

AN ACT concerning regulation.

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

Section 5. The Solicitation for Charity Act is amended by changing Sections 1, 5, and 6 as follows:

(225 ILCS 460/1) (from Ch. 23, par. 5101)

Sec. 1. The following words and phrases as used in this Act shall have the following meanings unless a different meaning is required by the context.

(a) "Charitable organization" means any ~~Any~~ benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such which solicits and collects funds for charitable purposes and includes each local, county, or area division within this State of such charitable organization, provided such local, county or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

(b) "Contribution" means the ~~The~~ promise or grant of any money or property of any kind or value, including the promise to pay, except payments by union members of an organization. Reference to the dollar amount of "contributions" in this Act means in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. Contribution shall not include the proceeds from the sale of admission tickets by any not-for-profit music or dramatic arts organization which establishes, by such proof as the Attorney General may require, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and which is organized and operated for the presentation of live public

performances of musical or theatrical works on a regular basis. For purposes of this subsection, union member dues and donated services shall not be deemed contributions.

(c) "Person" means any ~~."~~ Any individual, organization, group, association, partnership, corporation, trust or any combination of them.

(d) "Professional fund raiser" means any ~~."~~ Any person who for compensation or other consideration, conducts, manages, or carries on any solicitation or fund raising drive or campaign in this State or from this State or on behalf of a charitable organization residing within this State for the purpose of soliciting, receiving, or collecting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this State as independently engaged in the business of soliciting, receiving, or collecting contributions for such purposes. A bona fide director, officer, employee or unpaid volunteer of a charitable organization shall not be deemed a professional fund raiser unless the person is in a management position and the majority of the individual's salary or other compensation is computed on a percentage basis of funds to be raised, or actually raised.

(e) "Professional fund raising consultant" means any ~~."~~ Any person who is retained by a charitable organization or trustee for a fixed fee or rate that is not computed on a percentage of funds to be raised, or actually raised, under a written agreement, to only plan, advise, consult, or prepare materials for a solicitation of contributions in this State, but who does not manage, conduct or carry on a fundraising campaign and who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions. A volunteer, employee or salaried officer of a charitable organization or trustee maintaining a permanent establishment or office in this State is not a professional fundraising consultant. An attorney, investment counselor, or banker who

advises an individual, corporation or association to make a charitable contribution is not a professional fundraising consultant as a result of the advice.

(f) "Charitable purpose" means any ~~Any~~ charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.

(g) "Charitable Trust" means any relationship whereby property is held by a person for a charitable purpose.

(h) "Education Program Service" means any activity which provides information to the public of a nature that is not commonly known or facts which are not universally regarded as obvious or as established by common understanding and which informs the public of what it can or should do about a particular issue.

(i) "Primary Program Service" means the program service upon which an organization spends more than 50% of its program service funds or the program activity which represents the largest expenditure of funds in the fiscal period.

(j) "Professional solicitor" means any natural person who is employed or retained for compensation by a professional fundraiser to solicit, receive, or collect contributions for charitable purposes from persons in this State or from this State or on behalf of a charitable organization residing within this State.

(k) "Program Service Activity" means the actual charitable program activities of a charitable organization for which it expends its resources.

(l) "Program Service Expense" means the expenses of charitable program activity and not management expenses or fund raising expenses. In determining Program Service Expense, management and fund raising expenses may not be included.

(m) "Public Safety Personnel Organization" means any person who uses any of the words "officer", "police", "policeman", "policemen", "troopers", "sheriff", "law enforcement", "fireman", "firemen", "paramedic", or similar words in its name or in conjunction with solicitations, or in the title or name of a magazine, newspaper, periodical,

advertisement book, or any other medium of electronic or print publication, and is not a governmental entity. No organization may be a Public Safety Personnel Organization unless 80% or more of its voting members or trustees are active, retired, or disabled police officers, peace officers, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, or other medical assistance or first aid personnel.

(m-5) "Public Safety Personnel" includes police officers, peace officers, firemen, fire fighters, emergency medical technicians - ambulance, emergency medical technicians - intermediate, emergency medical technicians - paramedic, ambulance drivers, and other medical assistance or first aid personnel.

(n) "Trustee" means any person, individual, group of individuals, association, corporation, not for profit corporation, or other legal entity holding property for or solicited for any charitable purpose; or any officer, director, executive director or other controlling persons of a corporation soliciting or holding property for a charitable purpose.

(Source: P.A. 91-301, eff. 7-29-99.)

(225 ILCS 460/5) (from Ch. 23, par. 5105)

Sec. 5. Any charitable organization, trustee, person, professional fund raiser or professional solicitor, which or who solicits, receives, or collects contributions in this State, but does not maintain an office within the State or cannot be located within the State shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the State, or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records within this State; where service is effected upon the person so designated in the

registration statement a copy of the process shall, in addition, be mailed to the registrant's last known address;

(b) When any corporate person has solicited, received, or collected contributions in this State, but maintains no office within the State, has no registered agent within the State, and no designated person having custody of its books and records within the State, or when a registered agent or person having custody of its books and records within the State cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or person as maintaining an office, service may be made by delivering to and leaving with the Secretary of State, or with any deputy or clerk in the corporation department of his office, three copies thereof;

(c) Following service upon the Secretary of State the provisions of law relating to service of process on foreign corporations shall thereafter govern;

(d) Long arm service in accordance with law;

(e) The solicitation, receipt, or collection of any contribution within this State by any charitable organization or any person shall be deemed to be their agreement that any process against it or him which is so served in accordance with the provisions of this Section shall be of the same legal force and effect as if served personally within this State and that the courts of this State shall have personal jurisdiction over such organizations, persons and trustees;

(f) Venue over persons required to be registered under this Act shall be proper in any county where the Attorney General accepts and maintains the list of registrations. In furtherance of judicial economy, actions filed for violation of this Act may name multiple trustees, trusts, and organizations in a single or joint action where those joined have each engaged in similar conduct in violation of this Act or where similar relief is sought against those defendants for violation of this Act.

(Source: P.A. 90-469, eff. 8-17-97.)

(225 ILCS 460/6) (from Ch. 23, par. 5106)

Sec. 6. Professional fund raiser registration.

(a) No person shall act as a professional fund raiser or allow a professional fund raiser entity he owns, manages or controls to act for a charitable organization required to register pursuant to Section 2 of this Act, or for any organization as described in Section 3 of this Act before he has registered himself or the entity with the Attorney General or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and re-registration shall be in writing, under oath, in the form prescribed by the Attorney General. A registration fee of \$100 shall be paid with each registration and upon each re-registration. Registration and re-registration can proceed only if all financial reports have been filed in proper form and all fees have been paid in full. If the applicant intends to or does take control or possession of charitable funds, the applicant shall at the time of making application, file with, and have approved by, the Attorney General a bond in which the applicant shall be the principal obligor, in the sum of \$10,000, with one or more corporate sureties licensed to do business in this State whose liability in the aggregate will at least equal such sum. The bond shall run to the Attorney General for the use of the State and to any person who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of such solicitation; provided, that the aggregate limit of liability of the surety to the State and to all such persons shall, in no event, exceed the sum of such bond. Registration or re-registration when effected shall be for a period of one year, or a part thereof, expiring on the 30th day of June, and may be renewed upon written application, under oath, in the form prescribed by the Attorney General and the filing of the bond for additional one year periods. Every professional fund raiser required to

register pursuant to this Act shall file an annual written report with the Attorney General containing such information as he may require by rule. Certification shall be required for only information within the professional fund raiser's knowledge.

(b) Upon filing a complete registration statement, a professional fund raiser shall be given a registration number and shall be considered registered. If the materials submitted are determined to be inaccurate or incomplete, the Attorney General shall notify the professional fund raiser of his findings and the defect and that within 30 days his registration will be cancelled unless the defect is cured within said time.

(c) Every professional fund raiser registered under this Act who takes possession or control of charitable funds directly, indirectly, or through an escrow shall submit a full written accounting to the charitable organization of all funds it or its agents collected on behalf of the charitable organization during the 6 month period ended June 30 of each year, and file a copy of the accounting with the Attorney General. The accounting shall be in writing under oath and be signed and made on forms as prescribed by the Attorney General and shall be filed by the following September 30 of each year; however, within the time prescribed, and for good cause, the Attorney General may grant a 60 day extension of the due date.

(d) Every professional fund raiser registered pursuant to this Act shall also file calendar year written financial reports with the Attorney General containing such information as he may require, on forms prescribed by him, as well as separate financial reports for each separate fund raising campaign conducted. The written report, including all required schedules, shall be filed under oath on or before April 30 of the following calendar year and be signed and verified under penalty of perjury within the time prescribed. An annual report fee of \$25 shall be paid to the Attorney General with the filing of that report. If the report is not timely filed, a

late filing fee shall result and must be paid prior to re-registration. The late filing fee shall be calculated at \$200 for each and every separate fundraising campaign conducted during the report year. For good cause, the Attorney General may grant a 30 day extension of the due date, in which case a late filing fee shall not be imposed until the expiration of the extension period. A copy of the report shall also be given to the charitable organization by the due date of filing. A professional fund raiser shall only be required to verify information actually available to the professional fund raiser, but in any event an annual report must be timely filed.

(d-5) The calendar year written financial report of every professional fund raiser who conducts, manages, or carries on a fund raising campaign involving the collection or resale of any automobiles, motorcycles, other motor vehicles, boats, yachts, or other water craft collected in Illinois during the report year, and the distribution of funds from the collection or resale of such motor vehicles and water crafts to the charitable organization, must include a schedule detailing the following information for each motor vehicle and water craft collected or resold:

(1) The vehicle or hull identification number.

(2) The gross resale amount of the vehicle.

(3) The total amount distributed to the charitable organization from the collection or resale of the motor vehicle or water craft.

(4) Any and all fees, compensation, or other consideration paid to or retained by the professional fund raiser from the collection or resale of the motor vehicle or water craft.

(5) The identity of any other professional fund raiser that participated in the collection or resale of the vehicle and any fees, compensation, or other consideration paid to or retained by that other professional fund raiser from the collection or resale of the motor vehicle or water craft.

The calendar year written financial report of every professional fund raiser who conducts, manages, or carries on a fund raising campaign involving the collection or resale of any automobile, motorcycle, other motor vehicle, boat, yacht, or other water craft collected in Illinois during the report year, but who does not distribute funds from such collection or resale to the charitable organization, must include a schedule detailing the following information for each motor vehicle and water craft collected or resold:

(1) The vehicle or hull identification number.

(2) Any and all fees, compensation, or other consideration paid to or retained by the professional fund raiser from the collection or resale of the motor vehicle or water craft.

(3) The identity of the person or entity involved in the fund raising campaign who does distribute funds from the collection or resale of the vehicle to the charitable organization.

(e) No person convicted of a felony may register as a professional fund raiser, and no person convicted of a misdemeanor involving fiscal wrongdoing, breach of fiduciary duty or a violation of this Act may register as a professional fund raiser for a period of 5 years from the date of the conviction or the date of termination of the sentence or probation, if any, whichever is later. This subsection shall not apply to charitable organizations that have as their primary purpose the rehabilitation of criminal offenders, the reintegration of criminal offenders into society, the improvement of the criminal justice system or the improvement of conditions within penal institutions.

(f) A professional fund raiser may not cause or allow independent contractors to act on its behalf in soliciting charitable contributions other than registered professional solicitors. A professional fund raiser must maintain the names, addresses and social security numbers of all of its professional solicitors for a period of at least 2 years.

(g) Any person who knowingly violates the provisions of subsections (a), (e), and (f) of this Section is guilty of a Class 4 felony. Any person who fails after being given notice of delinquency to file written financial reports required by subsections (c), ~~and~~ (d), and (d-5) of this Section which is more than 2 months past its due date is guilty of a Class A misdemeanor.

(h) Any person who violates any of the provisions of this Section shall be subject to civil penalties of \$5,000 for each violation and shall not be entitled to keep or receive fees, salaries, commissions or any compensation as a result or on account of the solicitations or fund raising campaigns, and at the request of the Attorney General or the charitable organization, a court may order that such be forfeited and paid toward and used for a charitable purpose as the court in its discretion determines is appropriate or placed in the Illinois Charity Bureau Fund.

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