

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1070 By: Paddack of the Senate  
3 and  
4 Hilliard of the House  
5  
6

7 ( Oklahoma Solicitation of Charitable Contributions  
8 Act - registration form - criminal penalties -  
9 repealer - codification -  
10 effective date )  
11  
12

13 AUTHOR: Add the following House Coauthor: Remove Hilliard as  
14 principal House author and substitute Peters as principal  
House author and add Hilliard as coauthor

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
16 entire bill and insert

17 "( Oklahoma Solicitation of Charitable Contributions  
18 Act - amending 9 sections in Title 18 -  
19 definitions for solicitation and Form 990 - bond  
20 requirement - disclosures - repealing 9 sections  
21 in Title 18 - codification -  
22 effective date )  
23

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 552.1a of Title 18, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Solicitation of Charitable Contributions Act is  
5 enacted for the purpose of promoting integrity and accountability in  
6 the charitable solicitation process; protecting donors and  
7 prospective donors who may be solicited for charitable  
8 contributions; educating the public, charitable organizations,  
9 professional fundraisers, and others in matters relating to ethical  
10 and appropriate behavior in fundraising and charitable solicitation  
11 activities; preventing fraud and abuse in the fundraising process of  
12 charitable organizations and in the solicitation of charitable  
13 contributions; and providing transparency to the public in  
14 fundraising and charitable solicitation activities of charitable  
15 organizations.

16 SECTION 2. AMENDATORY 18 O.S. 2001, Section 552.2, is  
17 amended to read as follows:

18 Section 552.2 As used in ~~this act~~ the Oklahoma Solicitation of  
19 Charitable Contributions Act:

20 1. "Person" means any individual, organization, group,  
21 association, partnership ~~or~~, corporation, limited liability company,  
22 trust, or other entity, except as otherwise provided in Sections  
23 552.1 through 552.16 of this title;

24

1           2. "Charitable organization" means any ~~philanthropic,~~  
2 ~~patriotic, eleemosynary, educational, social, civic, recreational,~~  
3 ~~religious or any other person performing or purporting to perform~~  
4 ~~acts beneficial to the public~~ soliciting contributions in this  
5 state, other than an individual, that is described in Section 501(c)  
6 of Title 26 of the United States Code, who solicits contributions as  
7 described in this act and that is organized and operated primarily  
8 for religious, charitable, scientific, literary, educational,  
9 artistic, cultural, economic development, civic improvement, testing  
10 for public safety, research, humanitarian, animal welfare,  
11 recreational, or environmental protection purposes; to foster  
12 national or international amateur sports competition, but only if no  
13 part of its activities involves the provision of athletic facilities  
14 or equipment; to prevent cruelty to children, the elderly,  
15 identified populations, or animals; to relieve poverty, hunger, or  
16 homelessness; to support law enforcement or citizen protection  
17 organizations or agencies; or to provide emergency relief;

18           3. "Contribution" means the promise, gift, donation, payment,  
19 pledge, or grant of any money or property of any kind or value,  
20 including any contribution for operations, capital, endowment,  
21 reserves, dues, memberships, program support, naming opportunities,  
22 or other uses. Contribution does not include a payment for goods,  
23 services, admission to a museum, performances or programs sold or  
24 provided by a charitable organization, if the payment does not

1 exceed the bona fide fair market value of the goods or services  
2 provided;

3 4. "Professional ~~fund-raiser~~ fundraiser" means any person who  
4 for compensation or other consideration plans, conducts or manages  
5 in this state the solicitation of contributions for or on behalf of  
6 any charitable organization ~~or any other person~~, or who engages in  
7 the business of or holds himself or herself out to persons in this  
8 state as independently engaged in the business of soliciting  
9 contributions for such purpose. For purposes of this act,  
10 professional fundraiser does not include an employee of a charitable  
11 organization who engages in such activities for the charitable  
12 organization for which he or she is employed; nor does it include  
13 any volunteer who receives no payment, compensation, or remuneration  
14 of any kind for soliciting any contributions; provided, a volunteer  
15 may receive credit for fulfilling any community service requirement  
16 of an educational institution or government agency. In addition,  
17 for this purpose, consideration does not include incidental benefits  
18 that might be received by a noncompensated person, such as meals,  
19 supplies, or similar support, and does not include reimbursement for  
20 expenses incurred by any noncompensated person in his or her  
21 solicitation activities;

22 5. "Professional solicitor" means any person that is either  
23 located within this state or that is soliciting contributions from  
24 any person in this state and who is employed or retained for

1 compensation or other consideration ~~of any kind whatsoever~~ by a  
2 professional ~~fund raiser~~ fundraiser to solicit contributions in this  
3 ~~state~~ for or on behalf of any charitable organization ~~or any other~~  
4 person. Professional solicitor does not include an employee of a  
5 charitable organization who is engaged in such activities for the  
6 charitable organization for which he or she is employed; nor does it  
7 include a volunteer who engages in such activities for the  
8 charitable organization for which he or she volunteers if the  
9 volunteer receives no payment, compensation or remuneration of any  
10 kind for soliciting any contributions; provided, a volunteer may  
11 receive credit for fulfilling any community service requirement of  
12 an educational institution or government agency. In addition, for  
13 this purpose, consideration does not include incidental benefits  
14 that might be received by a noncompensated person, such as meals,  
15 supplies, or similar support, and does not include reimbursement for  
16 expenses incurred by any noncompensated person in his or her  
17 solicitation activities; and

18 6. "Professional fundraising counsel" means ~~an entity~~ any  
19 person that, ~~alone or through its employees and agents,~~ provides,  
20 for compensation or other consideration, services for compensation,  
21 including planning, organizing or managing any solicitation, to a  
22 charitable organization ~~in the solicitation of contributions,~~  
23 ~~including, but not limited to, planning, managing, or preparing~~

24

1 ~~materials to be used in conjunction with any solicitation, provided,~~  
2 ~~that the entity~~ as long as such person does not:

- 3 a. directly or indirectly solicit contributions alone or  
4 through its employees and agents, or
- 5 b. accept, receive, hold, have access to, maintain,  
6 manage, invest, or control any contribution generated  
7 by the solicitation activity.

8 However, professional fundraising counsel does not include an  
9 employee or volunteer of a charitable organization who is providing  
10 such services on behalf of the charitable organization;

11 7. "Solicitation" means the request or appeal for any  
12 contribution on the plea or representation that such contribution  
13 will be used for a charitable organization; and

14 8. "Form 990" means a return of an organization that is exempt  
15 from federal income tax. Form 990 includes, but is not limited to,  
16 Form 990, Form 990-N, Form 990-PF, and other similar returns as  
17 required by federal law.

18 SECTION 3. AMENDATORY 18 O.S. 2001, Section 552.3, as  
19 amended by Section 1, Chapter 366, O.S.L. 2005 (18 O.S. Supp. 2009,  
20 Section 552.3), is amended to read as follows:

21 Section 552.3 A. No charitable organization that is either  
22 located within this state or that is soliciting contributions from  
23 any person in this state, except those specifically exempt under  
24 Section 552.4 of this title, shall solicit ~~or accept~~ contributions

1 ~~from any person in this state by any means whatsoever~~ until the  
2 charitable organization shall have registered with the Office of the  
3 ~~Secretary of State~~ Attorney General and filed information, as  
4 required by ~~this act~~ the Oklahoma Solicitation of Charitable  
5 Contributions Act, on forms approved by that office. At the time of  
6 registration, each charitable organization, except as otherwise  
7 provided in this section, shall pay a fee of ~~Fifteen Dollars~~  
8 ~~(\$15.00)~~, which One Hundred Dollars (\$100.00). The first Fifteen  
9 Dollars (\$15.00) of the fee shall be deposited ~~to~~ in the General  
10 Revenue Fund of the State Treasury. ~~Registration shall be valid for~~  
11 ~~a period of one (1) year from the date of filing with the Secretary~~  
12 ~~of State, and shall be subject to annual renewal. This registration~~  
13 The remaining Eighty-five Dollars (\$85.00) shall be deposited to the  
14 credit of the Charitable Solicitation Enforcement Revolving Fund.  
15 However, a charitable organization whose contributions during the  
16 previous registration period did not exceed Ten Thousand Dollars  
17 (\$10,000.00) or if this is the charitable organization's first  
18 registration period and the anticipated contributions for the  
19 current registration period are not expected to exceed Ten Thousand  
20 Dollars (\$10,000.00), shall pay a fee of Twenty-five Dollars  
21 (\$25.00) which shall be deposited to the Charitable Solicitation  
22 Enforcement Revolving Fund. Each charitable organization that is  
23 required to register under this act shall register annually with the  
24 Attorney General by the date that the charitable organization files

1 its Form 990 or by the date, plus extensions, that it is required to  
2 file its Form 990, whichever occurs first. Registration shall not  
3 be deemed to constitute an endorsement by the state or by the  
4 Secretary of State Attorney General of the any charitable  
5 organizations so registered organization or the proposed uses of the  
6 funds solicited. The information so filed shall be available to the  
7 general public ~~as a matter of public record.~~ The charitable  
8 organization shall provide the following information on the required  
9 forms containing the information shall be signed and acknowledged by  
10 a party duly authorized to sign on behalf of the charitable  
11 organization and shall include the following:

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

17 2. The street address and the mailing address, if different, of  
18 the charitable organization, except if the Attorney General  
19 determines that to do so would cause a safety, security or privacy  
20 concern;

21 3. The name and ~~street~~ mailing address of:

- 22 a. each officer, ~~including each principal salaried~~  
23 ~~executive staff officer,~~  
24 b. each director,



1           ~~e.~~ each trustee, or equivalent, and

2           b. each salaried executive employee of the charitable  
3           organization;

4           4. The name and mailing address of:

5           ~~d.~~ a. each person who professional fundraiser or professional  
6           solicitor that will have custody of the contributions,  
7           and

8           ~~e.~~ b. each person associated with a professional fundraiser,  
9           professional solicitor or charitable organization that  
10           is directly responsible for the payment and  
11           distribution of funds collected;

12           ~~4.~~ 5. The name and mailing address of each professional  
13           fundraising counsel utilized by the charitable organization;

14           6. For charitable organizations that register for the first  
15           time, a statement of whether or not the charitable organization  
16           believes contributions for the first year of registration will  
17           exceed Ten Thousand Dollars (\$10,000.00);

18           7. The purposes for which the contributions solicited ~~or~~  
19           accepted are to be used; ~~provided, however, no contribution or any~~  
20           ~~portion thereof shall inure to the private benefit of any voluntary~~  
21           ~~solicitor;~~

22           ~~5.~~ 8. A copy of Internal Revenue Form 990 or similar  
23           informational tax return required by the Internal Revenue Service as  
24           filed by the charitable organization for the most recently completed

1 fiscal year; or, for the initial registration of a newly formed  
2 charitable organization, a copy of a letter from the Internal  
3 Revenue Service, or other evidence, showing ~~the tax exempt status of~~  
4 ~~the charitable~~ that such organization is exempt from federal income  
5 taxation; or, for a charitable organization that has not applied for  
6 federal income tax exemption with the Internal Revenue Service or is  
7 not required to apply for federal income tax exemption, evidence  
8 showing that said charitable organization is organized in any state  
9 or jurisdiction as a not-for-profit entity;

10 ~~6.—The~~ 9. An identification of the period of time or periods  
11 during which ~~the solicitation is~~ solicitations are to be conducted,  
12 which may be specific periods, estimated or projected time frames,  
13 or continuous, and which may involve different periods for different  
14 types of solicitations by the same charitable organization;

15 ~~7.—A description~~ 10. An identification of the specific method  
16 or methods of solicitation utilized by the charitable organization  
17 and its agents;

18 ~~8.—~~ 11. Whether the solicitation is to be conducted by ~~voluntary~~  
19 ~~unpaid solicitors, by paid solicitors, or both~~ the following for or  
20 on behalf of the charitable organization: professional fundraisers,  
21 employees or volunteers of the charitable organization, or others;  
22 and

23 ~~9.—~~ 12. If the solicitation is to be conducted in whole or in  
24 part by ~~paid solicitors~~ professional fundraisers, the ~~name~~ names and

1 ~~address~~ addresses of each professional ~~fund-raiser~~ supplying the  
2 ~~solicitors, which includes any professional fund raising counsel who~~  
3 ~~is acting or has agreed to act on behalf of the organization~~  
4 fundraiser involved in the solicitation; the basis of payment or  
5 other consideration payable to each professional fundraiser and the  
6 ~~nature of the arrangement, including a copy of the contract or other~~  
7 ~~agreement between the charitable organization and the professional~~  
8 ~~fund-raiser or fund raising counsel relating to financial~~  
9 ~~compensation or profit to be derived by the fund-raisers or fund-~~  
10 ~~raising counsel~~ arrangements between the charitable organization and  
11 each professional fundraiser, the specific amount, formula or  
12 ~~percentage of compensation, or property of any kind or value to be~~  
13 ~~paid or paid~~ provided to the each professional fund-raiser  
14 fundraiser; and if payment is based on a percentage, the percentage  
15 ~~value~~ amount of compensation as ~~compared:~~ a percentage of  
16       a. ~~to~~ the total contributions received, and  
17       b. ~~to~~ the net amount of the total contributions received  
18             (total contributions received, less expenses of  
19             solicitation other than amounts payable to any  
20             professional fundraiser); and  
21       10. ~~Additional information as may be deemed necessary and~~  
22 ~~appropriate by the Secretary of State in the public interest or for~~  
23 ~~the specific protection of contributors.~~  
24

1       B. In addition to the required information in subsection A of  
2 this section, every charitable organization subject to the  
3 provisions of the Oklahoma Solicitation of Charitable Contributions  
4 Act that has solicited contributions during the previous fiscal year  
5 shall provide the following information:

6       1. The gross amount of the contributions, gifts, grants and  
7 other similar amounts received by the charitable organization;

8       2. The total program service expenses of the charitable  
9 organization;

10       3. The total management and general expenses of the charitable  
11 organization;

12       4. The total fundraising expenses of the charitable  
13 organization; and

14       5. The aggregate amount paid, or payable, to professional  
15 fundraisers and professional fundraising counsel.

16       C. Any registration form required to be filed under this  
17 section shall be executed by signature, without more, of the person  
18 or persons signing the form, in which case the signature or  
19 signatures shall constitute the affirmation of the signatory, under  
20 penalties of perjury, that the signature is that person's act and  
21 deed or the act and deed of the organization, and that the facts  
22 stated therein are true.

23       D. If a charitable organization that is registered with the  
24 Attorney General to solicit contributions in this state changes its

1 name or the mailing address of its principal office, or plans to  
2 engage in the solicitation of contributions using a name that is not  
3 listed on its registration form, then it shall, prior to soliciting  
4 any funds in this state using any such name, file with the Attorney  
5 General a statement executed by an authorized officer of the  
6 organization setting forth any new name and mailing address.

7 E. Any fraternal or membership organization not based in  
8 Oklahoma which solicits contributions from any person of this state  
9 by telephone, or contracts with professional ~~fund-raisers~~  
10 fundraisers to solicit such contributions, shall be required to have  
11 at least one member or employee of the fraternal or membership  
12 organization residing within the county where the call is received.

13 SECTION 4. AMENDATORY 18 O.S. 2001, Section 552.4, is  
14 amended to read as follows:

15 Section 552.4 Except as otherwise specifically provided in ~~this~~  
16 ~~act~~ the Oklahoma Solicitation of Charitable Contributions Act, the  
17 provisions of ~~Sections~~ Section 552.3 and ~~552.5~~ of this title shall  
18 not apply to the following persons:

19 ~~(1)~~ 1. Organizations incorporated for religious purposes and  
20 actually engaged in bona fide religious programs, and other  
21 organizations directly operated, supervised, or controlled by a  
22 religious organization;

23 ~~(2)~~ 2. Educational institutions ~~which~~ that have a faculty,  
24 regularly enrolled students and offer courses of study leading to

1 the granting of recognized degrees when solicitations of  
2 contributions are confined to its student body and their families,  
3 alumni, faculty and trustees;

4 ~~(3)~~ 3. Fraternal organizations, when soliciting from their own  
5 members, and patriotic and civic organizations, when solicitation of  
6 contributions is confined to the membership of said organizations,  
7 and the solicitation is managed by their own membership without paid  
8 solicitors; and

9 ~~(4)~~ 4. Persons soliciting contributions for a named individual  
10 person, when such individual person is specified by name at the time  
11 of solicitation, the purpose for such contribution is clearly  
12 stated, and if the gross contributions collected, without any  
13 deductions whatsoever for the benefit of the solicitor or any other  
14 person, be deposited directly to an account in the name of the  
15 beneficiary established for that purpose at a licensed local bank,  
16 and if such contributions are used for the direct benefit of the  
17 named individual person as beneficiary, ~~and~~

18 ~~(5) Any organization which collects from charitable~~  
19 ~~solicitations less than Ten Thousand Dollars (\$10,000.00) per year.~~

20 SECTION 5. AMENDATORY 18 O.S. 2001, Section 552.6, is  
21 amended to read as follows:

22 Section 552.6 Every charitable organization shall keep and  
23 maintain a full and true record of the documents and information  
24 required for disclosure pursuant to Section 552.3 of this title for

1 five (5) calendar years in such form as will enable such charitable  
2 organization to accurately provide the information required herein.  
3 All records required hereunder shall be open to inspection ~~at all~~  
4 ~~times~~ during regular business hours, except as otherwise provided by  
5 court order, by the Office of the ~~Secretary of State and its~~  
6 ~~employees~~ Attorney General, and upon demand shall be presented to  
7 that office for inspection.

8 SECTION 6. 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~~ fundraiser 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~~ Attorney General. Applications for ~~registrations~~  
15 registration, signed and acknowledged by a party duly authorized to  
16 act on behalf of the ~~fund-raiser~~ professional fundraiser, shall  
17 state the full, legal name of the professional ~~fund-raiser~~  
18 fundraiser, the street address of the principal place of business of  
19 the ~~fund-raiser~~ professional fundraiser, the full, legal names and  
20 street addresses of the charitable organizations with which it has  
21 entered into contracts or agreements, relating to the solicitation  
22 of contributions, the names of all professional solicitors employed  
23 by the professional fundraiser who will be involved in the  
24 solicitation of contributions for the charitable organization and

1 such other information as the Attorney General requires in the  
2 public interest and for the protection of contributors, donors and  
3 beneficiaries of the charitable organization or others. The  
4 registration form shall also be accompanied by an annual fee in the  
5 sum amount of Fifty Dollars (\$50.00), to Three Hundred Fifty Dollars  
6 (\$350.00). The first Fifty Dollars (\$50.00) of the fee collected  
7 shall be deposited to in the General Revenue Fund of the State  
8 Treasury. The applicant shall, at the time of making application,  
9 file with the Secretary of State a bond in which the applicant shall  
10 be the principal obligor, in the sum of Two Thousand Five Hundred  
11 Dollars (\$2,500.00), with one or more sureties whose liability in  
12 the aggregate as sureties shall at least equal that sum. The bond  
13 shall run to the Secretary of State for the use of the state and to  
14 any person, including a charitable organization, who may have a  
15 cause of action against the obligor of the bond for any malfeasance  
16 or misfeasance of the obligor or any professional solicitor employed  
17 by him or her in the conduct of the solicitation. The remaining  
18 Three Hundred Dollars (\$300.00) of the fee shall be deposited to the  
19 credit of the Charitable Solicitation Enforcement Revolving Fund.  
20 Registration shall be valid for a period of one (1) year from the  
21 date of filing with the ~~Secretary of State~~ Attorney General, and may  
22 be renewed annually upon the filing of a renewal application  
23 accompanied by the bond and fee prescribed herein.

24



1 B. No professional ~~fund-raiser~~ fundraiser or solicitor shall  
2 engage in ~~fund raising activities~~ the solicitation of contributions  
3 for a charitable organization ~~which~~ that is not registered with the  
4 ~~Secretary of State~~ Attorney General unless the organization is  
5 exempt from registration.

6 C. Every professional ~~fund-raiser~~ fundraiser registered with  
7 the ~~Secretary of State~~ Attorney General which shall change its name  
8 or the mailing address of its principal office, or plans to engage  
9 in professional fundraising activities using a name that is not  
10 listed on its registration form, shall at least fifteen (15) days  
11 prior to its annual renewal date shall engaging in such activities  
12 file with the ~~Secretary of State~~ Attorney General a statement  
13 executed by an authorized officer of the organization setting forth  
14 its new name or mailing address and ~~pay a filing fee of Twenty five~~  
15 ~~Dollars (\$25.00).~~

16 D. The professional fundraiser shall not employ or retain a  
17 professional solicitor who is not registered pursuant to this act.  
18 The Attorney General may revoke the registration of any professional  
19 fundraiser who violates the provisions of this subsection.

20 E. No professional fundraiser shall solicit any contribution  
21 for a charitable organization without the consent of such  
22 organization.

23 F. No person shall act as a professional fundraiser if the  
24 officers, directors, or any person with a controlling interest in

1 the business, or any person the professional fundraiser employs or  
2 retains to solicit charitable contributions or to advise, consult,  
3 plan, or manage the solicitation of any contributions, has been  
4 convicted by a court of any state or the United States of a felony  
5 or a misdemeanor involving moral turpitude or arising from his or  
6 her conduct in connection with fundraising activities, the  
7 solicitation of any funds, or the use or expenditure of any funds  
8 raised, collected, or received in any fundraising activity.

9 G. Any registration form required to be filed under this  
10 section shall be executed by signature, without more, of the person  
11 or persons signing the form, in which case the signature or  
12 signatures shall constitute the affirmation of the signatory, under  
13 penalties of perjury, that the signature is that person's act and  
14 deed or the act and deed of the organization, and that the facts  
15 stated therein are true.

16 SECTION 7. AMENDATORY 18 O.S. 2001, Section 552.8, is  
17 amended to read as follows:

18 Section 552.8 A. All contracts ~~or other agreements~~ entered  
19 into by ~~professional fund raisers and a~~ charitable organizations  
20 organization with a professional fundraiser or professional  
21 fundraising counsel for charitable solicitations or fundraising  
22 services shall be in writing and true and correct copies thereof  
23 shall be kept. The charitable organization and the professional  
24 fundraiser or professional fundraising counsel shall each keep and

1 maintain such contracts on file in the their principal offices of  
2 the charitable organization and the professional fund raiser for a  
3 period of three (3) five (5) years from the date of solicitation of  
4 contributions provided for therein actually commences that the  
5 contract was executed. These contracts shall be available for  
6 inspection and examination by the Office of the Secretary of State  
7 and other authorized agencies. At least one copy of every contract  
8 or other agreement shall be on file at all times in that office and  
9 shall be available to the general public as a matter of public  
10 record Attorney General.

11 B. The contract shall clearly state:

12 1. The respective obligations of each party;

13 2. The compensation arrangement. If the compensation payable  
14 to the professional fundraiser is based on a percentage or formula,  
15 the contract shall state the percentage of the gross revenue derived  
16 in connection with the solicitation that the charitable organization  
17 will receive or other formula for payment;

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

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

20 5. In the case of a contract with a professional fundraiser,  
21 the period of time or periods during which solicitations are to be  
22 conducted, which may be specific periods, estimated or projected  
23 time frames, or continuous, and which may involve different periods

24

1 for different types of solicitations by the same charitable  
2 organization;

3 6. A fundraising budget, if available; and

4 7. Provisions for a final accounting of contributions raised  
5 and expenses incurred.

6 The contract shall also describe in reasonable detail the  
7 services to be provided by the professional fundraiser and shall  
8 clearly state whether the professional fundraiser may, at any time,  
9 have custody, possession or control of any contributions.

10 SECTION 8. AMENDATORY 18 O.S. 2001, Section 552.9, is  
11 amended to read as follows:

12 Section 552.9 A. Every professional solicitor employed or  
13 retained by a professional ~~fund-raiser~~ fundraiser required to  
14 register pursuant to this act, shall, before ~~accepting employment~~  
15 engaging in any solicitation of contributions by the professional  
16 ~~fund-raiser~~ fundraiser, register with the Office of the ~~Secretary of~~  
17 ~~State~~ Attorney General. An application for registration, signed by  
18 the solicitor ~~and acknowledged,~~ shall state the full, legal name and  
19 street address of the professional ~~fund-raiser~~ fundraiser that  
20 employs the solicitor and shall be accompanied by a fee in the ~~sum~~  
21 amount of Ten Dollars (\$10.00) to Thirty-five Dollars (\$35.00), of  
22 which Twenty-five Dollars (\$25.00) shall be deposited to the credit  
23 of the General Revenue Fund of the State Treasury Charitable  
24 Solicitation Enforcement Revolving Fund and the remaining Ten

1 Dollars (\$10.00) shall be deposited in the General Revenue Fund of  
2 the State Treasury. Registration shall be for a period of one (1)  
3 year from the date of filing ~~by~~ with the ~~Secretary of State Attorney~~  
4 General, and may be renewed annually upon the filing of a renewal  
5 application accompanied by a payment of the fee prescribed herein.

6 B. When requesting a contribution, the professional solicitor  
7 shall clearly disclose the following if requested by the person  
8 being solicited:

9 1. The name of the professional fundraiser that employs or  
10 retains the professional solicitor, as set out in the registration  
11 statement filed with the Attorney General, and the fact that the  
12 professional fundraiser is being paid for his or her services;

13 2. The name of the charitable organization the person  
14 represents and a description of how the contributions raised by the  
15 solicitation will be used; and

16 3. The percentage of the contributions solicited that the  
17 professional fundraiser is to receive and the registration number of  
18 the professional fundraiser, the charitable organization and the  
19 professional solicitor, as requested.

20 C. No person shall act as a professional solicitor if the  
21 person has been convicted by a court of any state or the United  
22 States of a felony or of a misdemeanor involving moral turpitude or  
23 arising from conduct by the person in connection with fundraising  
24 activities, the solicitation of any funds, or the use or expenditure

1 of any funds raised, collected, or received in any fundraising  
2 activity.

3 D. Any registration form required to be filed under this  
4 section shall be executed by signature, without more, of the person  
5 signing the form, in which case the signature shall constitute the  
6 affirmation of the signatory, under penalties of perjury, that the  
7 signature is that person's act and deed, and that the facts stated  
8 therein are true.

9 SECTION 9. AMENDATORY 18 O.S. 2001, Section 552.13, is  
10 amended to read as follows:

11 Section 552.13 ~~The Secretary of State~~ Attorney General may  
12 enter into reciprocal agreements with a like authority of any other  
13 state or states for the purpose of exchanging information made  
14 available to the ~~Secretary of State~~ Attorney General. Pursuant to  
15 such agreements the ~~Secretary of State~~ Attorney General may accept  
16 information filed by a charitable organization with another state in  
17 lieu of the information required to be filed by a charitable  
18 organization in accordance with the provisions of Section 552.3 of  
19 this title, if such information is substantially similar to the  
20 information required to be filed under Section 552.3 of this title.

21 SECTION 10. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 552.14a of Title 18, unless  
23 there is created a duplication in numbering, reads as follows:

24

1       A. Applicable to charitable organizations, professional  
2 fundraisers and professional solicitors, the following shall  
3 constitute violations of this act:

4       1. Knowingly making any false material statement or  
5 representation on a registration application;

6       2. Using the name of a person when soliciting contributions or  
7 in an advertisement, brochure, stationery or correspondence, without  
8 the consent or approval of such person or entity, other than an  
9 officer, director or trustee of the charitable organization by or  
10 for which contributions are solicited. This paragraph shall not  
11 apply to the use of the name of a person or entity that has  
12 contributed to or sponsored an event or program of the charitable  
13 organization in a report, brochure, program or listing of donors,  
14 contributors, sponsors, or supporters issued or published by a  
15 charitable organization. This paragraph shall not apply to the use  
16 of a public figure's name or likeness truthfully and in good faith,  
17 so long as such use does not imply a false endorsement;

18       3. Knowingly using, in connection with solicitation of  
19 contributions for the purpose of deceiving the public, a name  
20 similar to other charitable organizations, professional fundraiser,  
21 professional solicitor or government agency or political  
22 subdivision;

23

24

1 4. Failing to register as required pursuant to Section 552.3,  
2 552.7 or 552.9, as applicable, of Title 18 of the Oklahoma Statutes  
3 unless otherwise exempted by this act;

4 5. Employing in any solicitation or collection of contributions  
5 for a charitable organization any device, scheme or artifice to  
6 defraud or for obtaining money or property by means of any false  
7 pretense, representation or promise; and

8 6. Failing or refusing to supply requested information as  
9 required by Section 552.9 of Title 18 of the Oklahoma Statutes.

10 B. The Attorney General or a district attorney may bring an  
11 action:

12 1. To obtain a declaratory judgment that an act or practice  
13 violates this act;

14 2. To enjoin, or to obtain a restraining order against a person  
15 who has violated or is violating this act;

16 3. To recover actual damages, restitution, disgorgement and  
17 penalties attributed to a violation of this act;

18 4. To recover reasonable expenses and investigation fees  
19 attributable to a violation of this act;

20 5. To prosecute any civil or criminal actions as provided by  
21 this act, as applicable; and

22 6. To revoke the registration of a charitable organization,  
23 professional fundraiser, or professional solicitor for any violation  
24 of this act.



1 C. In lieu of instigating or continuing an action or  
2 proceeding, the Attorney General or a district attorney may accept a  
3 consent judgment with respect to any act or practice declared to be  
4 a violation of this act. Such a consent judgment shall provide for  
5 the discontinuance by the person entering the same of any act or  
6 practice declared to be a violation of this act, and it may include  
7 a stipulation for the payment by such person of reasonable expenses,  
8 attorney fees, investigation costs and penalties incurred by the  
9 Attorney General or a district attorney. The consent judgment also  
10 may include a stipulation for restitution to be made by such person  
11 to contributors of money, property or other things received from  
12 contributors in connection with a violation of this act and also may  
13 include a stipulation for specific performance. Any consent  
14 judgment entered into pursuant to this section shall not be deemed  
15 to admit the violation, unless it does so by its terms. Before any  
16 consent judgment entered into pursuant to this section shall be  
17 effective, it must be approved by the district court and an entry  
18 made in the manner required for making an entry of judgment. After  
19 such approval is received, any breach of the conditions of such  
20 consent judgment shall be treated as a violation of a court order,  
21 and shall be subject to all the penalties provided by law therefor.

22 D. In any action brought by the Attorney General or a district  
23 attorney, the court may:

24

1        1. Make such orders or judgments as may be necessary to prevent  
2 the use or employment by a person of any practice declared to be a  
3 violation of this act;

4        2. Make such orders or judgments as may be necessary to  
5 compensate any person for damages sustained;

6        3. Enjoin any person from engaging in solicitation of  
7 charitable contributions in this state;

8        4. Revoke the registration of a charitable organization,  
9 professional fundraiser or professional solicitor;

10       5. Enter any order that is appropriate in a criminal  
11 prosecution of crimes identified in this act or any other state law;  
12 and

13       6. Grant other appropriate relief.

14       E. When an action is filed under this act by the Attorney  
15 General or a district attorney, no action seeking an injunction or  
16 declaratory judgment shall be filed in any other district in this  
17 state based upon the same transaction or occurrence, series of  
18 transactions or occurrences, or allegations that form the basis of  
19 the first action filed.

20       F. When the Attorney General or a district attorney has reason  
21 to believe that a person has engaged in, is engaging in or is about  
22 to engage in any practice declared to be in violation of this act  
23 and he or she believes it to be in the public interest that an  
24 investigation should be made to ascertain whether a person has in

1 fact engaged in, is engaging in or is about to engage in any such  
2 practice, he or she may execute in writing and cause to be served  
3 upon any such person who is believed to have information,  
4 documentary material or physical evidence relevant to the alleged  
5 violation an investigative demand requiring such person to furnish,  
6 under oath or otherwise, a report in writing setting forth the  
7 nonprivileged relevant facts and circumstances of which the person  
8 has knowledge, or to appear and testify, or to produce relevant  
9 nonprivileged documentary material or physical evidence for  
10 examination at such reasonable time and place as may be stated in  
11 the investigative demand, concerning the solicitation of charitable  
12 contributions.

13 G. To accomplish the objectives and to carry out the duties  
14 prescribed by this act, the Attorney General or district attorney,  
15 in addition to other powers conferred on him or her by this act or  
16 the laws of this state, may issue subpoenas or other process to any  
17 person and conduct hearings in aid of any investigation or inquiry,  
18 administer oaths and take sworn statements under penalty of perjury,  
19 and serve and execute in any county, search warrants; provided, that  
20 none of the powers conferred by this act shall be used for the  
21 purpose of compelling any natural person to furnish testimony or  
22 evidence that might tend to incriminate him or her or subject him  
23 or her to a penalty; and provided further, that information obtained  
24 pursuant to the powers conferred by this act shall not be made

1 public or disclosed by the Attorney General, district attorney or  
2 their employees unless otherwise provided under this act.

3 H. In addition to any other penalties provided under this act,  
4 a charitable organization, professional fundraiser, or professional  
5 solicitor that is found to be in violation of the Oklahoma  
6 Solicitation of Charitable Contributions Act in a civil action or  
7 who willfully violates the terms of any injunction or court order  
8 issued pursuant to the Oklahoma Solicitation of Charitable  
9 Contributions Act shall pay a civil penalty of not more than Ten  
10 Thousand Dollars (\$10,000.00) per violation, taking into account the  
11 nature and severity of the violation and the benefit provided to the  
12 public by the violator, along with the need for protecting  
13 contributors and donors, in addition to other penalties that may be  
14 imposed by the court, as the court shall deem necessary and proper.  
15 For the purposes of this section, the district court issuing an  
16 injunction shall retain jurisdiction, and in such cases, the  
17 Attorney General, acting in the name of the state, or a district  
18 attorney may petition for recovery of civil penalties.

19 I. In administering and pursuing actions under this act, the  
20 Attorney General and a district attorney are authorized to sue for  
21 and collect reasonable expenses, attorney fees, and investigation  
22 fees as determined by the court. Civil penalties or contempt  
23 penalties sued for and recovered by the Attorney General or a  
24

1 district attorney shall be used for the furtherance of their duties  
2 and activities under this act.

3 J. In addition to other penalties imposed by this act, any  
4 person convicted in a criminal proceeding of committing an act  
5 prohibited in paragraph 1, 3 or 5 of subsection A of this section,  
6 shall be guilty of a felony and upon conviction thereof shall be  
7 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00) or  
8 imprisonment in the custody of the Department of Corrections for not  
9 more than five (5) years, or by both such fine and imprisonment.

10 SECTION 11. AMENDATORY 18 O.S. 2001, Section 552.16, is  
11 amended to read as follows:

12 Section 552.16 ~~This act~~ The Oklahoma Solicitation of Charitable  
13 Contributions Act shall not be construed to limit or to restrict the  
14 exercise of the powers or the performance of the duties of the  
15 Attorney General or of any ~~county~~ district attorney of this state  
16 which they otherwise are authorized to exercise or perform under any  
17 other provision of law.

18 SECTION 12. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 552.19 of Title 18, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. The Attorney General shall make available on the Attorney  
22 General's website or other appropriate website all pertinent  
23 information, as determined by the Attorney General, related to the  
24 entities that are required to register under this act. The Attorney

1 General shall also create a numbering system for the registrations  
2 required under this act.

3 B. The Attorney General may require electronic registration of  
4 all entities required to register under this act and provide  
5 exceptions, as applicable.

6 SECTION 13. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 552.20 of Title 18, unless there  
8 is created a duplication in numbering, reads as follows:

9 There is hereby created in the State Treasury a revolving fund  
10 for the Office of the Attorney General to be designated the  
11 "Charitable Solicitation Enforcement Revolving Fund". The fund  
12 shall be a continuing fund, not subject to fiscal year limitations,  
13 and shall consist of all monies received by the Office of the  
14 Attorney General from sources provided under this act and any  
15 appropriations made by the Legislature. All monies accruing to the  
16 credit of the fund are hereby appropriated and may be budgeted and  
17 expended by the Attorney General for the purpose of enforcing the  
18 provisions of the Oklahoma Solicitation of Charitable Contributions  
19 Act. Expenditures from the fund shall be made upon warrants issued  
20 by the State Treasurer against claims filed as prescribed by law  
21 with the Director of State Finance for approval and payment.

22 SECTION 14. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 552.21 of Title 18, unless there  
24 is created a duplication in numbering, reads as follows:

1 All registrations, unless otherwise terminated pursuant to this  
2 act, made prior to the effective date of this act shall remain  
3 effective until they expire and any registrations occurring after  
4 the effective date of this act shall be made with the Office of the  
5 Attorney General pursuant to this act.

6 SECTION 15. REPEALER 18 O.S. 2001, Sections 552.3a,  
7 552.5, 552.10, 552.11, 552.12, 552.14, 552.15, 552.17 and 552.18,  
8 are hereby repealed.

9 SECTION 16. This act shall become effective January 1, 2011."  
10 Passed the House of Representatives the 21st day of April, 2010.

11  
12  
13 \_\_\_\_\_  
14 Presiding Officer of the House of  
Representatives

15 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

16  
17  
18 \_\_\_\_\_  
19 Presiding Officer of the Senate