

# SB1970



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1970

Introduced 2/20/2009, by Sen. Dan Duffy

#### SYNOPSIS AS INTRODUCED:

225 ILCS 460/4

from Ch. 23, par. 5104

Amends the Solicitation for Charity Act. Provides that a charitable organization registered pursuant to the Act that receives in any 12 month period ending upon its established fiscal or calendar year contributions in excess of \$300,000 shall file a written report with the Attorney General which shall include a financial statement covering the immediately preceding 12 month period of operation (now, in excess of \$150,000).

LRB096 11022 ASK 21311 b

A BILL FOR

1 AN ACT concerning charitable organizations.

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 Section 4 as follows:

6 (225 ILCS 460/4) (from Ch. 23, par. 5104)

7 Sec. 4. (a) Every charitable organization registered  
8 pursuant to Section 2 of this Act which shall receive in any 12  
9 month period ending upon its established fiscal or calendar  
10 year contributions in excess of \$300,000 ~~\$150,000~~ and every  
11 charitable organization whose fund raising functions are not  
12 carried on solely by staff employees or persons who are unpaid  
13 for such services, if the organization shall receive in any 12  
14 month period ending upon its established fiscal or calendar  
15 year contributions in excess of \$25,000, shall file a written  
16 report with the Attorney General upon forms prescribed by him,  
17 on or before June 30 of each year if its books are kept on a  
18 calendar basis, or within 6 months after the close of its  
19 fiscal year if its books are kept on a fiscal year basis, which  
20 written report shall include a financial statement covering the  
21 immediately preceding 12 month period of operation. Such  
22 financial statement shall include a balance sheet and statement  
23 of income and expense, and shall be consistent with forms

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

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

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

6           (2) in excess of \$25,000, but not in excess of \$300,000  
7           ~~\$150,000~~, if it is not required to submit a report under  
8           subsection (a) of this Section, shall file a written report  
9           with the Attorney General upon forms prescribed by him, on  
10          or before June 30 of each year if its books are kept on a  
11          calendar basis, or within 6 months after the close of its  
12          fiscal year if its books are kept on a fiscal year basis,  
13          which shall include a financial statement covering the  
14          immediately preceding 12-month period of operation limited  
15          to a statement of such organization's gross receipts from  
16          contributions, the gross amount expended for charitable  
17          educational programs, other charitable programs,  
18          management expense, and fund raising expenses including a  
19          separate statement of the cost of any goods, services or  
20          admissions supplied as part of its solicitations, and the  
21          disposition of the net proceeds from contributions,  
22          including compensation paid to trustees, consistent with  
23          forms furnished by the Attorney General. Such report shall  
24          also include a statement of any changes in the information  
25          required to be contained in the registration form filed on  
26          behalf of such organization. The report shall be signed by

1           the president or other authorized officer and the chief  
2           fiscal officer of the organization who shall certify that  
3           the statements therein are true and correct to the best of  
4           their knowledge.

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

22          (d) As an alternative means of satisfying the duties and  
23          obligations otherwise imposed by this Section, any veterans  
24          organization chartered or incorporated under federal law and  
25          any veterans organization which is affiliated with, and  
26          recognized in the bylaws of, a congressionally chartered or

1 incorporated organization may, at its option, annually file  
2 with the Attorney General the following documents:

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

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

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

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

1 accompanied by an annual filing fee of \$15:

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

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

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

21 (f) The Attorney General may seek appropriate equitable  
22 relief from a court or, in his discretion, cancel the  
23 registration of any organization which fails to comply with  
24 subdivision (a), (b) or (c) of this Section within the time  
25 therein prescribed, or fails to furnish such additional  
26 information as is requested by the Attorney General within the

1 required time; except that the time may be extended by the  
2 Attorney General for a period not to exceed 60 days upon a  
3 timely written request and for good cause stated. Unless  
4 otherwise stated herein, the Attorney General shall, by rule,  
5 set forth the standards used to determine whether a  
6 registration shall be cancelled as authorized by this  
7 subsection. Such standards shall be stated as precisely and  
8 clearly as practicable, to inform fully those persons affected.  
9 Notice of such cancellation shall be mailed to the registrant  
10 at least 15 days before the effective date thereof.

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

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

23 (i) Every trustee, person, and organization required to  
24 file an annual report shall pay a filing fee of \$15 with each  
25 annual financial report filed pursuant to this Section. If a  
26 proper and complete annual report is not timely filed, a late



1 filing fee of an additional \$100 is imposed and shall be paid  
2 as a condition of filing a late report. Reports submitted  
3 without the proper fee shall not be accepted for filing.  
4 Payment of the late filing fee and acceptance by the Attorney  
5 General shall both be conditions of filing a late report. All  
6 late filing fees shall be used to provide charitable trust  
7 enforcement and dissemination of charitable trust information  
8 to the public and shall be maintained in a separate fund for  
9 such purpose known as the Illinois Charity Bureau Fund.

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

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