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February 12, 2019

By: Thompson

An Act relating to the Oklahoma Solicitation of Charitable Contributions Act; amending 18 O.S. 2011, Section 552.2, which relates to definitions; modifying definition of charitable organization; and providing an effective date.

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

SECTION 1. AMENDATORY 18 O.S. 2011, Section 552.2, is amended to read as follows:

Section 552.2. As used in the Oklahoma Solicitation of Charitable Contributions Act:

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

2. "Charitable organization" means any person soliciting contributions in this state, other than a natural person, that is described in Section 501(c) of Title 26 of the United States Code, that solicits contributions as described in this act and that is organized and operated primarily for religious, charitable,

1 scientific, literary, educational, artistic, cultural, economic  
2 development, civic improvement, testing for public safety, research,  
3 humanitarian, animal welfare, recreational, or environmental  
4 protection purposes; to foster national or international amateur  
5 sports competition, but only if no part of its activities involves  
6 the provision of athletic facilities or equipment; to prevent  
7 cruelty to children, the elderly, identified populations, or  
8 animals; to relieve poverty, hunger, or homelessness; to support law  
9 enforcement or citizen protection organizations or agencies; or to  
10 provide emergency relief. "Charitable organization" shall also  
11 include a natural person representing himself or herself as a  
12 charitable organization or purporting to act on behalf of a  
13 charitable organization;

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

23 4. "Professional fundraiser" means any person who for  
24 compensation or other consideration plans, conducts or manages in

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

18 5. "Professional solicitor" means any person that is either  
19 located within this state or that is soliciting contributions from  
20 any person in this state and who is employed or retained for  
21 compensation or other consideration by a professional fundraiser to  
22 solicit contributions for or on behalf of any charitable  
23 organization. Professional solicitor does not include an employee  
24 of a charitable organization who is engaged in such activities for

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

13 6. "Professional fundraising counsel" means any person that  
14 provides, for compensation or other consideration, services,  
15 including planning, organizing or managing any solicitation, to a  
16 charitable organization, as long as such person does not:

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

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

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

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

8        SECTION 2. This act shall become effective November 1, 2019.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
10 February 12, 2019 - DO PASS  
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