



General Assembly

**Substitute Bill No. 396**

February Session, 2004

\* SB00396FIN 040704 \*

**AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-190b of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2004*):

3 Every charitable organization not exempted by section 21a-190d  
4 shall register with the department prior to conducting any solicitation  
5 or prior to having any solicitation conducted on its behalf by others.  
6 Application for registration shall be made on forms prescribed by the  
7 department and shall include payment of a fee of [twenty] fifty dollars.  
8 Two authorized officers of the organization shall sign the registration  
9 form and shall certify that the statements therein are true and correct  
10 to the best of their knowledge. A chapter, branch or affiliate in this  
11 state of a registered parent organization shall not be required to  
12 register provided the principal office of the parent organization is  
13 located in this state and provided the parent organization files a  
14 consolidated annual report for itself and its chapter, branch or affiliate.

15 Sec. 2. Section 21a-190c of the general statutes is repealed and the  
16 following is substituted in lieu thereof (*Effective October 1, 2004*):

17 (a) Every charitable organization required to register pursuant to  
18 section 21a-190b, as amended by this act, shall annually file with the  
19 department a report for its most recently completed fiscal year, which

20 report shall include (1) a financial statement, (2) an itemized list of (A)  
21 all funds raised with the assistance of any fund-raising counsel or paid  
22 solicitor, or both, and (B) the percentage of such funds that any such  
23 fund-raising counsel or paid solicitor retained or was paid, and (3)  
24 such other information as the commissioner may require. Such  
25 charitable organization shall file such report not more than five  
26 months following the close of its fiscal year, which report shall be  
27 accompanied by a fee of twenty-five dollars and shall be signed by two  
28 authorized officers of the organization, one of whom shall be the chief  
29 fiscal officer of the organization. The information contained in such  
30 report shall be available to the public. Such officers shall certify that  
31 such report is true and correct to the best of their knowledge. The  
32 commissioner shall prescribe the form of the report and may prescribe  
33 standards for its completion. The commissioner may accept, under  
34 such conditions as said commissioner may prescribe, a copy or  
35 duplicate original of financial statements, reports or returns filed by  
36 the charitable organization with the Internal Revenue Service or  
37 another state having requirements similar to the provisions of sections  
38 21a-190a to 21a-190l, inclusive, as amended.

39 (b) A charitable organization with gross revenue in excess of two  
40 hundred thousand dollars in the year covered by the report shall  
41 include with its financial statement an audit report of a certified public  
42 accountant. For purposes of this section, gross revenue shall not  
43 include grants or fees from government agencies or the revenue  
44 derived from funds held in trust for the benefit of the organization.

45 (c) The commissioner may, upon written request and for good cause  
46 shown, grant an extension of time, not to exceed three months, for the  
47 filing of such report.

48 (d) An additional late filing fee of twenty-five dollars shall  
49 accompany any report which is not filed in a timely manner.

50 (e) Every charitable organization required to file an annual report  
51 and every charitable organization subject to the provisions of

52 subdivision (6) of section 21a-190d shall keep true fiscal records which  
53 shall be available to the department for inspection upon request. Such  
54 organization shall retain such records for no less than three years after  
55 the end of the fiscal year to which they relate.

56 (f) Every charitable organization shall file with the department an  
57 accounting of all its expenditures of its most recently completed  
58 quarter. Such charitable organization shall file such report not more  
59 than thirty days following the close of every quarter. The  
60 commissioner shall prescribe the form and content of such report.

61 Sec. 3. Subsection (a) of section 21a-190e of the general statutes is  
62 repealed and the following is substituted in lieu thereof (*Effective*  
63 *October 1, 2004*):

64 (a) Each contract between a charitable organization and a fund-  
65 raising counsel shall be in writing and shall be filed by the fund-raising  
66 counsel with the department at least fifteen days prior to the  
67 performance by the fund-raising counsel of any material services  
68 pursuant to such contract. The contract shall contain such information  
69 as will enable the department to identify the services the fund-raising  
70 counsel is to provide and the manner and amount of [his] such fund-  
71 raising counsel's compensation. Immediately prior to the start of the  
72 solicitation event or campaign that is the subject of such contract, the  
73 department shall place an advertisement in a newspaper having a  
74 substantial circulation in the town or towns in which the solicitation  
75 event or campaign is to occur. Such advertisement shall describe the  
76 terms of the contract between the fund-raising counsel and the  
77 charitable organization and shall include the percentage of the raised  
78 funds to be retained by the fund-raising counsel. The cost of such  
79 advertisement shall be paid to the department by the fund-raising  
80 counsel as a fee at the time such contract is filed with the department.

81 Sec. 4. Section 21a-190f of the general statutes is repealed and the  
82 following is substituted in lieu thereof (*Effective October 1, 2004*):

83 (a) No person shall act as a paid solicitor unless [he] such person has

84 first registered with the department. Applications for registration and  
85 for the renewal of a registration shall be in writing, under oath, in the  
86 form prescribed by the department and shall be accompanied by a fee  
87 in the amount of [one hundred twenty] two hundred fifty dollars. The  
88 application shall contain such information as the department shall  
89 require. Each registration shall be valid for one year and may be  
90 renewed for additional one-year periods.

91 (b) An applicant for registration or for a renewal of registration as a  
92 paid solicitor shall, at the time of making such application, file with  
93 and have approved by the department a bond, in which the applicant  
94 shall be the principal obligor in the sum of twenty thousand dollars,  
95 with one or more responsible sureties whose liability in the aggregate  
96 as such sureties shall be no less than such sum. The paid solicitor shall  
97 maintain the bond in effect as long as the registration is in effect. The  
98 bond shall run to the state and to any person who may have a cause of  
99 action against the principal obligor of the bond for any liabilities  
100 resulting from the obligor's conduct of any activities subject to sections  
101 21a-190a to 21a-190l, inclusive, as amended by this act, or arising out of  
102 a violation of said sections or any regulation adopted pursuant to said  
103 sections.

104 (c) No less than twenty days prior to the commencement of each  
105 solicitation campaign, a paid solicitor shall file with the department a  
106 copy of the contract described in subsection (d) of this section, [and  
107 shall] Immediately prior to the start of the solicitation event or  
108 campaign that is the subject of such contract, the department shall  
109 place an advertisement in a newspaper having a substantial circulation  
110 in the town or towns in which the solicitation event or campaign is to  
111 occur. Such advertisement shall describe the terms of the contract  
112 between the paid solicitor and the charitable organization and shall  
113 include the percentage of the raised funds to be retained by the paid  
114 solicitor. The cost of such advertisement shall be paid to the  
115 department by the paid solicitor as a fee at the time such contract is  
116 filed with the department. The paid solicitor shall also file a completed  
117 solicitation notice on forms prescribed by the department. A

118 solicitation notice shall be in writing and under oath, and shall include  
119 a description of the solicitation event or campaign, the location and  
120 telephone number from which the solicitation is to be conducted, the  
121 names and residence addresses of all employees, agents or other  
122 persons however styled who are to solicit during such campaign and  
123 the account number and location of all bank accounts where receipts  
124 from such campaign are to be deposited. Copies of campaign  
125 solicitation literature, including the text of any solicitation to be made  
126 orally, shall be attached to the solicitation notice. The charitable  
127 organization on whose behalf the paid solicitor is acting shall certify  
128 that the solicitation notice and accompanying material are true and  
129 complete.

130 (d) A contract between a paid solicitor and a charitable organization  
131 shall be in writing, shall clearly state the respective obligations of the  
132 paid solicitor and the charitable organization and shall state the  
133 minimum amount [which] that the charitable organization shall  
134 receive as a result of the solicitation campaign, which minimum  
135 amount shall be stated as a percentage of the gross revenue. Such  
136 minimum amount shall not include any amount [which] that the  
137 charitable organization is to pay as expenses of the solicitation  
138 campaign.

139 (e) A paid solicitor shall, prior to orally requesting a contribution,  
140 and at the same time at which a written request for a contribution is  
141 made, clearly and conspicuously disclose at the point of solicitation  
142 [his] such solicitor's name as on file with the department, the fact that  
143 [he] such solicitor is a paid solicitor and the percentage of the gross  
144 revenue which the charitable organization shall receive as identified in  
145 subsection (d) of this section.

146 (f) A paid solicitor shall, in the case of a solicitation campaign  
147 conducted orally, whether by telephone or otherwise, send a written  
148 confirmation to each person who has pledged to contribute, no more  
149 than five days after such person has been solicited, which confirmation  
150 shall include a clear and conspicuous disclosure of the information

151 required by subsection (e) of this section.

152 (g) A paid solicitor shall not represent that any part of the  
153 contributions received will be given or donated to any charitable  
154 organization unless such organization has consented in writing to the  
155 use of its name, prior to the solicitation. Such written consent, if given,  
156 shall be signed by two authorized officers, directors or trustees of the  
157 charitable organization.

158 (h) No paid solicitor shall represent that tickets to an event are to be  
159 donated for use by another, unless the paid solicitor has first obtained  
160 a commitment, in writing, from a charitable organization stating that it  
161 will accept donated tickets and specifying the number of tickets which  
162 it is willing to accept and provided no more contributions for donated  
163 tickets shall be solicited than the number of ticket commitments  
164 received from the charitable organization.

165 (i) A paid solicitor shall require any person [he] such solicitor  
166 directly or indirectly employs, procures or engages to solicit to comply  
167 with the provisions of subsections (e) to (h), inclusive, of this section.

168 (j) A paid solicitor shall file a financial report for the campaign with  
169 the department no more than ninety days after a solicitation campaign  
170 has been completed, and on the anniversary of the commencement of  
171 any solicitation campaign which lasts more than one year. The  
172 financial report shall include gross revenue and an itemization of all  
173 expenditures incurred. The report shall be completed on a form  
174 prescribed by the department. An authorized official of the paid  
175 solicitor and two authorized officials of the charitable organization  
176 shall sign such report and they shall certify, under oath, that such  
177 report is true and complete to the best of their knowledge.

178 (k) A paid solicitor shall maintain during each solicitation campaign  
179 and for not less than three years after the completion of each such  
180 campaign the following records, which shall be [available to the  
181 department for inspection upon request] submitted to the department  
182 quarterly: (1) The name and address of each contributor and the date

183 and amount of the contribution, provided the department shall not  
184 disclose this information except to the extent necessary for  
185 investigative or law enforcement purposes; (2) the name and residence  
186 of each employee, agent or other person involved in the solicitation;  
187 and (3) records of all income received and expenses incurred in the  
188 course of the solicitation campaign.

189 (l) If a paid solicitor sells tickets to an event and represents that  
190 tickets will be donated for use by another, the paid solicitor shall  
191 maintain, for not less than three years after the completion of such  
192 event, the following records, which shall be available to the  
193 department for inspection upon request: (1) The name and address of  
194 contributors donating tickets and the number of tickets donated by  
195 each contributor; and (2) the name and address of all organizations  
196 receiving donated tickets for use by others, including the number of  
197 tickets received by each organization.

198 (m) All funds collected by the paid solicitor shall be deposited in a  
199 bank account. The bank account shall be in the name of the charitable  
200 organization with whom the paid solicitor has contracted and the  
201 charitable organization shall have sole or joint control of the account.

202 (n) Any material change in any information filed with the  
203 department pursuant to this section shall be reported in writing by the  
204 paid solicitor to the department not more than seven days after such  
205 change occurs.

206 (o) No person may act as a paid solicitor if such person, any officer  
207 or director thereof, any person with a controlling interest therein, or  
208 any person the paid solicitor employs, engages or procures to solicit  
209 for compensation, has been convicted by a court of any state or the  
210 United States of any felony, or of any misdemeanor involving  
211 dishonesty or arising from the conduct of a solicitation for a charitable  
212 organization or purpose. Any denial, suspension or revocation of the  
213 registration of a paid solicitor based on a violation of this subsection  
214 shall be made in accordance with the provisions of section 46a-80.

215 Sec. 5. Section 21a-190k of the general statutes is repealed and the  
216 following is substituted in lieu thereof (*Effective October 1, 2004*):

217 The commissioner may adopt regulations, in accordance with the  
218 provisions of chapter 54, in order to carry out and enforce the  
219 provisions of sections 21a-190a to 21a-190l, inclusive, as amended by  
220 this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

**FIN** Joint Favorable Subst.