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*TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE GENERAL LAW COMMITTEE  
FEBRUARY 13, 2009*

I appreciate the opportunity to support Senate Bill 780, An Act Concerning the Solicitation of Charitable Funds Act with the attached amendment.

Senate Bill 780 increases the annual minimum gross revenue that requires a charity to conduct an independent audit from \$200,000 to \$500,000.

Audits by certified public accountants cost between \$5,000 and \$10,000, thereby requiring some charities to spend almost 5% of their charitable donations on audits. Raising the limit to \$500,000 will ensure that only those charities with significant funds are required to have an audit conducted by a certified public accountant. Under current law, boards of directors of non-profit organizations have the discretion to conduct a CPA audit or some other form of accounting review to ensure that the charitable funds are properly recorded and that appropriate accounting controls are in place even if such audit is not statutorily required. Finally, the \$200,000 annual minimum revenue threshold was set 9 years ago, requiring some adjustment to reflect increases in inflation and other financial factors.

I urge the committee to favorably consider the attached amendment that makes several minor and technical changes to the Solicitation of Charitable Funds Act including authorizing the Commissioner of Consumer Protection to waive late fees and audit report requirements if appropriate, changes the length of time to file a late annual report from 180 days to 6 months, increases the registration fee for fundraising counsel to \$500 which is the same as the fee for paid solicitors. The proposal also clarifies that a paid solicitor under the Solicitation of Charitable Funds Act includes any person who receives any consideration for their solicitation efforts.

The Public Charities Unit --which oversees the registration of charities and solicitors -- is a joint effort of the Department of Consumer Protection and the Office of the Attorney General. My office worked on this proposal with the Department.

I urge the committee's favorable consideration of Senate Bill 780 with the attached amendment.

**PROPOSED AMENDMENT TO SENATE BILL 780, AN ACT CONCERNING THE  
SOLICITATION OF CHARITABLE FUNDS ACT**

**SUMMARY:** This proposal:

1. clarifies that a paid solicitor is a person who receives any consideration for services rendered to the charity;
2. increases the threshold for requiring charities to obtain a certified public accountant audit from \$200,000 in annual revenue to \$500,000;
3. authorizes the Commissioner of Consumer Protection to waive late fees if appropriate;
4. changes the length of time to file a late report from 180 days to 6 months;
5. authorizes the Commissioner of Consumer Protection waive the audit report;
6. increases the registration fee for fund raising counsel from \$120 to \$500 to align it with the registration fee for paid solicitors;
7. contains a minor technical amendment to the Uniform Prudent Management of Institutional Funds Act.

**TEXT:**

Sec. 1. Section 21a-190a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

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

- (1) "Charitable organization" means any person who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or eleemosynary purpose, or for the benefit of law enforcement officers, firefighters or other persons who protect the public safety.
- (2) "Person" means an individual, corporation, limited liability company, association, partnership, trust, foundation or any other entity however styled.

(3) "Solicit" and "solicitation" mean any request directly or indirectly for money, credit, property, financial assistance or other thing of any kind or value on the plea or representation that such money, credit, property, financial assistance or other thing of any kind or value is to be used for a charitable purpose or benefit a charitable organization. "Solicit" and "solicitation" shall include, but shall not be limited to, the following methods of requesting or securing such money, credit, property, financial assistance or other thing of value: (A) Any oral or written request; (B) any announcement to the press, over the radio or television or by telephone or telegraph concerning an appeal or campaign by or for any charitable organization or purpose; (C) the distribution, circulation, posting or publishing of any handbill, written advertisement or other publication; (D) the sale of, offer or attempt to sell, any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with an appeal made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale is to be used for any charitable purpose or benefit any charitable organization. A solicitation shall be deemed to have taken place whether or not the person making the same receives any contribution.

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

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

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

(7) "Paid solicitor" means a person who for [compensation] any consideration, other than any nonmonetary gift of nominal value awarded to a volunteer solicitor as an incentive or token of appreciation, performs for a charitable organization any service in connection with which contributions are solicited by such person or by any person he directly or indirectly employs, procures or engages to solicit for such compensation. A

bona fide nontemporary salaried officer or employee of a charitable organization shall not be deemed to be a paid solicitor.

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

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

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

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

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

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

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

Sec. 2. Section 21a-190b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(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 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, 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 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 parent organization files a consolidated annual 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. The commissioner may, upon written request and for good cause shown, waive or reduce any late fee under 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] six months from the date the report was due, for the filing of a charitable organization's annual financial report. Any previous registration shall remain in effect during any such extension period.

(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. 3. Section 21a-190c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Every charitable organization required to register pursuant to section 21a-190b shall annually file with the department, 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 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.

(b) A charitable organization with gross revenue in excess of [two] five 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. The commissioner may, upon written request and for good cause shown, waive the audit report requirement under this subsection.

(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. 4. Section 21a-190e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

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

(b) A fund-raising counsel who at any time has custody or control of contributions from a solicitation shall register with the department. Applications for registration or renewal of a registration as a fund-raising counsel 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. Each application shall contain such information as the department shall require. Each registration shall be valid for one year and may be renewed for additional one-year periods. An applicant for registration or for a renewal of registration as a fund-raising counsel 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 fund-raising counsel 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, or arising out of a violation of said sections or any regulation adopted pursuant to said sections. Any such fund-raising counsel shall account to the charitable organization with which he has contracted for all income received and expenses paid no later than ninety days after a solicitation campaign has been completed, and in the case of a solicitation campaign lasting more than one year, on the anniversary of the commencement of such campaign. Such accounting shall be in writing, shall be retained by the charitable organization for three years and shall be available to the department upon request.

Sec. 5. Subsection (d) of section 45a-535e is repealed and the following is substituted in lieu thereof (*Effective on passage*):

(d) Nothing in this section shall be construed as amending or altering existing standards in [the general statutes] law for approximation, cy pres or equitable deviation actions.