

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1070

By: Paddock of the Senate

and

Peters and Hilliard of the
House

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7
8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Solicitation of
11 Charitable Contributions Act; stating purpose;
12 amending 18 O.S. 2001, Sections 552.2, 552.3, as
13 amended by Section 1, Chapter 366, O.S.L. 2005,
14 552.4, 552.6, 552.7, 552.8, 552.9, and 552.16 (18
15 O.S. Supp. 2009, Section 552.3), which relate to
16 charitable contributions; stating purpose; amending
17 definitions; providing definition; clarifying who may
18 solicit charitable contributions; increasing certain
19 registration fees; specifying the amounts to be
20 deposited in certain funds; providing different fee
21 for certain charitable organizations; providing for
22 annual registration; clarifying language; amending
23 required information; requiring additional
24 information for certain charitable organizations;
requiring certain executions by signature; requiring
certain statement upon change of information;
requiring fee for filing change of information
statement; setting amount of certain fee; providing
exemption for certain entities; removing certain
entity from exemption; providing for maintaining and
inspection of certain information; requiring
professional fundraiser to provide certain
information; deleting certain bond requirement;
requiring certain statement upon change of
information; providing in what fund certain fee shall
be deposited; restricting certain acts of
professional fundraisers; prohibiting certain persons
from acting as a professional fundraiser; requiring

1 certain execution by signature; requiring certain
2 contracts to be in writing; requiring certain
3 entities to keep and maintain contracts for certain
4 period; providing for inspection; clarifying
5 language; providing required content of certain
6 contracts; requiring certain disclosures; prohibiting
7 certain persons from acting as a professional
8 solicitor; detailing what constitutes a violation of
9 the act; authorizing certain causes of action;
10 allowing for certain consent judgment; providing for
11 treatment upon breach; authorizing a court to take
12 certain actions; prohibiting certain causes of
13 action; authorizing certain investigations;
14 authorizing the issuance of certain subpoenas and
15 other process; providing for treatment of certain
16 obtained information; providing for civil penalties;
17 providing for retaining of jurisdiction; providing
18 collection of reasonable expenses and fees;
19 qualifying certain violations as felonies; stating
20 penalty; updating reference; requiring the Secretary
21 of State to make certain information available via
22 website; requiring the Secretary of State to provide
23 for electronic registration by certain date;
24 requiring certain notification to the Office of the
Attorney General; authorizing Office of the Attorney
General to review certain information; authorizing
Office of the Attorney General to notify certain
entities; providing for investigation and
prosecution; requiring notice to certain entities;
providing for investigation and prosecution for
failing to register; creating certain revolving
funds; authorizing certain expenditure of funds;
specifying status of certain registrations; repealing
Sections 552.3a, 552.5, 552.10, 552.11, 552.12,
552.14, 552.15, 552.17 and 552.18, which relate to
execution and acknowledgement, financial statements,
duplicate receipts, use of certain names,
prosecutions, service of process, nonexemption from
certain ordinances, and penalties; providing for
codification; and providing an effective date.

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 Section
23 552.1 et seq. 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 a natural person, that is described in Section
6 501(c) of Title 26 of the United States Code, that solicits
7 contributions as described in this act and that is organized and
8 operated primarily for religious, charitable, scientific, literary,
9 educational, artistic, cultural, economic development, civic
10 improvement, testing for public safety, research, humanitarian,
11 animal welfare, recreational, or environmental protection purposes;
12 to foster national or international amateur sports competition, but
13 only if no part of its activities involves the provision of athletic
14 facilities or equipment; to prevent cruelty to children, the
15 elderly, identified populations, or animals; to relieve poverty,
16 hunger, or homelessness; to support law enforcement or citizen
17 protection organizations or agencies; or to provide emergency
18 relief;

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

1 provided by a charitable organization, if the payment does not
2 exceed the bona fide fair market value of the goods or services
3 provided;

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

23 5. "Professional solicitor" means any person that is either
24 located within this state or that is soliciting contributions from

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

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

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 by or on behalf of 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 and filed information, as required by ~~this act~~
4 the Oklahoma Solicitation of Charitable Contributions Act, on forms
5 approved by that office. At the time of registration, each
6 charitable organization, except as otherwise provided in this
7 section, shall pay a fee of ~~Fifteen Dollars (\$15.00)~~, which Sixty-
8 five Dollars (\$65.00). The first Fifteen Dollars (\$15.00) of the
9 fee shall be deposited to the credit of the General Revenue Fund of
10 the State Treasury. ~~Registration shall be valid for a period of one~~
11 ~~(1) year from the date of filing with the Secretary of State, and~~
12 ~~shall be subject to annual renewal~~ Thirty-four Dollars (\$34.00) of
13 the fee shall be deposited to the credit of the Attorney General
14 Charitable Solicitations Enforcement Revolving Fund and the
15 remaining Sixteen Dollars (\$16.00) shall be deposited to the credit
16 of the Secretary of State Charitable Solicitations Revolving Fund.
17 Provided, a charitable organization whose contributions during the
18 previous registration period did not exceed Ten Thousand Dollars
19 (\$10,000.00) or if this is the charitable organization's first
20 registration period and the anticipated contributions for the
21 current registration period are not expected to exceed Ten Thousand
22 Dollars (\$10,000.00), shall pay a fee of Fifteen Dollars (\$15.00) of
23 which Ten Dollars (\$10.00) shall be deposited to the credit of the
24 Attorney General Charitable Solicitations Enforcement Revolving Fund

1 and the remaining Five Dollars (\$5.00) shall be deposited to the
2 credit of the Secretary of State Charitable Solicitations Revolving
3 Fund. Each charitable organization that is required to register
4 under this act, shall register annually with the Secretary of State
5 by the date that the charitable organization files its Form 990 or
6 by the date, plus extensions, that it is required to file its Form
7 990, whichever occurs first. ~~This registration~~ Registration shall
8 not be deemed to constitute an endorsement by the state or by the
9 Secretary of State of the any charitable organizations so registered
10 organization or the proposed uses of the funds solicited. The
11 information so filed shall be available to the general public as a
12 matter of public record. The charitable organization shall provide
13 the following information on the required forms ~~containing the~~
14 ~~information shall be signed and acknowledged by a party duly~~
15 ~~authorized to sign on behalf of the charitable organization and~~
16 ~~shall include the following:~~

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

22 2. The ~~street address and the~~ mailing address, ~~if different,~~ of
23 the charitable organization;

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

1 a. each officer, ~~including each principal salaried~~
2 ~~executive staff officer,~~

3 ~~b. each director,~~

4 ~~e. each trustee, and/or equivalent, and~~

5 ~~d.~~

6 b. each salaried executive employee of the charitable
7 organization;

8 4. The name and mailing address of:

9 a. each ~~person who~~ professional fundraiser or professional
10 solicitor that will have custody of the contributions,
11 and

12 ~~e.~~

13 b. each person associated with a professional fundraiser,
14 professional solicitor or charitable organization that
15 is directly responsible for the payment and
16 distribution of funds collected;

17 ~~4.~~ 5. The name and mailing address of each professional
18 fundraising counsel utilized by the charitable organization;

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

23 7. The purposes for which the contributions solicited ~~or~~
24 accepted are to be used; ~~provided, however, no contribution or any~~

1 ~~portion thereof shall inure to the private benefit of any voluntary~~
2 ~~solicitor;~~

3 ~~5.~~ 8. A copy of ~~Internal Revenue~~ Form 990 as filed by the
4 charitable organization for the most recently completed fiscal year;
5 or, for the initial registration of a newly formed charitable
6 organization, a copy of a letter from the Internal Revenue Service,
7 or other evidence, showing ~~the tax exempt status of the charitable~~
8 that such organization is exempt from federal income taxation; or,
9 for a charitable organization that has not applied for federal
10 income tax exemption with the Internal Revenue Service or is not
11 required to apply for federal income tax exemption, evidence showing
12 that said charitable organization is organized in any state or
13 jurisdiction as a not-for-profit entity;

14 ~~6.—The~~

15 9. An identification of the period of time or periods during
16 which ~~the solicitation is~~ solicitations are to be conducted, which
17 may be specific periods, estimated or projected time frames, or
18 continuous, and which may involve different periods for different
19 types of solicitations by the same charitable organization;

20 ~~7.—A description~~

21 10. An identification of the specific method or methods of
22 solicitation utilized by the charitable organization and its agents;

23 ~~8.~~ 11. Whether the solicitation is to be conducted by ~~voluntary~~
24 ~~unpaid solicitors, by paid solicitors, or both~~ the following for or

1 on behalf of the charitable organization: professional fundraisers,
2 employees or volunteers of the charitable organization, and/or
3 others; and

4 ~~9.~~ 12. If the solicitation is to be conducted in whole or in
5 part by ~~paid solicitors~~ professional fundraisers, the ~~name~~ names and
6 ~~address~~ addresses of each professional ~~fund-raiser~~ fundraiser
7 ~~supplying the solicitors, which includes any professional fund-~~
8 ~~raising counsel who is acting or has agreed to act on behalf of the~~
9 ~~organization;~~ involved in the solicitation; the basis of payment or
10 other consideration payable to each professional fundraiser and the
11 nature of the arrangement, ~~including a copy of the contract or other~~
12 ~~agreement between the charitable organization and the professional~~
13 ~~fund-raiser or fund-raising counsel relating to financial~~
14 ~~compensation or profit to be derived by the fund raisers or fund-~~
15 ~~raising counsel~~ arrangements between the charitable organization and
16 each professional fundraiser, the specific amount, formula or
17 percentage of compensation, or property of any kind or value to be
18 paid or ~~paid~~ provided to the each professional ~~fund-raiser~~
19 fundraiser; and if payment is based on a percentage, the percentage
20 ~~value of compensation as compared:~~ amount of compensation as a
21 percentage of

- 22 a. ~~to~~ the total contributions received, and
23 b. ~~to~~ the net amount of the total contributions received,
24 and

1 ~~10. Additional information as may be deemed necessary and~~
2 ~~appropriate by the Secretary of State in the public interest or for~~
3 ~~the specific protection of contributors~~ (total contributions
4 received, less expenses of solicitation other than amounts payable
5 to any professional fundraiser).

6 B. In addition to the required information in subsection A of
7 this section, every charitable organization subject to the
8 provisions of the Oklahoma Solicitation of Charitable Contributions
9 Act that has solicited contributions during the previous fiscal year
10 shall provide the following information:

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

13 2. The total Program Service Expenses of the charitable
14 organization;

15 3. The total Management and General Expenses of the charitable
16 organization;

17 4. The total Fundraising Expenses of the charitable
18 organization; and

19 5. The aggregate amount paid, or payable, to professional
20 fundraisers and professional fundraising counsel.

21 C. Any registration form required to be filed under this
22 section shall be executed by signature, without more, of the person
23 or persons signing the form, in which case the signature or
24 signatures shall constitute the affirmation of the signatory, under

1 penalty of perjury, that the signature is that person's act and deed
2 or the act and deed of the organization, and that the facts stated
3 therein are true.

4 D. If a charitable organization that is registered with the
5 Secretary of State to solicit contributions in this state changes
6 its name or the mailing address of its principal office, or plans to
7 engage in the solicitation of contributions using a name that is not
8 listed on its registration form, then it shall, prior to soliciting
9 any funds in this state using any such name, file with the Secretary
10 of State a statement executed by an authorized officer of the
11 organization setting forth any new name and mailing address along
12 with a fee of Twenty-five Dollars (\$25.00). Such fee shall be
13 deposited to the credit of the General Revenue Fund of the State
14 Treasury.

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

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

23 Section 552.4 Except as otherwise specifically provided in ~~this~~
24 ~~act~~ the Oklahoma Solicitation of Charitable Contributions Act, the

1 provisions of Sections 552.3 and ~~552.5~~ of this title shall not apply
2 to the following persons:

3 ~~(1)~~ 1. Organizations incorporated for religious purposes and
4 actually engaged in bona fide religious programs, and other
5 organizations directly operated, supervised, or controlled by a
6 religious organization;

7 ~~(2)~~ 2. Educational institutions ~~which~~ that have a faculty,
8 regularly enrolled students and offer courses of study leading to
9 the granting of recognized degrees when solicitations of
10 contributions are primarily confined to its student body and their
11 families, alumni, faculty and trustees and any 501(c)(3)
12 organization authorized by and having an established identity with
13 such institutions;

14 ~~(3)~~ 3. Fraternal organizations, when soliciting from their own
15 members, and patriotic and civic organizations, when solicitation of
16 contributions is confined to the membership of said organizations,
17 and the solicitation is managed by their own membership without paid
18 solicitors; and

19 ~~(4)~~ 4. Persons soliciting contributions for a named individual
20 person, when such individual person is specified by name at the time
21 of solicitation, the purpose for such contribution is clearly
22 stated, and if the gross contributions collected, without any
23 deductions whatsoever for the benefit of the solicitor or any other
24 person, be deposited directly to an account in the name of the

1 beneficiary established for that purpose at a licensed local bank,
2 and if such contributions are used for the direct benefit of the
3 named individual person as beneficiary, ~~and~~

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

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

8 Section 552.6 Every charitable organization shall keep and
9 maintain a full and true record of the documents and information
10 required for disclosure pursuant to Section 552.3 of this title for
11 five (5) calendar years in such form as will enable such charitable
12 organization to accurately provide the information required herein.
13 All records required hereunder shall be open to inspection ~~at all~~
14 ~~times~~ during regular business hours, except as otherwise provided by
15 court order, by the Office of the ~~Secretary of State~~ Attorney
16 General and its employees, and upon demand shall be presented to
17 that office for inspection.

18 SECTION 6. AMENDATORY 18 O.S. 2001, Section 552.7, is
19 amended to read as follows:

20 Section 552.7 A. No person shall act as a professional ~~fund-~~
21 ~~raiser~~ fundraiser for any charitable organization, ~~including those~~
22 ~~organizations listed under Section 552.4 of this title,~~ until the
23 person has first registered with the Office of the Secretary of
24 State. Applications for ~~registrations~~ registration, signed and

1 acknowledged by a party duly authorized to act on behalf of the
2 ~~fund raiser~~ professional fundraiser, shall state the full, legal
3 name of the professional ~~fund raiser~~ fundraiser, the street address
4 of the principal place of business of the ~~fund raiser~~ professional
5 fundraiser, the full, legal names and street addresses of the
6 charitable organizations with which it has entered into contracts or
7 agreements, ~~and~~ relating to the solicitation of contributions, and
8 the names of all professional solicitors employed by the
9 professional fundraiser who will be involved in the solicitation of
10 contributions for charitable organizations. The registration form
11 shall also be accompanied by an annual fee in the ~~sum~~ amount of
12 ~~Fifty Dollars (\$50.00), to~~ Two Hundred Fifteen Dollars (\$215.00).
13 The first Fifty Dollars (\$50.00) of the fee collected shall be
14 deposited to the credit of the General Revenue Fund of the State
15 Treasury. The applicant shall, at the time of making application,
16 ~~file with the Secretary of State a bond in which the applicant shall~~
17 ~~be the principal obligor, in the sum of Two Thousand Five Hundred~~
18 ~~Dollars (\$2,500.00), with one or more sureties whose liability in~~
19 ~~the aggregate as sureties shall at least equal that sum. The bond~~
20 ~~shall run to the Secretary of State for the use of the state and to~~
21 ~~any person, including a charitable organization, who may have a~~
22 ~~cause of action against the obligor of the bond for any malfeasance~~
23 ~~or misfeasance of the obligor or any professional solicitor employed~~
24 ~~by him or her in the conduct of the solicitation~~ One Hundred Eleven

1 Dollars (\$111.00) of the fee shall be deposited to the credit of the
2 Attorney General Charitable Solicitations Enforcement Revolving Fund
3 and the remaining Fifty-four Dollars (\$54.00) shall be deposited to
4 the credit of the Secretary of State Charitable Solicitations
5 Revolving Fund. Registration shall be valid for a period of one (1)
6 year from the date of filing with the Secretary of State, and may be
7 renewed annually upon the filing of a renewal application
8 ~~accompanied by the bond and fee prescribed herein.~~

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

14 C. Every professional ~~fund-raiser~~ fundraiser registered with
15 the Secretary of State which shall change its name or the mailing
16 address of its principal office, or plans to engage in professional
17 fundraising activities using a name that is not listed on its
18 registration form, shall at least fifteen (15) days prior to its
19 ~~annual renewal date shall~~ engaging in such activities file with the
20 Secretary of State a statement executed by an authorized officer of
21 the organization setting forth its new name or mailing address and
22 pay a filing fee of Twenty-five Dollars (\$25.00). Such fee shall be
23 deposited to the credit of the General Revenue Fund of the State
24 Treasury.

1 D. The professional fundraiser shall not employ or retain a
2 professional solicitor who is not registered pursuant to this act.

3 E. No professional fundraiser shall solicit any contribution
4 for a charitable organization without the consent of such
5 organization.

6 F. No person shall act as a professional fundraiser if the
7 officers, directors, or any person with a controlling interest in
8 the business, or any person the professional fundraiser employs or
9 retains to solicit charitable contributions or to advise, consult,
10 plan, or manage the solicitation of any contributions, has been
11 convicted by a court of any state or the United States of a felony
12 or a misdemeanor involving moral turpitude or arising from his or
13 her conduct in connection with fundraising activities, the
14 solicitation of any funds, or the use or expenditure of any funds
15 raised, collected, or received in any fundraising activity.

16 G. 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 penalty of perjury, that the signature is that person's act and deed
21 or the act and deed of the organization, and that the facts stated
22 therein are true.

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

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

18 B. The contract shall clearly state:

19 1. The respective obligations of each party;

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

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

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

3 5. In the case of a contract with a professional fundraiser,
4 the period of time or periods during which solicitations are to be
5 conducted, which may be specific periods, estimated or projected
6 time frames, or continuous, and which may involve different periods
7 for different types of solicitations by the same charitable
8 organization;

9 6. A fundraising budget, if available; and

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

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

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

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

1 the professional ~~fund-raiser~~ fundraiser that employs the solicitor
2 and shall be accompanied by a fee in the ~~sum~~ amount of ~~Ten Dollars~~
3 ~~(\$10.00)~~ to Twenty-five Dollars (\$25.00) of which Ten Dollars
4 (\$10.00) shall be deposited to the credit of the General Revenue
5 Fund of the State Treasury. Ten Dollars (\$10.00) of the fee shall
6 be deposited to the credit of the Attorney General Charitable
7 Solicitations Enforcement Revolving Fund and the remaining Five
8 Dollars (\$5.00) shall be deposited to the credit of the Secretary of
9 State Charitable Solicitations Revolving Fund. Registration shall
10 be for a period of one (1) year from the date of filing by with the
11 Secretary of State, and may be renewed annually upon the filing of a
12 renewal application accompanied by a payment of the fee prescribed
13 herein.

14 B. When requesting a contribution, the professional solicitor
15 shall clearly disclose or provide contact information for the
16 following information, if requested by the person being solicited:

17 1. The name of the professional fundraiser that employs or
18 retains the professional solicitor, as set out in the registration
19 statement filed with the Secretary of State, and the fact that the
20 professional fundraiser is being paid for his or her services;

21 2. The name of the charitable organization the person
22 represents and a description of how the contributions raised by the
23 solicitation will be used; and

24

1 3. The percentage of the contributions solicited that the
2 professional fundraiser is to receive and the registration number of
3 the professional fundraiser, the charitable organization and the
4 professional solicitor, as requested.

5 C. No person shall act as a professional solicitor if the
6 person has been convicted by a court of any state or the United
7 States of a felony or of a misdemeanor involving moral turpitude or
8 arising from conduct by the person in connection with fundraising or
9 the solicitation of any funds, for or on behalf of a charitable
10 organization, or the use or expenditure of any funds raised,
11 collected, or received in any fundraising activity.

12 D. Any registration form required to be filed under this
13 section shall be executed by signature, without more, of the person
14 signing the form, in which case the signature shall constitute the
15 affirmation of the signatory, under penalty of perjury, that the
16 signature is that person's act and deed, and that the facts stated
17 therein are true.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 552.14a of Title 18, unless
20 there is created a duplication in numbering, reads as follows:

21 A. Applicable to charitable organizations, professional
22 fundraisers and professional solicitors, the following shall
23 constitute violations of this act:
24

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

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

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

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

23 5. Employing in any solicitation or collection of contributions
24 for a charitable organization any device, scheme or artifice to

1 defraud or for obtaining money or property by means of any false
2 pretense, representation or promise; and

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

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

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

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

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

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

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

17 6. To revoke the registration of a charitable organization,
18 professional fundraiser, or professional solicitor for any violation
19 of this act.

20 C. In lieu of instigating or continuing an action or
21 proceeding, the Attorney General or a district attorney may accept a
22 consent judgment with respect to any act or practice declared to be
23 a violation of this act. Such a consent judgment shall provide for
24 the discontinuance by the person entering the same of any act or

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

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

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

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

24

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

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

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

8 6. Grant other appropriate relief.

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

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

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

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

22 H. In addition to any other penalties provided under this act,
23 a charitable organization, professional fundraiser, or professional
24 solicitor that is found to be in violation of the Oklahoma

1 Solicitation of Charitable Contributions Act in a civil action or
2 who willfully violates the terms of any injunction or court order
3 issued pursuant to the Oklahoma Solicitation of Charitable
4 Contributions Act shall pay a civil penalty of not more than Ten
5 Thousand Dollars (\$10,000.00) per violation, taking into account the
6 nature and severity of the violation and the benefit provided to the
7 public by the violator, along with the need for protecting
8 contributors and donors. For the purposes of this section, the
9 district court issuing an injunction shall retain jurisdiction, and
10 in such cases, the Attorney General, acting in the name of the
11 state, or a district attorney may petition for recovery of civil
12 penalties.

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

20 J. In addition to other penalties imposed by this act, any
21 person convicted in a criminal proceeding of committing an act
22 prohibited in paragraph 1, 3 or 5 of subsection A of this section,
23 shall be guilty of a felony and upon conviction thereof shall be
24 subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00) or

1 imprisonment in the custody of the Department of Corrections for not
2 more than five (5) years, or by both such fine and imprisonment.

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

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

11 SECTION 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 552.19 of Title 18, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The Secretary of State shall make available on the Secretary
15 of State's website all pertinent information related to the entities
16 that are required to register under this act including information
17 included in the entity's registration. The Secretary of State shall
18 also create a numbering system and assign a registration number to
19 each entity that is required to register under this act. The
20 registration number shall also be identified with the registered
21 entity on the website.

22 B. The Secretary of State shall, on or before July 1, 2012,
23 provide for electronic registration of all entities required to
24 register under this act.

1 C. The Secretary of State shall notify the Office of the
2 Attorney General if, in the opinion of the Secretary of State, there
3 is such a violation of the Oklahoma Solicitation of Charitable
4 Contributions Act that the Office of the Attorney General needs to
5 be aware of in order to investigate or prosecute.

6 D. The Office of the Attorney General may review all
7 applications and renewals and other relevant information required to
8 be filed with the Secretary of State pursuant to this act in order
9 to determine the reasonableness and accuracy of such information and
10 to determine if there are any violations of the act. If the Office
11 of the Attorney General finds any questionable information or
12 inaccuracies, it may notify the charitable organization,
13 professional fundraiser or professional solicitor of such
14 discrepancies and allow a reasonable time to cure such
15 discrepancies. If such discrepancies are not cured in a reasonable
16 time or if the Office of the Attorney General becomes aware of any
17 other violations of this act, then it may investigate and/or
18 prosecute as authorized by this act.

19 E. If the Office of the Attorney General becomes aware of any
20 charitable organization, professional fundraiser, or professional
21 solicitor that has not registered and that is required to register
22 under the Oklahoma Solicitation of Charitable Contributions Act,
23 then the Office of the Attorney General shall notify such entity in
24 writing that it must comply with the act and register. If the

1 entity has not registered within one month after written
2 notification then the Office of the Attorney General may take
3 enforcement action concerning the failure to register.

4 SECTION 12. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 552.20 of Title 18, unless there
6 is created a duplication in numbering, reads as follows:

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

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

24

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

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

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

23
24

1 SECTION 15. REPEALER 18 O.S. 2001, Sections 552.3a,
2 552.5, 552.10, 552.11, 552.12, 552.14, 552.15, 552.17 and 552.18,
3 are hereby repealed.

4 SECTION 16. This act shall become effective July 1, 2011.

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