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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 794 Session of  
2023

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INTRODUCED BY ECKER, GREINER, KAUFFMAN, HAMM, STAMBAUGH, CIRESI,  
KEEFER, MENTZER, MOUL, ZIMMERMAN AND MARCELL, APRIL 3, 2023

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 3, 2023

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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," further providing for  
8 definitions, for registration of charitable organizations,  
9 financial reports, fees and failure to file, for registration  
10 of professional solicitors, contract and disclosure  
11 requirements, bonds, records and books and for administrative  
12 enforcement and penalties.

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

15 Section 1. The definitions of "fundraising costs,"  
16 "professional solicitor" and "solicitation" in section 3 of the  
17 act of December 19, 1990 (P.L.1200, No.202), known as the  
18 Solicitation of Funds for Charitable Purposes Act, are amended  
19 to read:

20 Section 3. Definitions.

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

1 \* \* \*

2 "Fundraising costs." Those costs incurred in inducing others  
3 to make contributions to a charitable organization for which the  
4 contributors will receive no direct economic benefit.

5 Fundraising costs normally include, but are not limited to,  
6 salaries, rent, acquiring and maintaining mailing lists,  
7 printing, mailing and all direct and indirect costs of  
8 soliciting, as well as the cost of unsolicited merchandise sent  
9 to encourage contributions. Fundraising costs do not include the  
10 direct cost of merchandise or goods sold or the direct cost of  
11 fundraising dinners, bazaars, shows, circuses, banquets,  
12 dinners, theater parties or any other form of benefit  
13 performances. This term does not include costs or fundraising  
14 activities associated with the use of a professional fundraising  
15 counsel by a charitable organization that is a volunteer fire  
16 company in this Commonwealth.

17 \* \* \*

18 "Professional solicitor." Any person who is retained for  
19 financial or other consideration by a charitable organization to  
20 solicit in this Commonwealth contributions for charitable  
21 purposes directly or in the form of payment for goods, services  
22 or admission to fundraising events, whether such solicitation is  
23 performed personally or through [his] the person's agents,  
24 servants or employees or through agents, servants or employees  
25 especially employed by or for a charitable organization who are  
26 engaged in the solicitation of contributions, the sale of goods  
27 or services or the production of fundraising events under the  
28 direction of such person, or a person who plans, conducts,  
29 manages, carries on, advises, consults, whether directly or  
30 indirectly, in connection with the solicitation of

1 contributions, sale of goods or services or the production of  
2 fundraising events for or on behalf of any charitable  
3 organization, but does not qualify as a professional fundraising  
4 counsel within the meaning of this act. A person who is  
5 otherwise a professional fundraising counsel shall be deemed a  
6 professional solicitor if [his] the person's compensation is  
7 related to the amount of contributions received. A bona fide  
8 salaried officer or regular, nontemporary employee of a  
9 charitable organization shall not be deemed to be a professional  
10 solicitor provided that the individual is not employed or  
11 engaged as professional fundraising counsel or as a professional  
12 solicitor by any other person. A supplier or vendor that  
13 independently contracts with a charitable organization or does  
14 not agree to solicit contributions for charitable purposes on  
15 behalf of the charitable organization shall not be deemed to be  
16 a professional solicitor.

17 \* \* \*

18 "Solicitation." Any direct or indirect request for a  
19 contribution on the representation that such contribution will  
20 be used in whole or in part for a charitable purpose, including,  
21 but not limited to, any of the following:

22 (1) Any oral request that is made in person, by  
23 telephone, radio or television or other advertising or  
24 communication media.

25 (2) Any written or otherwise recorded or published  
26 request that is mailed, sent, delivered, circulated,  
27 distributed, posted in a public place or advertised or  
28 communicated by press, telegraph, television or any other  
29 media.

30 (3) Any sale of, offer or attempt to sell any

1 advertisement, advertising space, sponsorship, book, card,  
2 chance, coupon, device, food, magazine, merchandise,  
3 newspaper, subscription, ticket or other service or tangible  
4 good, thing or item of value.

5 (4) Any announcement requesting the public to attend an  
6 appeal, assemblage, athletic or competitive event, carnival,  
7 circus, concert, contest, dance, entertainment, exhibition,  
8 exposition, game, lecture, meal, party, show, social  
9 gathering or other performance or event of any kind.

10 Without the request for a contribution, an appeal based upon a  
11 charitable purpose, the use of the name of the charitable  
12 organization or the implication that some proceeds will be  
13 donated to the charitable organization shall not be deemed a  
14 solicitation.

15 Section 2. Sections 5(f), 9(1) and 17(b) (3) of the act are  
16 amended to read:

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

19 \* \* \*

20 (f) Audit of certain financial reports.--[The] Except as  
21 provided under section 9(1), the financial report of every  
22 charitable organization which receives annual contributions of  
23 \$750,000 or more shall be audited by an independent certified  
24 public accountant or public accountant. Every charitable  
25 organization which receives annual contributions of at least  
26 \$250,000, but less than \$750,000, shall be required to have a  
27 review or audit of their financial statements performed by an  
28 independent certified public accountant or public accountant.  
29 Every charitable organization which receives annual  
30 contributions of at least \$100,000, but less than \$250,000,

1 shall be required to have a compilation, review or audit of  
2 their financial statements performed by an independent certified  
3 public accountant or public accountant. A compilation, audit or  
4 review is optional for any charitable organization which  
5 receives annual contributions of less than \$100,000. Audits  
6 shall be performed in accordance with generally accepted  
7 auditing standards, including the Statements on Auditing  
8 Standards of the American Institute of Certified Public  
9 Accountants, whereas reviews shall be performed in accordance  
10 with the Statements on Standards for Accounting and Review  
11 Services of the American Institute of Certified Public  
12 Accountants.

13 \* \* \*

14 Section 9. Registration of professional solicitors; contract  
15 and disclosure requirements; bonds; records;  
16 books.

17 \* \* \*

18 (1) Financial reports.--

19 (1) Within 90 days after a solicitation campaign or  
20 event has been completed and on the anniversary of the  
21 commencement of a solicitation campaign lasting more than one  
22 year, a professional solicitor shall file with the department  
23 a financial report for the campaign, including gross revenue  
24 and an itemization of all expenses incurred. This report  
25 shall be signed and sworn to by the authorized contracting  
26 agent for the professional solicitor and two authorized  
27 officials of the charitable organization.

28 (2) The filing of a financial report under this  
29 subsection by a professional solicitor having a contract with  
30 a charitable organization that is a volunteer fire company in

1 this Commonwealth shall be accepted by the department, and  
2 the report shall relieve the charitable organization from the  
3 requirements under section 5(f).

4 \* \* \*

5 Section 17. Administrative enforcement and penalties.

6 \* \* \*

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

10 \* \* \*

11 (3) Impose an administrative fine not to exceed [\$1,000]  
12 \$100 for each act or omission which constitutes a violation  
13 of this act and an additional penalty, not to exceed [\$100]  
14 \$50 for each day during which such violation continues.  
15 Registration will be automatically suspended upon final  
16 affirmation of an administrative fine until the fine is paid  
17 or until the normal expiration date of the registration. No  
18 registration shall be renewed until the fine is paid.

19 \* \* \*

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