



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5516

Introduced 2/15/2012, by Rep. Jil Tracy

SYNOPSIS AS INTRODUCED:

225 ILCS 460/2
225 ILCS 460/4

from Ch. 23, par. 5102
from Ch. 23, par. 5104

Amends the Solicitation for Charity Act. Reduces specified penalty registrations to \$25 from \$200 and a late annual report filing fee to \$50 from \$100.

LRB097 20223 CEL 65662 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Solicitation for Charity Act is amended by
5 changing Sections 2, 4, and 6 as follows:

6 (225 ILCS 460/2) (from Ch. 23, par. 5102)

7 Sec. 2. Registration; rules; penalties.

8 (a) Every charitable organization, except as otherwise
9 provided in Section 3 of this Act, which solicits or intends to
10 solicit contributions from persons in this State or which is
11 located in this State, by any means whatsoever shall, prior to
12 any solicitation, file with the Attorney General upon forms
13 prescribed by him, a registration statement, accompanied by a
14 registration fee of \$15, which statement shall include the
15 following certified information:

16 1. The name of the organization and the name or names
17 under which it intends to solicit contributions.

18 2. The names and addresses of the officers, directors,
19 trustees, and chief executive officer of the organization.

20 3. The addresses of the organization and the addresses
21 of any offices in this State. If the organization does not
22 maintain a principal office, the name and address of the
23 person having custody of its financial records.

1 4. Where and when the organization was legally
2 established, the form of its organization and its tax
3 exempt status.

4 5. The purpose for which the organization is organized
5 and the purpose or purposes for which the contributions to
6 be solicited will be used.

7 6. The date on which the fiscal year of the
8 organization ends.

9 7. Whether the organization is authorized by any other
10 governmental authority to solicit contributions and
11 whether it is or has ever been enjoined by any court from
12 soliciting contributions.

13 8. The names and addresses of any professional fund
14 raisers who are acting or have agreed to act on behalf of
15 the organization.

16 9. Methods by which solicitation will be made.

17 10. Copies of contracts between charitable
18 organizations and professional fund raisers relating to
19 financial compensation or profit to be derived by the
20 professional fund raisers. Where any such contract is
21 executed after filing of registration statement, a copy
22 thereof shall be filed within 10 days of the date of
23 execution.

24 11. Board, group, or individual having final
25 discretion as to the distribution and use of contributions
26 received.

1 (b) The registration statement shall be signed by the
2 president or other authorized officer and the chief fiscal
3 officer of the organization.

4 (c) Such registration shall remain in effect unless it is
5 either cancelled as provided in this Act or withdrawn by the
6 organization.

7 (d) Every registered organization shall notify the
8 Attorney General within 10 days of any change in the
9 information required to be furnished by such organization under
10 paragraphs 1 through 11 of subdivision (a) of this Section.

11 (e) In no event shall a registration of a charitable
12 organization continue, or be continued, in effect after the
13 date such organization should have filed, but failed to file,
14 an annual report in accordance with the requirements of Section
15 4 of this Act, and such organization shall not be eligible to
16 file a new registration until it shall have filed the required
17 annual report with the Attorney General. If such report is
18 subsequently filed and accepted by the Attorney General such
19 organization may file a new registration. If a person, trustee,
20 or organization fails to timely register or maintain a
21 registration of a trust or organization as required by this Act
22 or if its registration is cancelled as provided in this Act,
23 and if that trust or organization remains in existence and by
24 law is required to be registered, in order to re-register or
25 file a late registration a current registration statement must
26 be filed accompanied by financial reports in the form required

1 herein for all past years. In all instances where
2 re-registration and late registration are allowed, the new
3 registration materials must be filed, accompanied by a penalty
4 registration fee of \$25 ~~\$200~~.

5 (f) Subject to reasonable rules and regulations adopted by
6 the Attorney General, the register, registration statements,
7 annual reports, financial statements, professional fund
8 raisers' contracts, bonds, applications for registration and
9 re-registration, and other documents required to be filed with
10 the Attorney General shall be open to public inspection.

11 Every person subject to this Act shall maintain accurate
12 and detailed books and records at the principal office of the
13 organization to provide the information required herein. All
14 such books and records shall be open to inspection at all
15 reasonable times by the Attorney General or his duly authorized
16 representative.

17 (g) Where any local, county or area division of a
18 charitable organization is supervised and controlled by a
19 superior or parent organization, incorporated, qualified to do
20 business, or doing business within this State, such local,
21 county or area division shall not be required to register under
22 this Section if the superior or parent organization files a
23 registration statement on behalf of the local, county or area
24 division in addition to or as part of its own registration
25 statement. Where a registration statement has been filed by a
26 superior or parent organization as provided in Section 2(g) of

1 this Act, it shall file the annual report required under
2 Section 4 of this Act on behalf of the local, county or area
3 division in addition to or as part of its own report, but the
4 accounting information required under Section 4 of this Act
5 shall be set forth separately and not in consolidated form with
6 respect to every local, county or area division which raises or
7 expends more than \$4,000.

8 (h) The Attorney General may make rules of procedure and
9 regulations necessary for the administration of this Act.
10 Copies of all such rules of procedure and regulations and of
11 all changes therein, duly certified by the Attorney General,
12 shall be filed in the office of the Secretary of State.

13 (i) If a person, organization, or trustee fails to register
14 or if registration of a trust or organization is cancelled as
15 provided in this Act, the person, organization or trustee is
16 subject to injunction, to removal, to account, and to
17 appropriate other relief before the circuit court exercising
18 chancery jurisdiction. In addition to any other relief granted
19 under this Act, the court may impose a civil penalty of not
20 less than \$500 nor more than \$1,000 against the organization or
21 trust estate that failed to register or failed to maintain a
22 registration required under this Act. The collected penalty
23 funds shall be used for charitable trust enforcement and for
24 providing charitable trust information to the public.

25 (Source: P.A. 90-469, eff. 8-17-97; 91-444, eff. 8-6-99.)

1 (225 ILCS 460/4) (from Ch. 23, par. 5104)

2 Sec. 4. (a) Every charitable organization registered
3 pursuant to Section 2 of this Act which shall receive in any 12
4 month period ending upon its established fiscal or calendar
5 year contributions in excess of \$300,000 and every charitable
6 organization whose fund raising functions are not carried on
7 solely by staff employees or persons who are unpaid for such
8 services, if the organization shall receive in any 12 month
9 period ending upon its established fiscal or calendar year
10 contributions in excess of \$25,000, shall file a written report
11 with the Attorney General upon forms prescribed by him, on or
12 before June 30 of each year if its books are kept on a calendar
13 basis, or within 6 months after the close of its fiscal year if
14 its books are kept on a fiscal year basis, which written report
15 shall include a financial statement covering the immediately
16 preceding 12 month period of operation. Such financial
17 statement shall include a balance sheet and statement of income
18 and expense, and shall be consistent with forms furnished by
19 the Attorney General clearly setting forth the following: gross
20 receipts and gross income from all sources, broken down into
21 total receipts and income from each separate solicitation
22 project or source; cost of administration; cost of
23 solicitation; cost of programs designed to inform or educate
24 the public; funds or properties transferred out of this State,
25 with explanation as to recipient and purpose; cost of
26 fundraising; compensation paid to trustees; and total net

1 amount disbursed or dedicated for each major purpose,
2 charitable or otherwise. Such report shall also include a
3 statement of any changes in the information required to be
4 contained in the registration form filed on behalf of such
5 organization. The report shall be signed by the president or
6 other authorized officer and the chief fiscal officer of the
7 organization who shall certify that the statements therein are
8 true and correct to the best of their knowledge, and shall be
9 accompanied by an opinion signed by an independent certified
10 public accountant that the financial statement therein fairly
11 represents the financial operations of the organization in
12 sufficient detail to permit public evaluation of its
13 operations. Said opinion may be relied upon by the Attorney
14 General.

15 (b) Every organization registered pursuant to Section 2 of
16 this Act which shall receive in any 12 month period ending upon
17 its established fiscal or calendar year of any year
18 contributions:

19 (1) in excess of \$15,000, but not in excess of \$25,000,
20 during a fiscal year shall file only a simplified summary
21 financial statement disclosing only the gross receipts,
22 total disbursements, and assets on hand at the end of the
23 year on forms prescribed by the Attorney General; or

24 (2) in excess of \$25,000, but not in excess of
25 \$300,000, if it is not required to submit a report under
26 subsection (a) of this Section, shall file a written report

1 with the Attorney General upon forms prescribed by him, on
2 or before June 30 of each year if its books are kept on a
3 calendar basis, or within 6 months after the close of its
4 fiscal year if its books are kept on a fiscal year basis,
5 which shall include a financial statement covering the
6 immediately preceding 12-month period of operation limited
7 to a statement of such organization's gross receipts from
8 contributions, the gross amount expended for charitable
9 educational programs, other charitable programs,
10 management expense, and fund raising expenses including a
11 separate statement of the cost of any goods, services or
12 admissions supplied as part of its solicitations, and the
13 disposition of the net proceeds from contributions,
14 including compensation paid to trustees, consistent with
15 forms furnished by the Attorney General. Such report shall
16 also include a statement of any changes in the information
17 required to be contained in the registration form filed on
18 behalf of such organization. The report shall be signed by
19 the president or other authorized officer and the chief
20 fiscal officer of the organization who shall certify that
21 the statements therein are true and correct to the best of
22 their knowledge.

23 (c) For any fiscal or calendar year of any organization
24 registered pursuant to Section 2 of this Act in which such
25 organization would have been exempt from registration pursuant
26 to Section 3 of this Act if it had not been so registered, or in

1 which it did not solicit or receive contributions, such
2 organization shall file, on or before June 30 of each year if
3 its books are kept on a calendar basis, or within 6 months
4 after the close of its fiscal year if its books are kept on a
5 fiscal year basis, instead of the reports required by
6 subdivisions (a) or (b) of this Section, a statement certified
7 under penalty of perjury by its president and chief fiscal
8 officer stating the exemption and the facts upon which it is
9 based or that such organization did not solicit or receive
10 contributions in such fiscal year. The statement shall also
11 include a statement of any changes in the information required
12 to be contained in the registration form filed on behalf of
13 such organization.

14 (d) As an alternative means of satisfying the duties and
15 obligations otherwise imposed by this Section, any veterans
16 organization chartered or incorporated under federal law and
17 any veterans organization which is affiliated with, and
18 recognized in the bylaws of, a congressionally chartered or
19 incorporated organization may, at its option, annually file
20 with the Attorney General the following documents:

21 (1) A copy of its Form 990, as filed with the Internal
22 Revenue Service.

23 (2) Copies of any reports required to be filed by the
24 affiliate with the congressionally chartered or
25 incorporated veterans organization, as well as copies of
26 any reports filed by the congressionally chartered or

1 incorporated veterans organization with the government of
2 the United States pursuant to federal law.

3 (3) Copies of all contracts entered into by the
4 congressionally chartered or incorporated veterans
5 organization or its affiliate for purposes of raising funds
6 in this State, such copies to be filed with the Attorney
7 General no more than 30 days after execution of the
8 contracts.

9 (e) As an alternative means of satisfying all of the duties
10 and obligations otherwise imposed by this Section, any person,
11 pursuant to a contract with a charitable organization, a
12 veterans organization or an affiliate described or referred to
13 in subsection (d), who receives, collects, holds or transports
14 as the agent of the organization or affiliate for purposes of
15 resale any used or second hand personal property, including but
16 not limited to household goods, furniture or clothing donated
17 to the organization or affiliate may, at its option, annually
18 file with the Attorney General the following documents,
19 accompanied by an annual filing fee of \$15:

20 (1) A notarized report including the number of
21 donations of personal property it has received on behalf of
22 the charitable organization, veterans organization or
23 affiliate during the proceeding year. For purposes of this
24 report, the number of donations of personal property shall
25 refer to the number of stops or pickups made regardless of
26 the number of items received at each stop or pickup. The

1 report may cover the person's fiscal year, in which case it
2 shall be filed with the Attorney General no later than 90
3 days after the close of that fiscal year.

4 (2) All contracts with the charitable organization,
5 veterans organization or affiliate under which the person
6 has acted as an agent for the purposes listed above.

7 (3) All contracts by which the person agreed to pay the
8 charitable organization, veterans organization or
9 affiliate a fixed amount for, or a fixed percentage of the
10 value of, each donation of used or second hand personal
11 property. Copies of all such contracts shall be filed no
12 later than 30 days after they are executed.

13 (f) The Attorney General may seek appropriate equitable
14 relief from a court or, in his discretion, cancel the
15 registration of any organization which fails to comply with
16 subdivision (a), (b) or (c) of this Section within the time
17 therein prescribed, or fails to furnish such additional
18 information as is requested by the Attorney General within the
19 required time; except that the time may be extended by the
20 Attorney General for a period not to exceed 60 days upon a
21 timely written request and for good cause stated. Unless
22 otherwise stated herein, the Attorney General shall, by rule,
23 set forth the standards used to determine whether a
24 registration shall be cancelled as authorized by this
25 subsection. Such standards shall be stated as precisely and
26 clearly as practicable, to inform fully those persons affected.

1 Notice of such cancellation shall be mailed to the registrant
2 at least 15 days before the effective date thereof.

3 (g) The Attorney General in his discretion may, pursuant to
4 rule, accept executed copies of federal Internal Revenue
5 returns and reports as a portion of the foregoing annual
6 reporting in the interest of minimizing paperwork, except there
7 shall be no substitute for the independent certified public
8 accountant audit opinion required by this Act.

9 (h) The Attorney General after canceling the registration
10 of any trust or organization which fails to comply with this
11 Section within the time therein prescribed may by court
12 proceedings, in addition to all other relief, seek to collect
13 the assets and distribute such under court supervision to other
14 charitable purposes.

15 (i) Every trustee, person, and organization required to
16 file an annual report shall pay a filing fee of \$15 with each
17 annual financial report filed pursuant to this Section. If a
18 proper and complete annual report is not timely filed, a late
19 filing fee of an additional \$50 ~~\$100~~ is imposed and shall be
20 paid as a condition of filing a late report. Reports submitted
21 without the proper fee shall not be accepted for filing.
22 Payment of the late filing fee and acceptance by the Attorney
23 General shall both be conditions of filing a late report. All
24 late filing fees shall be used to provide charitable trust
25 enforcement and dissemination of charitable trust information
26 to the public and shall be maintained in a separate fund for

1 such purpose known as the Illinois Charity Bureau Fund.

2 (j) There is created hereby a separate special fund in the
3 State Treasury to be known as the Illinois Charity Bureau Fund.
4 That Fund shall be under the control of the Attorney General,
5 and the funds, fees, and penalties deposited therein shall be
6 used by the Attorney General to enforce the provisions of this
7 Act and to gather and disseminate information about charitable
8 trustees and organizations to the public.

9 (Source: P.A. 96-488, eff. 1-1-10.)