

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Solicitation for Charity Act is amended by
5 changing Sections 1, 5, and 6 as follows:

6 (225 ILCS 460/1) (from Ch. 23, par. 5101)

7 Sec. 1. The following words and phrases as used in this Act
8 shall have the following meanings unless a different meaning is
9 required by the context.

10 (a) "Charitable organization" means any ~~Any~~ benevolent,
11 philanthropic, patriotic, or eleemosynary person or one
12 purporting to be such which solicits and collects funds for
13 charitable purposes and includes each local, county, or area
14 division within this State of such charitable organization,
15 provided such local, county or area division has authority and
16 discretion to disburse funds or property otherwise than by
17 transfer to any parent organization.

18 (b) "Contribution" means the ~~The~~ promise or grant of any
19 money or property of any kind or value, including the promise
20 to pay, except payments by union members of an organization.
21 Reference to the dollar amount of "contributions" in this Act
22 means in the case of promises to pay, or payments for
23 merchandise or rights of any other description, the value of
24 the total amount promised to be paid or paid for such
25 merchandise or rights and not merely that portion of the
26 purchase price to be applied to a charitable purpose.
27 Contribution shall not include the proceeds from the sale of
28 admission tickets by any not-for-profit music or dramatic arts
29 organization which establishes, by such proof as the Attorney
30 General may require, that it has received an exemption under
31 Section 501(c)(3) of the Internal Revenue Code and which is
32 organized and operated for the presentation of live public

1 performances of musical or theatrical works on a regular basis.
2 For purposes of this subsection, union member dues and donated
3 services shall not be deemed contributions.

4 (c) "Person" means any ~~."~~ Any individual, organization,
5 group, association, partnership, corporation, trust or any
6 combination of them.

7 (d) "Professional fund raiser" means any ~~."~~ Any person who
8 for compensation or other consideration, conducts, manages, or
9 carries on any solicitation or fund raising drive or campaign
10 in this State or from this State or on behalf of a charitable
11 organization residing within this State for the purpose of
12 soliciting, receiving, or collecting contributions for or on
13 behalf of any charitable organization or any other person, or
14 who engages in the business of, or holds himself out to persons
15 in this State as independently engaged in the business of
16 soliciting, receiving, or collecting contributions for such
17 purposes. A bona fide director, officer, employee or unpaid
18 volunteer of a charitable organization shall not be deemed a
19 professional fund raiser unless the person is in a management
20 position and the majority of the individual's salary or other
21 compensation is computed on a percentage basis of funds to be
22 raised, or actually raised.

23 (e) "Professional fund raising consultant" means any ~~."~~ Any
24 person who is retained by a charitable organization or trustee
25 for a fixed fee or rate that is not computed on a percentage of
26 funds to be raised, or actually raised, under a written
27 agreement, to only plan, advise, consult, or prepare materials
28 for a solicitation of contributions in this State, but who does
29 not manage, conduct or carry on a fundraising campaign and who
30 does not solicit contributions or employ, procure, or engage
31 any compensated person to solicit contributions and who does
32 not at any time have custody or control of contributions. A
33 volunteer, employee or salaried officer of a charitable
34 organization or trustee maintaining a permanent establishment
35 or office in this State is not a professional fundraising
36 consultant. An attorney, investment counselor, or banker who

1 advises an individual, corporation or association to make a
2 charitable contribution is not a professional fundraising
3 consultant as a result of the advice.

4 (f) "Charitable purpose" means any ~~Any~~ charitable,
5 benevolent, philanthropic, patriotic, or eleemosynary purpose.

6 (g) "Charitable Trust" means any relationship whereby
7 property is held by a person for a charitable purpose.

8 (h) "Education Program Service" means any activity which
9 provides information to the public of a nature that is not
10 commonly known or facts which are not universally regarded as
11 obvious or as established by common understanding and which
12 informs the public of what it can or should do about a
13 particular issue.

14 (i) "Primary Program Service" means the program service
15 upon which an organization spends more than 50% of its program
16 service funds or the program activity which represents the
17 largest expenditure of funds in the fiscal period.

18 (j) "Professional solicitor" means any natural person who
19 is employed or retained for compensation by a professional fund
20 raiser to solicit, receive, or collect contributions for
21 charitable purposes from persons in this State or from this
22 State or on behalf of a charitable organization residing within
23 this State.

24 (k) "Program Service Activity" means the actual charitable
25 program activities of a charitable organization for which it
26 expends its resources.

27 (l) "Program Service Expense" means the expenses of
28 charitable program activity and not management expenses or fund
29 raising expenses. In determining Program Service Expense,
30 management and fund raising expenses may not be included.

31 (m) "Public Safety Personnel Organization" means any
32 person who uses any of the words "officer", "police",
33 "policeman", "policemen", "troopers", "sheriff", "law
34 enforcement", "fireman", "firemen", "paramedic", or similar
35 words in its name or in conjunction with solicitations, or in
36 the title or name of a magazine, newspaper, periodical,

1 advertisement book, or any other medium of electronic or print
2 publication, and is not a governmental entity. No organization
3 may be a Public Safety Personnel Organization unless 80% or
4 more of its voting members or trustees are active, retired, or
5 disabled police officers, peace officers, firemen, fire
6 fighters, emergency medical technicians - ambulance, emergency
7 medical technicians - intermediate, emergency medical
8 technicians - paramedic, ambulance drivers, or other medical
9 assistance or first aid personnel.

10 (m-5) "Public Safety Personnel" includes police officers,
11 peace officers, firemen, fire fighters, emergency medical
12 technicians - ambulance, emergency medical technicians -
13 intermediate, emergency medical technicians - paramedic,
14 ambulance drivers, and other medical assistance or first aid
15 personnel.

16 (n) "Trustee" means any person, individual, group of
17 individuals, association, corporation, not for profit
18 corporation, or other legal entity holding property for or
19 solicited for any charitable purpose; or any officer, director,
20 executive director or other controlling persons of a
21 corporation soliciting or holding property for a charitable
22 purpose.

23 (Source: P.A. 91-301, eff. 7-29-99.)

24 (225 ILCS 460/5) (from Ch. 23, par. 5105)

25 Sec. 5. Any charitable organization, trustee, person,
26 professional fund raiser or professional solicitor, which or
27 who solicits, receives, or collects contributions in this
28 State, but does not maintain an office within the State or
29 cannot be located within the State shall be subject to service
30 of process, as follows:

31 (a) By service thereof on its registered agent within the
32 State, or if there be no such registered agent, then upon the
33 person who has been designated in the registration statement as
34 having custody of books and records within this State; where
35 service is effected upon the person so designated in the

1 registration statement a copy of the process shall, in
2 addition, be mailed to the registrant's last known address;

3 (b) When any corporate person has solicited, received, or
4 collected contributions in this State, but maintains no office
5 within the State, has no registered agent within the State, and
6 no designated person having custody of its books and records
7 within the State, or when a registered agent or person having
8 custody of its books and records within the State cannot be
9 found as shown by the return of the sheriff of the county in
10 which such registered agent or person having custody of books
11 and records has been represented by the charitable organization
12 or person as maintaining an office, service may be made by
13 delivering to and leaving with the Secretary of State, or with
14 any deputy or clerk in the corporation department of his
15 office, three copies thereof;

16 (c) Following service upon the Secretary of State the
17 provisions of law relating to service of process on foreign
18 corporations shall thereafter govern;

19 (d) Long arm service in accordance with law;

20 (e) The solicitation, receipt, or collection of any
21 contribution within this State by any charitable organization
22 or any person shall be deemed to be their agreement that any
23 process against it or him which is so served in accordance with
24 the provisions of this Section shall be of the same legal force
25 and effect as if served personally within this State and that
26 the courts of this State shall have personal jurisdiction over
27 such organizations, persons and trustees;

28 (f) Venue over persons required to be registered under this
29 Act shall be proper in any county where the Attorney General
30 accepts and maintains the list of registrations. In furtherance
31 of judicial economy, actions filed for violation of this Act
32 may name multiple trustees, trusts, and organizations in a
33 single or joint action where those joined have each engaged in
34 similar conduct in violation of this Act or where similar
35 relief is sought against those defendants for violation of this
36 Act.

1 (Source: P.A. 90-469, eff. 8-17-97.)

2 (225 ILCS 460/6) (from Ch. 23, par. 5106)

3 Sec. 6. Professional fund raiser registration.

4 (a) No person shall act as a professional fund raiser or
5 allow a professional fund raiser entity he owns, manages or
6 controls to act for a charitable organization required to
7 register pursuant to Section 2 of this Act, or for any
8 organization as described in Section 3 of this Act before he
9 has registered himself or the entity with the Attorney General
10 or after the expiration or cancellation of such registration or
11 any renewal thereof. Applications for registration and
12 re-registration shall be in writing, under oath, in the form
13 prescribed by the Attorney General. A registration fee of \$100
14 shall be paid with each registration and upon each
15 re-registration. Registration and re-registration can proceed
16 only if all financial reports have been filed in proper form
17 and all fees have been paid in full. If the applicant intends
18 to or does take control or possession of charitable funds, the
19 applicant shall at the time of making application, file with,
20 and have approved by, the Attorney General a bond in which the
21 applicant shall be the principal obligor, in the sum of
22 \$10,000, with one or more corporate sureties licensed to do
23 business in this State whose liability in the aggregate will at
24 least equal such sum. The bond shall run to the Attorney
25 General for the use of the State and to any person who may have
26 a cause of action against the obligor of the bond for any
27 malfeasance or misfeasance in the conduct of such solicitation;
28 provided, that the aggregate limit of liability of the surety
29 to the State and to all such persons shall, in no event, exceed
30 the sum of such bond. Registration or re-registration when
31 effected shall be for a period of one year, or a part thereof,
32 expiring on the 30th day of June, and may be renewed upon
33 written application, under oath, in the form prescribed by the
34 Attorney General and the filing of the bond for additional one
35 year periods. Every professional fund raiser required to

1 register pursuant to this Act shall file an annual written
2 report with the Attorney General containing such information as
3 he may require by rule. Certification shall be required for
4 only information within the professional fund raiser's
5 knowledge.

6 (b) Upon filing a complete registration statement, a
7 professional fund raiser shall be given a registration number
8 and shall be considered registered. If the materials submitted
9 are determined to be inaccurate or incomplete, the Attorney
10 General shall notify the professional fund raiser of his
11 findings and the defect and that within 30 days his
12 registration will be cancelled unless the defect is cured
13 within said time.

14 (c) Every professional fund raiser registered under this
15 Act who takes possession or control of charitable funds
16 directly, indirectly, or through an escrow shall submit a full
17 written accounting to the charitable organization of all funds
18 it or its agents collected on behalf of the charitable
19 organization during the 6 month period ended June 30 of each
20 year, and file a copy of the accounting with the Attorney
21 General. The accounting shall be in writing under oath and be
22 signed and made on forms as prescribed by the Attorney General
23 and shall be filed by the following September 30 of each year;
24 however, within the time prescribed, and for good cause, the
25 Attorney General may grant a 60 day extension of the due date.

26 (d) Every professional fund raiser registered pursuant to
27 this Act shall also file calendar year written financial
28 reports with the Attorney General containing such information
29 as he may require, on forms prescribed by him, as well as
30 separate financial reports for each separate fund raising
31 campaign conducted. The written report, including all required
32 schedules, shall be filed under oath on or before April 30 of
33 the following calendar year and be signed and verified under
34 penalty of perjury within the time prescribed. An annual report
35 fee of \$25 shall be paid to the Attorney General with the
36 filing of that report. If the report is not timely filed, a

1 late filing fee shall result and must be paid prior to
2 re-registration. The late filing fee shall be calculated at
3 \$200 for each and every separate fundraising campaign conducted
4 during the report year. For good cause, the Attorney General
5 may grant a 30 day extension of the due date, in which case a
6 late filing fee shall not be imposed until the expiration of
7 the extension period. A copy of the report shall also be given
8 to the charitable organization by the due date of filing. A
9 professional fund raiser shall only be required to verify
10 information actually available to the professional fund
11 raiser, but in any event an annual report must be timely filed.

12 (d-5) The calendar year written financial report of every
13 professional fund raiser who conducts, manages, or carries on a
14 fund raising campaign involving the collection or resale of any
15 automobiles, motorcycles, other motor vehicles, boats, yachts,
16 or other water craft collected in Illinois during the report
17 year, and the distribution of funds from the collection or
18 resale of such motor vehicles and water crafts to the
19 charitable organization, must include a schedule detailing the
20 following information for each motor vehicle and water craft
21 collected or resold:

22 (1) The vehicle or hull identification number.

23 (2) The gross resale amount of the vehicle.

24 (3) The total amount distributed to the charitable
25 organization from the collection or resale of the motor
26 vehicle or water craft.

27 (4) Any and all fees, compensation, or other
28 consideration paid to or retained by the professional fund
29 raiser from the collection or resale of the motor vehicle
30 or water craft.

31 (5) The identity of any other professional fund raiser
32 that participated in the collection or resale of the
33 vehicle and any fees, compensation, or other consideration
34 paid to or retained by that other professional fund raiser
35 from the collection or resale of the motor vehicle or water
36 craft.

1 The calendar year written financial report of every
2 professional fund raiser who conducts, manages, or carries on a
3 fund raising campaign involving the collection or resale of any
4 automobile, motorcycle, other motor vehicle, boat, yacht, or
5 other water craft collected in Illinois during the report year,
6 but who does not distribute funds from such collection or
7 resale to the charitable organization, must include a schedule
8 detailing the following information for each motor vehicle and
9 water craft collected or resold:

10 (1) The vehicle or hull identification number.

11 (2) Any and all fees, compensation, or other
12 consideration paid to or retained by the professional fund
13 raiser from the collection or resale of the motor vehicle
14 or water craft.

15 (3) The identity of the person or entity involved in
16 the fund raising campaign who does distribute funds from
17 the collection or resale of the vehicle to the charitable
18 organization.

19 (e) No person convicted of a felony may register as a
20 professional fund raiser, and no person convicted of a
21 misdemeanor involving fiscal wrongdoing, breach of fiduciary
22 duty or a violation of this Act may register as a professional
23 fund raiser for a period of 5 years from the date of the
24 conviction or the date of termination of the sentence or
25 probation, if any, whichever is later. This subsection shall
26 not apply to charitable organizations that have as their
27 primary purpose the rehabilitation of criminal offenders, the
28 reintegration of criminal offenders into society, the
29 improvement of the criminal justice system or the improvement
30 of conditions within penal institutions.

31 (f) A professional fund raiser may not cause or allow
32 independent contractors to act on its behalf in soliciting
33 charitable contributions other than registered professional
34 solicitors. A professional fund raiser must maintain the names,
35 addresses and social security numbers of all of its
36 professional solicitors for a period of at least 2 years.

1 (g) Any person who knowingly violates the provisions of
2 subsections (a), (e), and (f) of this Section is guilty of a
3 Class 4 felony. Any person who fails after being given notice
4 of delinquency to file written financial reports required by
5 subsections (c), ~~and~~ (d), and (d-5) of this Section which is
6 more than 2 months past its due date is guilty of a Class A
7 misdemeanor.

8 (h) Any person who violates any of the provisions of this
9 Section shall be subject to civil penalties of \$5,000 for each
10 violation and shall not be entitled to keep or receive fees,
11 salaries, commissions or any compensation as a result or on
12 account of the solicitations or fund raising campaigns, and at
13 the request of the Attorney General or the charitable
14 organization, a court may order that such be forfeited and paid
15 toward and used for a charitable purpose as the court in its
16 discretion determines is appropriate or placed in the Illinois
17 Charity Bureau Fund.

18 (Source: P.A. 90-469, eff. 8-17-97; 91-444, eff. 8-6-99.)