

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1339

By: Boyd (Laura)

COMMITTEE SUBSTITUTE

An Act relating to charitable organizations; amending 18 O.S. 1991, Sections 552.3, 552.5, 552.7 and 552.9, which relate to the Oklahoma Solicitation of Charitable Contributions Act; modifying registration fees for charitable organizations; requiring fees to be deposited in certain fund and be used for certain purposes; modifying contents of certain reports; requiring certain disclosures; modifying registration fees for professional fund raisers and professional solicitors; requiring fees to be deposited in certain fund and be used for certain purposes; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 1991, Section 552.3, is amended to read as follows:

Section 552.3 A. No charitable organization, except those specifically exempt under Section 552.4 of this title, shall solicit or accept contributions from any person in this state by any means whatsoever until such charitable organization shall have registered with the Oklahoma Tax Commission and filed information, as required by this act, on forms approved by that office. At the time of such registration, each charitable organization shall pay a fee of ~~Fifteen Dollars (\$15.00)~~ Forty Dollars (\$40.00). Such registration shall be valid for a period of one (1) year, and shall be subject to annual renewal. This registration shall not be deemed to constitute endorsement by the state or by the Oklahoma Tax Commission of the charitable organizations so registered, and that office shall immediately revoke the registration of any person who directly or indirectly

misrepresents the effect of registration hereunder to any donor or prospective donor. The information so filed shall be available to the general public as a matter of public record. The forms containing such information shall be sworn to and shall include the following:

1. The name under which the charitable organization intends to solicit or accept contributions, and the identity of the charitable organization by or for whom the solicitation is to be conducted;

2. The address of the charitable organization and the names and addresses of officers, directors, trustees and executive personnel;

3. The purposes for which the contributions solicited or accepted are to be used; provided, however, no contribution or any portion thereof shall enure to the private benefit of any voluntary solicitor;

4. A copy of Internal Revenue Form 990 as filed by the charitable organization for the most recent tax year;

5. The person who will have custody of the contributions;

6. The persons responsible for the distribution of funds collected;

7. The period of time during which such solicitation is to be conducted;

8. A description of the method or methods of solicitation in such detail as may from time to time be determined by the Oklahoma Tax Commission;

9. Whether such solicitation is to be conducted by voluntary unpaid solicitors, by paid solicitors, or both;

10. If in whole or in part by paid solicitors, the name and address of each professional fund raiser supplying such solicitors, the basis of payment and the nature of the arrangement, including a copy of the contract or other agreement between the charitable organization and the professional fund raiser, the specific amount or percentage of compensation, or property of any kind or value to be paid or paid to the professional fund raiser, the percentage value of such

compensation as compared (a) to the total contributions received and (b) to the net amount of the total contributions received; and

11. Such additional information as may be deemed necessary and appropriate by the Oklahoma Tax Commission in the public interest or for the specific protection of contributors.

B. All fees generated under this section shall be deposited to the Oklahoma Tax Commission Revolving Fund to be used to establish and operate a public awareness campaign regarding this act.

SECTION 2. AMENDATORY 18 O.S. 1991, Section 552.5, is amended to read as follows:

Section 552.5 A. On or before March 31 of each year every charitable organization subject to the provisions of this act which has received contributions during the previous calendar year shall file the following information in the manner hereinbefore provided and on forms to be provided by the Oklahoma Tax Commission:

1. The gross amount of the contributions pledged or collected;

2. The amount thereof given or to be given to the charitable purpose represented;

3. The aggregate amount paid and to be paid for the expenses of such solicitation; ~~and~~

4. The aggregate amount paid to and to be paid to professional fund raisers and solicitors; and

5. The gross amount paid or to be paid for administrative and general expenses.

B. A charitable organization which maintains its books on other than a calendar year basis may upon application to the Oklahoma Tax Commission be permitted to file its report within ninety (90) days after the close of its fiscal year. In addition, that office may require that within ninety (90) days after the close of any special period of solicitation the charitable organization conducting such solicitation shall file a special report of the information specified in this section for such

special period of solicitation. Such report when filed shall be a public record in the Commission.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 552.7, is amended to read as follows:

Section 552.7 A. No person shall act as a professional fund raiser for any charitable organization, including those organizations listed under Section 552.4 of this title, until he has first registered with the Oklahoma Tax Commission. Applications for such registrations shall be in writing, under oath, in the form prescribed by that office and shall be accompanied by an annual fee in the sum of ~~Fifty Dollars (\$50.00)~~ Seventy-five Dollars (\$75.00). The applicant shall, at the time of making application, file with and have approved by the Oklahoma Tax Commission a bond in which the applicant shall be the principal obligor, in the sum of Two Thousand Five Hundred Dollars (\$2,500.00), with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The said bond shall run to the Oklahoma Tax Commission for the use of the state and to any person, including a charitable organization, who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance of such obligor or any professional solicitor employed by him in the conduct of such solicitation. Registration when affected shall be for a period of one (1) year, expiring on the thirty-first day of March, and may be renewed upon the filing of the bond and fee prescribed herein for additional one-year periods.

B. All fees generated under this section shall be deposited to the Oklahoma Tax Commission Revolving Fund to be used to establish and operate a public awareness campaign regarding this act.

SECTION 4. AMENDATORY 18 O.S. 1991, Section 552.9, is amended to read as follows:

Section 552.9 A. Every professional solicitor employed or retained by a professional fund raiser required to register shall, before accepting employment by such professional fund raiser, register with the Oklahoma Tax Commission. Application for such

registration shall be in writing, under oath, in the form prescribed by that office, and shall be accompanied by a fee in the sum of ~~Ten Dollars (\$10.00)~~ Twenty Dollars (\$20.00). Such registration when affected shall be for a period of one (1) year, expiring on the thirty-first day of March, and may be renewed upon the payment of the fee prescribed herein for additional one-year periods.

B. A professional solicitor, prior to orally requesting a contribution and at the same time at which a written request for a contribution is made, shall clearly and conspicuously disclose at the point of solicitation his name as registered with the Oklahoma Tax Commission and the fact that he is a professional solicitor.

C. All fees generated under this section shall be deposited to the Oklahoma Tax Commission Revolving Fund to be used to establish and operate a public awareness campaign regarding this act.

SECTION 5. This act shall become effective July 1, 1993.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-6605

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