



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4697

by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

225 ILCS 460/2	from Ch. 23, par. 5102
225 ILCS 460/4	from Ch. 23, par. 5104
225 ILCS 460/9	from Ch. 23, par. 5109

Amends the Solicitation for Charity Act. Requires certain charitable organizations registered under the Act to file a written report that includes a financial statement with the Attorney General within 36 months after the close of a 12-month reporting period (rather than on or before June 30 of each year, if its books are kept on a calendar basis, or within 6 months after the close of its fiscal year, if its books are kept on a fiscal year basis). Allows an organization that is required to file a written report for multiple 12-month periods to combine the financial statements for a maximum of 3 12-month periods in one 36-month reporting period. Makes related changes.

LRB095 15169 RAS 41149 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 9 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 or her, a registration statement, accompanied
14 by a 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, a
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 \$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 or her duly
16 authorized 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 \$150,000 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 have 36 months after
11 the close of such 12-month period within which to file a
12 written report with the Attorney General upon forms prescribed
13 by him or her. This, ~~on or before June 30 of each year if its~~
14 ~~books are kept on a calendar basis, or within 6 months after~~
15 ~~the close of its fiscal year if its books are kept on a fiscal~~
16 ~~year basis, which~~ written report shall include a financial
17 statement covering the applicable ~~immediately preceding~~ 12
18 month period of operation. An organization that is required to
19 file a written report for multiple 12-month periods may combine
20 the financial statements for a maximum of 3 12-month periods in
21 one 36-month reporting period and, when necessary, the Attorney
22 General shall provide for a grace period in the case of such
23 combination reporting. Such financial statement shall include
24 a balance sheet and statement of income and expense, and shall
25 be consistent with forms furnished by the Attorney General
26 clearly setting forth the following: gross receipts and gross

1 income from all sources, broken down into total receipts and
2 income from each separate solicitation project or source; cost
3 of administration; cost of solicitation; cost of programs
4 designed to inform or educate the public; funds or properties
5 transferred out of this State, with explanation as to recipient
6 and purpose; cost of fundraising; compensation paid to
7 trustees; and total net amount disbursed or dedicated for each
8 major purpose, charitable or otherwise. Such report shall also
9 include a statement of any changes in the information required
10 to be contained in the registration form filed on behalf of
11 such organization. The report shall be signed by the president
12 or other authorized officer and the chief fiscal officer of the
13 organization who shall certify that the statements therein are
14 true and correct to the best of their knowledge, and shall be
15 accompanied by an opinion signed by an independent certified
16 public accountant that the financial statement therein fairly
17 represents the financial operations of the organization in
18 sufficient detail to permit public evaluation of its
19 operations. Said opinion may be relied upon by the Attorney
20 General.

21 (b) Every organization registered pursuant to Section 2 of
22 this Act which shall receive in any 12 month period ending upon
23 its established fiscal or calendar year of any year
24 contributions:

25 (1) in excess of \$15,000, but not in excess of \$25,000,
26 during a fiscal year shall file only a simplified summary

1 financial statement disclosing only the gross receipts,
2 total disbursements, and assets on hand at the end of the
3 year on forms prescribed by the Attorney General; or

4 (2) in excess of \$25,000, but not in excess of
5 \$150,000, if it is not required to submit a report under
6 subsection (a) of this Section, shall file a written report
7 with the Attorney General upon forms prescribed by him or
8 her, on or before June 30 of each year if its books are
9 kept on a calendar basis, or within 6 months after the
10 close of its fiscal year if its books are kept on a fiscal
11 year basis, which shall include a financial statement
12 covering the immediately preceding 12-month period of
13 operation limited to a statement of such organization's
14 gross receipts from contributions, the gross amount
15 expended for charitable educational programs, other
16 charitable programs, management expense, and fund raising
17 expenses including a separate statement of the cost of any
18 goods, services or admissions supplied as part of its
19 solicitations, and the disposition of the net proceeds from
20 contributions, including compensation paid to trustees,
21 consistent with forms furnished by the Attorney General.
22 Such report shall also include a statement of any changes
23 in the information required to be contained in the
24 registration form filed on behalf of such organization. The
25 report shall be signed by the president or other authorized
26 officer and the chief fiscal officer of the organization

1 who shall certify that the statements therein are true and
2 correct to the best of their knowledge.

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

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

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

3 (2) Copies of any reports required to be filed by the
4 affiliate with the congressionally chartered or
5 incorporated veterans organization, as well as copies of
6 any reports filed by the congressionally chartered or
7 incorporated veterans organization with the government of
8 the United States pursuant to federal law.

9 (3) Copies of all contracts entered into by the
10 congressionally chartered or incorporated veterans
11 organization or its affiliate for purposes of raising funds
12 in this State, such copies to be filed with the Attorney
13 General no more than 30 days after execution of the
14 contracts.

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

26 (1) A notarized report including the number of

1 donations of personal property it has received on behalf of
2 the charitable organization, veterans organization or
3 affiliate during the proceeding year. For purposes of this
4 report, the number of donations of personal property shall
5 refer to the number of stops or pickups made regardless of
6 the number of items received at each stop or pickup. The
7 report may cover the person's fiscal year, in which case it
8 shall be filed with the Attorney General no later than 90
9 days after the close of that fiscal year.

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

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

19 (f) The Attorney General may seek appropriate equitable
20 relief from a court or, in his or her discretion, cancel the
21 registration of any organization which fails to comply with
22 subdivision (a), (b) or (c) of this Section within the time
23 therein prescribed, or fails to furnish such additional
24 information as is requested by the Attorney General within the
25 required time; except that the time may be extended by the
26 Attorney General for a period not to exceed 60 days upon a

1 timely written request and for good cause stated. Unless
2 otherwise stated herein, the Attorney General shall, by rule,
3 set forth the standards used to determine whether a
4 registration shall be cancelled as authorized by this
5 subsection. Such standards shall be stated as precisely and
6 clearly as practicable, to inform fully those persons affected.
7 Notice of such cancellation shall be mailed to the registrant
8 at least 15 days before the effective date thereof.

9 (g) The Attorney General in his or her discretion may,
10 pursuant to rule, accept executed copies of federal Internal
11 Revenue returns and reports as a portion of the foregoing
12 ~~annual~~ reporting in the interest of minimizing paperwork,
13 except there shall be no substitute for the independent
14 certified public accountant audit opinion required by this Act.

15 (h) The Attorney General after canceling the registration
16 of any trust or organization which fails to comply with this
17 Section within the time therein prescribed may by court
18 proceedings, in addition to all other relief, seek to collect
19 the assets and distribute such under court supervision to other
20 charitable purposes.

21 (i) Every trustee, person, and organization required to
22 file a ~~an annual~~ report shall pay a filing fee of \$15 with each
23 ~~annual~~ financial report filed pursuant to this Section. If a
24 proper and complete ~~annual~~ report is not timely filed, a late
25 filing fee of an additional \$100 is imposed and shall be paid
26 as a condition of filing a late report. Reports submitted

1 without the proper fee shall not be accepted for filing.
2 Payment of the late filing fee and acceptance by the Attorney
3 General shall both be conditions of filing a late report. All
4 late filing fees shall be used to provide charitable trust
5 enforcement and dissemination of charitable trust information
6 to the public and shall be maintained in a separate fund for
7 such purpose known as the Illinois Charity Bureau Fund.

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

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

16 (225 ILCS 460/9) (from Ch. 23, par. 5109)

17 Sec. 9. (a) An action for violation of this Act may be
18 prosecuted by the Attorney General in the name of the people of
19 the State, and in any such action, the Attorney General shall
20 exercise all the powers and perform all duties which the
21 State's Attorney would otherwise be authorized to exercise or
22 to perform therein.

23 (b) This Act shall not be construed to limit or restrict
24 the exercise of the powers or the performance of the duties of
25 the Attorney General which he otherwise is authorized to

1 exercise or perform under any other provision of law by statute
2 or otherwise.

3 (c) Whenever the Attorney General shall have reason to
4 believe that any charitable organization, professional fund
5 raiser, or professional solicitor is operating in violation of
6 the provisions of this Act, or if any of the principal officers
7 of any charitable organization has refused or failed, after
8 notice, to produce any records of such organization or there is
9 employed or is about to be employed in any solicitation or
10 collection of contributions for a charitable organization any
11 device, scheme, or artifice to defraud or for obtaining money
12 or property by means of any false pretense, representation or
13 promise, or any false statement has been made in any
14 application, registration or statement required to be filed
15 pursuant to this Act, in addition to any other action
16 authorized by law, he may bring in the circuit court an action
17 in the name, and on behalf of the people of the State of
18 Illinois against such charitable organization and any other
19 person who has participated or is about to participate in such
20 solicitation or collection by employing such device, scheme,
21 artifice, false representation or promise, to enjoin such
22 charitable organization or other person from continuing such
23 solicitation or collection or engaging therein or doing any
24 acts in furtherance thereof, or to cancel any registration
25 statement previously filed with the Attorney General.

26 In connection with such proposed action the Attorney

1 General is authorized to take proof in the manner provided in
2 Section 2-1003 of the Code of Civil Procedure.

3 (d) Upon a showing by the Attorney General in an
4 application for an injunction that any person engaged in the
5 solicitation or collection of funds for charitable purposes,
6 either as an individual or as a member of a copartnership, or
7 as an officer of a corporation or as an agent for some other
8 person, or copartnership or corporation, has been convicted in
9 this State or elsewhere of a felony or of a misdemeanor where
10 such felony or misdemeanor involved the misappropriation,
11 misapplication or misuse of the money or property of another,
12 he may enjoin such persons from engaging in any solicitation or
13 collection of funds for charitable purposes.

14 (e) The Attorney General may exercise the authority granted
15 in this Section against any charitable organization or person
16 which or who operates under the guise or pretense of being an
17 organization exempted by the provisions of Section 3 and is not
18 in fact an organization entitled to such an exemption.

19 (f) In any action brought under the provisions of this Act,
20 the Attorney General is entitled to recover costs for the use
21 of this State.

22 (g) Any person who knowingly violates this Section may be
23 enjoined from such conduct, removed from office, enjoined from
24 acting for charity and subject to punitive damages as deemed
25 appropriate by the circuit court.

26 (h) Any person who violates this Section shall not be

1 entitled to keep or receive monies, fees, salaries, commissions
2 or any compensation, as a result of the solicitations or fund
3 raising campaigns, and at the request of the Attorney General
4 such monies, fees, salaries, commissions or any compensation
5 shall be forfeited and subject to distribution to charitable
6 use as a court of equity determines.

7 (i) The Attorney General may publish an annual report of
8 all reporting charitable organizations based on information
9 contained in reports filed hereunder stating the amount of
10 money each organization received through solicitation and the
11 amount of money which was expended on program service activity
12 and the percentage of the solicited assets that were expended
13 on charitable activity.

14 (j) The Attorney General shall cancel the registration of
15 any organization, professional fund raiser, or professional
16 solicitor who violates the provisions of this Section.

17 (k) Any person who solicits financial contributions or the
18 sale of merchandise, goods, services, memberships, or
19 advertisements in violation of the prohibitions of subsection
20 (d-1) of Section 11 of this Act, or commits false personation,
21 use of title, or solicitation as defined by Section 17-2 of the
22 Criminal Code of 1961 shall, in addition to any other penalties
23 provided for by law, be subject to civil remedy by cause of
24 action brought by the Attorney General or a Public Safety
25 Personnel Organization affected by the violation.

26 In addition to equitable relief, a successful claimant or

1 the Attorney General shall recover damages of triple the amount
2 collected as a result of solicitations made in violation of
3 this Act, plus reasonable attorney's fees and costs.

4 A plaintiff in any suit filed under this Section shall
5 serve a copy of all pleadings on the Attorney General and the
6 State's Attorney for the county in which the suit is filed.

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