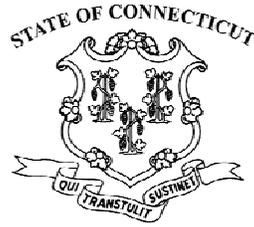


REPRINT



Senate Bill No. 946

Public Act No. 05-101

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS ACT.

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

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 Section 21a-190b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every charitable organization not exempted by section 21a-190d shall annually register with the department prior to conducting any solicitation or prior to having any solicitation conducted on its behalf by others. Application for registration shall be made on forms prescribed by the department and shall include payment of a fee of [twenty] fifty dollars. Such application shall include: (1) A registration statement, (2) an annual financial report for such organization for the preceding fiscal year that is prepared in accordance with the provisions of subsection (a) of section 21a-190c, as amended by this act, and (3) an audited financial statement as required by subsection (b) of said section 21a-190c. Two authorized officers of the organization shall sign the registration [form] statement and shall certify that the statements therein are true and correct to the best of their knowledge. A chapter, branch or affiliate in this state of a registered parent organization shall not be required to register provided the [principal office of the] parent organization [is located in this state and provided

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the parent organization] files a consolidated annual [report] registration for itself and its chapter, branch or affiliate. Each charitable organization shall annually renew its registration not later than five months after the end of such organization's fiscal year.

(b) In the event the department determines that the application for registration does not contain the documents required in subsection (a) of this section or is not in accordance with the regulations adopted by the commissioner pursuant to this chapter, the department shall notify the charitable organization, in writing, of such noncompliance not later than ten days after the department's receipt of such application for registration. An application for registration shall be deemed to be approved if the charitable organization is not notified of noncompliance by the department not later than ten days after the department's receipt of the application for registration. Any such charitable organization may request a hearing on its noncompliant status not later than seven days after receipt of such noncompliance notice. Such hearing shall be held not later than seven days after the department's receipt of such request and a determination as to the organization's compliance status shall be rendered no later than three days after such hearing.

(c) In addition to the application fee required pursuant to subsection (a) of this section, a charitable organization shall pay a late fee of twenty-five dollars for each month, or part thereof, that such application for registration is late, except that such late fee shall not include any month during which an extension of time was granted pursuant to subsection (d) of this section.

(d) The commissioner may, upon written request and for good cause shown, grant an extension of time, not to exceed one hundred eighty days, for the filing of a charitable organization's annual financial report. Any previous registration shall remain in effect during any such extension period.

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(e) In the event that a charitable organization fails to register in accordance with the provisions of this section, such organization shall include in its application for registration an annual financial report for each of the previous years in which such organization was required to file an application for registration or an annual financial report.

(f) Any charitable organization registered in accordance with this section on September 30, 2005, shall be deemed to be registered pursuant to this section until the last day of the fifth month after the close of the fiscal year in effect on September 30, 2005.

Sec. 2. Section 21a-190c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every charitable organization required to register pursuant to section 21a-190b, as amended by this act, shall annually file with the department, [a report] as part of such organization's application for registration, a financial report for its most recently completed fiscal year, which report shall include a financial statement and such other information as the commissioner may require [. Such charitable organization shall file such report not more than five months following the close of its fiscal year, which report shall be accompanied by a fee of twenty-five dollars] and shall be signed by two authorized officers of the organization, one of whom shall be the chief fiscal officer of the organization. The information contained in such report shall be available to the public. Such officers shall certify that such report is true and correct to the best of their knowledge. The commissioner shall prescribe the form of the report and may prescribe standards for its completion. The commissioner may accept, under such conditions as said commissioner may prescribe, a copy or duplicate original of financial statements, reports or returns filed by the charitable organization with the Internal Revenue Service or another state having requirements similar to the provisions of sections 21a-190a to 21a-190l, inclusive, as amended by this act.

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

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

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

[(e)] (c) Every charitable organization required to file an annual report and every charitable organization subject to the provisions of subdivision (6) of section 21a-190d shall keep true fiscal records which shall be available to the department for inspection upon request. Such organization shall retain such records for no less than three years after the end of the fiscal year to which they relate.

Sec. 3. Section 21a-190h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

It shall be a violation of sections 21a-190a to 21a-190l, inclusive, as amended by this act, for: (1) Any person to misrepresent the purpose or beneficiary of a solicitation; (2) any person to misrepresent the purpose or nature of a charitable organization; (3) any charitable organization or any person engaged in the conduct of the affairs of a charitable organization to engage in any financial transaction which is not related to the accomplishment of its charitable purpose, or which jeopardizes or interferes with the ability of the charitable organization to accomplish [its] such organization's charitable purpose; (4) any charitable organization to expend an unreasonable amount of money

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for solicitation or management; (5) any person to use or exploit the fact of registration so as to lead the public to believe that such registration constitutes an endorsement or approval by the state; (6) any person to misrepresent that any other person sponsors or endorses a solicitation; (7) any person to use the name of a charitable organization, or to display any emblem, device or printed matter belonging to or associated with a charitable organization without the express written permission of the charitable organization; (8) any charitable organization to use the name which is the same as or confusingly similar to the name of another charitable organization unless the latter organization shall consent in writing to its use; (9) any charitable organization to represent itself as being associated with another charitable organization without the express written acknowledgment and endorsement of such other charitable organization; (10) any person to make any false or misleading statement on any document required by sections 21a-190a to 21a-190l, inclusive, as amended by this act; (11) any person to fail to comply with the requirements of sections 21a-190b to 21a-190g, inclusive, as amended by this act; (12) any charitable organization to use the services of an unregistered fund-raising counsel or paid solicitor; (13) any fund-raising counsel or paid solicitor to perform any services on behalf of an unregistered charitable organization; or (14) any person to appropriate any property of a charitable organization for a private use.

Sec. 4. Section 21a-190f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) No person shall act as a paid solicitor unless [he] such person has first registered with the department. Applications for registration and for the renewal of a registration shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by a fee in the amount of [one hundred twenty] five hundred dollars. The application shall contain such information as the department shall

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require. Each registration shall be valid for one year and may be renewed for additional one-year periods.

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

(c) No less than twenty days prior to the commencement of each solicitation campaign, a paid solicitor shall file with the department a copy of the contract described in subsection (d) of this section and shall file a completed solicitation notice on forms prescribed by the department. A solicitation notice shall be in writing and under oath, and shall include a description of the solicitation event or campaign, the location and telephone number from which the solicitation is to be conducted, the names and residence addresses of all employees, agents or other persons however styled who are to solicit during such campaign and the account number and location of all bank accounts where receipts from such campaign are to be deposited. Copies of campaign solicitation literature, including the text of any solicitation to be made orally, shall be attached to the solicitation notice. The charitable organization on whose behalf the paid solicitor is acting shall certify that the solicitation notice and accompanying material are true and complete. Prior to the commencement of such solicitation

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campaign, the commissioner shall publicize such solicitation through the issuance of a press release and the posting on the department's web site of information describing the terms of the contract between the paid solicitor and the charitable organization, the dates of such solicitation campaign and the percentage of the raised funds to be retained by the paid solicitor. The commissioner may publicize such solicitation through any additional means the commissioner deems appropriate.

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

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

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

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

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

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

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

(k) A paid solicitor shall maintain during each solicitation campaign and for not less than three years after the completion of each such campaign the following records, which shall be available to the

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department for inspection upon request: (1) The name and address of each contributor and the date and amount of the contribution, provided the department shall not disclose this information except to the extent necessary for investigative or law enforcement purposes; (2) the name and residence of each employee, agent or other person involved in the solicitation; and (3) records of all income received and expenses incurred in the course of the solicitation campaign.

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

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

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

(o) No person may act as a paid solicitor if such person, any officer or director thereof, any person with a controlling interest therein, or any person the paid solicitor employs, engages or procures to solicit for compensation, has been convicted by a court of any state or the United States of any felony, or of any misdemeanor involving dishonesty or arising from the conduct of a solicitation for a charitable

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organization or purpose. Any denial, suspension or revocation of the registration of a paid solicitor based on a violation of this subsection shall be made in accordance with the provisions of section 46a-80.