

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1070

By: Paddack

4
5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Solicitation of
8 Charitable Contributions Act; stating purpose;
9 amending 18 O.S. 2001, Sections 552.2, 552.3, as
10 amended by Section 1, Chapter 366, O.S.L. 2005,
11 552.3a, 552.4, 552.5, 552.6, 552.7, 552.8, 552.9,
12 552.13, 552.15, and 552.16 (18 O.S. Supp. 2008,
13 Section 552.3), which relate to solicitation of
14 charitable contributions; amending and adding
15 definitions; adding non-profit organizations when
16 referring to charitable organizations throughout the
17 act; increasing certain fee; providing deposit to
18 certain fund; deleting certain references to the
19 Secretary of State and replacing it with the Attorney
20 General throughout the act; amending contents of
21 certain registration form and necessary attachments;
22 clarifying types of certain communications;
23 clarifying language; providing for execution and
24 acknowledgement of registration form; removing
certain exemption; amending contents of certain
statement; requiring certain statements upon change
of name; increasing certain fees; clarifying
language; amending necessary content of professional
fund-raiser registration application; deleting
certain bond requirement; prohibiting employment of
unregistered professional solicitors; providing for
revocation; requiring certain consent; making certain
information available; prohibiting persons from
acting as professional fund-raisers in certain
circumstances; requiring certain contracts and
agreements be kept and maintained; deleting
requirement that certain contracts be kept with
regulating agencies; specifying what information must
be in certain contracts; specifying when a
professional solicitor must register; requiring a
professional solicitor to provide certain information

1 upon request; prohibiting certain persons from acting
2 as a professional solicitor; specifying what
3 constitutes violations of the act; providing powers
4 of the Attorney General and district attorneys;
5 allowing and making provisions for consent judgments;
6 specifying actions that may be taken by the court;
7 requiring only one action be filed for the same
8 transaction; allowing Attorney General or district
9 attorney to conduct certain investigation; providing
10 for investigative demands; providing for issuance of
11 subpoenas and other process, oaths, and search
12 warrants; providing exception; requiring certain
13 information be kept confidential; providing civil
14 penalty for violating the act; providing retention of
15 jurisdiction for certain court; allowing Attorney
16 General or district attorney to petition for recovery
17 of civil penalties; authorizing the Attorney General
18 and district attorneys to sue for and collect certain
19 fees; providing how fees shall be expended; providing
20 criminal penalties for certain acts; requiring the
21 Attorney General to make certain information
22 available on a website; requiring the Attorney
23 General to create a registration numbering system;
24 creating the "Charitable Solicitation Enforcement
Revolving Fund"; specifying content and expenditure
of fund; construing act to existing registrations;
repealing 18 O.S. 2001, Sections 552.10, 552.11,
552.12, 552.14, 552.17, and 552.18, which relate to
duplicate receipts, prohibited acts, prosecutions,
non-exemption from certain ordinances and
restrictions of political subdivisions 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:

1 The Oklahoma Solicitation of Charitable Contributions Act is
2 enacted for the purpose of promoting integrity and accountability in
3 the charitable solicitation process; protecting donors and
4 prospective donors who may be solicited for charitable
5 contributions; educating the public, charitable organizations,
6 professional fundraisers, and others in matters relating to ethical
7 and appropriate behavior in fund-raising and charitable solicitation
8 activities; preventing fraud and abuse in the fund-raising process
9 of charitable organizations and in the solicitation of charitable
10 contributions; and providing transparency to the public in fund-
11 raising and charitable solicitation activities of charitable
12 organizations.

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

15 Section 552.2 As used in this act:

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

19 2. "Charitable organization" means any ~~philanthropic,~~
20 ~~patriotic, eleemosynary, educational, social, civic, recreational,~~
21 ~~religious or any other person performing or purporting to perform~~
22 acts beneficial to the public person, other than an individual,
23 soliciting contributions in this state, that is covered under
24 Section 501(c) of Title 26 of the United States Code who solicits

1 contributions as described in this act and that is organized and
2 operated primarily for religious, charitable, scientific, literary,
3 educational, artistic, cultural, economic development, civic
4 improvement, testing for public safety, research, humanitarian,
5 animal welfare, recreational, or environmental protection purposes;
6 to foster national or international amateur sports competition (but
7 only if no part of its activities involve the provision of athletic
8 facilities or equipment); to prevent cruelty to children, the
9 elderly, identified populations, or animals; to relieve poverty,
10 hunger, or homelessness; to support law enforcement or citizen
11 protection organizations or agencies; or to provide emergency
12 relief;

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

21 4. "Non-profit organization" means any corporation organized
22 under the laws of this state, or qualified to do business in
23 Oklahoma in a corporate or organized capacity by virtue of creation
24 or organization under the laws of this or any other state, territory

1 or district if such organization is neither organized for profit nor
2 operated for profit, irrespective of the form of organization;

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

22 5. 6. "Professional solicitor" means any person who is employed
23 or retained for compensation or other consideration ~~of any kind~~
24 ~~whatsoever~~ by a professional fund-raiser to solicit contributions in

1 this state for or on behalf of any charitable organization ~~or any~~
2 ~~other person.~~ "Professional solicitor" does not include a volunteer
3 who engages in such activities if the volunteer receives no payment,
4 compensation or remuneration of any kind for soliciting any
5 contributions, provided a volunteer may receive credit for
6 fulfilling any community service requirement of an educational
7 institution or government agency. In addition, for this purpose
8 "consideration" does not include incidental benefits that might be
9 received by a non-compensated person, such as meals, supplies, or
10 similar support, and does not include reimbursement for expenses
11 incurred by any person in his or her solicitation activities; and

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

22 a. directly or indirectly solicit contributions alone or
23 through its employees and agents, or
24

1 b. accept, receive, hold, have access to, maintain,
2 manage, invest, or control any contribution generated
3 by the solicitation activity.

4 8. "Solicitation" means the request or appeal, directly or
5 indirectly, for any contribution on the plea or representation that
6 such contribution will be used for a charitable purpose.

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

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

1 deemed to constitute an endorsement by the state or by the Secretary
2 of State Attorney General of the charitable or non-profit
3 organizations so registered or the proposed uses of the funds
4 solicited. The information so filed shall be available to the
5 general public ~~as a matter of public record~~. The forms containing
6 the information shall be signed and acknowledged by a party duly
7 authorized to sign on behalf of the charitable organization and
8 shall include the following:

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

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

17 3. The name and street address of:

18 a. each officer, including each principal salaried
19 executive staff officer,

20 b. each director,

21 c. each trustee,

22 d. each person ~~who~~ with the professional fund-raiser,

23 professional solicitor, charitable organization or non-
24

1 profit organization that will have custody of the
2 contributions, and

3 e. each person with the professional fund-raiser,
4 professional solicitor, charitable organization or non-
5 profit organization that is responsible for the
6 distribution of funds collected;

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

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

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

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

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

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

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

24

1 ~~b.~~ to the net amount of the total contributions received
2 (total contributions received, less expenses of
3 solicitation other than amounts payable to any
4 professional fund-raiser or fund-raising counsel); and

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

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

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

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

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

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

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

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

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

23 (2) Educational institutions ~~which~~ that have a faculty,
24 regularly enrolled students and offer courses of study leading to

1 the granting of recognized degrees when solicitations of
2 contributions are confined to its student body and their families,
3 alumni, faculty and trustees;

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

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

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

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

22 Section 552.5 A. Every charitable or non-profit organization
23 subject to the provisions of Section 552.1 et seq. of this title
24 which has received contributions during the previous calendar year

1 shall file a statement with the ~~Secretary of State, executed and~~
2 Attorney General, signed by a party duly authorized to act on behalf
3 of the charitable or non-profit organization, which contains the
4 ~~most recent~~ following information, ~~as follows~~ with respect to the
5 contributions:

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

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

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

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

23 5. The ~~aggregate amount paid to and to be paid to professional~~
24 ~~fund raisers and solicitors~~ period of time or periods during which

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

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

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

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

24

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 those~~
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
24 the charitable or non-profit organization and such other information

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

22 B. No professional fund-raiser or solicitor shall engage in
23 ~~fund-raising activities~~ the solicitation of contributions for a
24 charitable or non-profit organization ~~which~~ that is not registered

1 with the ~~Secretary of State~~ Attorney General unless the organization
2 is exempt from registration.

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

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

18 E. No professional fund-raiser shall solicit any contribution
19 for a charitable or non-profit organization without the consent of
20 such organization.

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

24

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

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

13 Section 552.8 A. All contracts ~~or other~~ and agreements entered
14 into by ~~professional fund raisers and a~~ charitable organizations or
15 non-profit organization with a professional fund-raiser or
16 professional fund-raising counsel shall be in writing ~~and true and~~
17 ~~correct copies thereof shall be kept.~~ The charitable or non-profit
18 organization and the professional fund-raiser or professional fund-
19 raising counsel shall each keep and maintain such contracts and
20 agreements on file in the their principal offices of the charitable
21 ~~organization and the professional fund raiser~~ for a period of three
22 (3) years from the date ~~of~~ that the solicitation of contributions
23 provided for therein actually commences. These contracts and
24 agreements shall be available for inspection ~~and examination~~ by the

1 ~~Office of the Secretary of State and other authorized agencies. At~~
2 ~~least one copy of every contract or other agreement shall be on file~~
3 ~~at all times in that office and shall be available to the general~~
4 ~~public as a matter of public record Attorney General.~~

5 B. The contract shall clearly state:

6 1. The respective obligations of each party;

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

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

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

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

19 6. A fund-raising budget; and

20 7. Provisions for a final accounting.

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

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

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

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

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

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

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

8 C. No person shall act as a professional solicitor if he or she
9 has been convicted by a court of any state or the United States of a
10 felony or a misdemeanor involving moral turpitude or arising from
11 his or 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 11. AMENDATORY 18 O.S. 2001, Section 552.13, is
15 amended to read as follows:

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

1 substantially similar to the information required to be filed under
2 Section 552.3 of this title.

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

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

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

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

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

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

5 5. Failing to register as required pursuant to Sections 552.3,
6 552.7 or 552.9, as applicable, of Title 18 of the Oklahoma Statutes
7 unless otherwise exempted by this act.

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

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

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

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

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

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

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

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

1 The Attorney General may also administratively revoke the
2 registration of a charitable or non-profit organization,
3 professional fund raiser, or professional solicitor for any
4 violation of this act.

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

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

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

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

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

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

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

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

17 6. Grant other appropriate relief.

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

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

18 G. To accomplish the objectives and to carry out the duties
19 prescribed by this act, the Attorney General or district attorney,
20 in addition to other powers conferred on them by this act or the
21 laws of this state, may issue subpoenas or other process to any
22 person and conduct hearings in aid of any investigation or inquiry,
23 administer oaths and take sworn statements under penalty of perjury,
24 serve and execute in any county, search warrants, provided, that

1 none of the powers conferred by this act shall be used for the
2 purpose of compelling any natural person to furnish testimony or
3 evidence that might tend to incriminate him or subject him to a
4 penalty or forfeiture; and provided further, that information
5 obtained pursuant to the powers conferred by this act shall not be
6 made public or disclosed by the Attorney General, district attorney
7 or their employees.

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

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

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

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

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

15 Section 552.15 Any charitable or non-profit organization,
16 professional fund-raiser or professional solicitor, resident or
17 having his or her or its principal place of business without the
18 State of Oklahoma or organized under and by virtue of the laws of a
19 foreign state who or which shall solicit contributions from people
20 in this state, shall be deemed to have irrevocably appointed the
21 Secretary of State as his or her or its agent upon whom may be
22 served any summons, subpoena, subpoena duces tecum or other process
23 directed to such charitable or non-profit organization, or any
24 partner, principal, officer, or director thereof or to such

1 professional solicitor, in any action or proceeding brought by the
2 Attorney General under the provisions of ~~this act~~ the Oklahoma
3 Solicitation of Charitable Contributions Act. Service of such
4 process upon the Secretary of State shall be made by personally
5 delivering to and leaving with him or her or an assistant Secretary
6 of State a copy thereof at the office of the Secretary of State in
7 the city of Oklahoma City, and such service shall be sufficient
8 service provided that notice of such service and a copy of such
9 process are forthwith sent by the Attorney General to such
10 charitable or non-profit organization, professional fund-raiser or
11 professional solicitor by registered mail with return receipt
12 requested, at his or her or its office as set forth in the
13 registration form required to be filed by ~~this act~~ the Oklahoma
14 Solicitation of Charitable Contributions Act or, in default of the
15 filing of such form, at the last address known to the Attorney
16 General. Service of such process shall be complete ten (10) days
17 after the receipt by the Attorney General of a return receipt
18 purporting to be signed by the addressee or a person qualified to
19 receive his or her or its registered mail, in accordance with the
20 rules and customs of the post office department, or, if acceptance
21 was refused by the addressee or his or her or its agent, ten (10)
22 days after the return to the Attorney General of the original
23 envelope bearing a notation by the postal authorities that receipt
24 thereof was refused.

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

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

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

11 The Attorney General shall make available on the Attorney
12 General's website or other appropriate website all pertinent
13 information, as determined by the Attorney General, related to the
14 entities that are required to register under this act. The Attorney
15 General shall also create a numbering system for the registrations
16 required under this act.

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

20 There is hereby created in the State Treasury a revolving fund
21 for the Office of the Attorney General to be designated the
22 "Charitable Solicitation Enforcement Revolving Fund". The fund
23 shall be a continuing fund, not subject to fiscal year limitations,
24 and shall consist of all monies received by the Office of the

1 Attorney General from sources provided under this act and any
2 appropriations made by the Legislature. All monies accruing to the
3 credit of the fund are hereby appropriated and may be budgeted and
4 expended by the Attorney General for the purpose of enforcing the
5 provisions of the Oklahoma Solicitation of Charitable Contributions
6 Act. Expenditures from the fund shall be made upon warrants issued
7 by the State Treasurer against claims filed as prescribed by law
8 with the Director of State Finance for approval and payment.

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

12 All registrations, unless otherwise terminated pursuant to this
13 act, made prior to the effective date of this act shall remain
14 effective until they expire and any registrations occurring after
15 the effective date of this act shall be made with the Office of the
16 Attorney General pursuant to this act.

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

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

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