

SB 1070

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1070
As Amended

SENATE BILL NO. 1070 - By: Paddock of the Senate and Hilliard of the House.

[Oklahoma Solicitation of Charitable Contributions Act - registration form - criminal penalties - codification - 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 fund-raising and charitable solicitation activities; preventing fraud and abuse in the fund-raising process of charitable organizations and in the solicitation of charitable contributions; and providing transparency to the public in fund-raising and charitable solicitation activities of charitable organizations.

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

3 Section 552.2 As used in this act:

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

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

1 protection organizations or agencies; or to provide emergency
2 relief;

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

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

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

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

13 ~~5.~~ 6. "Professional solicitor" means any person who is employed
14 or retained for compensation or other consideration ~~of any kind~~
15 ~~whatsoever~~ by a professional fund-raiser to solicit contributions in
16 this state for or on behalf of any charitable organization ~~or any~~
17 ~~other person.~~ "Professional solicitor" does not include a volunteer
18 who engages in such activities if the volunteer receives no payment,
19 compensation or remuneration of any kind for soliciting any
20 contributions, provided a volunteer may receive credit for
21 fulfilling any community service requirement of an educational
22 institution or government agency. In addition, for this purpose
23 "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.

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

4 Section 552.3 A. No charitable organization or non-profit
5 organization, except those specifically exempt under Section 552.4
6 of this title, shall solicit ~~or accept~~ contributions from any person
7 in this state ~~by any means whatsoever~~ until the charitable or non-
8 profit organization shall have registered with the Office of the
9 ~~Secretary of State~~ Attorney General and filed information, as
10 required by ~~this act~~ the Oklahoma Solicitation of Charitable
11 Contributions Act, on forms approved by that office. At the time of
12 registration, each charitable or non-profit organization shall pay a
13 fee of ~~Fifteen Dollars (\$15.00)~~ One Hundred Dollars (\$100.00), which
14 shall be deposited to the ~~General Revenue Fund of the State Treasury~~
15 Charitable Solicitation Enforcement Revolving Fund. Registration
16 shall be valid for a period of one (1) year from the date of filing
17 with the ~~Secretary of State~~ Attorney General, ~~and shall be subject~~
18 ~~to annual renewal~~. ~~This registration~~ Registration shall not be
19 deemed to constitute an endorsement by the state or by the ~~Secretary~~
20 ~~of State~~ Attorney General of ~~the~~ charitable or non-profit
21 organizations ~~so registered~~ or the proposed uses of the funds
22 solicited. The information so filed shall be available to the
23 general public ~~as a matter of public record~~. The forms containing

1 the information shall be signed and acknowledged by a party duly
2 authorized to sign on behalf of the charitable organization and
3 shall include the following:

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

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

12 3. The name and street address of:

13 a. each officer, including each principal salaried
14 executive staff officer,

15 b. each director,

16 c. each trustee,

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

21 e. each person with the professional fund-raiser,
22 professional solicitor, charitable organization or non-

1 profit organization that is responsible for the
2 distribution of funds collected;

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

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

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

20 7. A description of the specific method or methods of
21 solicitation;

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

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

- 19 a. ~~to~~ with the total contributions received, and
20 b. ~~to~~ the net amount of the total contributions received
21 (total contributions received, less expenses of
22 solicitation other than amounts payable to any
23 professional fund-raiser or fund-raising counsel); and

1 10. ~~Additional~~ Such additional information as ~~may be deemed the~~
2 Attorney General may consider necessary ~~and or~~ appropriate by the
3 ~~Secretary of State~~ in the public interest or for the ~~specific~~
4 protection of contributors, donors, beneficiaries of the charitable
5 or non-profit organization or others.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of the charitable or non-profit organization, which contains the
2 ~~most recent~~ following information, ~~as follows~~ with respect to the
3 contributions:

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

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

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

18 4. The aggregate amount paid and to be paid ~~for the expenses of~~
19 solicitation to professional fund-raisers and fund-raising counsels;
20 and

21 5. The aggregate amount ~~paid to and to be paid to professional~~
22 fund raisers and solieiters period of time or periods during which
23 solicitations are to be conducted, which may be specific periods,

1 estimated or projected time frames, or continuous, and which may
2 involve different periods for different types of solicitations by
3 the same charitable or non-profit organization.

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

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

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

1 Section 552.6 Every charitable organization shall keep and
2 maintain a full and true record in such form as will enable such
3 charitable organization to accurately provide the information
4 required herein. All records required hereunder shall be open to
5 inspection at all times by the Office of the ~~Secretary of State and~~
6 ~~its employees~~ Attorney General, and upon demand shall be presented
7 to that office for inspection.

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

10 Section 552.7 A. No person shall act as a professional fund-
11 raiser for any charitable organization, ~~including these~~
12 ~~organizations listed under Section 552.4 of this title~~, until the
13 person has first registered with the Office of the ~~Secretary of~~
14 ~~State~~ Attorney General. Applications for ~~registrations~~
15 registration, signed and acknowledged by a party duly authorized to
16 act on behalf of the professional fund-raiser, shall state the full,
17 legal name of the professional fund-raiser, the street address of
18 the principal place of business of the professional fund-raiser, the
19 full, legal names and street addresses of the charitable or non-
20 profit organizations with which it has entered into contracts or
21 agreements, relating to the solicitation of contributions, the names
22 of all professional solicitors employed by the professional fund-
23 raiser who will be involved in the solicitation of contributions for

1 the charitable or non-profit organization and such other information
2 as the Attorney General deems necessary or appropriate in the public
3 interest or for the protection of contributors, donors,
4 beneficiaries of the charitable or non-profit organization or
5 others. The registration form shall also be accompanied by an
6 annual fee in the sum amount of Fifty Dollars (\$50.00) Three Hundred
7 and Fifty Dollars (\$350.00), to be deposited to in the General
8 Revenue Fund of the State Treasury Charitable Solicitation
9 Enforcement Revolving Fund. The applicant shall, at the time of
10 making application, file with the Secretary of State a bond in which
11 the applicant shall be the principal obligor, in the sum of Two
12 Thousand Five Hundred Dollars (\$2,500.00), with one or more sureties
13 whose liability in the aggregate as sureties shall at least equal
14 that sum. The bond shall run to the Secretary of State for the use
15 of the state and to any person, including a charitable organization,
16 who may have a cause of action against the obligor of the bond for
17 any malfeasance or misfeasance of the obligor or any professional
18 solicitor employed by him or her in the conduct of the solicitation.
19 Registration shall be valid for a period of one (1) year from the
20 date of filing with the ~~Secretary of State~~ Attorney General, and may
21 be renewed annually upon the filing of a renewal application
22 ~~accompanied by the bond and fee prescribed herein.~~

1 B. No professional fund-raiser or solicitor shall engage in
2 ~~fund raising activities~~ the solicitation of contributions for a
3 charitable or non-profit organization ~~which~~ that is not registered
4 with the ~~Secretary of State~~ Attorney General unless the organization
5 is exempt from registration.

6 C. Every professional fund-raiser registered with the ~~Secretary~~
7 ~~of State~~ Attorney General which shall change its name or the mailing
8 address of its principal office, or plans to engage in professional
9 fund-raising activities using a name that is not listed on its
10 registration form, shall at least thirty days prior to ~~its annual~~
11 ~~renewal date~~ shall engaging in such activities file with the
12 ~~Secretary of State~~ Attorney General a statement executed by an
13 authorized officer of the organization setting forth its new name or
14 mailing address and pay a filing fee of Twenty-five Dollars
15 (\$25.00), which shall be deposited in the Charitable Solicitation
16 Enforcement Revolving Fund.

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

21 E. No professional fund-raiser shall solicit any contribution
22 for a charitable or non-profit organization without the consent of
23 such organization.

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

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

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

16 Section 552.8 A. All contracts ~~or other~~ and agreements entered
17 into by ~~professional fund raisers and a~~ charitable organizations or
18 non-profit organization with a professional fund-raiser or
19 professional fund-raising counsel shall be in writing ~~and true and~~
20 ~~correct copies thereof shall be kept.~~ The charitable or non-profit
21 organization and the professional fund-raiser or professional fund-
22 raising counsel shall each keep and maintain such contracts and
23 agreements on file in the their principal offices ~~of the charitable~~

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

9 B. The contract shall clearly state:

10 1. The respective obligations of each party;

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

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

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

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

23 6. A fund-raising budget; and

1 7. Provisions for a final accounting.

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

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

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

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

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

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

11 3. The percentage of the contributions solicited that the
12 professional fund-raiser is to receive and the registration number
13 of the professional fund-raiser, the charitable or non-profit
14 organization and the professional solicitor, as requested.

15 C. No person shall act as a professional solicitor if he or she
16 has been convicted by a court of any state or the United States of a
17 felony or a misdemeanor involving moral turpitude or arising from
18 his or her conduct in connection with fund-raising activities, the
19 solicitation of any funds, or the use or expenditure of any funds
20 raised, collected, or received in any fund-raising activity.

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

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

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

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

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

18 2. Using the name of a person or other entity when soliciting
19 contributions or in an advertisement, brochure, stationery or
20 correspondence, without the consent or approval of such person or
21 entity, other than an officer, director or trustee of the charitable
22 or non-profit organization by or for which contributions are
23 solicited. This paragraph shall not apply to the use of the name of

1 a person or entity that has contributed to or sponsored an event or
2 program of the charitable or non-profit organization in a report,
3 brochure, program or listing of donors, contributors sponsors, or
4 supporters issued or published by a charitable or non-profit
5 organization;

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

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

14 5. Failing to register as required pursuant to Sections 552.3,
15 552.7 or 552.9, as applicable, of Title 18 of the Oklahoma Statutes
16 unless otherwise exempted by this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 H. In addition to any other penalties provided under this act,
22 a charitable or non-profit organization, professional fund-raiser,
23 or professional solicitor who is found to be in violation of the

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

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

19 J. In addition to other penalties imposed by this act, any
20 person convicted in a criminal proceeding of committing an act
21 prohibited in paragraphs 1, 4 and/or 6 of subsection A of this
22 section, shall be guilty of a felony and upon conviction thereof
23 shall be subject to a fine not to exceed Ten Thousand Dollars

1 (\$10,000.00) or imprisonment in the custody of the Department of
2 Corrections for not more than five (5) years, or both such fine and
3 imprisonment.

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

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

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

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

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

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

4 The Attorney General shall make available on the Attorney
5 General's website or other appropriate website all pertinent
6 information, as determined by the Attorney General, related to the
7 entities that are required to register under this act. The Attorney
8 General shall also create a numbering system for the registrations
9 required under this act.

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

13 There is hereby created in the State Treasury a revolving fund
14 for the Office of the Attorney General to be designated the
15 "Charitable Solicitation Enforcement Revolving Fund". The fund
16 shall be a continuing fund, not subject to fiscal year limitations,
17 and shall consist of all monies received by the Office of the
18 Attorney General from sources provided under this act and any
19 appropriations made by the Legislature. All monies accruing to the
20 credit of the fund are hereby appropriated and may be budgeted and
21 expended by the Attorney General for the purpose of enforcing the
22 provisions of the Oklahoma Solicitation of Charitable Contributions
23 Act. Expenditures from the fund shall be made upon warrants issued

1 by the State Treasurer against claims filed as prescribed by law
2 with the Director of State Finance for approval and payment.

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

6 All registrations, unless otherwise terminated pursuant to this
7 act, made prior to the effective date of this act shall remain
8 effective until they expire and any registrations occurring after
9 the effective date of this act shall be made with the Office of the
10 Attorney General pursuant to this act.

11 SECTION 18. REPEALER 18 O.S. 2001, Sections 552.10,
12 552.11, 552.12, 552.14, 552.17, and 552.18, are hereby repealed.

13 SECTION 19. This act shall become effective November 1, 2009.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO
15 PASS, As Amended and Coauthored.