

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 13, 2010

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1070

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1070 - By:  
PADDACK of the Senate and PETERS AND HILLIARD of the House.

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

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

1           SECTION 1.   NEW LAW    A new section of law to be codified in the Oklahoma  
2 Statutes as Section 552.1a of Title 18, unless there is created a duplication in numbering,  
3 reads as follows:  
4           The Oklahoma Solicitation of Charitable Contributions Act is enacted for the  
5 purpose of promoting integrity and accountability in the charitable solicitation process;  
6 protecting donors and prospective donors who may be solicited for charitable  
7 contributions; educating the public, charitable organizations, professional fund-raisers,  
8 and others in matters relating to ethical and appropriate behavior in fund-raising and  
9 charitable solicitation activities; preventing fraud and abuse in the fund-raising process  
10 of charitable organizations and in the solicitation of charitable contributions; and

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

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

5 Section 552.2 As used in this act:

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

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

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

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



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

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

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

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

1 the Charitable Solicitation Enforcement Revolving Fund. Registration shall be valid for  
2 a period of one (1) year from the date of filing with the ~~Secretary of State, and shall be~~  
3 ~~subject to annual renewal~~ Attorney General. ~~This registration~~ Registration shall not be  
4 deemed to constitute an endorsement by the state or by the ~~Secretary of State~~ Attorney  
5 General of ~~the~~ charitable organizations ~~so registered~~ or the proposed uses of the funds  
6 solicited. The information so filed shall be available to the general public as a ~~matter of~~  
7 ~~public record.~~ The forms containing the information shall be signed and acknowledged  
8 by a party duly authorized to sign on behalf of the charitable organization and shall  
9 include the following:

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

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

17 3. The name and street address of:  
18 a. each officer, including each principal salaried executive staff officer,  
19 b. each director,  
20 c. each trustee,

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 d. each person ~~who~~ with the professional fund-raiser, professional solicitor  
2 or charitable organization that will have custody of the contributions,  
3 and  
4 e. each person with the professional fund-raiser, professional solicitor or  
5 charitable organization that is directly responsible for the payment and  
6 distribution of funds collected;

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

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

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

19 ~~6- 7.~~ The period of time or periods during which the solicitation is solicitations are  
20 to be conducted, which may be specific periods, estimated or projected time frames, or  
21 continuous, and which may involve different periods for different types of solicitations by  
22 the same charitable organization;

1           7. 8. A description of the specific method or methods of solicitation;

2           8. 9. Whether the solicitation is to be conducted by voluntary unpaid solicitors, by

3 paid solicitors, or both; and

4           9. 10. If the solicitation is to be conducted in whole or in part by ~~paid solicitors~~

5 professional fund-raisers, the name names and address addresses of each professional

6 fund-raiser ~~supplying the solicitors, which includes any professional fund-raising counsel~~

7 ~~who is acting or has agreed to act on behalf of the organization~~ involved in the

8 solicitation; the basis of payment or other consideration payable to each professional

9 fund-raiser and fund-raising counsel and the nature of the ~~arrangement, including a copy~~

10 ~~of the contract or other agreement between the charitable organization and the~~

11 ~~professional fund-raiser or fund-raising counsel relating to financial compensation or~~

12 ~~profit to be derived by the fund-raisers or fund-raising counsel~~ arrangements between

13 the charitable organization and each professional fund-raiser and fund-raising counsel,

14 the specific amount, formula or percentage of compensation, ~~or~~ property of any kind or

15 value to be paid or ~~paid~~ provided to ~~the~~ each professional fund-raiser and fund-raising

16 counsel; and if payment is based on a percentage, the percentage value of compensation

17 as compared:

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

19           b. ~~to~~ the net amount of the total contributions received (total contributions

20 received, less expenses of solicitation other than amounts payable to any

21 professional fund-raiser or fund-raising counsel); ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           Section 552.5 A. Every charitable organization subject to the provisions of ~~Section~~  
6 ~~552.1 et seq. of this title~~ the Oklahoma Solicitation of Charitable Contributions Act  
7 which has ~~received~~ solicited contributions during the previous calendar year shall file a  
8 statement with the ~~Secretary of State, executed and~~ Attorney General, signed by a party  
9 duly authorized to act on behalf of the charitable organization, which contains the ~~most~~  
10 ~~recent~~ following information, ~~as follows~~ with respect to the contributions:

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

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

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

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

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

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

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

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

20           Section 552.6 Every charitable organization shall keep and maintain a full and true  
21 record for five (5) calendar years in such form as will enable such charitable organization  
22 to accurately provide the information required herein. All records required hereunder

1 shall be open to inspection ~~at all times~~ during regular business hours, except as  
2 otherwise provided by court order, by the Office of the ~~Secretary of State and its~~  
3 ~~employees~~ Attorney General, and upon demand shall be presented to that office for  
4 inspection.

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

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

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

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

15 C. Every professional fund-raiser registered with the Secretary of State Attorney  
16 General which shall change its name or the mailing address of its principal office, or  
17 plans to engage in professional fund-raising activities using a name that is not listed on  
18 its registration form, shall at least thirty (30) days prior to its annual renewal date shall  
19 engaging in such activities file with the Secretary of State Attorney General a statement  
20 executed by an authorized officer of the organization setting forth its new name or  
21 mailing address and pay a filing fee of Twenty-five Dollars (\$25.00).

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

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

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

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

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

18        Section 552.8 A. All contracts or other and agreements entered into by professional  
19 fund raisers and a charitable organizations organization with a professional fund-raiser  
20 or professional fund-raising counsel shall be in writing and true and correct copies  
21 thereof shall be kept. The charitable organization and the professional fund-raiser or  
22 professional fund-raising counsel shall each keep and maintain such contracts and

1 ~~agreements~~ on file in ~~the~~ their principal offices of ~~the charitable organization and the~~  
2 ~~professional fund raiser~~ for a period of ~~three (3)~~ five (5) years from the date of solicitation  
3 ~~of contributions provided for therein actually commences~~ that the contract was executed.  
4 These contracts and agreements shall be available for inspection ~~and examination~~ by the  
5 Office of the ~~Secretary of State and other authorized agencies.~~ At least one copy of every  
6 ~~contract or other agreement shall be on file at all times in that office and shall be~~  
7 ~~available to the general public as a matter of public record~~ Attorney General.

8 B. The contract shall clearly state:

9 1. The respective obligations of each party;

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

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

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

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

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

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

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

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

6        Section 552.9 A. Every professional solicitor employed or retained by a professional  
7 fund-raiser required to register pursuant to this act, shall, before ~~accepting employment~~  
8 engaging in any solicitation of contributions by the professional fund-raiser, register with  
9 the Office of the ~~Secretary of State~~ Attorney General. An application for registration,  
10 signed by the solicitor and acknowledged, shall state the full, legal name and street  
11 address of the professional fund-raiser that employs the solicitor and shall be  
12 accompanied by a fee in the ~~sum~~ amount of Ten Dollars (\$10.00) to be deposited ~~to~~ in the  
13 ~~General Revenue Fund of the State Treasury~~ Charitable Solicitation Enforcement  
14 Revolving Fund. Registration shall be for a period of one (1) year from the date of filing  
15 ~~by~~ with the ~~Secretary of State~~ Attorney General, and may be renewed annually upon the  
16 filing of a renewal application accompanied by a payment of the fee prescribed herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           6. Grant other appropriate relief.

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

9           F. When the Attorney General or a district attorney has reason to believe a person  
10 has engaged in, is engaging in or is about to engage in any practice declared to be in  
11 violation of this act and he or she believes it to be in the public interest that an  
12 investigation should be made to ascertain whether a person has in fact engaged in, is  
13 engaging in or is about to engage in any such practice, he or she may execute in writing  
14 and cause to be served upon any such person who is believed to have information,  
15 documentary material or physical evidence relevant to the alleged violation an  
16 investigative demand requiring such person to furnish, under oath or otherwise, a report  
17 in writing setting forth the nonprivileged relevant facts and circumstances of which the  
18 person has knowledge, or to appear and testify, or to produce relevant nonprivileged  
19 documentary material or physical evidence for examination at such reasonable time and  
20 place as may be stated in the investigative demand, concerning the solicitation of  
21 charitable contributions.

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

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

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

6 J. In addition to other penalties imposed by this act, any person convicted in a  
7 criminal proceeding of committing an act prohibited in paragraph 1, 3 or 6 of subsection  
8 A of this section, shall be guilty of a felony and upon conviction thereof shall be subject to  
9 a fine not to exceed Ten Thousand Dollars (\$10,000.00) or imprisonment in the custody of  
10 the Department of Corrections for not more than five (5) years, or by both such fine and  
11 imprisonment.

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

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

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

21 A. The Attorney General shall make available on the Attorney General's website or  
22 other appropriate website all pertinent information, as determined by the Attorney

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

5 SECTION 17. REPEALER 18 O.S. 2001, Sections 552.10, 552.11, 552.12,  
6 552.14, 552.15, 552.17 and 552.18, are hereby repealed.

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,  
9 dated 04-12-10 - DO PASS, As Amended and Coauthored.