and an additional penalty, not to exceed [\$100]
14 \$200 for each day during which such violation continues.

15 [Registration] License and registration will be automatically
16 suspended upon final affirmation of an administrative fine
17 until the fine is paid or until the normal expiration date of
18 the license or registration. No license or registration shall
19 be renewed until the fine is paid.

20 (4) Place the licensee or registrant on probation for
21 such period of time and subject to such conditions as he may
22 decide.

23 (c) Administrative procedures.--All actions of the secretary
24 shall be taken subject to the right of notice, hearing and
25 adjudication and the right of appeal therefrom in accordance
26 with Title 2 of the Pennsylvania Consolidated Statutes (relating
27 to administrative law and procedure).

28 Section 18. Criminal penalties.

29 (a) Deceit or fraud violation.--Any person who willfully and
30 knowingly violates any provisions of this act with intent to

1 deceive or defraud any charity or individual, commits a
2 misdemeanor of the first degree and shall, upon conviction, be
3 sentenced to pay a fine not exceeding [\$10,000] \$50,000 or
4 imprisonment for not more than five years, or both.

5 (b) Other violations.--Any other violation of this act shall
6 constitute a misdemeanor of the third degree punishable, upon
7 conviction, by a fine not exceeding [\$2,500] \$5,000 or
8 imprisonment for not more than one year, or both.

9 (c) Location of offense.--Any offense committed under this
10 act involving a solicitation may be deemed to have been
11 committed at either the place at which the solicitation was
12 initiated or at the place where the solicitation was received.
13 Section 19. Civil penalties.

14 (a) General rule.--Whenever the Attorney General or any
15 district attorney shall have reason to believe, or shall be
16 advised by the secretary, that the person is operating in
17 violation of the provisions of this act, the Attorney General or
18 district attorney may bring an action in the name of the
19 Commonwealth against such person who has violated this act, to
20 enjoin such person from continuing such violation and for such
21 other relief as the court deems appropriate. In any proceeding
22 under this subsection, the court may make appropriate orders,
23 including:

24 * * *

25 (6) the assessment of a civil penalty not exceeding
26 [\$1,000] \$2,000 per violation of the act, which penalty shall
27 be in addition to any other relief which may be granted; and

28 * * *

29 Section 10. The act is amended by adding a section to read:
30 Section 22.1. Charitable Organization Regulation Account.

1 (a) Establishment.--The Charitable Organization Regulation
2 Account is established as a restricted account within the
3 General Fund.

4 (b) Funding sources.--The Charitable Organization Regulation
5 Account shall be funded from the following sources:

6 (1) Ten percent of the fees collected under sections 5,
7 8 and 9.

8 (2) All of the fees collected under section 9.1.

9 (3) Any funds appropriated or transferred to the
10 Charitable Organization Regulation Account.

11 (c) Appropriation.--The money in the Charitable Organization
12 Regulation Account is hereby appropriated to the department on a
13 continuing basis for the purpose of enforcement, licensing
14 requirements and enhanced investigations of charitable
15 organizations, professional fundraising counsels and
16 professional solicitors as provided in this act.

17 Section 11. This act shall take effect July 1, 2015, or in
18 60 days, whichever occurs later.