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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2398 Session of  
2015

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INTRODUCED BY ZIMMERMAN, BAKER, MILLARD, SAYLOR, GREINER,  
CUTLER, RADER, WARD, MILNE, PETRI, B. MILLER AND D. COSTA,  
OCTOBER 12, 2016

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REFERRED TO COMMITTEE ON FINANCE, OCTOBER 12, 2016

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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," in registration of  
8 charitable organizations, further providing for the audit of  
9 certain financial reports and for annual registration fees;  
10 in exemptions from registration, further providing for  
11 exemption of registration for certain charitable  
12 organizations; and, in short form registration, further  
13 providing for organizations required to file.

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

16 Section 1. Section 5(f) and (p) of the act of December 19,  
17 1990 (P.L.1200, No.202), known as the Solicitation of Funds for  
18 Charitable Purposes Act, amended July 9, 1992 (P.L.436, No.92)  
19 and October 27, 2006 (P.L.1180, No.121), are amended to read:

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

22 \* \* \*

23 (f) Audit of certain financial reports.--The financial

1 report of every charitable organization which receives annual  
2 contributions of \$300,000 or more shall be audited by an  
3 independent certified public accountant or public accountant.  
4 Each charitable organization which receives annual contributions  
5 of at least \$200,000, but less than \$300,000, shall be required  
6 to have a review or audit of their statements performed by an  
7 independent certified public accountant or public accountant.

8 Every charitable organization which receives annual  
9 contributions of at least \$100,000, but less than [\$300,000]  
10 \$200,000, shall be required to have a compilation, review or  
11 audit of their financial statements performed by an independent  
12 certified public accountant or public accountant. Every  
13 charitable organization which receives annual contributions of  
14 at least \$50,000, but less than \$100,000, shall be required to  
15 have [a] an internally prepared compilation, review or audit of  
16 their financial statements performed by an independent certified  
17 public accountant or public accountant. [A] An internally  
18 prepared compilation, audit or review is optional for any  
19 charitable organization which receives annual contributions of  
20 less than \$50,000. Audits shall be performed in accordance with  
21 generally accepted auditing standards, including the Statements  
22 on Auditing Standards of the American Institute of Certified  
23 Public Accountants, whereas compilations and reviews shall be  
24 performed in accordance with the Statements on Standards for  
25 Accounting and Review Services of the American Institute of  
26 Certified Public Accountants.

27 \* \* \*

28 (p) Annual registration fees.--A charitable organization  
29 which submits a short form registration statement pursuant to  
30 section 7 or receives contributions of [\$25,000] \$50,000 or less

1 during the immediately preceding fiscal year shall pay an annual  
2 registration fee of \$15. A charitable organization which  
3 receives contributions in excess of [\$25,000] \$50,000 but less  
4 than \$100,000 during the immediately preceding fiscal year shall  
5 pay an annual registration fee of \$100. A charitable  
6 organization which receives contributions in excess of \$100,000  
7 but not exceeding \$500,000 during the immediately preceding  
8 fiscal year shall pay an annual registration fee of \$150. A  
9 charitable organization which receives contributions in excess  
10 of \$500,000 during the immediately preceding fiscal year shall  
11 pay an annual registration fee of \$250. A parent organization  
12 filing on behalf of one or more affiliates and a federated  
13 fundraising organization filing on behalf of its member agencies  
14 shall pay a single annual registration fee for itself and such  
15 other affiliates or member agencies included in the registration  
16 statement.

17 \* \* \*

18 Section 2. Sections 6 and 7 of the act, amended July 9, 1992  
19 (P.L.436, No.92), are amended to read:

20 Section 6. Exemptions from registration.

21 (a) General rule.--The following charitable organizations  
22 shall be exempt from the registration requirements of this act:

23 (1) Educational institutions, the curricula of which in  
24 whole or in part are registered with or approved by the  
25 Department of Education, either directly or by acceptance of  
26 accreditation by an accrediting body recognized by the  
27 Department of Education, and any auxiliary associations,  
28 foundations and support groups which are directly responsible  
29 to educational institutions.

30 (2) Hospitals which are subject to regulation by the

1 Department of Health or the Department of Public Welfare and  
2 the hospital foundation, if any, which is an integral part  
3 thereof.

4 (3) A local post, camp, chapter or similarly designated  
5 element or a county unit of such elements of:

6 (i) any veterans' organization chartered under  
7 Federal law and any service foundation recognized in the  
8 bylaws of such organization;

9 (ii) a bona fide organization of volunteer firemen;

10 (iii) a bona fide ambulance association;

11 (iv) a bona fide rescue squad association; or

12 (v) a bona fide auxiliary or affiliate of any  
13 organization or association under subparagraph (i), (ii),  
14 (iii) or (iv);

15 [provided that all fundraising activities of an organization  
16 or association under subparagraph (i), (ii), (iii), (iv) or  
17 (v) are carried on by volunteers, members or an auxiliary or  
18 affiliate thereof, and those volunteers, members or  
19 affiliates receive no compensation directly or indirectly for  
20 the fundraising activities.] provided that volunteers,  
21 members or an auxiliary or affiliate of an organization or  
22 association under subparagraph (i), (ii), (iii), (iv) or (v)  
23 receive no compensation directly or indirectly for the  
24 fundraising activities.

25 (4) Public nonprofit library organizations which receive  
26 financial aid from State and municipal governments and file  
27 an annual fiscal report with the State Library System.

28 (5) Senior citizen centers and nursing homes which are  
29 nonprofit and charitable and which have been granted tax-  
30 exempt status under the Internal Revenue Code of 1986 (Public

1 Law 99-514, 26 U.S.C. § 1 et seq.), provided that all  
2 fundraising activities are carried on by volunteers, members  
3 or officers of the Senior Citizen Center and those  
4 volunteers, members or officers receive no compensation,  
5 directly or indirectly, for the fundraising activities.

6 (6) Bona fide parent/teacher associations or  
7 parent/teacher organizations as recognized in a notarized  
8 letter from the school district in which they are located.

9 (7) Any corporation established by an act of Congress of  
10 the United States that is required by Federal law to submit  
11 annual reports of its activities to Congress containing  
12 itemized accounts of all receipts and expenditures after  
13 being fully audited by the Department of Defense.

14 (8) Any charitable organization which receives  
15 contributions of [\$25,000] \$50,000 or less annually, provided  
16 that such organization does not compensate any person who  
17 conducts solicitations. Charitable organizations which  
18 receive more than [\$25,000] \$50,000 in contributions shall  
19 file the appropriate registration statement within [30] 90  
20 days after the contributions are received.

21 (b) Effect of exemption.--Exemption from the registration  
22 requirements of this act shall in no way limit the applicability  
23 of other provisions of the act to a charitable organization or  
24 any professional solicitor or professional fundraising counsel  
25 acting on its behalf, except that written notice under sections  
26 9(k) and 13(c) shall not apply.

27 Section 7. Short form registration.

28 (a) Organizations required to file.--The following  
29 charitable organizations shall be required to file short form  
30 annual registration statements with the department in lieu of

1 the registration statement required by section 5:

2 (1) Persons or charitable organizations accepting  
3 contributions for the relief of any individual specified by  
4 name at the time of acceptance or solicitation when all of  
5 the contributions collected without any deductions whatsoever  
6 are turned over to the named beneficiary for his use;  
7 provided that all contributions collected shall be held in  
8 trust and shall be subject to the provisions of 20 Pa.C.S.  
9 Ch. 71 (relating to trust estates). The secretary, the  
10 Attorney General, any contributor or any person who provides  
11 any goods or services for which funds are expressly or  
12 implicitly solicited shall have the right to petition the  
13 court of common pleas of the county in which the trust is  
14 located for an accounting of all contributions. For purposes  
15 of this paragraph, the trust shall be deemed to be located in  
16 the county where the principal place of business of the  
17 charitable organization is located. If a charitable  
18 organization has its principal place of business outside this  
19 Commonwealth, all of the following shall apply:

20 (i) If an affiliate is soliciting contributions  
21 within this Commonwealth, the trust shall be deemed to be  
22 located in the county where the principal place of  
23 business of the affiliate is located.

24 (ii) If a person is soliciting contributions within  
25 this Commonwealth, the trust shall be deemed to be  
26 located in the county where the principal place of  
27 business or the residence of the person is located.

28 (iii) If there is no place of business or residence  
29 within this Commonwealth, the trust shall be deemed to be  
30 located in the county of Dauphin.

1           (2) Organizations which only solicit within the  
2 membership of the organization by the members of the  
3 organization; provided that the term "membership" shall not  
4 include those persons who are granted a membership solely  
5 upon making a contribution as the result of solicitation. For  
6 the purpose of this paragraph, "member" means a person having  
7 membership in a nonprofit corporation, or other organization,  
8 in accordance with the provisions of its articles of  
9 incorporation, bylaws or other instruments creating its form  
10 and organization and having bona fide rights and privileges  
11 in the organization such as the right to vote, to elect  
12 officers and directors, to hold office or position as  
13 ordinarily conferred on members of such organizations.

14           (3) Charitable organizations whose fundraising  
15 activities are carried on by volunteers, members, officers or  
16 permanent employees and which do not receive contributions in  
17 excess of [~~\$25,000~~] \$50,000 during a fiscal year, if no part  
18 of their assets or income inures to the benefit of or is paid  
19 to any officer or member, professional fundraising counsel,  
20 professional solicitor or commercial coventurer. Charitable  
21 organizations which do not intend to solicit and receive in  
22 excess of [~~\$25,000~~] \$50,000, but do receive contributions in  
23 excess of that amount shall file the financial report  
24 required in section 5 within [30] 90 days after contributions  
25 are received in excess of that amount.

26           (4) Organizations described in section 6(a)(3) which do  
27 not receive contributions in excess of \$100,000 during a  
28 fiscal year if no part of their assets or income inures to  
29 the benefit of or is paid to a professional solicitor.

30       (b) Contents of statement.--The short form annual

1 registration statements required to be filed under this section  
2 shall include any information required by the regulations of the  
3 department.

4 (c) Financial report.--Charitable organizations which file a  
5 short form registration statement need not file the financial  
6 report required under section 5.

7 (d) Updating of information.--Any material change in any  
8 information filed with the department pursuant to this section  
9 shall be reported in writing by the registrant to the department  
10 not more than 30 days after such change occurs.

11 Section 3. This act shall take effect in 60 days.