

ENROLLED SENATE  
BILL NO. 1070

By: Paddock of the Senate

and

Peters, Hilliard and  
McDaniel (Randy) of the  
House

An Act relating to the Oklahoma Solicitation of Charitable Contributions Act; stating purpose; amending 18 O.S. 2001, Sections 552.2, 552.3, as amended by Section 1, Chapter 366, O.S.L. 2005, 552.4, 552.6, 552.7, 552.8, 552.9, and 552.16 (18 O.S. Supp. 2009, Section 552.3), which relate to charitable contributions; stating purpose; amending definitions; providing definition; clarifying who may solicit charitable contributions; increasing certain registration fees; specifying the amounts to be deposited in certain funds; providing different fee for certain charitable organizations; providing for annual registration; clarifying language; amending required information; requiring additional 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 certain execution by signature; requiring certain contracts to be in writing; requiring certain entities to keep and maintain contracts for certain period; providing for inspection; clarifying language; providing required content of certain contracts; requiring certain disclosures; prohibiting certain persons from acting as a professional solicitor; detailing what constitutes a violation of the act; authorizing certain causes of action; allowing for certain consent judgment; providing for treatment upon breach; authorizing a court to take certain actions; prohibiting certain causes of action; authorizing certain investigations; authorizing the issuance of certain subpoenas and other process; providing for treatment of certain obtained information; providing for civil penalties; providing for retaining of jurisdiction; providing collection of reasonable expenses and fees; qualifying certain violations as felonies; stating penalty; updating reference; requiring the Secretary of State to make certain information available via website; requiring the Secretary of State to provide for electronic registration by certain date; 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 18 O.S. 2001, 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:

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

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

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

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

1. "Person" means any individual, organization, group, association, partnership ~~or~~, corporation, limited liability company, trust, or other entity, except as otherwise provided in Section 552.1 et seq. of this title;

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

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

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

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

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

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

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

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

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

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

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

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

Section 552.3 A. No charitable organization that is either located within this state or that is soliciting contributions from any person in this state, except those specifically exempt under Section 552.4 of this title, shall solicit ~~or accept~~ contributions from any person in this state by any means whatsoever until the charitable organization shall have registered with the Office of the Secretary of State and filed information, as required by ~~this act~~ the Oklahoma Solicitation of Charitable Contributions Act, on forms approved by that office. At the time of registration, each charitable organization, except as otherwise provided in this section, shall pay a fee of ~~Fifteen Dollars (\$15.00), which Sixty-five Dollars (\$65.00).~~ The first Fifteen Dollars (\$15.00) of the fee shall be deposited to the credit of the General Revenue Fund of the State Treasury. ~~Registration shall be valid for a period of one (1) year from the date of filing with the Secretary of State, and shall be subject to annual renewal~~ Thirty-four Dollars (\$34.00) of the fee shall be deposited to the credit of the Attorney General Charitable Solicitations Enforcement Revolving Fund and the remaining Sixteen Dollars (\$16.00) shall be deposited to the credit of the Secretary of State Charitable Solicitations Revolving Fund. Provided, a charitable organization whose contributions during the previous registration period did not exceed Ten Thousand Dollars (\$10,000.00) or if this is the charitable organization's first registration period and the anticipated contributions for the current registration period are not expected to exceed Ten Thousand Dollars (\$10,000.00), shall pay a fee of Fifteen Dollars (\$15.00) of which Ten Dollars (\$10.00) shall be deposited to the credit of the Attorney General Charitable Solicitations Enforcement Revolving Fund and the remaining Five Dollars (\$5.00) shall be deposited to the credit of the Secretary of State Charitable Solicitations Revolving Fund. Each charitable organization that is required to register under this act, shall register annually with the Secretary of State by the date that the charitable organization files its Form 990 or

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

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

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

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

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

~~b. each director,~~

~~c. each trustee, and/or equivalent, and~~

~~d.~~

b. each salaried executive employee of the charitable organization;

4. The name and mailing address of:

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

~~e.~~

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

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

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

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

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

~~6.~~ The

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

~~7.~~ A description

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

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

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

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

~~b.~~ to the net amount of the total contributions received, and

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

B. In addition to the required information in subsection A of this section, every charitable organization subject to the provisions of the Oklahoma Solicitation of Charitable Contributions

Act that has solicited contributions during the previous fiscal year shall provide the following information:

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

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

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

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

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

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

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

E. Any fraternal or membership organization not based in Oklahoma which solicits contributions from any person of this state by telephone, or contracts with professional fund-raisers fundraisers to solicit such contributions, shall be required to have

at least one member or employee of the fraternal or membership organization residing within the county where the call is received.

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

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

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

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

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

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

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

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

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

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

Section 552.7 A. No person shall act as a professional ~~fund-raiser~~ fundraiser for any charitable organization, ~~including those organizations listed under Section 552.4 of this title,~~ until the person has first registered with the Office of the Secretary of State. Applications for ~~registrations~~ registration, signed and acknowledged by a party duly authorized to act on behalf of the ~~fund-raiser~~ professional fundraiser, shall state the full, legal name of the professional ~~fund-raiser~~ fundraiser, the street address of the principal place of business of the ~~fund-raiser~~ professional fundraiser, the full, legal names and street addresses of the charitable organizations with which it has entered into contracts or agreements, ~~and relating to the solicitation of contributions, and the names of all professional solicitors employed by the~~ professional fundraiser who will be involved in the solicitation of contributions for charitable organizations. The registration form shall also be accompanied by an annual fee in the ~~sum~~ amount of ~~Fifty Dollars (\$50.00), to~~ Two Hundred Fifteen Dollars (\$215.00). The first Fifty Dollars (\$50.00) of the fee collected shall be deposited to the credit of the General Revenue Fund of the State Treasury. ~~The applicant shall, at the time of making application, file with the Secretary of State a bond in which the applicant shall be the principal obligor, in the sum of Two Thousand Five Hundred Dollars (\$2,500.00), with one or more sureties whose liability in the aggregate as sureties shall at least equal that sum. The bond~~

~~shall run to the Secretary of State for the use of the state and to any person, including a charitable organization, who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance of the obligor or any professional solicitor employed by him or her in the conduct of the solicitation~~ One Hundred Eleven Dollars (\$111.00) of the fee shall be deposited to the credit of the Attorney General Charitable Solicitations Enforcement Revolving Fund and the remaining Fifty-four Dollars (\$54.00) shall be deposited to the credit of the Secretary of State Charitable Solicitations Revolving Fund. Registration shall be valid for a period of one (1) year from the date of filing with the Secretary of State, and may be renewed annually upon the filing of a renewal application ~~accompanied by the bond and fee prescribed herein.~~

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

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

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

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

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

retains to solicit charitable contributions or to advise, consult, plan, or manage the solicitation of any contributions, has been convicted by a court of any state or the United States of a felony or a misdemeanor involving moral turpitude or arising from his or her conduct in connection with fundraising activities, the solicitation of any funds, or the use or expenditure of any funds raised, collected, or received in any fundraising activity.

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

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

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

B. The contract shall clearly state:

1. The respective obligations of each party;

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

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

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

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

6. A fundraising budget, if available; and

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

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

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

Section 552.9 A. Every professional solicitor employed or retained by a professional ~~fund-raiser~~ fundraiser required to register pursuant to this act, shall, before ~~accepting employment~~ engaging in any solicitation of contributions by the professional ~~fund-raiser~~ fundraiser, register with the Office of the Secretary of State. An application for registration, signed by the solicitor and ~~acknowledged~~, shall state the full, legal name and street address of the professional ~~fund-raiser~~ fundraiser that employs the solicitor and shall be accompanied by a fee in the ~~sum~~ amount of ~~Ten Dollars~~ ~~(\$10.00)~~ to Twenty-five Dollars (\$25.00) of which Ten Dollars (\$10.00) shall be deposited to the credit of the General Revenue Fund of the State Treasury. Ten Dollars (\$10.00) of the fee shall

be deposited to the credit of the Attorney General Charitable Solicitations Enforcement Revolving Fund and the remaining Five Dollars (\$5.00) shall be deposited to the credit of the Secretary of State Charitable Solicitations Revolving Fund. Registration shall be for a period of one (1) year from the date of filing by with the Secretary of State, and may be renewed annually upon the filing of a renewal application accompanied by a payment of the fee prescribed herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

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

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

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

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

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

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

6. Grant other appropriate relief.

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

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

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

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

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

I. In administering and pursuing actions under this act, the Attorney General and a district attorney are authorized to sue for and collect reasonable expenses, attorney fees, and investigation

fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the Attorney General or a district attorney shall be used for the furtherance of their duties and activities under this act.

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

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

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

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

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

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

C. The Secretary of State shall notify the Office of the Attorney General if, in the opinion of the Secretary of State, there

is such a violation of the Oklahoma Solicitation of Charitable Contributions Act that the Office of the Attorney General needs to be aware of in order to investigate or prosecute.

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

E. If the Office of the Attorney General becomes aware of any charitable organization, professional fundraiser, or professional solicitor that has not registered and that is required to register under the Oklahoma Solicitation of Charitable Contributions Act, then the Office of the Attorney General shall notify such entity in writing that it must comply with the act and register. If the entity has not registered within one month after written notification then the Office of the Attorney General may take enforcement action concerning the failure to register.

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

There is hereby created in the State Treasury a revolving fund for the Office of the Secretary of State to be designated the "Secretary of State Charitable Solicitations Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of the Secretary of State from sources provided under this act and any appropriations made by the Legislature. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Secretary of State in furtherance of its duties under the provisions of the Oklahoma Solicitation of Charitable

Contributions Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.21 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 552.22 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

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

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

Passed the Senate the 24th day of May, 2010.

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Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2010.

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Presiding Officer of the House  
of Representatives