
OLR Bill Analysis

sHB 5222

AN ACT CONCERNING PAID SOLICITORS OF CHARITABLE FUNDS AND CHARITABLE ORGANIZATION TRANSPARENCY.

SUMMARY

This bill makes several changes in the Connecticut Solicitation of Charitable Funds Act, generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds (see BACKGROUND). The bill also (1) requires charitable organizations to disclose their registration numbers when soliciting or upon request and (2) allows smaller registered charitable organizations to forgo a formal audit and instead obtain a financial review from a certified public accountant (CPA).

By law, the Solicitation of Charitable Funds Act requires charitable organizations that solicit money or support in Connecticut to register with the Department of Consumer Protection (DCP), unless they are exempt (e.g., religious and parent-teacher organizations, certain organizations that normally receive less than \$50,000 in contributions annually). Paid solicitors (and some fundraising counsel) are also required to register, post a bond, and file certain reports (CGS §§ 21a-190d to 21a-190f).

This bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except certain technical changes are effective January 1, 2023.

PAID SOLICITORS

Regarding registered paid solicitors, the bill:

1. reduces, from 20 days to one business day, the notice a solicitor must give to DCP before starting a campaign (i.e., by filing his or her contract and solicitation notice form);

2. eliminates the requirement that copies of the charitable campaign solicitation literature, including the text of any proposed oral solicitations, be shared with DCP ahead of the campaign;
3. eliminates the requirement that a solicitor, before making an oral solicitation, disclose the percentage of the gross revenue that the organization will receive; and
4. correspondingly eliminates the requirement that a written confirmation of an oral pledge include information on the percentage of revenue the organization will receive.

Additionally, the bill eliminates the requirement that DCP publicize on its website the (1) terms of the contract between the solicitor and organization, (2) campaign dates, and (3) percentage of fundraising revenue the solicitor will keep. The bill also eliminates the DCP commissioner's authority to publicize this information elsewhere, as she deems appropriate.

The bill narrows the solicitation campaign information solicitors must provide to DCP upon request. Under the bill, while solicitors must still maintain a record of contributors' names and addresses (if known), they are no longer required to share this information with DCP. As under current law, solicitors must still provide DCP, if requested, information on the dates and amounts of contributions. Current law prohibits the department from disclosing this information, except if necessary for investigative or law enforcement purposes. The bill eliminates this restriction on DCP's authority to disclose contributor information.

CHARITABLE ORGANIZATIONS

Regarding registered charitable organizations, the bill:

1. requires organizations, when soliciting or upon request, to disclose their DCP registration number;
2. requires organizations to display their DCP registration number conspicuously on their website and printed and internet advertisements; and

3. raises the threshold above which an organization must submit an audit report to DCP, while allowing smaller organizations to instead submit a CPA's financial "review report."

Currently, charitable organizations with more than \$500,000 in annual gross revenue must include a CPA's audit report in the annual financial report they submit as part of the DCP registration process. Under the bill, this is still a requirement for organizations with at least \$1 million in gross revenue, but organizations with gross revenues over \$500,000 and below \$1 million can instead include a CPA's financial review report.

BACKGROUND

Related Caselaw on Paid Solicitors

In 2021, the U.S. District Court for the District of Connecticut issued a preliminary injunction enjoining DCP from enforcing, on the grounds that they likely violated free speech rights, the Solicitation of Charitable Funds Act's requirements that solicitors:

1. give DCP 20 days' notice, and provide DCP copies of the text of any intended solicitation, before starting a campaign and
2. keep records of donors and donations for DCP to inspect.

Additionally, while the court found that the Act's requirement that solicitors disclose to prospective donors the percentage of a contribution that the charitable organization would receive did not appear to comport with the First Amendment and U.S. Supreme Court caselaw, it did not enjoin DCP from enforcing this requirement, as the department said that it had already stopped enforcing it (*Kissel v. Seagull*, 552 F. Supp. 3d 277).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/15/2022)