SUBCOMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1070 _____
Of the printed Bill

Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Wes Hilliard _____

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

PROPOSED SUBCOMMITTEE
SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1070 By: Paddack of the Senate

and

Hilliard of the House

PROPOSED SUBCOMMITTEE SUBSTITUTE

(Oklahoma Solicitation of Charitable Contributions Act - registration form - criminal penalties – repealer - codification - effective date)

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

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

The Oklahoma Solicitation of Charitable Contributions Act is enacted for the purpose of promoting integrity and accountability in the charitable solicitation process; protecting donors and prospective donors who may be solicited for charitable

contributions; educating the public, charitable organizations, professional fund-raisers, and others in matters relating to ethical and appropriate behavior in fund-raising and charitable solicitation activities; preventing fraud and abuse in the fund-raising process of charitable organizations and in the solicitation of charitable contributions; and providing transparency to the public in fund-raising and charitable solicitation activities of charitable organizations.

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

Section 552.2 As used in this act:

1. "Person" means any individual, organization, group, association, partnership ~~or~~, corporation, limited liability company, trust, or other entity, except as otherwise provided in this act;

2. "Charitable organization" means any ~~philanthropic, patriotic, eleemosynary, educational, social, civic, recreational, religious or any other~~ person ~~performing or purporting to perform acts beneficial to the public~~, other than an individual, soliciting contributions in this state, that is covered under Section 501(c) of Title 26 of the United States Code who solicits contributions as described in this act and that is organized and operated primarily for religious, charitable, scientific, literary, educational, artistic, cultural, economic development, civic improvement, testing for public safety, research, humanitarian, animal welfare,

recreational, or environmental protection purposes; to foster national or international amateur sports competition, but only if no part of its activities involves the provision of athletic facilities or equipment; to prevent cruelty to children, the elderly, identified populations, or animals; to relieve poverty, hunger, or homelessness; to support law enforcement or citizen protection organizations or agencies; or to provide emergency relief;

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

4. "Professional fund-raiser" means any person who for compensation or other consideration plans, conducts or manages in this state the solicitation of contributions for or on behalf of any charitable organization ~~or any other person~~, or who engages in the business of or holds himself or herself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose. For purposes of this act, professional fund-raiser does not include an employee of a charitable organization who engages in such activities for the charitable organization for whom

he or she is employed; nor does it include any volunteer who receives no payment, compensation, or remuneration of any kind for soliciting any contributions, provided a volunteer may receive credit for fulfilling any community service requirement of an educational institution or government agency. In addition, for this purpose consideration does not include incidental benefits that might be received by a noncompensated person, such as meals, supplies, or similar support, and does not include reimbursement for expenses incurred by any noncompensated person in his or her solicitation activities;

5. "Professional solicitor" means any person who is employed or retained for compensation or other consideration ~~of any kind whatsoever~~ by a professional fund-raiser to solicit contributions in this state for or on behalf of any charitable organization ~~or any other person~~. Professional solicitor does not include a volunteer who engages in such activities if the volunteer receives no payment, compensation or remuneration of any kind for soliciting any contributions, provided a volunteer may receive credit for fulfilling any community service requirement of an educational institution or government agency. In addition, for this purpose consideration does not include incidental benefits that might be received by a noncompensated person, such as meals, supplies, or similar support, and does not include reimbursement for expenses

incurred by any noncompensated person in his or her solicitation activities; ~~and~~

6. "Professional fund-raising counsel" means ~~an entity~~ any person that~~, alone or through its employees and agents,~~ provides, for compensation or other consideration, services ~~for compensation~~, including planning, organizing or managing any solicitation, to a charitable organization that is directly involved in fund-raising or the solicitation of contributions, ~~including, but not limited to, planning, managing, or preparing materials to be used in conjunction with any solicitation; provided, that the entity~~ as long as such person does not:

a. directly or indirectly solicit contributions alone or through its employees and agents, or

b. accept, receive, hold, have access to, maintain, manage, invest, or control any contribution generated by the solicitation activity.

However, professional fund-raising counsel does not include the employees or volunteers of a charitable organization; and

7. "Solicitation" means the request or appeal for any contribution on the plea or representation that such contribution will be used for a charitable purpose.

SECTION 3. AMENDATORY 18 O.S. 2001, Section 552.3, as amended by Section 1, Chapter 366, O.S.L. 2005 (18 O.S. Supp. 2008, Section 552.3), is amended to read as follows:

Section 552.3 A. No charitable organization located in this state, 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 the charitable organization shall have registered with the Office of the ~~Secretary of State~~ Attorney General and filed information, as required by ~~this act~~ the Oklahoma Solicitation of Charitable Contributions Act, on forms approved by that office. At the time of registration, each charitable organization, except as otherwise provided in this section, shall pay a fee of ~~Fifteen Dollars ($15.00)~~ One Hundred Dollars ($100.00), which shall be deposited to the ~~General Revenue Fund of the State Treasury~~ Charitable Solicitation Enforcement Revolving Fund. However, a charitable organization which anticipates gross contributions will not exceed Ten Thousand Dollars ($10,000.00) during its first year of registration shall pay a fee of Fifteen Dollars ($15.00) which shall be deposited to the Charitable Solicitation Enforcement Revolving Fund. A charitable organization whose gross receipts during the previous registration period did not exceed Ten Thousand Dollars ($10,000.00) shall pay a fee of Fifteen Dollars ($15.00) which shall be deposited to the Charitable Solicitation Enforcement Revolving Fund. Registration shall be valid for a period of one (1) year from the date of filing with the ~~Secretary of State, and shall be subject to annual renewal~~ Attorney General. ~~This registration~~ Registration shall not be

deemed to constitute an endorsement by the state or by the ~~Secretary of State~~ Attorney General of ~~the~~ charitable organizations ~~so registered~~ or the proposed uses of the funds solicited. The information so filed shall be available to the general public ~~as a matter of public record~~. The forms containing the information shall be signed and acknowledged by a party duly authorized to sign on behalf of the charitable organization and shall include the following:

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

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

3. The name and street address of:

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

b. each director,

c. each trustee,

d. each person ~~who~~ with the professional fund-raiser, professional solicitor or charitable organization that will have custody of the contributions, and

e. each person with the professional fund-raiser, professional solicitor or charitable organization that is directly responsible for the payment and distribution of funds collected;

4. For charitable organizations which register for the first time, a statement of whether or not the charitable organization believes gross contributions for the first year of registration will exceed Ten Thousand Dollars ($10,000.00);

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

~~5.~~ 6. A copy of ~~Internal Revenue~~ Form 990 or other form as required by the Internal Revenue Service as filed by the charitable organization with the Internal Revenue Service for the most recently completed fiscal year; or, for the initial registration of a newly formed organization, a copy of a letter from the Internal Revenue Service, or other evidence, showing ~~the tax exempt status of the charitable~~ that such organization is exempt from federal income taxation;

~~6.~~ 7. The period of time or periods during which ~~the solicitation is~~ solicitations are to be conducted, which may be specific periods, estimated or projected time frames, or continuous,

and which may involve different periods for different types of solicitations by the same charitable organization;

~~7.~~ 8. A description of the specific method or methods of solicitation;

~~8.~~ 9. Whether the solicitation is to be conducted by voluntary unpaid solicitors, by paid solicitors, or both; and

~~9.~~ 10. If the solicitation is to be conducted in whole or in part by ~~paid solicitors~~ professional fund-raisers, the ~~name~~ names and ~~address~~ addresses of each professional fund-raiser ~~supplying the solicitors, which includes any professional fund raising counsel who is acting or has agreed to act on behalf of the organization~~ involved in the solicitation; the basis of payment or other consideration payable to each professional fund-raiser and fund-raising counsel and the nature of the ~~arrangement, including a copy of the contract or other agreement between the charitable organization and the professional fund raiser or fund raising counsel relating to financial compensation or profit to be derived by the fund raisers or fund raising counsel~~ arrangements between the charitable organization and each professional fund-raiser and fund-raising counsel, the specific amount, formula or percentage of compensation, ~~or~~ property of any kind or value to be paid or ~~paid~~ provided to ~~the~~ each professional fund-raiser and fund-raising counsel; and if payment is based on a percentage, the percentage value of compensation as compared~~:~~

~~a.~~ ~~to~~ with the total contributions received, and

~~b.~~ ~~to~~ the net amount of the total contributions received (total contributions received, less expenses of solicitation other than amounts payable to any professional fund-raiser or fund-raising counsel)~~; and~~

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

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

SECTION 4. AMENDATORY 18 O.S. 2001, Section 552.3a, is amended to read as follows:

Section 552.3a Every registration ~~instrument~~ form required to be filed with the ~~Secretary of State~~ Attorney General pursuant to the Oklahoma Solicitation of Charitable Contributions Act shall be executed and acknowledged ~~as follows:~~

~~1. By formal acknowledgment of the person or persons signing the instrument that it is that person's act and deed or the act and deed of the organization, and that the facts stated therein are true. The acknowledgment shall be made before a person who is~~

~~authorized by the law of the place of execution to take acknowledgments of deeds and if that person has a seal of office, that person shall affix it to the instrument; or~~

~~2. By~~ by signature, without more, of the person or persons signing the ~~instrument~~ form, in which case the signature or signatures shall constitute the affirmation or acknowledgment of the signatory, under penalties of perjury, that the ~~instrument~~ signature is that person's act and deed or the act and deed of the organization, and that the facts stated therein are true.

SECTION 5. AMENDATORY 18 O.S. 2001, Section 552.4, is amended to read as follows:

Section 552.4 Except as otherwise specifically provided in this act, the provisions of Sections 552.3 and 552.5 of this title shall not apply to the following persons:

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

(2) Educational institutions ~~which~~ that have a faculty, regularly enrolled students and offer courses of study leading to the granting of recognized degrees when solicitations of contributions are confined to its student body and their families, alumni, faculty and trustees;

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

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

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

SECTION 6. AMENDATORY 18 O.S. 2001, Section 552.5, is amended to read as follows:

Section 552.5 A. Every charitable organization subject to the provisions of ~~Section 552.1 et seq. of this title~~ the Oklahoma Solicitation of Charitable Contributions Act which has ~~received~~ solicited contributions during the previous calendar year shall file a statement with the ~~Secretary of State, executed and~~ Attorney General, signed by a party duly authorized to act on behalf of the

charitable organization, which contains the ~~most recent~~ following information~~, as follows~~ with respect to the contributions:

1. The name~~, street address, and telephone number~~ of the charitable organization, any trade names that the charitable organization uses, any other name such organization may be identified or known as, and any distinctive names such organization uses for purposes of solicitation of contributions; the street address and mailing address, if different, of the charitable organization, except if the Attorney General determines that to do so would cause a safety concern; and any telephone numbers;

2. The gross amount of the contributions committed, pledged, received or collected;

3. The gross amount ~~given or to be given to the~~ received, collected, pledged for each charitable purpose represented, or identified in connection with the solicitation;

4. The aggregate amount paid ~~and to be paid for the expenses of solicitation~~, payable, or basis for future payments to professional fund-raisers and fund-raising counsels; and

5. The ~~aggregate amount paid to and to be paid to professional fund raisers and solicitors~~ period of time or periods during which solicitations are to be conducted, which may be specific periods, estimated or projected time frames, or continuous, and which may involve different periods for different types of solicitations by the same charitable organization.

B. The financial ~~statement prescribed~~ information specified in subsection A of this section shall be submitted with the initial registration, and with each annual renewal, thereafter.

C. ~~Every~~ If a charitable organization that is registered with the ~~Secretary of State~~ Attorney General to solicit contributions in ~~the State of Oklahoma which shall change~~ this state changes its name or the mailing address of its principal office, or plans to engage in the solicitation of contributions using a name that is not listed on its registration form, then at least thirty (30) days prior to ~~its annual renewal date~~ soliciting any funds in this state using any such name the charitable organization shall file with the ~~Secretary of State~~ Attorney General a statement executed by an authorized officer of the organization setting forth ~~its~~ any new name and~~/or~~ mailing address ~~and pay a filing fee of Fifteen Dollars ($15.00)~~.

SECTION 7. AMENDATORY 18 O.S. 2001, Section 552.6, is amended to read as follows:

Section 552.6 Every charitable organization shall keep and maintain a full and true record for five (5) calendar years in such form as will enable such charitable organization to accurately provide the information required herein. All records required hereunder shall be open to inspection ~~at all times~~ during regular business hours, except as otherwise provided by court order, by the Office of the ~~Secretary of State and its employees~~ Attorney General, and upon demand shall be presented to that office for inspection.

SECTION 8. AMENDATORY 18 O.S. 2001, 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 the person has first registered with the Office of the ~~Secretary of State~~ Attorney General. Applications for ~~registrations~~ registration, signed and acknowledged by a party duly authorized to act on behalf of the professional fund-raiser, shall state the full~~,~~ legal name of the professional fund-raiser, the street address of the principal place of business of the professional fund-raiser, the full~~,~~ legal names and street addresses of the charitable organizations with which it has entered into contracts or agreements, relating to the solicitation of contributions, the names of all professional solicitors employed by the professional fund-raiser who will be involved in the solicitation of contributions for the charitable organization and such other information as the Attorney General deems necessary or appropriate in the public interest or for the protection of contributors, donors, beneficiaries of the charitable organization or others. The registration form shall also be accompanied by an annual fee in the ~~sum~~ amount of ~~Fifty Dollars ($50.00)~~ Three Hundred Fifty Dollars ($350.00), to be deposited ~~to~~ in the ~~General Revenue Fund of the State Treasury~~ Charitable Solicitation Enforcement Revolving Fund.

~~The applicant shall, at the time of making application, file with the Secretary of State 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 sureties shall at least equal that sum. The bond shall run to the Secretary of State 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 the bond for any malfeasance or misfeasance of the obligor or any professional solicitor employed by him or her in the conduct of the solicitation.~~ Registration shall be valid for a period of one (1) year from the date of filing with the ~~Secretary of State~~ Attorney General, and may be renewed annually upon the filing of a renewal application ~~accompanied by the bond~~ and fee prescribed herein.

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

C. Every professional fund-raiser registered with the ~~Secretary of State~~ Attorney General which shall change its name or the mailing address of its principal office, or plans to engage in professional fund-raising activities using a name that is not listed on its registration form, shall at least thirty (30) days prior to ~~its~~

~~annual renewal date shall~~ engaging in such activities file with the ~~Secretary of State~~ Attorney General a statement executed by an authorized officer of the organization setting forth its new name or mailing address ~~and pay a filing fee of Twenty five Dollars ($25.00~~.

D. The professional fund-raiser shall not employ or retain a professional solicitor who is not registered pursuant to this act. The Attorney General may revoke the registration of any professional fund-raiser who violates the provisions of this subsection.

E. No professional fund-raiser shall solicit any contribution for a charitable organization without the consent of such organization.

F. The Attorney General shall make available on its website a list of all professional fund-raisers registered pursuant to this act.

G. No person shall act as a professional fund-raiser if the officers, directors, or any person with a controlling interest in the business, or any person the professional fund-raiser employs or retains to solicit charitable contributions or to advise, consult, plan, or manage the solicitation of any contributions, has been convicted by a court of any state or the United States of a felony or a misdemeanor involving moral turpitude or arising from his or her conduct in connection with fund-raising activities, the solicitation of any funds, or the use or expenditure of any funds raised, collected, or received in any fund-raising activity.

SECTION 9. AMENDATORY 18 O.S. 2001, Section 552.8, is amended to read as follows:

Section 552.8 A. All contracts ~~or other~~ and agreements entered into by ~~professional fund raisers and~~ a charitable ~~organizations~~ organization with a professional fund-raiser or professional fund-raising counsel shall be in writing ~~and true and correct copies thereof shall be kept~~. The charitable organization and the professional fund-raiser or professional fund-raising counsel shall each keep and maintain such contracts and agreements on file in ~~the~~ their principal offices ~~of the charitable organization and the professional fund raiser~~ for a period of ~~three (3)~~ five (5) years from the date ~~of solicitation of contributions provided for therein actually commences~~ that the contract was executed. These contracts and agreements shall be available for inspection ~~and examination~~ by the Office of the ~~Secretary of State and other authorized agencies. At least one copy of every contract or other agreement shall be on file at all times in that office and shall be available to the general public as a matter of public record~~ Attorney General.

B. The contract shall clearly state:

1. The respective obligations of each party;

2. The compensation arrangement. If the compensation payable to the professional fund-raiser is based on a percentage or formula, the contract shall state the percentage of the gross revenue derived

in connection with the solicitation that the charitable organization will receive or other formula for payment;

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

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

5. The period of time or periods during which solicitations are to be conducted, which may be specific periods, estimated or projected time frames, or continuous, and which may involve different periods for different types of solicitations by the same charitable organization;

6. A fund-raising budget, if available; and

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

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

SECTION 10. AMENDATORY 18 O.S. 2001, 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 pursuant to this act, shall, before ~~accepting employment~~ engaging in any solicitation of contributions by the professional fund-raiser, register with the Office of the ~~Secretary of State~~ Attorney General. An application for registration, signed by the solicitor and

acknowledged, shall state the full~~,~~ legal name and street address of the professional fund-raiser that employs the solicitor and shall be accompanied by a fee in the ~~sum~~ amount of Ten Dollars ($10.00) to be deposited ~~to~~ in the ~~General Revenue Fund of the State Treasury~~ Charitable Solicitation Enforcement Revolving Fund. Registration shall be for a period of one (1) year from the date of filing ~~by~~ with the ~~Secretary of State~~ Attorney General, and may be renewed annually upon the filing of a renewal application accompanied by a payment of the fee prescribed herein.

B. When orally requesting a contribution or when requesting a contribution in writing, the professional solicitor shall clearly disclose the following if requested by the person being solicited:

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

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

3. The percentage of the contributions solicited that the professional fund-raiser is to receive and the registration number of the professional fund-raiser, the charitable organization and the professional solicitor, as requested.

C. No person shall act as a professional solicitor if the person has been convicted by a court of any state or the United States of a felony or a misdemeanor involving moral turpitude or arising from conduct by the person in connection with fund-raising activities, the solicitation of any funds, or the use or expenditure of any funds raised, collected, or received in any fund-raising activity.

SECTION 11. AMENDATORY 18 O.S. 2001, Section 552.13, is amended to read as follows:

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.14a of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Applicable to charitable organizations, professional fund-raisers and professional solicitors, the following shall be deemed violations of this act:

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

2. Using the name of a person or other entity when soliciting contributions or in an advertisement, brochure, stationery or correspondence, without the consent or approval of such person or entity, other than an officer, director or trustee of the charitable organization by or for which contributions are solicited. This paragraph shall not apply to the use of the name of a person or entity that has contributed to or sponsored an event or program of the charitable organization in a report, brochure, program or listing of donors, contributors, sponsors, or supporters issued or published by a charitable organization;

3. Knowingly using, in connection with solicitation of contributions for the purpose of deceiving the public, a name similar to other charitable organizations, professional fund-raiser, professional solicitor or government agency or political subdivision;

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

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

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

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

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

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

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

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

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

The Attorney General may also administratively revoke the registration of a charitable organization, professional fund-raiser, or professional solicitor for any violation of this act.

C. In lieu of instigating or continuing an action or proceeding, the Attorney General or a district attorney may accept a consent judgment with respect to any act or practice declared to be

a violation of this act. Such a consent judgment shall provide for the discontinuance by the person entering the same of any act or practice declared to be a violation of this act, and it may include a stipulation for the payment by such person of reasonable expenses, attorney fees, investigation costs and penalties incurred by the Attorney General or a district attorney. The consent judgment also may include a stipulation for restitution to be made by such person to contributors of money, property or other things received from contributors in connection with a violation of this act and also may include a stipulation for specific performance. Any consent judgment entered into pursuant to this section shall not be deemed to admit the violation, unless it does so by its terms. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made in the manner required for making an entry of judgment. After such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

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

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

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

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

4. Revoke the registration of a charitable organization, professional fund-raiser or professional solicitor;

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

6. Grant other appropriate relief.

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

F. When the Attorney General or a district attorney has reason to believe a person has engaged in, is engaging in or is about to engage in any practice declared to be in violation of this act and he or she believes it to be in the public interest that an investigation should be made to ascertain whether a person has in fact engaged in, is engaging in or is about to engage in any such practice, he or she may execute in writing and cause to be served upon any such person who is believed to have information,

documentary material or physical evidence relevant to the alleged violation an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the nonprivileged relevant facts and circumstances of which the person has knowledge, or to appear and testify, or to produce relevant nonprivileged documentary material or physical evidence for examination at such reasonable time and place as may be stated in the investigative demand, concerning the solicitation of charitable contributions.

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

H. In addition to any other penalties provided under this act, a charitable organization, professional fund-raiser, or professional solicitor who is found to be in violation of the Oklahoma Solicitation of Charitable Contributions Act in a civil action or who willfully violates the terms of any injunction or court order issued pursuant to the Oklahoma Solicitation of Charitable Contributions Act shall forfeit and pay a civil penalty of not more than Ten Thousand Dollars ($10,000.00) per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this section, the district court issuing an injunction shall retain jurisdiction, and in such cases, the Attorney General, acting in the name of the state, or a district attorney may petition for recovery of civil penalties.

I. In administering and pursuing actions under this act, the Attorney General and a district attorney are authorized to sue for and collect reasonable expenses, attorney fees, and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the Attorney General or a district attorney shall be used for the furtherance of their duties and activities under this act.

J. In addition to other penalties imposed by this act, any person convicted in a criminal proceeding of committing an act prohibited in paragraph 1, 3 or 6 of subsection A of this section,

shall be guilty of a felony and upon conviction thereof shall be subject to a fine not to exceed Ten Thousand Dollars ($10,000.00) or imprisonment in the custody of the Department of Corrections for not more than five (5) years, or by both such fine and imprisonment.

SECTION 13. AMENDATORY 18 O.S. 2001, Section 552.16, is amended to read as follows:

Section 552.16 This act shall not be construed to limit or to restrict the exercise of the powers or the performance of the duties of the Attorney General or of any ~~county~~ district attorney of this state which they otherwise are authorized to exercise or perform under any other provision of law.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.19 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General shall make available on the Attorney General's website or other appropriate website all pertinent information, as determined by the Attorney General, related to the entities that are required to register under this act. The Attorney General shall also create a numbering system for the registrations required under this act.

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

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.20 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.21 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

SECTION 17. REPEALER 18 O.S. 2001, Sections 552.10, 552.11, 552.12, 552.14, 552.15, 552.17 and 552.18, are hereby repealed.

SECTION 18. This act shall become effective January 1, 2010.

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