

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PSUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 1070

By: Paddock of the Senate

and

Hilliard of the House

7
8
9 SUBCOMMITTEE RECOMMENDATION

10 (Oklahoma Solicitation of Charitable Contributions

11 Act - registration form - criminal penalties -

12 repealer - codification -

13 effective date)

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

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

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

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

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

11 Section 552.2 As used in this act:

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

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

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

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

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

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

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

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

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

- 12 a. directly or indirectly solicit contributions alone or
13 through its employees and agents, or
14 b. accept, receive, hold, have access to, maintain,
15 manage, invest, or control any contribution generated
16 by the solicitation activity.

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

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

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

1 Section 552.3 A. No charitable organization located in this
2 state, except those specifically exempt under Section 552.4 of this
3 title, shall solicit ~~or accept~~ contributions from any person in this
4 state ~~by any means whatsoever~~ until the charitable organization
5 shall have registered with the Office of the ~~Secretary of State~~
6 Attorney General and filed information, as required by ~~this act~~ the
7 Oklahoma Solicitation of Charitable Contributions Act, on forms
8 approved by that office. At the time of registration, each
9 charitable organization, except as otherwise provided in this
10 section, shall pay a fee of ~~Fifteen Dollars (\$15.00)~~ One Hundred
11 Dollars (\$100.00), which shall be deposited to the ~~General Revenue~~
12 ~~Fund of the State Treasury~~ Charitable Solicitation Enforcement
13 Revolving Fund. However, a charitable organization which
14 anticipates gross contributions will not exceed Ten Thousand Dollars
15 (\$10,000.00) during its first year of registration shall pay a fee
16 of Fifteen Dollars (\$15.00) which shall be deposited to the
17 Charitable Solicitation Enforcement Revolving Fund. A charitable
18 organization whose gross receipts during the previous registration
19 period did not exceed Ten Thousand Dollars (\$10,000.00) shall pay a
20 fee of Fifteen Dollars (\$15.00) which shall be deposited to the
21 Charitable Solicitation Enforcement Revolving Fund. Registration
22 shall be valid for a period of one (1) year from the date of filing
23 with the ~~Secretary of State~~, and shall be ~~subject to annual renewal~~
24 Attorney General. ~~This registration~~ Registration shall not be

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

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

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

17 3. The name and street address of:

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

20 b. each director,

21 c. each trustee,

22 d. each person ~~who~~ with the professional fund-raiser,
23 professional solicitor or charitable organization that

24 will have custody of the contributions, and

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

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

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

13 ~~5.~~ 6. A copy of Internal Revenue Form 990 or other form as
14 required by the Internal Revenue Service as filed by the charitable
15 organization with the Internal Revenue Service for the most recently
16 completed fiscal year; or, for the initial registration of a newly
17 formed organization, a copy of a letter from the Internal Revenue
18 Service, or other evidence, showing ~~the tax exempt status of the~~
19 ~~charitable~~ that such organization is exempt from federal income
20 taxation;

21 ~~6.~~ 7. The period of time or periods during which ~~the~~
22 ~~solicitation is~~ solicitations are to be conducted, which may be
23 specific periods, estimated or projected time frames, or continuous,
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1 and which may involve different periods for different types of
2 solicitations by the same charitable organization;

3 ~~7.~~ 8. A description of the specific method or methods of
4 solicitation;

5 ~~8.~~ 9. Whether the solicitation is to be conducted by voluntary
6 unpaid solicitors, by paid solicitors, or both; and

7 ~~9.~~ 10. If the solicitation is to be conducted in whole or in
8 part by ~~paid solieitors~~ professional fund-raisers, the ~~name~~ names
9 and ~~address~~ addresses of each professional fund-raiser ~~supplying the~~
10 ~~solicitors, which includes any professional fund raising counsel who~~
11 ~~is acting or has agreed to act on behalf of the organization~~
12 involved in the solicitation; the basis of payment or other
13 consideration payable to each professional fund-raiser and fund-
14 raising counsel and the nature of the arrangement, ~~including a copy~~
15 ~~of the contract or other agreement between the charitable~~
16 ~~organization and the professional fund raiser or fund raising~~
17 ~~counsel relating to financial compensation or profit to be derived~~
18 ~~by the fund raisers or fund raising counsel~~ arrangements between the
19 charitable organization and each professional fund-raiser and fund-
20 raising counsel, the specific amount, formula or percentage of
21 compensation, ~~or~~ property of any kind or value to be paid or ~~paid~~
22 provided to the each professional fund-raiser and fund-raising
23 counsel; and if payment is based on a percentage, the percentage
24 value of compensation as compared-

- 1 a. ~~to~~ with the total contributions received, and
2 b. ~~to~~ the net amount of the total contributions received
3 (total contributions received, less expenses of
4 solicitation other than amounts payable to any
5 professional fund-raiser or fund-raising counsel), ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Section 552.7 A. No person shall act as a professional fund-
4 raiser for any charitable organization, ~~including those~~
5 ~~organizations listed under Section 552.4 of this title,~~ until the
6 person has first registered with the Office of the ~~Secretary of~~
7 State Attorney General. Applications for ~~registrations~~
8 registration, signed and acknowledged by a party duly authorized to
9 act on behalf of the professional fund-raiser, shall state the full,
10 legal name of the professional fund-raiser, the street address of
11 the principal place of business of the professional fund-raiser, the
12 full, legal names and street addresses of the charitable
13 organizations with which it has entered into contracts or
14 agreements, relating to the solicitation of contributions, the names
15 of all professional solicitors employed by the professional fund-
16 raiser who will be involved in the solicitation of contributions for
17 the charitable organization and such other information as the
18 Attorney General deems necessary or appropriate in the public
19 interest or for the protection of contributors, donors,
20 beneficiaries of the charitable organization or others. The
21 registration form shall also be accompanied by an annual fee in the
22 ~~sum amount~~ of Fifty Dollars (\$50.00) Three Hundred Fifty Dollars
23 (\$350.00), to be deposited to in the General Revenue Fund of the
24 State Treasury Charitable Solicitation Enforcement Revolving Fund.

1 ~~The applicant shall, at the time of making application, file with~~
2 ~~the Secretary of State a bond in which the applicant shall be the~~
3 ~~principal obligor, in the sum of Two Thousand Five Hundred Dollars~~
4 ~~(\$2,500.00), with one or more sureties whose liability in the~~
5 ~~aggregate as sureties shall at least equal that sum. The bond shall~~
6 ~~run to the Secretary of State for the use of the state and to any~~
7 ~~person, including a charitable organization, who may have a cause of~~
8 ~~action against the obligor of the bond for any malfeasance or~~
9 ~~misfeasance of the obligor or any professional solicitor employed by~~
10 ~~him or her in the conduct of the solicitation. Registration shall~~
11 ~~be valid for a period of one (1) year from the date of filing with~~
12 ~~the Secretary of State Attorney General, and may be renewed annually~~
13 ~~upon the filing of a renewal application accompanied by the bond and~~
14 ~~fee prescribed herein.~~

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

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

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

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

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

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

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

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

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

19 B. The contract shall clearly state:

20 1. The respective obligations of each party;

21 2. The compensation arrangement. If the compensation payable
22 to the professional fund-raiser is based on a percentage or formula,
23 the contract shall state the percentage of the gross revenue derived
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1 in connection with the solicitation that the charitable organization
2 will receive or other formula for payment;

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

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

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

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

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

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

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

19 Section 552.9 A. Every professional solicitor employed or
20 retained by a professional fund-raiser required to register pursuant
21 to this act, shall, before ~~accepting employment~~ engaging in any
22 solicitation of contributions by the professional fund-raiser,
23 register with the Office of the ~~Secretary of State~~ Attorney General.
24 An application for registration, signed by the solicitor and

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

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

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

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

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

24

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

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

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

20 SECTION 12. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 552.14a of Title 18, unless
22 there is created a duplication in numbering, reads as follows:
23
24

1 A. Applicable to charitable organizations, professional fund-
2 raisers and professional solicitors, the following shall be deemed
3 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 or other entity when soliciting
7 contributions or in an advertisement, brochure, stationery or
8 correspondence, without the consent or approval of such person or
9 entity, other than an officer, director or trustee of the charitable
10 organization by or for which contributions are solicited. This
11 paragraph shall not apply to the use of the name of a person or
12 entity that has contributed to or sponsored an event or program of
13 the charitable organization in a report, brochure, program or
14 listing of donors, contributors, sponsors, or supporters issued or
15 published by a charitable organization;

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

21 4. Failing to register as required pursuant to Sections 552.3,
22 552.7 or 552.9, as applicable, of Title 18 of the Oklahoma Statutes
23 unless otherwise exempted by this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

10 6. Grant other appropriate relief.

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

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

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

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

24

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

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

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

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

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

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

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

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

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

24

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

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

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

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

1 SECTION 17. REPEALER 18 O.S. 2001, Sections 552.10,
2 552.11, 552.12, 552.14, 552.15, 552.17 and 552.18, are hereby
3 repealed.

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

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