



Adopted in House Comm. on Jan 25, 2006

09400HB4315ham001

LRB094 15819 RAS 54288 a

1 AMENDMENT TO HOUSE BILL 4315

2 AMENDMENT NO. _____. Amend House Bill 4315 by replacing
3 everything after the enacting clause with the following:

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

6 (225 ILCS 460/1) (from Ch. 23, par. 5101)

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

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

18 (b) "Contribution" means the ~~The~~ promise or grant of any
19 money or property of any kind or value, including the promise
20 to pay, except payments by union members of an organization.
21 Reference to the dollar amount of "contributions" in this Act
22 means in the case of promises to pay, or payments for
23 merchandise or rights of any other description, the value of
24 the total amount promised to be paid or paid for such

1 merchandise or rights and not merely that portion of the
2 purchase price to be applied to a charitable purpose.
3 Contribution shall not include the proceeds from the sale of
4 admission tickets by any not-for-profit music or dramatic arts
5 organization which establishes, by such proof as the Attorney
6 General may require, that it has received an exemption under
7 Section 501(c)(3) of the Internal Revenue Code and which is
8 organized and operated for the presentation of live public
9 performances of musical or theatrical works on a regular basis.
10 For purposes of this subsection, union member dues and donated
11 services shall not be deemed contributions.

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

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

31 (e) "Professional fund raising consultant" means any ~~."~~ Any
32 person who is retained by a charitable organization or trustee
33 for a fixed fee or rate that is not computed on a percentage of
34 funds to be raised, or actually raised, under a written

1 agreement, to only plan, advise, consult, or prepare materials
2 for a solicitation of contributions in this State, but who does
3 not manage, conduct or carry on a fundraising campaign and who
4 does not solicit contributions or employ, procure, or engage
5 any compensated person to solicit contributions and who does
6 not at any time have custody or control of contributions. A
7 volunteer, employee or salaried officer of a charitable
8 organization or trustee maintaining a permanent establishment
9 or office in this State is not a professional fundraising
10 consultant. An attorney, investment counselor, or banker who
11 advises an individual, corporation or association to make a
12 charitable contribution is not a professional fundraising
13 consultant as a result of the advice.

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

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

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

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

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

34 (k) "Program Service Activity" means the actual charitable

1 program activities of a charitable organization for which it
2 expends its resources.

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

7 (m) "Public Safety Personnel Organization" means any
8 person who uses any of the words "officer", "police",
9 "policeman", "policemen", "troopers", "sheriff", "law
10 enforcement", "fireman", "firemen", "paramedic", or similar
11 words in its name or in conjunction with solicitations, or in
12 the title or name of a magazine, newspaper, periodical,
13 advertisement book, or any other medium of electronic or print
14 publication, and is not a governmental entity. No organization
15 may be a Public Safety Personnel Organization unless 80% or
16 more of its voting members or trustees are active, retired, or
17 disabled police officers, peace officers, firemen, fire
18 fighters, emergency medical technicians - ambulance, emergency
19 medical technicians - intermediate, emergency medical
20 technicians - paramedic, ambulance drivers, or other medical
21 assistance or first aid personnel.

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

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

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

2 (225 ILCS 460/5) (from Ch. 23, par. 5105)

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

9 (a) By service thereof on its registered agent within the
10 State, or if there be no such registered agent, then upon the
11 person who has been designated in the registration statement as
12 having custody of books and records within this State; where
13 service is effected upon the person so designated in the
14 registration statement a copy of the process shall, in
15 addition, be mailed to the registrant's last known address;

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

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

32 (d) Long arm service in accordance with law;

33 (e) The solicitation, receipt, or collection of any

1 contribution within this State by any charitable organization
2 or any person shall be deemed to be their agreement that any
3 process against it or him which is so served in accordance with
4 the provisions of this Section shall be of the same legal force
5 and effect as if served personally within this State and that
6 the courts of this State shall have personal jurisdiction over
7 such organizations, persons and trustees;

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

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

18 (225 ILCS 460/6) (from Ch. 23, par. 5106)

19 Sec. 6. Professional fund raiser registration.

20 (a) No person shall act as a professional fund raiser or
21 allow a professional fund raiser entity he owns, manages or
22 controls to act for a charitable organization required to
23 register pursuant to Section 2 of this Act, or for any
24 organization as described in Section 3 of this Act before he
25 has registered himself or the entity with the Attorney General
26 or after the expiration or cancellation of such registration or
27 any renewal thereof. Applications for registration and
28 re-registration shall be in writing, under oath, in the form
29 prescribed by the Attorney General. A registration fee of \$100
30 shall be paid with each registration and upon each
31 re-registration. Registration and re-registration can proceed
32 only if all financial reports have been filed in proper form
33 and all fees have been paid in full. If the applicant intends

1 to or does take control or possession of charitable funds, the
2 applicant shall at the time of making application, file with,
3 and have approved by, the Attorney General a bond in which the
4 applicant shall be the principal obligor, in the sum of
5 \$10,000, with one or more corporate sureties licensed to do
6 business in this State whose liability in the aggregate will at
7 least equal such sum. The bond shall run to the Attorney
8 General for the use of the State and to any person who may have
9 a cause of action against the obligor of the bond for any
10 malfeasance or misfeasance in the conduct of such solicitation;
11 provided, that the aggregate limit of liability of the surety
12 to the State and to all such persons shall, in no event, exceed
13 the sum of such bond. Registration or re-registration when
14 effected shall be for a period of one year, or a part thereof,
15 expiring on the 30th day of June, and may be renewed upon
16 written application, under oath, in the form prescribed by the
17 Attorney General and the filing of the bond for additional one
18 year periods. Every professional fund raiser required to
19 register pursuant to this Act shall file an annual written
20 report with the Attorney General containing such information as
21 he may require by rule. Certification shall be required for
22 only information within the professional fund raiser's
23 knowledge.

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

32 (c) Every professional fund raiser registered under this
33 Act who takes possession or control of charitable funds
34 directly, indirectly, or through an escrow shall submit a full

1 written accounting to the charitable organization of all funds
2 it or its agents collected on behalf of the charitable
3 organization during the 6 month period ended June 30 of each
4 year, and file a copy of the accounting with the Attorney
5 General. The accounting shall be in writing under oath and be
6 signed and made on forms as prescribed by the Attorney General
7 and shall be filed by the following September 30 of each year;
8 however, within the time prescribed, and for good cause, the
9 Attorney General may grant a 60 day extension of the due date.

10 (d) Every professional fund raiser registered pursuant to
11 this Act shall also file calendar year written financial
12 reports with the Attorney General containing such information
13 as he may require, on forms prescribed by him, as well as
14 separate financial reports for each separate fund raising
15 campaign conducted. The written report, including all required
16 schedules, shall be filed under oath on or before April 30 of
17 the following calendar year and be signed and verified under
18 penalty of perjury within the time prescribed. An annual report
19 fee of \$25 shall be paid to the Attorney General with the
20 filing of that report. If the report is not timely filed, a
21 late filing fee shall result and must be paid prior to
22 re-registration. The late filing fee shall be calculated at
23 \$200 for each and every separate fundraising campaign conducted
24 during the report year. For good cause, the Attorney General
25 may grant a 30 day extension of the due date, in which case a
26 late filing fee shall not be imposed until the expiration of
27 the extension period. A copy of the report shall also be given
28 to the charitable organization by the due date of filing. A
29 professional fund raiser shall only be required to verify
30 information actually available to the professional fund
31 raiser, but in any event an annual report must be timely filed.

32 (d-5) The calendar year written financial report of every
33 professional fund raiser who conducts, manages, or carries on a
34 fund raising campaign involving the collection or resale of any

1 automobiles, motorcycles, other motor vehicles, boats, yachts,
2 or other water craft collected in Illinois during the report
3 year, and the distribution of funds from the collection or
4 resale of such motor vehicles and water crafts to the
5 charitable organization, must include a schedule detailing the
6 following information for each motor vehicle and water craft
7 collected or resold:

8 (1) The vehicle or hull identification number.

9 (2) The gross resale amount of the vehicle.

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

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

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

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

32 (1) The vehicle or hull identification number.

33 (2) Any and all fees, compensation, or other
34 consideration paid to or retained by the professional fund

1 raiser from the collection or resale of the motor vehicle
2 or water craft.

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

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

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

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

32 (h) Any person who violates any of the provisions of this
33 Section shall be subject to civil penalties of \$5,000 for each
34 violation and shall not be entitled to keep or receive fees,

1 salaries, commissions or any compensation as a result or on
2 account of the solicitations or fund raising campaigns, and at
3 the request of the Attorney General or the charitable
4 organization, a court may order that such be forfeited and paid
5 toward and used for a charitable purpose as the court in its
6 discretion determines is appropriate or placed in the Illinois
7 Charity Bureau Fund.

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