

1 ENGROSSED SENATE
2 BILL NO. 1955

By: Paddack of the Senate

and

Hilliard of the House

3
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6
7 [charitable contributions - Oklahoma Solicitation of
8 Charitable Contributions Act - requiring certain
9 bond -

10 effective date]

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 18 O.S. 2001, Section 552.3, as
14 amended by Section 1, Chapter 366, O.S.L. 2005 (18 O.S. Supp. 2007,
15 Section 552.3), is amended to read as follows:

16 Section 552.3 A. No charitable organization, except those
17 specifically exempt under Section 552.4 of this title, shall solicit
18 or accept contributions from any person in this state by any means
19 whatsoever until the charitable organization shall have registered
20 with the Office of the Secretary of State and filed information, as
21 required by this act, on forms approved by that office. At the time
22 of registration, each charitable organization shall pay a fee of
23 Fifteen Dollars (\$15.00), which shall be deposited to the ~~General~~
24 ~~Revenue Fund of the State~~ Revolving Fund for the Office of the

1 Secretary of State. Registration shall be valid for a period of one
2 (1) year from the date of filing with the Secretary of State, and
3 shall be subject to annual renewal. This registration shall not be
4 deemed to constitute endorsement by the state or by the Secretary of
5 State of the charitable organizations so registered. The
6 information so filed shall be available ~~to~~ for inspection by the
7 general public as a matter of public record and such information
8 shall be provided on its website. The forms containing the
9 information shall be signed and acknowledged by a party duly
10 authorized to sign on behalf of the charitable organization and
11 shall include the following:

12 1. The legal name of the charitable organization, any other
13 name the organization may be identified as or known as, and any
14 distinctive names the organization uses for purposes of public
15 solicitation;

16 2. The street address and the mailing address, if different, of
17 the charitable organization;

18 3. The name and street address of:

19 a. each officer, including each principal salaried
20 executive staff officer,

21 b. each director,

22 c. each trustee,

23 d. each person who will have custody of the contributions,

24 and

1 e. each person responsible for the distribution of funds
2 collected;

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

7 5. A copy of Internal Revenue Form 990 as filed by the
8 charitable organization for the most recently completed fiscal year;
9 or, for the initial registration of a newly formed organization, a
10 copy of a letter from the Internal Revenue Service, or other
11 evidence, showing the tax exempt status of the charitable
12 organization;

13 6. The period of time during which the solicitation is to be
14 conducted;

15 7. A description of the specific method or methods of
16 solicitation;

17 8. Whether the solicitation is to be conducted by voluntary
18 unpaid solicitors, by paid solicitors, or both;

19 9. If in whole or in part by paid solicitors, the name and
20 address of each professional fund-raiser supplying the solicitors,
21 which includes any professional fund-raising counsel who is acting
22 or has agreed to act on behalf of the organization; the basis of
23 payment and the nature of the arrangement, including a copy of the
24 contract or other agreement between the charitable organization and

1 the professional fund-raiser or fund-raising counsel relating to
2 financial compensation or profit to be derived by the fund-raisers
3 or fund-raising counsel, the specific amount or percentage of
4 compensation, or property of any kind or value to be paid or paid to
5 the professional fund-raiser, the percentage value of compensation
6 as compared:

- 7 a. to the total contributions received, and
- 8 b. to the net amount of the total contributions received;
- 9 and

10 10. Additional information as may be deemed necessary and
11 appropriate by the Secretary of State in the public interest or for
12 the specific protection of contributors.

13 B. The charitable organization shall report in writing to the
14 Secretary of State any material change in the registration statement
15 occurring after filing. The report shall be filed within seven (7)
16 calendar days after the change occurs.

17 C. Any fraternal or membership organization not based in
18 Oklahoma which solicits contributions from any person of this state
19 by telephone, or contracts with professional fund-raisers to solicit
20 such contributions, shall be required to have at least one member or
21 employee of the fraternal or membership organization residing within
22 the county where the call is received.

23 SECTION 2. AMENDATORY 18 O.S. 2001, Section 552.5, is
24 amended to read as follows:

1 Section 552.5 A. Every charitable organization subject to the
2 provisions of ~~Section 552.1 et seq. of this title~~ the Oklahoma
3 Solicitation of Charitable Contributions Act which has received
4 contributions during the previous calendar year shall file a
5 statement with the Secretary of State executed and signed by a party
6 duly authorized to act on behalf of the charitable organization,
7 which contains the most recent information, as follows:

8 1. The name, street address, and telephone number of the
9 charitable organization;

10 2. The gross amount of the contributions pledged or collected;

11 3. The gross amount given or to be given to the charitable
12 purpose represented;

13 4. The aggregate amount paid and to be paid for the expenses of
14 solicitation; and

15 5. The aggregate amount paid to and to be paid to professional
16 ~~fund raisers~~ fund-raisers and solicitors.

17 B. The financial statement prescribed in subsection A of this
18 section shall be submitted with the initial registration, and with
19 each annual renewal, thereafter. Such information filed shall be
20 available for inspection by the general public as a matter of public
21 record and the Secretary of State shall provide such information on
22 its website.

23 C. Every charitable organization registered with the Secretary
24 of State to solicit contributions in the State of Oklahoma which

1 shall change its name or the mailing address of its principal
2 office, prior to its annual renewal date shall file with the
3 Secretary of State a statement executed by an authorized officer of
4 the organization setting forth its new name and/or mailing address
5 and pay a filing fee of Fifteen Dollars (\$15.00) which shall be
6 deposited to the Revolving Fund for the Office of the Secretary of
7 State.

8 SECTION 3. AMENDATORY 18 O.S. 2001, Section 552.7, is
9 amended to read as follows:

10 Section 552.7 A. ~~No person shall act as a professional fund-~~
11 ~~raiser for any charitable organization, including those~~
12 ~~organizations listed under Section 552.4 of this title, until the~~
13 ~~person has first registered with the Office of the Secretary of~~
14 ~~State. Applications for registrations, signed and acknowledged by a~~
15 ~~party duly authorized to act on behalf of the fund-raiser, shall~~
16 state the A professional fund-raiser shall file a registration
17 statement with and obtain the approval of the Secretary of State
18 before acting as a professional fund-raiser. The registration
19 statement shall be attested to by the professional fund-raiser, if
20 the fund-raiser is an individual, or by the principal officer of the
21 professional fund-raiser, if the fund-raiser is a business entity
22 and made in accordance with Section 552.3a of this title. The
23 statement shall be accompanied by a fee of Three Hundred Dollars
24 (\$300.00), plus the costs of a background investigation as provided

1 for in subsection F of this section. The fees shall be deposited in
2 the Revolving Fund for the Office of the Secretary of State. If a
3 professional fund-raiser is a corporation or partnership, a single
4 fee shall cover all its partners, members, employees, directors,
5 agents, or officers.

6 B. The registration statement shall be filed in a form
7 prescribed by the Secretary of State and shall include:

8 1. The full, legal name of the professional fund-raiser, the
9 street address of the principal place of business of the fund-
10 raiser, the full, legal names and street addresses of the charitable
11 organizations with which it has entered into contracts or
12 agreements, and shall be accompanied by an annual fee in the sum of
13 Fifty Dollars (\$50.00), to be deposited to the General Revenue Fund
14 of the State Treasury. The applicant the agent authorized to accept
15 service of process in this state;

16 2. The names in which the professional fund-raiser is doing
17 business in Oklahoma and any names used in the past;

18 3. The names and addresses of any charity sharing in the
19 charitable contributions received in this state;

20 4. A copy of any articles of incorporation and bylaws of the
21 professional fund-raiser, if applicable, and any tax-exempt status
22 letter from the Internal Revenue Service;

23 5. The names, addresses, and occupations of persons employed by
24 or who have contracted with the professional fund-raiser in regard

1 to fund-raising and a statement of whether those persons have been
2 convicted of a felony or a misdemeanor involving moral turpitude or
3 arising from their conduct regarding professional fund-raising
4 activities for a charitable organization or purpose;

5 6. A copy of the financial statement for the professional fund-
6 raiser's preceding fiscal year, which shall set out the total
7 profits and revenue from all fund-raising activities, the balance
8 sheet, the kind and amounts of funds raised, specific costs in
9 raising funds, the percentage of funds raised on behalf of the
10 charitable organization which are actually paid to the organization
11 for charitable purposes, and the location of the original financial
12 records;

13 7. A statement of whether the professional fund-raiser has ever
14 been enjoined by any court or otherwise prohibited from doing the
15 business of professional fund-raising as defined in this act in any
16 jurisdiction;

17 8. A statement indicating the methods by which the professional
18 fund-raiser will use by its employed or retained professional
19 solicitors, a description of the promotional plan together with
20 copies of all advertisements, the location of all telephones being
21 used by employed or retained professional solicitors, and the time
22 period during and the areas in which the employed or retained
23 professional solicitors will make solicitations; and

24

1 9. Any other information which may be required by the Secretary
2 of State for the public interest or for the protection of
3 contributors.

4 C. The professional fund-raiser shall, at the time of making
5 application, file with the Secretary of State a bond, approved by
6 the Secretary of State, in which the applicant professional fund-
7 raiser shall be the principal obligor, in the sum of ~~Two Thousand~~
8 ~~Five Hundred Dollars (\$2,500.00) Twenty-five Thousand Dollars~~
9 (\$25,000.00), with one or more sureties whose liability in the
10 aggregate as sureties shall at least equal that sum. The bond shall
11 run to the Secretary of State for the use of the state and to any
12 person, including a charitable organization, who may have a cause of
13 action against the obligor of the bond for any malfeasance or
14 misfeasance of the obligor or any professional solicitor employed by
15 him or her in the conduct of the solicitation be in favor of the
16 Secretary of State and shall be held for any person having prevailed
17 in a cause of action against the professional fund-raiser for
18 liabilities resulting from a violation of the Oklahoma Solicitation
19 of Charitable Contributions Act or any rule promulgated by the
20 Secretary of State necessary to implement the provisions of this
21 act. The bond shall be in a form prescribed by the Secretary of
22 State. If a surety bond is issued, it shall be issued by an insurer
23 authorized to transact surety insurance in this state. The
24 Secretary of State may require that any cash offered as security for

1 a full cash bond be held in escrow by a financial institution
2 located in the state, subject to an escrow agreement approved by the
3 Secretary of State.

4 D. Registration shall be valid for a period of one (1) year
5 from the date of ~~filing with~~ approval by the Secretary of State, and
6 may be renewed annually upon the filing of a renewal application
7 accompanied by the bond and fee prescribed herein.

8 ~~B. No professional fund raiser or solicitor shall engage in~~
9 ~~fund raising activities for a charitable organization which is not~~
10 ~~registered with the Secretary of State unless the organization is~~
11 ~~exempt from registration.~~

12 ~~C.~~ E. Every professional fund-raiser registered with the
13 Secretary of State ~~which shall change its name or the mailing~~
14 ~~address of its principal office, prior to its annual renewal date~~
15 report in writing to the Secretary of State any material change in
16 the registration statement occurring after filing. The report shall
17 be filed within seven (7) calendar days after the change occurs.
18 Such report shall file with the Secretary of State a statement be
19 executed by an authorized officer of the organization setting forth
20 its new name or mailing address and pay and shall be accompanied by
21 a filing fee of ~~Twenty five Dollars (\$25.00)~~ Fifteen Dollars
22 (\$15.00) which shall be deposited in the Revolving Fund for the
23 Office of the Secretary of State.

24

1 F. No person shall act as a professional fund-raiser if the
2 officers, directors, or any person with a controlling interest in
3 the business, or any person the professional fund-raiser employs or
4 retains to solicit charitable contributions or to advise, consult,
5 plan, or manage in regard to the solicitation campaign, has been
6 convicted by a court of any state or the United States of a felony
7 or a misdemeanor involving moral turpitude or arising from his or
8 her conduct regarding fund-raising. A background check on each of
9 the officers, directors, or any person with a controlling interest
10 in the business, or any person the professional fund-raiser employs
11 to solicit charitable contributions shall be performed by the
12 Secretary of State. The actual cost of the investigation shall be
13 added to the registration fee. The professional fund-raiser shall
14 be responsible for conducting background checks of nonemployee
15 professional solicitors it hires to solicit charitable contributions
16 and persons it hires to advise, consult, plan, or manage in regard
17 to the solicitation campaign.

18 SECTION 4. AMENDATORY 18 O.S. 2001, Section 552.8, is
19 amended to read as follows:

20 Section 552.8 A. All contracts or other agreements entered
21 into by professional fundraisers and charitable organizations shall
22 be in writing, and true and correct copies thereof shall be kept on
23 file in the offices of the charitable organization and the
24 professional fundraiser for a period of three (3) years from the

1 date of solicitation of contributions provided for therein actually
2 commences. ~~These contracts shall be available for inspection and~~
3 ~~examination by the Office of the Secretary of State and other~~
4 ~~authorized agencies~~ The contract shall be signed by two authorized
5 officials of the charitable organization, one of whom shall be a
6 member of the organization's governing body and the authorized
7 contracting officer for the professional fund-raiser. At least one
8 copy of every contract or other agreement shall be on file at all
9 times in ~~that office~~ the Office of the Secretary of State, and ~~shall~~
10 ~~be available to the general public as a matter of public record~~ such
11 contract shall be available for inspection by the general public as
12 a matter of public record, and the Secretary of State shall provide
13 such information on its website.

14 B. The contract shall clearly state:

15 1. The respective obligations of each party;

16 2. The percentage of the gross revenue from the campaign that
17 the charitable organization will receive;

18 3. The goods or services to be offered to the public;

19 4. The geographic area where the campaign will take place;

20 5. The date the campaign will begin and end;

21 6. A fund-raising budget; and

22 7. Provisions for a final accounting.

23 The contract shall also identify the services to be provided by
24 the professional fund-raiser and shall indicate whether the

1 professional fund-raiser shall, at any time, have custody of any
2 contributions. The contract may further be defined by rule
3 promulgated by the Secretary of State pursuant to this section.

4 C. At least fourteen (14) calendar days prior to the
5 performance of any service pursuant to the contract, a professional
6 fund-raiser shall file with the Secretary of State a copy of the
7 contract. No solicitation pursuant to the contract shall begin
8 until the Secretary of State has certified that the contract meets
9 the statutory requirements.

10 D. A contract with an unregistered professional fund-raiser or
11 if a registered professional fund-raiser provides services through
12 an unregistered professional solicitor shall be voidable at the
13 option of the charitable organization.

14 SECTION 5. AMENDATORY 18 O.S. 2001, Section 552.9, is
15 amended to read as follows:

16 Section 552.9 A. Every professional solicitor employed or
17 retained by a professional fund-raiser required to register shall,
18 before accepting employment by the professional fund-raiser,
19 register with the Office of the Secretary of State. An application
20 for registration, signed by the professional solicitor and
21 acknowledged, shall state the full, legal name and street address of
22 the professional solicitor and professional ~~fund-raiser~~ fund-raiser
23 that employs or retains the professional solicitor, whether or not
24 the professional solicitor has been convicted by a court of any

1 state or the United States of a felony or a misdemeanor involving
2 moral turpitude or arising from his or her conduct as a professional
3 solicitor and shall be accompanied by a fee in the sum of ~~Ten~~
4 ~~Dollars (\$10.00) Twenty-five Dollars (\$25.00), to be deposited to~~
5 the ~~General Revenue~~ Revolving Fund of the ~~State Treasury~~ for the
6 Office of the Secretary of State. Registration shall be for a
7 period of one (1) year from the date of filing by the Secretary of
8 State, and may be renewed annually upon the filing of a renewal
9 application accompanied by a payment of the fee prescribed herein.

10 B. The professional solicitor shall report in writing to the
11 Secretary of State any material change in the registration statement
12 occurring after filing. The report shall be filed within seven (7)
13 calendar days after the change occurs and shall be accompanied by a
14 filing fee of Fifteen Dollars (\$15.00) which shall be deposited in
15 the Revolving Fund for the Office of the Secretary of State.

16 C. No person shall act as a professional solicitor if he or she
17 has been convicted by a court of any state or the United States of a
18 felony or a misdemeanor involving moral turpitude or arising from
19 his or her conduct as a professional solicitor. A background check
20 on each registering professional solicitor shall be performed by the
21 Office of the Secretary of State. The actual cost of the
22 investigation shall be added to the registration fee.

1 D. Prior to orally requesting a contribution or when requesting
2 a contribution in writing, the professional solicitor shall clearly
3 disclose the following:

4 1. The name of the professional fund-raiser the professional
5 solicitor is employed or retained by as set out in the registration
6 statement filed with the Secretary of State and the fact that the
7 professional fund-raiser is being paid for his or her services;

8 2. The name of the charitable organization he or she represents
9 and a description of how the contributions raised by the
10 solicitation will be used for a charitable or civic purpose; and

11 3. The percentage of the contributions solicited that the
12 professional fund-raiser is to receive if requested by the person
13 being solicited.

14 SECTION 6. This act shall become effective November 1, 2008.

15 Passed the Senate the 6th day of March, 2008.

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17 _____
Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2008.

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21 _____
Presiding Officer of the House
22 of Representatives
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