

1 ENGROSSED SENATE
2 BILL NO. 1070

By: Paddack of the Senate

and

Hilliard of the House

3
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6
7 [Oklahoma Solicitation of Charitable Contributions

8 Act - registration form - criminal penalties -

9 repealer - codification -

10 effective date]

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

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SECTION 1. NEW LAW A new section of law to be codified

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in the Oklahoma Statutes as Section 552.1a of Title 18, unless there

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is created a duplication in numbering, reads as follows:

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The Oklahoma Solicitation of Charitable Contributions Act is

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enacted for the purpose of promoting integrity and accountability in

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the charitable solicitation process; protecting donors and

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prospective donors who may be solicited for charitable

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contributions; educating the public, charitable organizations,

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professional fundraisers, and others in matters relating to ethical

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and appropriate behavior in fund-raising and charitable solicitation

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activities; preventing fraud and abuse in the fund-raising process

1 of charitable organizations and in the solicitation of charitable
2 contributions; and providing transparency to the public in fund-
3 raising and charitable solicitation activities of charitable
4 organizations.

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

7 Section 552.2 As used in this act:

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

11 2. "Charitable organization" means any ~~philanthropic,~~
12 ~~patriotic, eleemosynary, educational, social, civic, recreational,~~
13 ~~religious or any other person performing or purporting to perform~~
14 ~~acts beneficial to the public~~ person, other than an individual,
15 soliciting contributions in this state, that is covered under
16 Section 501(c) of Title 26 of the United States Code who solicits
17 contributions as described in this act and that is organized and
18 operated primarily for religious, charitable, scientific, literary,
19 educational, artistic, cultural, economic development, civic
20 improvement, testing for public safety, research, humanitarian,
21 animal welfare, recreational, or environmental protection purposes;
22 to foster national or international amateur sports competition (but
23 only if no part of its activities involve the provision of athletic
24 facilities or equipment); to prevent cruelty to children, the

1 elderly, identified populations, or animals; to relieve poverty,
2 hunger, or homelessness; to support law enforcement or citizen
3 protection organizations or agencies; or to provide emergency
4 relief;

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

13 4. "Non-profit organization" means any corporation organized
14 under the laws of this state, or qualified to do business in
15 Oklahoma in a corporate or organized capacity by virtue of creation
16 or organization under the laws of this or any other state, territory
17 or district if such organization is neither organized for profit nor
18 operated for profit, irrespective of the form of organization;

19 5. "Professional fund-raiser" means any person who for
20 compensation or other consideration plans, conducts or manages in
21 this state the solicitation of contributions for or on behalf of any
22 charitable organization ~~or any other person~~, or who engages in the
23 business of or holds himself or herself out to persons in this state
24 as independently engaged in the business of soliciting contributions

1 for such purpose. For purposes of this act, "professional fund-
2 raiser" does not include an employee of a charitable organization
3 who engages in such activities for the charitable organization for
4 whom he or she is employed; nor does it include any volunteer who
5 receives no payment, compensation, or remuneration of any kind for
6 soliciting any contributions, provided, a volunteer may receive
7 credit for fulfilling any community service requirement of an
8 educational institution or government agency. In addition, for this
9 purpose "consideration" does not include incidental benefits that
10 might be received by a non-compensated person, such as meals,
11 supplies, or similar support, and does not include reimbursement for
12 expenses incurred by any person in his or her solicitation
13 activities;

14 ~~5.~~ 6. "Professional solicitor" means any person who is employed
15 or retained for compensation or other consideration ~~of any kind~~
16 ~~whatsoever~~ by a professional fund-raiser to solicit contributions in
17 this state for or on behalf of any charitable organization ~~or any~~
18 ~~other person.~~ "Professional solicitor" does not include a volunteer
19 who engages in such activities if the volunteer receives no payment,
20 compensation or remuneration of any kind for soliciting any
21 contributions, provided a volunteer may receive credit for
22 fulfilling any community service requirement of an educational
23 institution or government agency. In addition, for this purpose
24 "consideration" does not include incidental benefits that might be

1 received by a non-compensated person, such as meals, supplies, or
2 similar support, and does not include reimbursement for expenses
3 incurred by any person in his or her solicitation activities; and

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

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

19 8. "Solicitation" means the request or appeal, directly or
20 indirectly, for any contribution on the plea or representation that
21 such contribution 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 or non-profit
2 organization, except those specifically exempt under Section 552.4
3 of this title, shall solicit ~~or accept~~ contributions from any person
4 in this state ~~by any means whatsoever~~ until the charitable or non-
5 profit organization shall have registered with the Office of the
6 ~~Secretary of State~~ Attorney General and filed information, as
7 required by ~~this act~~ the Oklahoma Solicitation of Charitable
8 Contributions Act, on forms approved by that office. At the time of
9 registration, each charitable or non-profit organization shall pay a
10 fee of ~~Fifteen Dollars (\$15.00)~~ One Hundred Dollars (\$100.00), which
11 shall be deposited to the ~~General Revenue Fund of the State Treasury~~
12 Charitable Solicitation Enforcement Revolving Fund. Registration
13 shall be valid for a period of one (1) year from the date of filing
14 with the ~~Secretary of State~~ Attorney General, ~~and shall be subject~~
15 ~~to annual renewal~~. ~~This registration~~ Registration shall not be
16 deemed to constitute an endorsement by the state or by the ~~Secretary~~
17 ~~of State~~ Attorney General of ~~the~~ charitable or non-profit
18 organizations ~~so registered~~ or the proposed uses of the funds
19 solicited. The information so filed shall be available to the
20 general public ~~as a matter of public record~~. The forms containing
21 the information shall be signed and acknowledged by a party duly
22 authorized to sign on behalf of the charitable organization and
23 shall include the following:

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

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

9 3. The name and street address of:

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

12 b. each director,

13 c. each trustee,

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

18 e. each person with the professional fund-raiser,
19 professional solicitor, charitable organization or non-
20 profit organization that is responsible for the
21 distribution of funds collected;

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

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

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

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

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

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

20 9. If the solicitation is to be conducted in whole or in part
21 by ~~paid solicitors~~ professional fund-raisers, the ~~name~~ names and
22 ~~address~~ addresses of each professional fund-raiser ~~supplying the~~
23 ~~solicitors, which includes~~ involved in the solicitation, including
24 any professional fund-raising counsel who is acting or has agreed to

1 act on behalf of the organization; the basis of payment or other
2 consideration payable to each professional fund-raiser and fund-
3 raising counsel and the nature of the ~~arrangement, including a copy~~
4 ~~of the contract or other agreement between the charitable~~
5 ~~organization and the professional fund-raiser or fund-raising~~
6 ~~counsel relating to financial compensation or profit to be derived~~
7 ~~by the fund-raisers or fund-raising counsel~~ arrangements between the
8 charitable or non-profit organization and each professional fund-
9 raiser and fund-raising counsel, the specific amount, formula or
10 percentage of compensation, ~~or~~ property of any kind or value to be
11 paid or ~~paid~~ provided to the each professional fund-raiser, and
12 fund-raising counsel; and if payment is based on a percentage, the
13 percentage value of compensation as compared+

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

19 10. ~~Additional~~ Such additional information as ~~may be deemed~~ the
20 Attorney General may consider necessary ~~and~~ or appropriate ~~by the~~
21 ~~Secretary of State~~ in the public interest or for the ~~specific~~
22 protection of contributors, donors, beneficiaries of the charitable
23 or non-profit organization or others.

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1 B. Any fraternal or membership organization not based in
2 Oklahoma ~~which~~ that solicits contributions from any person ~~of~~ in
3 this state by telephone or other communication device, or the
4 Internet, or contracts with professional fund-raisers to solicit
5 such contributions, shall ~~be required to~~ have at least one member or
6 employee of the fraternal or membership organization residing ~~within~~
7 ~~the~~ in any county where the call, communication, or solicitation is
8 received.

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

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

15 ~~1. By formal acknowledgment of the person or persons signing~~
16 ~~the instrument that it is that person's act and deed or the act and~~
17 ~~deed of the organization, and that the facts stated therein are~~
18 ~~true. The acknowledgment shall be made before a person who is~~
19 ~~authorized by the law of the place of execution to take~~
20 ~~acknowledgments of deeds and if that person has a seal of office,~~
21 ~~that person shall affix it to the instrument; or~~

22 ~~2. By~~ by signature, without more, of the person or persons
23 signing the ~~instrument~~ form, in which case the signature or
24 signatures shall constitute the affirmation or acknowledgment of the

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

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

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

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

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

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

23 (4) Persons soliciting contributions for a named individual
24 person, when such individual person is specified by name at the time

1 of solicitation, the purpose for such contribution is clearly
2 stated, and if the gross contributions collected, without any
3 deductions whatsoever for the benefit of the solicitor or any other
4 person, be deposited directly to an account in the name of the
5 beneficiary established for that purpose at a licensed local bank,
6 and if such contributions are used for the direct benefit of the
7 named individual person as beneficiary, ~~and~~

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

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

12 Section 552.5 A. Every charitable or non-profit organization
13 subject to the provisions of Section 552.1 et seq. of this title
14 which has received contributions during the previous calendar year
15 shall file a statement with the ~~Secretary of State, executed and~~
16 Attorney General, signed by a party duly authorized to act on behalf
17 of the charitable or non-profit organization, which contains the
18 ~~most recent~~ following information, ~~as follows~~ with respect to the
19 contributions:

20 1. The name, ~~street address, and telephone number~~ of the
21 charitable or non-profit organization, any trade names that the
22 charitable or non-profit organization uses, any other name such
23 organization may be identified or known as, and any distinctive
24 names such organization uses for purposes of solicitation of

1 contributions; the street address and mailing address, if different,
2 of the charitable or non-profit organization, except if the Attorney
3 General determines that to do so would cause a safety concern; and
4 any telephone numbers;

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

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

10 4. The aggregate amount paid and to be paid ~~for the expenses of~~
11 ~~solicitation~~ to professional fund-raisers and fund-raising counsels;
12 and

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

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

22 C. ~~Every~~ If a charitable or non-profit organization that is
23 registered with the ~~Secretary of State~~ Attorney General to solicit
24 contributions in ~~the State of Oklahoma which shall change~~ this state

1 changes its name or the mailing address of its principal office, or
2 plans to engage in the solicitation of contributions using a name
3 that is not listed on its registration form, then at least thirty
4 days prior to its annual renewal date soliciting any funds in this
5 state using any such name the charitable or non-profit organization
6 shall file with the ~~Secretary of State~~ Attorney General a statement
7 executed by an authorized officer of the organization setting forth
8 ~~its~~ any new name and/or mailing address and shall pay a filing fee
9 of ~~Fifteen Dollars (\$15.00)~~ Twenty-five Dollars (\$25.00), which
10 shall be deposited in the Charitable Solicitation Enforcement
11 Revolving Fund.

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

14 Section 552.6 Every charitable organization shall keep and
15 maintain a full and true record in such form as will enable such
16 charitable organization to accurately provide the information
17 required herein. All records required hereunder shall be open to
18 inspection at all times by the Office of the ~~Secretary of State and~~
19 ~~its employees~~ Attorney General, and upon demand shall be presented
20 to that office for inspection.

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

23 Section 552.7 A. No person shall act as a professional fund-
24 raiser for any charitable organization, ~~including those~~

1 ~~organizations listed under Section 552.4 of this title,~~ until the
2 person has first registered with the Office of the ~~Secretary of~~
3 State Attorney General. Applications for ~~registrations~~
4 registration, signed and acknowledged by a party duly authorized to
5 act on behalf of the professional fund-raiser, shall state the full,
6 legal name of the professional fund-raiser, the street address of
7 the principal place of business of the professional fund-raiser, the
8 full,
9 profit organizations with which it has entered into contracts or
10 agreements, relating to the solicitation of contributions, the names
11 of all professional solicitors employed by the professional fund-
12 raiser who will be involved in the solicitation of contributions for
13 the charitable or non-profit organization and such other information
14 as the Attorney General deems necessary or appropriate in the public
15 interest or for the protection of contributors, donors,
16 beneficiaries of the charitable or non-profit organization or
17 others. The registration form shall also be accompanied by an
18 annual fee in the ~~sum~~ amount of ~~Fifty Dollars (\$50.00)~~ Three Hundred
19 and Fifty Dollars (\$350.00), to be deposited ~~to~~ in the General
20 ~~Revenue Fund of the State Treasury~~ Charitable Solicitation
21 Enforcement Revolving Fund. ~~The applicant shall, at the time of~~
22 ~~making application, file with the Secretary of State a bond in which~~
23 ~~the applicant shall be the principal obligor, in the sum of Two~~
24 ~~Thousand Five Hundred Dollars (\$2,500.00), with one or more sureties~~

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

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

16 C. Every professional fund-raiser registered with the ~~Secretary~~
17 ~~of State~~ Attorney General which shall change its name or the mailing
18 address of its principal office, or plans to engage in professional
19 fund-raising activities using a name that is not listed on its
20 registration form, shall at least thirty days prior to its annual
21 renewal date shall engaging in such activities file with the
22 ~~Secretary of State~~ Attorney General a statement executed by an
23 authorized officer of the organization setting forth its new name or
24 mailing address and pay a filing fee of Twenty-five Dollars

1 (\$25.00), which shall be deposited in the Charitable Solicitation
2 Enforcement Revolving Fund.

3 D. The professional fund-raiser shall not employ or retain a
4 professional solicitor who is not registered pursuant to this act.

5 The Attorney General may revoke the registration of any professional
6 fund-raiser who violates the provisions of this subsection.

7 E. No professional fund-raiser shall solicit any contribution
8 for a charitable or non-profit organization without the consent of
9 such organization.

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

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

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

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

17 B. The contract shall clearly state:

18 1. The respective obligations of each party;

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

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

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

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

7 6. A fund-raising budget; and

8 7. Provisions for a final accounting.

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

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

15 Section 552.9 A. Every professional solicitor employed or
16 retained by a professional fund-raiser required to register pursuant
17 to this act, shall, before accepting employment engaging in any
18 solicitation of contributions by the professional fund-raiser,
19 register with the Office of the ~~Secretary of State~~ Attorney General.

20 An application for registration, signed by the solicitor and
21 acknowledged, shall state the full, legal name and street address of
22 the professional fund-raiser that employs the solicitor and shall be
23 accompanied by a fee in the ~~sum~~ amount of Ten Dollars (\$10.00) to be
24 deposited ~~to~~ in the ~~General Revenue Fund of the State Treasury~~

1 Charitable Solicitation Enforcement Revolving Fund. Registration
2 shall be for a period of one (1) year from the date of filing ~~by~~
3 with the ~~Secretary of State~~ Attorney General, and may be renewed
4 annually upon the filing of a renewal application accompanied by a
5 payment of the fee prescribed herein.

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

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

13 2. The name of the charitable or non-profit organization he or
14 she represents and a description of how the contributions raised by
15 the solicitation will be used for a charitable or civic purpose; and

16 3. The percentage of the contributions solicited that the
17 professional fund-raiser is to receive and the registration number
18 of the professional fund-raiser, the charitable or non-profit
19 organization and the professional solicitor, as requested.

20 C. No person shall act as a professional solicitor if he or she
21 has been convicted by a court of any state or the United States of a
22 felony or a misdemeanor involving moral turpitude or arising from
23 his or her conduct in connection with fund-raising activities, the

24

1 solicitation of any funds, or the use or expenditure of any funds
2 raised, collected, or received in any fund-raising activity.

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

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

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

19 A. The following shall be deemed violations of this act:

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

22 2. Using the name of a person or other entity when soliciting
23 contributions or in an advertisement, brochure, stationery or
24 correspondence, without the consent or approval of such person or

1 entity, other than an officer, director or trustee of the charitable
2 or non-profit organization by or for which contributions are
3 solicited. This paragraph shall not apply to the use of the name of
4 a person or entity that has contributed to or sponsored an event or
5 program of the charitable or non-profit organization in a report,
6 brochure, program or listing of donors, contributors sponsors, or
7 supporters issued or published by a charitable or non-profit
8 organization;

9 3. Using a name that is deceptively similar to another
10 charitable or non-profit organization, professional fund-raiser,
11 professional solicitor or government agency or political subdivision
12 that use thereof would tend to confuse or mislead the public;

13 4. Knowingly using for the purpose of deceiving the public, a
14 name similar to other charitable or non-profit organizations,
15 professional fund raiser, professional solicitor or governmental
16 agency or political subdivision;

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

20 6. Employing in any solicitation or collection of contributions
21 for a charitable or non-profit organization any device, scheme or
22 artifice to defraud or for obtaining money or property by means of
23 any false pretense, representation or promise; and
24

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

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

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

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

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

11 4. To recover reasonable expenses and investigation fees; and

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

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

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

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

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

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

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

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

24

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

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

6 6. Grant other appropriate relief.

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

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

1 has knowledge, or to appear and testify, or to produce relevant
2 nonprivileged documentary material or physical evidence for
3 examination at such reasonable time and place as may be stated in
4 the investigative demand, concerning the solicitation of charitable
5 contributions.

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

20 H. In addition to any other penalties provided under this act,
21 a charitable or non-profit organization, professional fund-raiser,
22 or professional solicitor who is found to be in violation of the
23 Oklahoma Solicitation of Charitable Contributions Act in a civil
24 action or who willfully violates the terms of any injunction or

1 court order issued pursuant to the Oklahoma Solicitation of
2 Charitable Contributions Act shall forfeit and pay a civil penalty
3 of not more than Ten Thousand Dollars (\$10,000.00) per violation, in
4 addition to other penalties that may be imposed by the court, as the
5 court shall deem necessary and proper. For the purposes of this
6 section, the district court issuing an injunction shall retain
7 jurisdiction, and in such cases, the Attorney General, acting in the
8 name of the state, or a district attorney may petition for recovery
9 of civil penalties.

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

17 J. In addition to other penalties imposed by this act, any
18 person convicted in a criminal proceeding of committing an act
19 prohibited in paragraphs 1, 4 and/or 6 of subsection A of this
20 section, shall be guilty of a felony and upon conviction thereof
21 shall be subject to a fine not to exceed Ten Thousand Dollars
22 (\$10,000.00) or imprisonment in the custody of the Department of
23 Corrections for not more than five (5) years, or both such fine and
24 imprisonment.

1 SECTION 13. AMENDATORY 18 O.S. 2001, Section 552.15, is
2 amended to read as follows:

3 Section 552.15 Any charitable or non-profit organization,
4 professional fund-raiser or professional solicitor, resident or
5 having his or her or its principal place of business without the
6 State of Oklahoma or organized under and by virtue of the laws of a
7 foreign state who or which shall solicit contributions from people
8 in this state, shall be deemed to have irrevocably appointed the
9 Secretary of State as his or her or its agent upon whom may be
10 served any summons, subpoena, subpoena duces tecum or other process
11 directed to such charitable or non-profit organization, or any
12 partner, principal, officer, or director thereof or to such
13 professional solicitor, in any action or proceeding brought by the
14 Attorney General under the provisions of ~~this act~~ the Oklahoma
15 Solicitation of Charitable Contributions Act. Service of such
16 process upon the Secretary of State shall be made by personally
17 delivering to and leaving with him or her or an assistant Secretary
18 of State a copy thereof at the office of the Secretary of State in
19 the city of Oklahoma City, and such service shall be sufficient
20 service provided that notice of such service and a copy of such
21 process are forthwith sent by the Attorney General to such
22 charitable or non-profit organization, professional fund-raiser or
23 professional solicitor by registered mail with return receipt
24 requested, at his or her or its office as set forth in the

1 registration form required to be filed by ~~this act~~ the Oklahoma
2 Solicitation of Charitable Contributions Act or, in default of the
3 filing of such form, at the last address known to the Attorney
4 General. Service of such process shall be complete ten (10) days
5 after the receipt by the Attorney General of a return receipt
6 purporting to be signed by the addressee or a person qualified to
7 receive his or her or its registered mail, in accordance with the
8 rules and customs of the post office department, or, if acceptance
9 was refused by the addressee or his or her or its agent, ten (10)
10 days after the return to the Attorney General of the original
11 envelope bearing a notation by the postal authorities that receipt
12 thereof was refused.

13 SECTION 14. AMENDATORY 18 O.S. 2001, Section 552.16, is
14 amended to read as follows:

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

20 SECTION 15. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 552.19 of Title 18, unless there
22 is created a duplication in numbering, reads as follows:

23 The Attorney General shall make available on the Attorney
24 General's website or other appropriate website all pertinent

1 information, as determined by the Attorney General, related to the
2 entities that are required to register under this act. The Attorney
3 General shall also create a numbering system for the registrations
4 required under this act.

5 SECTION 16. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 552.20 of Title 18, unless there
7 is created a duplication in numbering, reads as follows:

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

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

24

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

6 SECTION 18. REPEALER 18 O.S. 2001, Sections 552.10,
7 552.11, 552.12, 552.14, 552.17, and 552.18, are hereby repealed.

8 SECTION 19. This act shall become effective November 1, 2009.
9 Passed the Senate the 5th day of March, 2009.

10
11 _____
12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2009.

15
16 _____
17 Presiding Officer of the House
18 of Representatives

19
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