



Senate

General Assembly

File No. 30

January Session, 2007

Senate Bill No. 1042

Senate, March 13, 2007

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS
ACT AND PROVIDING MUNICIPALITIES WITH THE AUTHORITY TO
REGULATE CHARITABLE DONATION BINS.***

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

1 Section 1. (NEW) (*Effective October 1, 2007*) No person shall place or
2 cause to be placed in a public place a donation bin for the donation of
3 clothing or other articles unless such bin contains a notice in block
4 letters at least two inches high stating: (1) If the donation is for a
5 charitable purpose, the name of the nonprofit organization that will
6 benefit from the donation and that the public may contact the
7 Department of Consumer Protection for further information, or (2) if
8 not intended for a charitable purpose, that such donation is not for a
9 charitable purpose. Such notice shall be on the same side of the bin
10 where the donation is likely to be made. As used in this section,
11 "donation bin" means a large container commonly placed in a parking
12 lot for the purpose of encouraging individuals to donate clothing or
13 other items.

14 Sec. 2. (NEW) (*Effective October 1, 2007*) A municipality may regulate
15 the location and operation of a donation bin, as defined in section 1 of
16 this act, within such municipality.

17 Sec. 3. Section 21a-190a of the general statutes is repealed and the
18 following is substituted in lieu thereof (*Effective October 1, 2007*):

19 As used in sections 21a-190a to 21a-190l, inclusive:

20 (1) "Charitable organization" means any person who is or holds
21 himself out to be established for any benevolent, educational,
22 philanthropic, humane, scientific, patriotic, social welfare or advocacy,
23 public health, environmental conservation, civic or eleemosynary
24 purpose, or for the benefit of law enforcement officers, firefighters or
25 other persons who protect the public safety.

26 (2) "Person" means an individual, corporation, limited liability
27 company, association, partnership, trust, foundation or any other
28 entity however styled.

29 (3) "Solicit" and "solicitation" mean any request directly or indirectly
30 for money, credit, property, financial assistance or other thing of any
31 kind or value on the plea or representation that such money, credit,
32 property, financial assistance or other thing of any kind or value is to
33 be used for a charitable purpose or benefit a charitable organization.
34 "Solicit" and "solicitation" shall include, but shall not be limited to, the
35 following methods of requesting or securing such money, credit,
36 property, financial assistance or other thing of value: (A) Any oral or
37 written request; (B) any announcement to the press, over the radio or
38 television or by telephone or telegraph concerning an appeal or
39 campaign by or for any charitable organization or purpose; (C) the
40 distribution, circulation, posting or publishing of any handbill, written
41 advertisement or other publication; (D) the sale of, offer or attempt to
42 sell, any advertisement, advertising space, book, card, tag, coupon,
43 device, magazine, membership, merchandise, subscription, flower,
44 ticket, candy, cookies or other tangible item in connection with an
45 appeal made for any charitable organization or purpose, or where the

46 name of any charitable organization is used or referred to in any such
47 appeal as an inducement or reason for making any such sale, or when
48 or where in connection with any such sale, any statement is made that
49 the whole or any part of the proceeds from any such sale is to be used
50 for any charitable purpose or benefit any charitable organization. A
51 solicitation shall be deemed to have taken place whether or not the
52 person making the same receives any contribution.

53 (4) "Charitable purpose" means any benevolent, educational,
54 philanthropic, humane, scientific, patriotic, social welfare or advocacy,
55 public health, environmental conservation, civic or eleemosynary
56 objective.

57 (5) "Contribution" means the grant, promise or pledge of money,
58 credit, property, financial assistance or other thing of any kind or value
59 in response to a solicitation. "Contribution" shall not include bona fide
60 fees, dues or assessments paid by members, provided membership is
61 not conferred solely as consideration for making a contribution in
62 response to a solicitation.

63 (6) "Fund-raising counsel" means a person who for compensation
64 plans, manages, advises or consults with respect to the solicitation in
65 this state of contributions by a charitable organization, but who does
66 not solicit contributions and who does not directly or indirectly
67 employ, procure or engage any person compensated to solicit
68 contributions. A bona fide nontemporary salaried officer or employee
69 of a charitable organization shall not be deemed to be a fund-raising
70 counsel.

71 (7) "Paid solicitor" means a person who for [compensation] any
72 consideration, other than any nonmonetary gift of nominal value
73 awarded to a volunteer solicitor as an incentive or token of
74 appreciation, performs for a charitable organization any service in
75 connection with which contributions are solicited by such person or by
76 any person he directly or indirectly employs, procures or engages to
77 solicit for such compensation. A bona fide nontemporary salaried
78 officer or employee of a charitable organization shall not be deemed to

79 be a paid solicitor.

80 (8) "Commercial coventurer" means a person who for profit is
81 regularly and primarily engaged in trade or commerce in this state
82 other than in connection with the raising of funds for charitable
83 organizations or purposes and who conducts a charitable sales
84 promotion.

85 (9) "Charitable sales promotion" means an advertising or sales
86 campaign, conducted by a commercial coventurer, which represents
87 that the purchase or use of goods or services offered by the commercial
88 coventurer are to benefit a charitable organization or purpose.

89 (10) "Department" means the Department of Consumer Protection.

90 (11) "Commissioner" means the Commissioner of Consumer
91 Protection.

92 (12) "Membership" means that which entitles a person to the
93 privileges, professional standing, honors or other direct benefit of the
94 organization and the rights to vote, elect officers and hold office in the
95 organization.

96 (13) "Parent organization" means that part of a charitable
97 organization which supervises and exercises control over the
98 solicitation and expenditure activities of one or more chapters,
99 branches or affiliates.

100 (14) "Gross revenue" means income of any kind from all sources,
101 including all amounts received as the result of any solicitation by a
102 paid solicitor.

103 Sec. 4. Section 21a-190b of the general statutes is repealed and the
104 following is substituted in lieu thereof (*Effective October 1, 2007*):

105 (a) Every charitable organization not exempted by section 21a-190d
106 shall annually register with the department prior to conducting any
107 solicitation or prior to having any solicitation conducted on its behalf

108 by others. Application for registration shall be made on forms
109 prescribed by the department and shall include payment of a fee of
110 fifty dollars. Such application shall include: (1) A registration
111 statement, (2) an annual financial report for such organization for the
112 preceding fiscal year that is prepared in accordance with the
113 provisions of subsection (a) of section 21a-190c, and (3) an audited
114 financial statement as required by subsection (b) of [said] section 21a-
115 190c. Two authorized officers of the organization shall sign the
116 registration statement and shall certify that the statements therein are
117 true and correct to the best of their knowledge. A chapter, branch or
118 affiliate in this state of a registered parent organization shall not be
119 required to register provided the parent organization files a
120 consolidated annual registration for itself and its chapter, branch or
121 affiliate. Each charitable organization shall annually renew its
122 registration not later than five months after the end of such
123 organization's fiscal year.

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

140 (c) In addition to the application fee required pursuant to subsection
141 (a) of this section, a charitable organization shall pay a late fee of

142 twenty-five dollars for each month, or part thereof, that such
143 application for registration is late, except that such late fee shall not
144 include any month during which an extension of time was granted
145 pursuant to subsection (d) of this section. The commissioner may,
146 upon written request and for good cause shown, waive or reduce such
147 late fee.

148 (d) The commissioner may, upon written request and for good
149 cause shown, grant an extension of time [, not to exceed one hundred
150 eighty days,] for the filing of a charitable organization's annual
151 financial report. No such extension shall exceed six months from the
152 date the report was due. Any previous registration shall remain in
153 effect during any such extension period.

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

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

163 Sec. 5. Section 21a-190c of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2007*):

165 (a) Every charitable organization required to register pursuant to
166 section 21a-190b shall annually file with the department, as part of
167 such organization's application for registration, a financial report for
168 its most recently completed fiscal year, which report shall include a
169 financial statement and such other information as the commissioner
170 may require and shall be signed by two authorized officers of the
171 organization, one of whom shall be the chief fiscal officer of the
172 organization. The information contained in such report shall be
173 available to the public. Such officers shall certify that such report is

174 true and correct to the best of their knowledge. The commissioner shall
175 prescribe the form of the report and may prescribe standards for its
176 completion. The commissioner may accept, under such conditions as
177 said commissioner may prescribe, a copy or duplicate original of
178 financial statements, reports or returns filed by the charitable
179 organization with the Internal Revenue Service or another state having
180 requirements similar to the provisions of sections 21a-190a to 21a-190l,
181 inclusive.

182 (b) A charitable organization with gross revenue in excess of two
183 hundred thousand dollars in the year covered by the report shall
184 include with its financial statement an audit report of a certified public
185 accountant. For purposes of this section, gross revenue shall not
186 include grants or fees from government agencies or the revenue
187 derived from funds held in trust for the benefit of the organization.
188 The commissioner may, upon written request and for good cause
189 shown, waive such audit report requirement.

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

196 Sec. 6. Section 21a-190e of the general statutes is repealed and the
197 following is substituted in lieu thereof (*Effective October 1, 2007*):

198 (a) Each contract between a charitable organization and a fund-
199 raising counsel shall be in writing and shall be filed by the fund-raising
200 counsel with the department at least fifteen days prior to the
201 performance by the fund-raising counsel of any material services
202 pursuant to such contract. The contract shall contain such information
203 as will enable the department to identify the services the fund-raising
204 counsel is to provide and the manner of his compensation.

205 (b) A fund-raising counsel who at any time has custody or control of

206 contributions from a solicitation shall register with the department.
 207 Applications for registration or renewal of a registration as a fund-
 208 raising counsel shall be in writing, under oath, in the form prescribed
 209 by the department and shall be accompanied by a fee in the amount of
 210 [one] five hundred [twenty] dollars. Each application shall contain
 211 such information as the department shall require. Each registration
 212 shall be valid for one year and may be renewed for additional one-year
 213 periods. An applicant for registration or for a renewal of registration as
 214 a fund-raising counsel shall, at the time of making such application,
 215 file with and have approved by the department a bond, in which the
 216 applicant shall be the principal obligor in the sum of twenty thousand
 217 dollars, with one or more responsible sureties whose liability in the
 218 aggregate as such sureties shall be no less than such sum. The fund-
 219 raising counsel shall maintain the bond in effect as long as the
 220 registration is in effect. The bond shall run to the state and to any
 221 person who may have a cause of action against the principal obligor of
 222 the bond for any liabilities resulting from the obligor's conduct of any
 223 activities subject to sections 21a-190a to 21a-190l, inclusive, or arising
 224 out of a violation of said sections or any regulation adopted pursuant
 225 to said sections. Any such fund-raising counsel shall account to the
 226 charitable organization with which he has contracted for all income
 227 received and expenses paid no later than ninety days after a
 228 solicitation campaign has been completed, and in the case of a
 229 solicitation campaign lasting more than one year, on the anniversary of
 230 the commencement of such campaign. Such accounting shall be in
 231 writing, shall be retained by the charitable organization for three years
 232 and shall be available to the department upon request.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	21a-190a
Sec. 4	<i>October 1, 2007</i>	21a-190b
Sec. 5	<i>October 1, 2007</i>	21a-190c
Sec. 6	<i>October 1, 2007</i>	21a-190e

GL *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Consumer Protection, Dept.	GF - Revenue Impact	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill would result in a revenue gain related to an increase in the registration fee from \$120 to \$500 for fund-raising counsel. On average, \$1,250 is collected each year in fund-raising counsel fees. This bill also allows the Commissioner of the Department of Consumer Protection (DCP) to waive certain late fees for charitable organizations, which could result in a potential minimal revenue loss.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to changes in the number of registered charitable organizations and the extent to which charitable organizations are late in filing annual registrations, which are unknown at this time.

OLR Bill Analysis**SB 1042*****AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS ACT AND PROVIDING MUNICIPALITIES WITH THE AUTHORITY TO REGULATE CHARITABLE DONATION BINS.*****SUMMARY:**

This bill authorizes the Department of Consumer Protection (DCP) commissioner to waive certain late fees and reporting requirements for charities and changes the filing deadline for their late financial reports under the Solicitation of Charitable Funds Act. It increases the registration fee for fundraising counsel and expands the definition of “paid solicitor” to mean a person who solicits contributions for a charity for any consideration, not just for compensation.

The bill also prohibits the placement of donation bins in public places unless they meet specific notice requirements, and it allows municipalities to regulate their location and operation. Under the bill, a “donation bin” is a large container commonly placed in a parking lot to encourage the donation of clothing or other items.

EFFECTIVE DATE: October 1, 2007

CHARITABLE ORGANIZATIONS

By law, charities must register annually with DCP before raising funds. The bill authorizes the commissioner, upon written request and for good cause, to waive or reduce the \$25 late fee a charity must pay for each month or part thereof its application for registration is late.

The law also requires charities to file annual financial reports. The bill changes, from 180 days to six months, the maximum time the commissioner may extend a charity’s filing deadline for good cause after receiving a written request.

The bill authorizes the commissioner to waive the requirement that a charity with annual gross revenue over \$200,000 include with its financial statement an audit report prepared by a certified public accountant. Under the bill, he may do so for good cause after receiving a written request.

The bill increases, from \$120 to \$500, the registration fee for fundraising counsel. This is the same fee for paid solicitors.

DONATION BINS

The bill prohibits anyone from placing a donation bin in a public location unless it contains a notice in block letters at least two inches high stating that the donation is either (1) for a charitable purpose or (2) not for a charitable purpose. In the former case, the notice must also state (1) the name of the nonprofit organization that will benefit from the donation and (2) that the public may contact DCP for more information. The notice must appear on the side of the bin where the donation is made.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 18 Nay 0 (02/27/2007)