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SENATE, No. 204

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

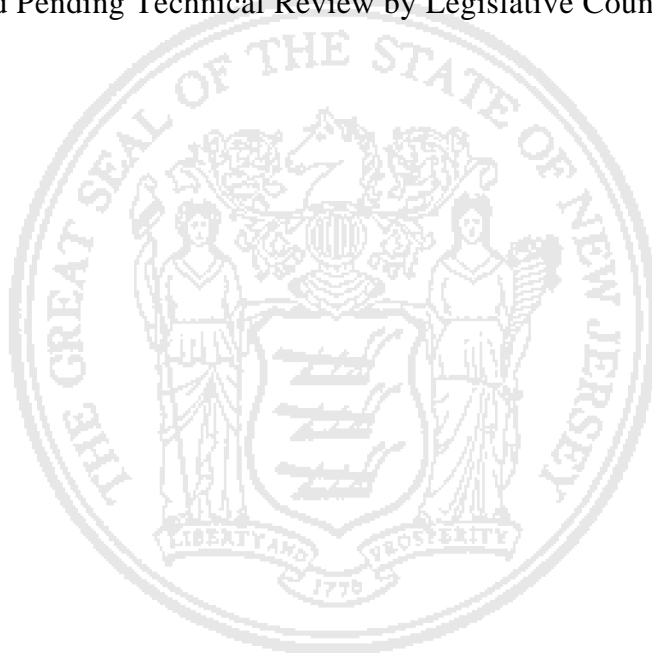
Senators Coniglio, Sarlo and Ciesla

SYNOPSIS

Revises "Charitable Registration and Investigation Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/10/2004)

1 AN ACT concerning charitable registration and amending and
2 supplementing P.L.1994, c.16.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1994, c.16 (C.45:17A-20) is amended to read
8 as follows:

9 3. As used in this act:

10 "Attorney General" means the Attorney General of the State of
11 New Jersey or his designee.

12 "Charitable organization" means: (1) any person determined by the
13 federal Internal Revenue Service to be a tax exempt organization
14 pursuant to section 501(c) (3) of the Internal Revenue Code of 1986,
15 26 U.S.C. § 501(c) (3); or (2) any person who is, or holds himself out
16 to be, established for any benevolent, philanthropic, humane, social
17 welfare, public health, or other eleemosynary purpose, or for the
18 benefit of law enforcement personnel, firefighters or other persons
19 who protect the public safety, or any person who in any manner
20 employs a charitable appeal as the basis of any solicitation, or an
21 appeal which has a tendency to suggest there is a charitable purpose
22 to any such solicitation.

23 "Charitable purpose" means: (1) any purpose described in section
24 501(c) (3), of the Internal Revenue Code of 1986, 26U.S.C. §501(c)
25 (3); or (2) any benevolent, philanthropic, humane, social welfare,
26 public health, or other eleemosynary objective, or an objective that
27 benefits law enforcement personnel, firefighters, or other persons who
28 protect the public safety.

29 "Charitable sales promotion" means an advertising or sales
30 campaign, conducted by a commercial co-venturer, which represents
31 that the purchase or use of goods or services offered by the
32 commercial co-venturer will benefit a charitable organization or
33 purpose.

34 "Commercial co-venturer" means any person, including, but not
35 limited to, any assignee, subcontractor, independent contractor or
36 successor in interest, who, for profit or other consideration is regularly
37 and primarily engaged in trade or commerce other than in connection
38 with the raising of funds or any other thing of value for a charitable
39 organization, and who advertises that the purchase or use of his goods,
40 services, entertainment or any other thing of value will benefit a
41 charitable organization or charitable purpose.

42 "Contribution" means the conveyance, promise or pledge of money,
43 credit, property, financial assistance or other thing of any kind or value

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 in response to a solicitation. It does not include any of the following:
2 bona fide fees, dues or assessments paid by members provided that
3 membership is not conferred solely as consideration for making a
4 contribution in response to a solicitation; moneys received pursuant
5 to a governmental grant or contract; or, personal services rendered by
6 a volunteer.

7 "Federated fundraising organization" means a federation of
8 independent charitable organizations which have voluntarily joined
9 together for purposes of raising and distributing money.

10 "Fund raising counsel" means any person, including, but not limited
11 to, any assignee, subcontractor, independent contractor or successor
12 in interest, who is retained by a charitable organization for a fixed fee
13 or rate to plan, manage, advise, consult or prepare material for or with
14 respect to the solicitation in this State of contributions for a charitable
15 organization, but who does not solicit contributions or employ,
16 procure or engage any compensated person to solicit contributions.
17 A bona fide salaried officer, employee, or volunteer of a charitable
18 organization shall not be deemed to be a fund raising counsel. No
19 attorney, accountant or banker who renders professional services to a
20 charitable organization or advises a person to make a charitable
21 contribution during the course of rendering professional services to
22 that person shall be deemed, as a result of the professional service or
23 advice rendered, to be a fund raising counsel.

24 "Independent paid fund raiser" means any person, including, but not
25 limited to, any assignee, subcontractor, independent contractor or
26 successor in interest, who for compensation performs for or on behalf
27 of a charitable organization any service in connection with which
28 contributions are [,] or will be solicited in this State by that
29 compensated person or by any compensated person he employs,
30 procures, or engages, directly or indirectly to solicit contributions. A
31 bona fide salaried officer, employee, or volunteer of a charitable
32 organization shall not be deemed to be an independent paid fund
33 raiser. No attorney, accountant or banker who advises a person to
34 make a charitable contribution during the course of rendering
35 professional services to that person shall be deemed, as a result of that
36 advice, to be an independent paid fund raiser.

37 "Local unit" means a charitable organization that is affiliated with
38 a parent organization under terms specified in the parent organization's
39 charter, articles of organization, agreement of association, instrument
40 of trust, constitution or other organizational instrument or by-laws.

41 "Membership" means a relationship which entitles a person to the
42 privileges, professional standing, honors or other direct benefit of the
43 organization and either the right to vote or elect officers, or hold
44 office in the organization. Membership shall not include any
45 relationship granted solely upon making a contribution as a result of
46 a solicitation.

1 "Parent organization" means a charitable organization which
2 charters or affiliates local units under terms specified in the charitable
3 organization's charter, articles of organization, agreement of
4 association, instrument of trust, constitution or other organizational
5 instrument or bylaws.

6 "Person" means an individual, corporation, association, partnership,
7 trust, foundation or any other entity, however established within or
8 without this State.

9 "Registrant" means any person who has filed a registration
10 statement with the Attorney General required by this act.

11 "Registration statement" means an initial registration, renewal,
12 financial report, or any other document or report required pursuant to
13 section 6, 7, 8, 10 or 11 of this act to be filed with the Attorney
14 General.

15 "Secretary of State" means the Secretary of State of the State of
16 New Jersey.

17 "Solicitation" or "solicit" means the request, directly or indirectly,
18 for money, credit, property, financial assistance, or other thing of any
19 kind or value which will be used for a charitable purpose or benefit a
20 charitable organization. Solicitation shall include, but not be limited
21 to, the following methods of requesting or securing money, credit,
22 property, financial assistance or other thing of value:

23 (1) Any oral or written request;

24 (2) The making of any announcement in the press, over the radio
25 or television, by telephone, through the mail or any other media
26 concerning an appeal or campaign by or for any charitable organization
27 or purpose;

28 (3) The distribution, circulation, posting or publishing of any
29 handbill, written advertisement or other publication which directly or
30 by implication seeks to obtain a contribution;

31 (4) The offer of, attempt to sell, or sale of any advertising space,
32 book, card, tag, coupon, device, magazine, membership, merchandise,
33 subscription, flower, ticket, candy, cookies or other tangible item in
34 connection with which any appeal is made for any charitable
35 organization or purpose, or where the name of any charitable
36 organization is used or referred to in any appeal as an inducement or
37 reason for making any sale, or where any statement is made that the
38 whole or any part of the proceeds from the sale will be used for any
39 charitable purpose or benefit any charitable organization;

40 (5) The use or employment of canisters, cards, receptacles or
41 similar devices for the collection of money or other thing of value in
42 connection with which any appeal is made for any charitable
43 organization or purpose.

44 A solicitation shall take place whether or not the person making the
45 solicitation receives any contribution, except that a charitable
46 organization's use of its own name in any communication shall not

1 alone be sufficient to constitute a solicitation.

2 "Solicitor" means any individual who attempts to solicit or solicits
3 contributions [.] for compensation[, and who is subject to the control
4 of an independent paid fund raiser. The term "control" means the
5 direct management, direction and supervision of performance of a
6 solicitor's activities in connection with the solicitation of contributions
7 by the independent paid fund raiser]. A bona fide salaried officer,
8 employee, or volunteer of a charitable organization shall not be
9 deemed to be a solicitor.

10 (cf: P.L.1994, c.16, s.3)

11

12 2. Section 5 of P.L.1994, c.16 (C.45:17A-22) is amended to read
13 as follows:

14 5. If the Attorney General determines that the registration or
15 contract requirements established by this act are not satisfied, the
16 Attorney General shall notify the filing party or registrant within 10
17 business days of receipt of the registration or contract. If notification
18 is not sent within 10 business days: (1) a registration statement is
19 accepted; or (2) performance may begin on a contract. Within 10
20 business days after receipt of a notification that the requirements have
21 not been satisfied, the charitable organization, fund raising counsel,
22 independent paid fund raiser, commercial co-venturer or solicitor, as
23 appropriate, may satisfy the requirements or request a hearing
24 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.). Acceptance of a registration or performance of
26 a contract pursuant to this section shall not foreclose the Attorney
27 General from denying an application, enforcing the registration or
28 contract requirements established by P.L.1994, c.16 (C.45:17A-18 et
29 seq.) and the rules adopted pursuant thereto, or taking other
30 appropriate action [based on information that may be subsequently
31 uncovered].

32 (cf: P.L.1994, c.16, s.5)

33

34 3. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to read
35 as follows:

36 7. a. Every charitable organization operating or soliciting within
37 this State, except for those provided for in section 8 of this act or
38 exempt pursuant to section 9 of this act, shall file a long form
39 registration statement with the Attorney General.

40 b. The long form shall contain the following:

41 (1) The name of the organization and any other name or names
42 under which it intends to solicit contributions and the purposes for
43 which it was organized;

44 (2) The name, street address and telephone number of each officer,
45 director and trustee and each principal salaried executive staff
46 employee and whether the person has been adjudged liable in an

1 administrative or civil action, or convicted in a criminal action,
2 involving theft, fraud or deceptive business practices. For the
3 purposes of this paragraph:

4 (a) a plea of guilty, non vult, nolo contendere or any similar
5 disposition of alleged criminal activity shall be deemed a conviction;
6 **[and]**

7 (b) "each principal salaried executive staff employee" shall be
8 limited to no more than the five most highly compensated employees
9 in the organization ; and

10 (c) a judgment of liability in an administrative or civil action shall
11 include, but not be limited to, any finding or admission that the officer,
12 director, trustee or principal salaried executive staff employee engaged
13 in an unlawful practice or practices related to the solicitation of
14 contributions or the administration of charitable assets, regardless of
15 whether that finding was made in the context of an injunction, a
16 proceeding resulting in the denial, suspension or revocation of an
17 organization's registration, consented to in an assurance of voluntary
18 compliance or any similar order or legal agreement with any state or
19 federal agency.

20 (3) A copy of the most recent Internal Revenue Service Form 990
21 and Schedule A (990) for every registrant if the organization filed
22 these forms;

23 (4) A clear description of the specific programs and charitable
24 purpose for which contributions will be used and a statement whether
25 such programs are planned or are in existence;

26 (5) **[Whether]** A statement disclosing pertinent information
27 concerning whether any of the organization's officers, directors,
28 trustees or principal salaried executive staff employees as defined in
29 subparagraph (b) of paragraph (2) of subsection b. of this section
30 **[are]:**

31 (a) Are related by blood, marriage or adoption to each other or to
32 any officers, agents or employees of any fund raising counsel or
33 independent paid fund raiser under contract to the organization, or are
34 related by blood, marriage or adoption to any chief executive
35 employee, any other employee of the organization with a direct
36 financial interest in the transaction, or any partner, proprietor,
37 director, officer, trustee, or to any shareholder of the organization
38 with more than a two percent interest of any supplier or vendor
39 providing goods or services to the organization and, if so, the name
40 and business and home address and telephone number of each related
41 party; or

42 (b) Have a financial interest in any activity engaged in by a fund
43 raising counsel or independent paid fund raiser under contract to the
44 organization or any supplier or vendor providing goods or services to
45 the organization and, if so, the name and business address and
46 telephone number of each interested party.

1 (6) The amount of any grant or financial assistance from any
2 agency of government in its preceding fiscal year; [and]

3 (7) A statement setting forth the place where and the date when the
4 organization was legally established and the form of the organization;

5 (8) The principal street address and telephone number of the
6 organization and the address and telephone number of each office in
7 this State. If the organization does not maintain an office in this State,
8 the name and address of the individual having custody of its financial
9 records pertaining to operations or solicitations in this State shall be
10 disclosed;

11 (9) The name, street address and telephone number of each affiliate
12 which shares in the contributions or other revenue raised in this State;

13 (10) The date when the organization's fiscal year ends;

14 (11) A statement whether:

15 (a) The organization is authorized by any other state to solicit
16 contributions and, if so, a listing of the states in which authorization
17 has been obtained;

18 (b) The organization is or has ever been enjoined in any jurisdiction
19 from soliciting contributions or has been found to have engaged in
20 unlawful practices in the solicitation of contributions or the
21 administration of charitable assets;

22 (c) The organization's registration has been denied, suspended or
23 revoked by any jurisdiction, together with the reasons for that denial,
24 suspension or revocation; and

25 (d) The organization has voluntarily entered into an assurance of
26 voluntary compliance agreement or any similar order or legal
27 agreement with any jurisdiction or federal agency or officer;

28 (12) Whether the organization intends to solicit contributions from
29 the general public; and

30 (13) Any other information as may be prescribed by rules adopted
31 by the Attorney General. In prescribing the requirements of the long
32 form, the Attorney General shall permit a charitable organization to
33 incorporate by reference any information reported by the organization
34 on its Service Form 990 and Schedule A (990).

35 c. With initial registration only, every charitable organization
36 required to file a long form registration shall also file [the following;
37 provided,] a copy of the organization's charter, articles of
38 organization, agreement of association, instrument of trust,
39 constitution or other organizational instrument and bylaws, and a
40 statement setting forth the organization's tax exempt status with
41 copies of federal or state tax exemption determination or exemption
42 ruling letters; provided that any changes in the accuracy of this
43 information shall be reported to the Attorney General pursuant to
44 subsection e. of section 14 of this act [:

45 (1) A copy of the organization's charter, articles of organization,
46 agreement of association, instrument of trust, constitution or other

1 organizational instrument and bylaws;

2 (2) A statement setting forth the place where and the date when the
3 organization and its tax exempt status was legally established, the form
4 of its organization, with copies of federal or state tax exemption
5 determination or exemption ruling letters;

6 (3) The principal street address and telephone number of the
7 organization and the address and telephone number of each office in
8 this State. If the organization does not maintain an office in this State,
9 the name and address of the individual having custody of its financial
10 records in this State shall be disclosed;

11 (4) The name, street address and telephone number of each affiliate
12 which shares in the contributions or other revenue raised in this State;

13 (5) The date when the organization's fiscal year ends;

14 (6) A statement whether:

15 (a) The organization is authorized by any other state to solicit
16 contributions, and, if so, a listing of the states in which authorization
17 has been obtained;

18 (b) The organization or any of its present officers, directors,
19 executive personnel or trustees are or have ever been enjoined in any
20 jurisdiction from soliciting contributions or have been found to have
21 engaged in unlawful practices in the solicitation of contributions or the
22 administration of charitable assets;

23 (c) The organization's registration has been denied, suspended or
24 revoked by any jurisdiction, together with the reasons for that denial,
25 suspension or revocation; and

26 (d) The organization has voluntarily entered into an assurance or
27 voluntary discontinuance or agreement with any jurisdiction or federal
28 agency or officer; and

29 (7) Whether the organization intends to solicit contributions from
30 the general public].

31 d. (1) Every charitable organization required to file a long form
32 registration shall file an annual financial report with the Attorney
33 General. The annual financial report shall include: a balance sheet;
34 a statement of support revenue, expenses and changes in fund balance;
35 a statement of functional expenses at least divided into program,
36 management, general, and fund raising; and such other information as
37 the Attorney General shall by rule require.

38 (2) The annual financial report of every charitable organization
39 which received more than ~~[\$100,000]~~ \$150,000 in gross revenue
40 during its most recently completed fiscal year shall be accompanied by
41 an audited financial statement prepared in accordance with generally
42 accepted accounting principles which has been examined by an
43 independent certified public accountant for the purpose of expressing
44 an opinion thereon.

45 The annual financial reports of all organizations receiving more than
46 \$25,000 but less than ~~[\$100,000]~~ \$150,000 shall be certified by the

1 organization's president or other authorized officer of the
2 organization's governing board and at the request of the Attorney
3 General, the organization shall submit an audited financial statement
4 prepared in accordance with generally accepted accounting principles
5 which has been examined by an independent certified public
6 accountant.

7 (3) The Attorney General may accept a copy of a current financial
8 report previously prepared by a charitable organization for another
9 state agency or officer in compliance with the laws of that state,
10 provided that the report filed with the other state agency or officer
11 shall be substantially similar in content to the report required by this
12 subsection.

13 (4) An independent member agency of a federated fund raising
14 organization shall independently comply with the provisions of this
15 subsection.

16 e. In order to register its qualified local units pursuant to
17 subsection [c.] d. of section 9 of this act, a parent organization
18 registered pursuant to this section shall include with its initial
19 registration and annual renewal statement a separate statement that
20 provides the following:

21 (1) The name, principal street address, and phone number of all
22 local units within this State that it is registering;

23 (2) The amount of gross contributions received by each such unit
24 and the purpose or purposes for which these funds were raised in the
25 preceding fiscal year; and

26 (3) A statement asserting that each such local unit has provided the
27 parent organization with a written statement reporting the information
28 included on its behalf and asserting that the local unit meets all of the
29 requirements of subsection [c.] d. of section 9 of this act.

30 (cf: P.L.1994, c.16, s.7)

31

32 4. Section 8 of P.L.1994, c.16 (C.45:17A-25) is amended to read
33 as follows:

34 8. a. The following charitable organizations shall be required to
35 file a short form registration on forms prescribed by the Attorney
36 General:

37 (1) Charitable organizations or organizations engaging in a
38 charitable fund raising campaign which do not receive gross
39 contributions in excess of \$25,000 during a fiscal year, if all of their
40 functions including fund raising activities are carried on by volunteers,
41 members, officers or persons who are not compensated for soliciting
42 contributions; except that, if the gross contributions, whether or not
43 all is received by any charitable organization during any fiscal year, are
44 in excess of \$25,000 it shall, within 30 days after the date on which it
45 shall have received the contributions, register with and report to the
46 Attorney General as required by section 7 of this act;

1 (2) Fraternal, patriotic, social or alumni organizations, historical
2 societies, and similar organizations organized under the provisions of
3 Title 15 of the Revised Statutes or Title 15A of the New Jersey
4 Statutes, when solicitation of contributions is confined to their
5 membership and solicitation is performed by members of that
6 organization;

7 (3) Persons requesting any contributions for the relief of any
8 individual, specified by name at the time of the solicitation, if all of the
9 contributions collected, without any deductions whatsoever, are turned
10 over to the named beneficiary;

11 (4) Any local post, camp, chapter or similarly designated element,
12 or a county unit of that element, of a bona fide veterans' organization
13 which issues charters to the local elements throughout this State, or to
14 any veterans' organization chartered under federal law or to any
15 service foundation of such an organization recognized in its bylaws.

16 b. The short form shall contain the following:

17 (1) Name and address of the organization;

18 (2) **[Whether the organization has engaged an]** The name of any
19 independent paid fund raiser, fund raising counsel or commercial
20 co-venturer the charitable organization has engaged;

21 (3) The purpose for which the charitable organization is organized;

22 (4) The purposes for which the funds are raised;

23 (5) The tax status of the charitable organization;

24 (6) The reason the organization is eligible to file a short form
25 registration;

26 (7) A copy of the organization's most recent Internal Revenue
27 Service Form 990 and Schedule (A) 990 if the organization filed these
28 forms;

29 (8) The name, business address and telephone number of each
30 officer, director and trustee and each principal salaried executive staff
31 employee and whether the person has been adjudged liable in an
32 administrative or civil action, or convicted in a criminal action,
33 involving theft, fraud or deceptive business practices. For the
34 purposes of this paragraph:

35 (a) a plea of guilty, non vult, nolo contendere or any similar
36 disposition of alleged criminal activity shall be deemed a conviction;

37 (b) "each principal salaried executive staff employee" shall be
38 limited to no more than the five most highly compensated employees
39 in the organization; and

40 (c) a judgment of liability in an administrative or civil action shall
41 include, but not be limited to, any finding or admission that the officer,
42 director, trustee or principal salaried executive staff employee engaged
43 in an unlawful practice or practices related to the solicitation of
44 contributions or the administration of charitable assets, regardless of
45 whether that finding was made in the context of an injunction, a
46 proceeding resulting in the denial, suspension or revocation of an

1 organization's registration, consented to in an assurance of voluntary
2 compliance or any similar order or legal agreement with any state or
3 federal agency.

4 (9) A statement whether:

5 (a) The organization is authorized by any other state to solicit
6 contributions and, if so, a listing of the states in which authorization
7 has been obtained;

8 (b) The organization is or has ever been enjoined in any jurisdiction
9 from soliciting contributions or has been found to have engaged in
10 unlawful practices in the solicitation of contributions or the
11 administration of charitable assets;

12 (c) The organization's registration has been denied, suspended or
13 revoked by any jurisdiction, together with the reasons for that denial,
14 suspension or revocation; and

15 (d) The organization has voluntarily entered into an assurance of
16 voluntary compliance agreement or any similar order or legal
17 agreement with any jurisdiction or federal agency or officer; and

18 (10) Any other information as may be prescribed by rules adopted
19 by the Attorney General.

20 c. In order to register its qualified local units pursuant to
21 subsection [c.] d. of section 9 of this act, a parent organization
22 registered pursuant to this section shall include with its initial
23 registration, a copy of the parent organization's charter, articles of
24 organization, agreement of association, instrument of trust,
25 constitution or other organizational instrument and bylaws, and shall
26 include with its initial registration and annual renewal statement a
27 separate statement that provides the following:

28 (1) The name, principal street address, and phone number of all
29 local units within this State that it is registering;

30 (2) The amount of gross contributions received by each such unit
31 and the purpose or purposes for which these funds were raised in the
32 preceding fiscal year;

33 (3) A statement asserting that each such local unit has provided the
34 parent organization with a written statement reporting the information
35 included on its behalf and asserting that the local unit meets all of the
36 requirements of subsection [c.] d. of section 9 of this act.

37 d. Nothing in subsection c. of this section shall be construed to
38 require a parent organization to register any or all of its local units.

39 (cf: P.L.1994, c.16, s.8)

40
41 5. Section 9 of P.L.1994, c.16 (C.45:17A-26) is amended to read
42 as follows:

43 9. a. The registration requirements of this act shall not apply to
44 any religious corporation, trust, foundation, association or
45 organization incorporated under the provisions of Title 15 or 16 of the
46 Revised Statutes or Title 15A of the New Jersey Statutes or

1 established for religious purposes. Any agency or organization
2 incorporated or established for charitable purposes and engaged in
3 effectuating one or more charitable purposes, which is affiliated with,
4 operated by, or supervised or controlled by a corporation, trust,
5 foundation, association, or organization incorporated or established
6 for religious purposes, or any other religious agency or organization
7 shall also be exempt.

8 b. The registration requirements of this act shall not apply to any
9 educational institution, the curriculums of which in whole or in part
10 are registered or approved by the State Department of Education or
11 the [State Department of] New Jersey Commission on Higher
12 Education, either directly or by acceptance of accreditation by an
13 accredited body recognized by these departments; an educational
14 institution confining its solicitation of contributions to its student
15 body, alumni, faculty and trustees, and their families; or a library
16 registered by the State Department of Education, provided that the
17 annual financial report of that institution or library shall be filed with
18 the State Department of Education where it shall be open for public
19 inspection.

20 c. The registration requirements of P.L.1994, c.16 (C.45:17A-18
21 et seq.) shall not apply to any charitable organization or organizations
22 engaging in a charitable fund raising campaign which do not receive
23 gross contributions in excess of \$10,000 during a fiscal year, if all of
24 its functions, including fund raising activities, are carried on by
25 volunteers, members, officers or persons who are not compensated for
26 soliciting contributions, except that if the gross contributions, whether
27 or not all is received by any charitable organization during any fiscal
28 year, are in excess of \$10,000 the charitable organization shall, within
29 30 days after the date on which it shall have received the
30 contributions, register with and report to the Attorney General as
31 required by section 7 of P.L.1994, c.16 (C.45:17A-24);

32 d. A charitable organization that meets all of the following
33 requirements shall be considered registered as required by this act:

34 (1) The charitable organization is a local unit of a parent
35 organization which is registered pursuant to this act;

36 (2) The parent organization has provided all information
37 concerning the local unit required by subsection e. of section 7 or
38 subsection c. of section 8 of this act;

39 (3) All solicitations made by the local unit are made by members of
40 the local unit or volunteers;

41 (4) The local unit does not employ a fund raising counsel or
42 independent paid fund raiser or utilize paid staff in preparation of
43 materials or records concerning or related to the solicitations; and

44 (5) (a) The local unit does not receive gross contributions in
45 excess of \$25,000 during the fiscal year; or

46 (b) The local unit is an organization that limits membership to

1 persons who are or formerly were employed as officers statutorily
2 authorized to enforce the criminal laws of this State.

3 [d.] e. Nothing in subsection [c.] d. of this section shall be
4 construed to require a parent organization to register any or all of its
5 local units.

6 (cf: P.L.1994, c.16, s.9)

7

8 6. Section 10 of P.L.1994, c.16 (C.45:17A-27) is amended to read
9 as follows:

10 10. a. It shall be unlawful for any person to act as a fund raising
11 counsel or independent paid fund raiser unless registered annually with
12 the Attorney General. Registration statements shall be on forms
13 prescribed by the Attorney General. A registration statement shall be
14 signed and sworn to by the principal officer of the fundraising counsel
15 or independent paid fund raiser and shall contain information as
16 prescribed by rules adopted by the Attorney General.

17 b. The registration statements shall be accompanied by a fee
18 prescribed pursuant to the provisions of this act, except that a fund
19 raising counsel or independent paid fund raiser which is a partnership
20 or corporation which registers shall pay a single fee. Each registration
21 shall expire on June 30.

22 c. The Attorney General shall examine the initial registration
23 statement and supporting documents filed by a fund raising counsel or
24 independent paid fund raiser pursuant to section 5 of this act.

25 d. The relationship between a charitable organization and a fund
26 raising counsel or independent paid fund raiser shall be set forth in a
27 written contract. The relationship between a fund raising counsel or
28 independent paid fund raiser and any other fund raising counsel or
29 independent paid fund raiser shall be set forth in a written contract.

30 The fund raising counsel or independent paid fund raiser shall file a
31 copy of [the contract] all such contracts with the Attorney General at
32 least 10 business days prior to the performance by the fund raising
33 counsel or independent paid fund raiser of any service within this
34 State. It shall be unlawful for any solicitation pursuant to [the] any
35 contract to begin before the Attorney General has reviewed the
36 contract pursuant to section 5 of this act. [The contract] All such
37 contracts shall be signed by two authorized officials of the charitable
38 organization, one of whom must be a member of the organization's
39 governing body, and the authorized contracting officer for the fund
40 raising counsel or independent paid fund raiser. Performance of any
41 contract filed for review shall not foreclose the Attorney General from
42 enforcing the contract requirements established by P.L.1994, c.16
43 (C.45:17A-18 et seq.) and the rules adopted pursuant thereto or taking
44 other appropriate action. For the purposes of this subsection, the term
45 "relationship" shall include, but not be limited to, any contract,
46 agreement, assignment or arrangement or any other obligation relating

1 to the solicitation of contributions.

2 e. [The contract] All contracts for a fund raising counsel or
3 independent paid fund raiser either of whom at any time has or intends
4 to have custody, control, possession or access to a charitable
5 organization's [money] solicited contributions, shall contain the
6 following:

7 (1) A statement of the respective obligations of the [professional
8 fund raiser] fund raising counsel, the independent paid fund raiser, and
9 the charitable organization;

10 (2) A clear statement of the fees or rate which will be paid to the
11 fund raising counsel or independent paid fund raiser;

12 (3) The projected commencement and termination dates of the
13 solicitation campaign;

14 (4) A statement as to whether the fund raising counsel or
15 independent paid fund raiser will have custody, control or access to
16 contributions;

17 (5) A statement as to the guaranteed minimum percentage of the
18 gross receipts from contributions which will be remitted to the
19 charitable organization, if any, or if the solicitation involves the sale of
20 goods, services or tickets to a fund raising event, the percentage of the
21 purchase price which will be remitted to the charitable organization,
22 if any. Any stated percentage shall exclude any amount which the
23 charitable organization is to pay as fund raising costs;

24 (6) A statement of the percentage of the gross revenue from which
25 the fund raising counsel or independent paid fund raiser will be
26 compensated. If the compensation of the fund raising counsel or
27 independent paid fund raiser is not contingent upon the number of
28 contributions or the amount of revenue received, its compensation
29 shall be expressed as a reasonable estimate of the percentage of the
30 gross revenue, and the contract shall clearly disclose the assumptions
31 upon which the estimate is based. The stated assumptions shall be
32 based upon all of the relevant facts known to the fund raising counsel
33 or independent paid fund raiser regarding the solicitation to be
34 conducted by the independent paid fund raiser;

35 (7) The bank and branch where all moneys will be deposited [and],
36 each account number and, for each account, all authorized signatories
37 for withdrawals; and

38 (8) Any other information as may be prescribed by the Attorney
39 General.

40 f. A fund raising counsel or independent paid fund raiser, either of
41 whom at any time has or intends to have custody, control, possession
42 or access to a charitable organization's [money] solicited
43 contributions, shall, if requested by the Attorney General, make
44 available the following information:

45 (1) Each location and telephone number from which the solicitation
46 is conducted;

1 (2) The name, home address and telephone number of each person
2 responsible for directing and supervising the conduct of the campaign
3 and whether the person has been adjudged liable in an administrative
4 or civil action or convicted in a criminal action, involving theft, fraud
5 or deceptive business practices. For the purpose of this paragraph [,
6 a plea of guilty, non vult, nolo contendere or any similar disposition of
7 alleged criminal activity shall be deemed a conviction; and]:

8 (a) a plea of guilty, non vult, nolo contendere or any similar
9 disposition of alleged criminal activity shall be deemed a conviction;

10 and

11 (b) a judgment of liability in an administrative or civil action shall
12 include, but not be limited to, any finding or admission that the person
13 responsible for directing and supervising the conduct of the campaign
14 engaged in an unlawful practice or practices related to the solicitation
15 of contributions or the administration of charitable assets, regardless
16 of whether that finding was made in the context of an injunction, a
17 proceeding resulting in the denial, suspension or revocation of an
18 organization's registration, consented to in an assurance of voluntary
19 compliance or any similar order or legal agreement with any state or
20 federal agency; and

21 (3) A statement of the charitable purpose for which the solicitation
22 campaign is being conducted.

23 g. If either a fund raising counsel or independent paid fund raiser
24 at any time has or intends to have custody, control, possession or
25 access to a charitable organization's [money] solicited contributions,
26 that fund raising counsel or independent paid fund raiser shall:

27 (1) At the time of making application for registration, file with the
28 Attorney General a bond in which it shall be the principal obligor,
29 which shall for the initial application be in the sum of \$20,000 and
30 thereafter shall be an amount prescribed by a rule adopted by the
31 Attorney General pursuant to subsection f. of section 4 of this act.
32 The bond shall provide for one or more sureties whose liability in the
33 aggregate shall at least equal that sum. The fund raising counsel or
34 independent paid fund raiser shall maintain the bond in effect during
35 the entire period of registration. The bond shall be payable to the
36 Attorney General for the benefit of any person who may have a cause
37 of action against the principal obligor of the bond for any violation of
38 this act or for the purpose of satisfying any assessment against the
39 principal obligor of the bond for any such violation;

40 (2) Deposit each contribution collected by the fund raising counsel
41 or independent paid fund raiser, in its entirety and within five days of
42 its receipt, in an account at a bank or other federally insured financial
43 institution. The account shall be in the name of the charitable
44 organization with whom the fund raising counsel or independent paid
45 fund raiser has contracted and the charitable organization shall have
46 sole benefit and control of the account and all withdrawals;

1 (3) Within 40 days after a solicitation campaign has been
2 completed, or in the case of a campaign lasting more than 12 months,
3 within 40 days of the end of the charitable organization's fiscal year,
4 file with the Attorney General a financial report for the campaign on
5 such forms as the Attorney General may prescribe. Those forms shall
6 include, but not be limited to, gross revenues, an itemization of all
7 expenses incurred and the bank and branch where all moneys are
8 deposited. This report shall be signed and sworn to by two authorized
9 officials, one from the charitable organization and one from the fund
10 raising counsel or independent paid fund raiser[.] ; and

11 (4) Maintain a copy of each advertisement, publication, solicitation
12 or other material used as part of the charitable sales promotion to
13 directly or indirectly induce a contribution.

14 (cf: P.L.1994, c.16, s.10)

15

16 7. Section 11 of P.L.1994, c.16 (C.45:17A-28) is amended to read
17 as follows:

18 11. a. It shall be unlawful for any person to act as a solicitor of an
19 independent paid fund raiser required to register pursuant to this act
20 unless [the solicitor registers annually.], prior to that person acting as
21 a solicitor of the independent paid fund raiser, the independent paid
22 fund raiser files registration information including the name, street
23 address, telephone number, and any other information as may be
24 prescribed by the Attorney General, of any such solicitor and files such
25 registration information for that solicitor annually thereafter.
26 Registration statements shall be on forms prescribed by the Attorney
27 General and accompanied by a prescribed fee. The Attorney General
28 shall review the statement pursuant to section 5 of this act and
29 prescribe the fees pursuant to subsection f. of section 4 of this act.

30 b. It shall be unlawful for any independent paid fund raiser to
31 engage a solicitor to solicit charitable contributions unless the
32 independent paid fund raiser files the solicitor's registration
33 information with the Attorney General pursuant to this section.

34 (cf: P.L.1994, c.16, s.11)

35

36 8. Section 12 of P.L.1994, c.16 (C.45:17A-29) is amended to read
37 as follows:

38 12. a. Every charitable organization which permits a charitable
39 sales promotion to be conducted on its behalf shall obtain a written
40 contract from the commercial co-venturer and shall file a copy of the
41 agreement with the Attorney General at least 10 business days prior to
42 the initiation of that charitable sales promotion. All parties to the
43 contract shall be subject to the provisions of P.L.1994, c.16
44 (C.45:17A-18 et seq.) and any rules adopted pursuant thereto. Every
45 contract shall contain a provision clearly and conspicuously stating
46 that the parties are subject to this act and any rules adopted pursuant

1 thereto.

2 b. A charitable organization shall file in writing on forms
3 prescribed by the Attorney General the following information at the
4 conclusion of the charitable sales promotion:

5 (1) [As reported to the charitable organization,] A certification
6 from an officer or principal of the commercial co-venturer attesting to
7 the gross amount of income received by the commercial co-venturer
8 attributable to the charitable sales promotion, solicitation or venture
9 undertaken;

10 (2) The amount of money or other contribution remitted to the
11 organization covering each event or portion of an extended charitable
12 sales promotion; **[and]**

13 (3) A copy of each advertisement, publication, solicitation or other
14 material used as part of the charitable sales promotion to directly or
15 indirectly induce a contribution; and

16 (4) Any other information as may be required by rules adopted by
17 the Attorney General.

18 c. All filings pursuant to this section shall be accompanied by a fee
19 prescribed pursuant to the provisions of this act.

20 d. The commercial co-venturer shall disclose in each advertisement
21 for the charitable sales promotion the dollar amount or percent per
22 unit of goods or services purchased or used that will benefit the
23 charitable organization or purpose. If the actual dollar amount or
24 percent cannot reasonably be determined prior to the final date of the
25 charitable sales promotion, the commercial co-venturer shall disclose
26 an estimated dollar amount or percent. Any such estimate shall be
27 reasonable and shall be based upon all of the relevant facts known to
28 the commercial co-venturer and the charitable organization regarding
29 the charitable sales promotion.

30 (cf: P.L.1994, c.16, s.12)

31

32 9. Section 13 of P.L.1994, c. 16 (C.45:17A-30) is amended to read
33 as follows:

34 13. a. Prior to soliciting a contribution, either orally or by written
35 request, except for any in-person solicitation, any independent paid
36 fund raiser, commercial co-venturer, solicitor, or charitable
37 organization shall clearly and conspicuously disclose any information
38 as prescribed by the rules adopted by the Attorney General.

39 b. In the case of any solicitation campaign conducted orally,
40 whether by telephone or otherwise, except for any in-person
41 solicitation, a written confirmation or receipt or written reminder shall,
42 upon request of the contributor, be sent and shall include a clear and
43 conspicuous disclosure of any information as prescribed by the rules
44 adopted by the Attorney General.

45 c. Except as otherwise provided in section 14 of this act,
46 registration statements, reports, notices, contracts or agreements

1 between charitable organizations and fund raising counsels or
2 independent paid fund raisers and commercial co-venturers and all
3 other documents and information required to be filed under this act
4 with the Attorney General are public records and shall be open to the
5 general public at such time and under such conditions as the Attorney
6 General may prescribe.

7 d. In addition to all other requirements imposed by this act, a
8 charitable organization that limits its membership to persons who are
9 or formerly were employed as officers statutorily authorized to enforce
10 the criminal laws of this State or that is a parent organization that
11 includes local units that so limit membership shall:

12 (1) At least 10 days prior to initiating any solicitation campaign
13 involving multiple solicitations, give written notice describing the
14 nature, purpose and the proposed dates and location of the
15 solicitations to the Attorney General and the county prosecutor of any
16 county in which the solicitations will be made, unless the organization
17 limits its membership to persons who are or were employed by the
18 State, or is a parent organization with local units in more than one
19 county, in which case notice shall be given to the Attorney General
20 who shall notify the appropriate county prosecutors;

21 (2) Upon request, make any records required by this act available
22 for inspection or provide an audited financial statement of financial
23 records concerning the organization's fund raising activities to the
24 Attorney General.

25 e. In addition to all other requirements imposed by P.L.1994, c.16
26 (C.45:17A-18 et seq.), any charitable organization that is or holds
27 itself out to be soliciting contributions through the use of any name,
28 symbol or statement which implies or that would lead a reasonable
29 person to believe that the charitable organization is in any way
30 affiliated with, related to, recognized by, or organized for the benefit
31 of emergency service employees, officers statutorily authorized to
32 enforce the criminal laws of this State or a governmental agency shall
33 disclose to the potential contributor the nature of the affiliation,
34 relationship, recognition or organization, if any, or shall expressly state
35 that no affiliation, relationship, recognition or organization exists
36 between the charitable organization and emergency service employees,
37 officers statutorily authorized to enforce the criminal laws of this State
38 or governmental agency, as the case may be.

39 (cf: P.L.1994, c.16, s.13)

40

41 10. Section 15 of P.L.1994, c.16 (C.45:17A-32) is amended to
42 read as follows:

43 15. a. Any statement, whether oral or written, made by a
44 charitable organization, or on behalf of a charitable organization by
45 persons including, but not limited to commercial co-venturers, fund
46 raising counsels, independent paid fund raisers or solicitors shall be

1 truthful.

2 b. A charitable organization shall establish and exercise control
3 over fund raising activities conducted for its benefit, including
4 approval of all written contracts and agreements, and shall assure that
5 fund raising activities are conducted without coercion.

6 c. The following acts and practices are declared unlawful as applied
7 to the planning, conduct, or execution of any solicitation or charitable
8 sales promotion:

9 (1) To misrepresent the purpose or nature of the charitable
10 institution or the purpose or beneficiary of a solicitation; to solicit
11 contributions for a purpose other than the charitable purpose
12 expressed in the statement of the charitable organization or expend
13 contributions in a manner inconsistent with that purpose, or to fail to
14 disclose any material fact. A misrepresentation may be accomplished
15 by words or conduct;

16 (2) To violate or fail to comply with any of the applicable
17 provisions of this act or the rules adopted under authority of this act;

18 (3) To violate or fail to comply with any of the applicable
19 provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et
20 seq.) or the regulations adopted pursuant to that act;

21 (4) To utilize a name, symbol or statement so closely related or
22 similar to that used by another charitable organization and registered
23 by that organization with the United States Patent and Trademark
24 Office or registered pursuant to R.S.56:2-1 et seq. that its use would
25 tend to confuse or mislead a solicited person or to solicit contributions
26 in a manner or through representations that falsely imply or are likely
27 to create the mistaken belief that the contributions are solicited by or
28 on behalf of another charitable organization;

29 (5) To utilize or exploit registration so as to lead any person to
30 believe that registration constitutes or implies an endorsement or
31 approval by the State;

32 (6) To distribute [honorary] any form of membership or badges,
33 shields, courtesy cards or cards of a similar nature identifying the
34 organization in connection with or in any manner related to the
35 solicitation of funds or contributions for or on behalf of the
36 organization in the case of any charitable organization that limits its
37 membership to persons who are or formerly were employed as officers
38 statutorily authorized to enforce the criminal laws of this State or that
39 is a parent organization that includes local units that so limit
40 membership;

41 (7) To utilize information, statements or communications that,
42 although literally true, are presented in a manner that has the capacity
43 to mislead the average consumer; [and]

44 (8) To utilize a name, symbol or statement so closely related or
45 similar to that used by any organization that is affiliated with, related
46 to, recognized by or organized for the benefit of emergency service

1 employees, officers statutorily authorized to enforce the criminal laws
2 of this State, or a governmental agency in such a way that its use
3 would tend to confuse or mislead a solicited person or to create the
4 erroneous belief that the contributions are solicited by or on behalf of
5 an organization affiliated with, related to, recognized by or organized
6 for the benefit of emergency service employees, officers statutorily
7 authorized to enforce the criminal laws of this State, or a
8 governmental agency;

9 (9) To utilize a name, symbol or statement that misrepresents the
10 geographic origin or location of a charitable organization or its
11 intended beneficiaries; and

12 (10) To engage in other unlawful acts and practices as may be
13 determined by rules adopted by the Attorney General.

14 d. It shall be unlawful for any charitable organization, fund raising
15 counsel, independent paid fund raiser or commercial co-venturer to
16 enter into any contract with any person who is required to have
17 registered and failed to do so.

18 e. It shall be unlawful for any person to represent that tickets to
19 events will be donated by another, unless the following requirements
20 have been met:

21 (1) The fund raising counsel or independent paid fund raiser shall
22 obtain commitments, in writing and notarized, from charitable
23 organizations stating that they will accept donated tickets and
24 specifying the number of tickets they are willing to accept and for
25 which they are able to provide transportation; copies of such written
26 commitments shall be filed with the Attorney General;

27 (2) The independent paid fund raiser has taken measures to prevent
28 solicitation of contributions for donated tickets in excess of the
29 number of ticket commitments received from charitable organizations;
30 and

31 (3) The number of tickets sold will not be greater than the number
32 of seats available at the facility for each event or performance.

33 (cf: P.L.1998, c.123, s.1)

34

35 11. Section 16 of P.L.1994, c.16 (C.45:17A-33) is amended to
36 read as follows:

37 16. a. For purposes of the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General or his
39 designee shall constitute the agency head and have the final decision
40 making power.

41 b. After notice and an opportunity for a hearing, the Attorney
42 General may revoke, or suspend any registration upon a finding that
43 the registrant or any officer, director, trustee or principal salaried
44 executive staff employee of a registrant or any other person subject to
45 the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.):

46 (1) Has filed a registration statement containing false or misleading

1 facts or omitting material facts;

2 (2) Has violated or failed to comply with any of the provisions of
3 this act or the rules adopted under authority of this act;

4 (3) Has engaged in the use or employment of dishonesty, fraud,
5 deception, misrepresentation, false promise or false pretense;

6 (4) Has been convicted of any criminal offense committed in
7 connection with the performance of activities regulated under this act
8 or any criminal offense involving untruthfulness or dishonesty or any
9 criminal offense relating adversely to the registrant's fitness to perform
10 activities regulated by this act. For the purposes of this paragraph, a
11 plea of guilty, non vult, nolo contendere or any other similar
12 disposition of alleged criminal activity shall be deemed a conviction;

13 (5) Has had the authority to engage in charitable activities denied,
14 revoked or suspended by New Jersey or any other state or jurisdiction;

15 (6) Has been adjudged liable in an administrative or civil
16 proceeding including, but not limited to, any finding of unlawful
17 practice or practices related to the solicitation of contributions or the
18 administration of charitable assets, regardless of whether that finding
19 was made in the context of an injunction, a proceeding resulting in
20 penalties, consented to in an assurance of voluntary compliance or any
21 similar order or legal agreement with any state or federal agency;

22 (7) Has engaged in other forms of misconduct as may be
23 determined by rules adopted by the Attorney General.

24 c. Whenever it shall appear to the Attorney General that a person
25 has engaged in, is engaging in, or is about to engage in, any act or
26 practice declared unlawful by this act, or when the Attorney General
27 determines it to be in the public interest to inquire whether a violation
28 may exist, the Attorney General may:

29 (1) Require any person to file, on a form to be prescribed by the
30 Attorney General, a statement or report in writing under oath, or
31 otherwise, concerning any relevant and material information in
32 connection with an act or practice subject to this act;

33 (2) Examine under oath any person in connection with any act or
34 practice subject to this act;

35 (3) Inspect any location from which the activity regulated by this
36 act is conducted;

37 (4) Examine any goods, ware or items used in the rendering of any
38 of the services contained in this act;

39 (5) Require an audited financial statement of the financial records
40 of the organization or person registered, exempted or required to be
41 registered under this act, prepared in accordance with generally
42 accepted accounting principles which has been examined by an
43 independent certified public accountant for the purpose of expressing
44 an opinion thereof;

45 (6) Examine any book, document, account, computer data,
46 literature, publication or paper maintained by or for any organization

1 or person registered, exempted or required to be registered under this
2 act, in the course of engaging in the activities regulated by this act;

3 (7) Apply to Superior Court for an order to impound any record,
4 book, document, account, computer data, literature, publication,
5 paper, goods, ware, or item used or maintained by any organization or
6 person registered, exempted or required to be registered under this act
7 in the regular course of engaging in the activities regulated by this act
8 or rules adopted under this act;

9 (8) In order to accomplish the objectives of this act, or the rules
10 adopted under this act, hold investigative hearings as necessary and
11 issue subpoenas to compel the attendance of any person or the
12 production of books, records, computer data, literature, publication or
13 papers at any investigative hearing or inquiry.

14 d. Any person who engages in any conduct or an act in violation
15 of any provision of this act and who has not previously violated this
16 act shall, in addition to any other relief authorized by this or any other
17 law, be liable for a civil penalty of not more than [~~\$7,500~~] \$10,000
18 for the first violation of this act.

19 For a second violation of this act, or if a person is found liable for
20 more than one violation of this act within a single proceeding, the
21 liability for the second violation shall not exceed a civil penalty in the
22 amount of [~~\$15,000~~] \$20,000.

23 For a third violation of this act, or if a person is found liable for
24 more than two violations of this act within a single proceeding, the
25 liability for a third or any succeeding violation shall not exceed a civil
26 penalty in the amount of [~~\$15,000~~] \$20,000 for each additional
27 violation.

28 In lieu of an administrative proceeding or an action in the Superior
29 Court, the Attorney General may bring an action for the collection or
30 enforcement of civil penalties for the violation of any provision of this
31 act. The action may be brought in a summary manner, pursuant to
32 ["the penalty enforcement law," N.J.S. 2A:58-1 et seq.] the "Penalty
33 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and
34 the Rules Governing the Courts of the State of New Jersey governing
35 actions for the collection of civil penalties, in the Municipal or Special
36 Civil Part of the Law Division of the Superior Court in the
37 municipality or county where the offense occurred. Process in the
38 action may be by summons or warrant. If the defendant in the action
39 fails to answer the action, the court shall, upon finding that an
40 unlawful act or practice has been committed by the defendant, issue a
41 warrant for the defendant's arrest in order to bring the person before
42 the court to satisfy the civil penalties imposed.

43 In an action commenced pursuant to this section, the court may
44 order restored to any person in interest any moneys or property
45 acquired by means of an unlawful act or practice. An action alleging
46 the unregistered practice of the activities regulated by this act may be

1 brought pursuant to this section or, where injunctive relief is sought,
2 by an action commenced in the Superior Court. In an action brought
3 pursuant to this act, the Attorney General or the court may order the
4 payment of attorney's fees and costs for the use of the State.

5 e. Whenever it shall appear to the Attorney General that a violation
6 of this act has occurred, is occurring, or will occur, the Attorney
7 General, in addition to any other proceeding authorized by law, may
8 seek and obtain in a summary proceeding in the Superior Court an
9 injunction prohibiting the act or practice. In the proceeding the court
10 may assess a civil penalty in accordance with the provisions of this act,
11 order restoration to any person in interest of any moneys or property,
12 real or personal, acquired by means of an unlawful act or practice and
13 may enter any orders necessary to prevent the performance of an
14 unlawful practice in the future and to remedy fully any past unlawful
15 activity.

16 f. Upon the failure of any person to comply within 10 days after
17 service of any order of the Attorney General directing payment of
18 penalties, attorney's fees, costs or restoration of moneys or property
19 as authorized by this act, the Attorney General may issue a certificate
20 to the Clerk of the Superior Court that the person is indebted to the
21 State for the payment. A copy of the certificate shall be served upon
22 the person against whom the order was entered. The clerk shall
23 immediately enter upon the record of docketed judgments the name of
24 the person so indebted and of the State, a designation of the statute
25 under which each payment was directed, the amount of each payment,
26 a listing of property ordered restored, and the date of the certification.
27 The entry shall have the same force and effect as the entry of a
28 docketed judgment in the Superior Court and the Attorney General
29 shall have all rights and remedies of a judgment creditor, in addition
30 to exercising any other available remedies.

31 g. If a person fails or refuses to file any statement or report, or fails
32 or refuses to grant access to premises from which activities regulated
33 by this act are conducted in any lawfully conducted investigative
34 matter, or fails to obey a subpoena issued pursuant to this act, the
35 Attorney General may apply to the Superior Court and obtain an
36 order:

37 (1) Adjudging that person in contempt of court and assessing civil
38 penalties in accordance with the amounts prescribed by this act;

39 (2) Enjoining the conduct of any practice in violation of this act;
40 or

41 (3) Granting other relief as required.

42 h. If a person who refuses to testify or produce any computer data,
43 book, paper, or document in any proceeding under this act for the
44 reason that the testimony or evidence, documentary or otherwise,
45 required of him may tend to incriminate him, or convict him of a crime,
46 is directed to testify or to produce the computer data, book, paper, or

1 document by the Attorney General, he shall comply with the direction.

2 A person who is entitled by law to and does assert a privilege, and
3 who complies with the direction of the Attorney General, shall not
4 thereafter be prosecuted or subject to any penalty or forfeiture in any
5 criminal proceeding which arises out of and relates to the subject
6 matter of the proceeding. No person so testifying shall be exempt
7 from prosecution or punishment for perjury or false swearing
8 committed by him in giving the testimony or from any civil or
9 administrative action arising from the testimony.

10 i. In addition or as an alternative to revocation or suspension of a
11 registration, the Attorney General may, after affording an opportunity
12 to be heard and finding a violation of this act:

13 (1) Assess civil penalties in accordance with this act;

14 (2) Direct that any person cease and desist from any act or practice
15 in violation of this act or take necessary affirmative corrective action
16 with regard to any unlawful act or practice; [or]

17 (3) Order any person to restore to any person aggrieved by an
18 unlawful act or practice any money or property, real or personal,
19 acquired by means of any unlawful act or practice, except that the
20 Attorney General shall not order restoration in a dollar amount greater
21 than those moneys received by the registrant or his agent or any other
22 person violating this act;

23 (4) Order the payment of attorney's fees and costs for the use of
24 the State; or

25 (5) Authorize the release of sums from any bond maintained
26 pursuant to this act in satisfaction of assessments.

27 j. Whenever a person engages in any act or practice in violation of
28 this act the Attorney General may, after notice and opportunity to be
29 heard and upon a finding that the act or practice has occurred, enter
30 an order:

31 (1) Directing the person to cease and desist from that unlawful act
32 or practice;

33 (2) Assessing civil penalties in accordance with this act;

34 (3) Directing that person restore to any person aggrieved by the
35 unlawful act or practice any money or property, real or personal,
36 acquired by means of the unlawful act or practice, except that the
37 Attorney General shall not order restoration in a dollar amount greater
38 than those moneys received by the registrant, agent or any other
39 person violating this act; [or]

40 (4) Directing payment of attorney's fees and costs for the use of the
41 State ; or

42 (5) Authorizing the release of sums from any bond maintained
43 pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) in satisfaction of
44 assessments.

45 k. When it shall appear to the Attorney General that a person
46 against whom an order pursuant to this section has been entered has

1 violated the order, the Attorney General may initiate a summary
2 proceeding in the Superior Court for enforcement of the order. Any
3 person found to have violated such an order shall be ordered to
4 comply with the prior administrative order and may be ordered to pay
5 civil penalties in the amount of not more than \$25,000 for each
6 violation of the order. If a person fails to pay a civil penalty assessed
7 by the court for violation of an order, the court assessing the unpaid
8 penalty is authorized, upon application of the Attorney General, to
9 grant any relief which may be obtained under any statute or court rule
10 governing the collection and enforcement of penalties.

11 1. In any administrative proceeding on a complaint alleging a
12 violation of this act, the Attorney General may issue subpoenas to
13 compel the attendance of witnesses or the production of computer
14 data, books, records, or documents at the hearing on the complaint as
15 provided by this act.

16 m. In addition to any other action or remedy available under this
17 act, a charitable organization aggrieved by a violation of paragraph (4)
18 or (8) of subsection c. of section 15 of this act may initiate a civil
19 action or assert a counterclaim in any court of competent jurisdiction
20 against the violator. Upon establishing the violation, the charitable
21 organization shall recover treble its damages or treble the violator's
22 profits, whichever is greater. In all actions under this subsection the
23 court shall award reasonable attorney's fees, filing fees and reasonable
24 costs of suit.

25 n. Notwithstanding any other provision of this section to the
26 contrary, a parent organization may be held accountable for actions
27 related to information filed on behalf of a local unit only if the parent
28 organization has filed information knowing that the information is false
29 or misleading or knowing that material facts are omitted.

30 o. Notwithstanding any other provision of this section to the
31 contrary, any local unit that has provided to its parent organization
32 timely, truthful and complete information and otherwise conducted
33 itself in compliance with the provisions of this act, shall not be held
34 accountable for the misconduct of a parent organization, including, but
35 not limited to, the failure of the parent organization to file timely
36 reports on behalf of the local unit.

37 (cf: P.L.1994, c.16, s.16)

38

39 12. Section 21 of P.L.1994, c.16 (C.45:17A-38) is amended to
40 read as follows:

41 21. Any printed solicitation, written confirmation, receipt or
42 written reminder of a contribution issued by a charitable organization,
43 independent paid fund raiser or solicitor concerning a solicitation or
44 contribution on behalf of a charitable organization that is registered
45 pursuant to this act shall contain the following statement which shall
46 be conspicuously printed:

1 "INFORMATION FILED WITH THE ATTORNEY GENERAL
2 CONCERNING THIS CHARITABLE SOLICITATION AND THE
3 PERCENTAGE OF YOUR CONTRIBUTION THAT WILL BE
4 DEDICATED TO THE CHARITABLE PURPOSE MAY BE
5 OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE
6 OF NEW JERSEY BY CALLING 000-000-0000 AND IS
7 AVAILABLE ON THE INTERNET AT www.xxxxxxxxxx.xxx.
8 REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT
9 IMPLY ENDORSEMENT."

10 (cf: P.L.1994, c.16, s.21)

11

12 13. (New section) Any person soliciting contributions shall not be
13 permitted to use technology that blocks caller identification telephone
14 systems used by any person in this State.

15

16 14. This act shall take effect on the 180th day following enactment.

17

18

19

STATEMENT

20

21 This bill makes various changes to the "Charitable Registration and
22 Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These
23 changes are intended to provide enhanced disclosure requirements and
24 prohibitions against misleading prospective donors, enhance the
25 Attorney General's enforcement authority under the act, ease statutory
26 compliance for smaller volunteer organizations, and raise penalties and
27 provide for the recovery of costs and attorney fees in administrative
28 proceedings under the act.

29 Specifically, the bill:

30 C Expressly includes within the scope of the law all assignees,
31 subcontractors and independent contractors of fund raising counsels
32 and independent paid fund raisers;

33 * Clarifies that a bona fide salaried officer, employee or volunteer of
34 a charitable organization is not a solicitor;

35 Clarifies that adjudgments of civil liability include any and all
36 findings of liability regardless of form or the context of the finding,
37 including administrative and civil actions;

38 * Requires annual disclosure, rather than disclosure at the initial
39 registration, of organizational information such as the
40 organization's address, custodian of financial records and any
41 limitations of fund raising activities in other jurisdictions, and adds
42 an annual disclosure as to whether the organization's officers,
43 directors, trustees or principal salaried executive staff employees
44 have a financial interest in any activity engaged in by a fund raising
45 counsel or independent paid fund raiser or any supplier or vendor;

46 * Increases the threshold amounts a charitable organization must raise

- 1 before it is required to register or file an audited financial statement
2 (over \$150,000 requires an audited financial statement; less than
3 \$150,000 requires certification by an authorized organization
4 officer);
- 5 * Provides that the registration requirements do not apply to any
6 charitable organization whose fund raising does not exceed \$10,000
7 a year if the fund raising activities are done by volunteers;
- 8 * Provides that all relationships between fund raising counsels and
9 independent paid fund raisers must be in writing, signed by the
10 charitable organization, and are subject to review by the Attorney
11 General;
- 12 * Provides for more disclosure by fund raising counsels and
13 independent paid fund raisers, including disclosure of adjudgments
14 of civil liability regardless of form or the context of the funding,
15 and requires counsel and fund raisers to maintain a copy of each
16 advertisement for solicitations;
- 17 * Shifts the responsibility for registration of the solicitors to the
18 independent paid fund raiser, and prohibits a fund raiser from using
19 a solicitor who has not been registered;
- 20 * Strengthens the State's ability to enforce promises made by
21 commercial co-venturers by requiring them to certify the amount of
22 funds raised during a charitable sales promotion and to make
23 certain disclosures regarding the advertising of their promotions;
- 24 * Requires a charitable organization to disclose any relationship with
25 a government agency or emergency services personnel;
- 26 * Includes as a violation of the law any misrepresentation regarding
27 the geographic location of a charitable organization or the intended
28 beneficiaries of a solicitation, or any misrepresentation regarding
29 the relationship between a charitable organization and a government
30 agency or emergency services personnel;
- 31 * Permits an action against any entity required to be registered
32 pursuant to the "Charitable Registration and Investigation Act"
33 based upon proof of criminal convictions or findings of violations
34 of charity and solicitation laws in other jurisdictions committed by
35 the registrant, or its officers, directors or principal employees;
- 36 * Increases the penalties under the law from up to \$7,500 to up to
37 \$10,000 for a first violation and from up to \$15,000 to up to
38 \$20,000 for a second or subsequent violation and ensures that costs
39 and attorneys' fees are recoverable in administrative proceedings;
40 and
- 41 * Requires every printed charitable solicitation contain a statement
42 that the percentage of a contribution dedicated to the charitable
43 purpose is available by telephoning the Attorney General or on the
44 Internet.
- 45 The bill also prohibits in a solicitation or charitable sales promotion
46 the distribution of badges or shields by a charitable organization that

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28

- 1 limits its membership to persons who are or formerly were employed
- 2 as law enforcement officers, and prohibits anyone soliciting
- 3 contributions from blocking the caller identification telephone system
- 4 used by any person in this State.

P.L. 2005, CHAPTER 283, *approved January 9, 2006*
Senate, No. 204 (*Third Reprint*)

1 AN ACT concerning charitable registration and amending and
2 supplementing P.L.1994, c.16.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1994, c.16 (C.45:17A-20) is amended to read
8 as follows:

9 3. As used in this act:

10 "Attorney General" means the Attorney General of the State of
11 New Jersey or his designee.

12 "Charitable organization" means: (1) any person determined by the
13 federal Internal Revenue Service to be a tax exempt organization
14 pursuant to section 501(c) (3) of the Internal Revenue Code of 1986,
15 26 U.S.C. § 501(c) (3); or (2) any person who is, or holds himself out
16 to be, established for any benevolent, philanthropic, humane, social
17 welfare, public health, or other eleemosynary purpose, or for the
18 benefit of law enforcement personnel, firefighters or other persons
19 who protect the public safety, or any person who in any manner
20 employs a charitable appeal as the basis of any solicitation, or an
21 appeal which has a tendency to suggest there is a charitable purpose
22 to any such solicitation.

23 "Charitable purpose" means: (1) any purpose described in section
24 501(c) (3), of the Internal Revenue Code of 1986, 26U.S.C. §501(c)
25 (3); or (2) any benevolent, philanthropic, humane, social welfare,
26 public health, or other eleemosynary objective, or an objective that
27 benefits law enforcement personnel, firefighters, or other persons who
28 protect the public safety.

29 "Charitable sales promotion" means an advertising or sales
30 campaign, conducted by a commercial co-venturer, which represents
31 that the purchase or use of goods or services offered by the
32 commercial co-venturer will benefit a charitable organization or
33 purpose.

34 "Commercial co-venturer" means any person, including, but not
35 limited to, any assignee, subcontractor, independent contractor or
36 successor in interest, who, for profit or other consideration is regularly
37 and primarily engaged in trade or commerce other than in connection
38 with the raising of funds or any other thing of value for a charitable

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted March 8, 2004.

² Assembly floor amendments adopted December 12, 2005.

³ Assembly ASG committee amendments adopted January 5, 2006.

1 organization, and who advertises that the purchase or use of his goods,
2 services, entertainment or any other thing of value will benefit a
3 charitable organization or charitable purpose.

4 "Contribution" means the conveyance, promise or pledge of money,
5 credit, property, financial assistance or other thing of any kind or value
6 in response to a solicitation. It does not include any of the following:
7 bona fide fees, dues or assessments paid by members provided that
8 membership is not conferred solely as consideration for making a
9 contribution in response to a solicitation; moneys received pursuant
10 to a governmental grant or contract; or, personal services rendered by
11 a volunteer.

12 "Federated fundraising organization" means a federation of
13 independent charitable organizations which have voluntarily joined
14 together for purposes of raising and distributing money.

15 "Fund raising counsel" means any person, including, but not limited
16 to, any assignee, subcontractor, independent contractor or successor
17 in interest, who is retained by a charitable organization for a fixed fee
18 or rate to plan, manage, advise, consult or prepare material for or with
19 respect to the solicitation in this State of contributions for a charitable
20 organization, but who does not solicit contributions or employ,
21 procure or engage any compensated person to solicit contributions.
22 A bona fide salaried officer, employee, or volunteer of a charitable
23 organization shall not be deemed to be a fund raising counsel. No
24 attorney, accountant or banker who renders professional services to a
25 charitable organization or advises a person to make a charitable
26 contribution during the course of rendering professional services to
27 that person shall be deemed, as a result of the professional service or
28 advice rendered, to be a fund raising counsel.

29 "Independent paid fund raiser" means any person, including, but not
30 limited to, any assignee, subcontractor, independent contractor or
31 successor in interest, who for compensation performs for or on behalf
32 of a charitable organization any service in connection with which
33 contributions are [,] or will be solicited in this State by that
34 compensated person or by any compensated person he employs,
35 procures, or engages, directly or indirectly to solicit contributions. A
36 bona fide salaried officer, employee, or volunteer of a charitable
37 organization shall not be deemed to be an independent paid fund
38 raiser. No attorney, accountant or banker who advises a person to
39 make a charitable contribution during the course of rendering
40 professional services to that person shall be deemed, as a result of that
41 advice, to be an independent paid fund raiser.

42 "Local unit" means a charitable organization that is affiliated with
43 a parent organization under terms specified in the parent organization's
44 charter, articles of organization, agreement of association, instrument
45 of trust, constitution or other organizational instrument or by-laws.

46 "Membership" means a relationship which entitles a person to the

1 privileges, professional standing, honors or other direct benefit of the
2 organization and either the right to vote or elect officers, or hold
3 office in the organization. Membership shall not include any
4 relationship granted solely upon making a contribution as a result of
5 a solicitation.

6 "Parent organization" means a charitable organization which
7 charters or affiliates local units under terms specified in the charitable
8 organization's charter, articles of organization, agreement of
9 association, instrument of trust, constitution or other organizational
10 instrument or bylaws.

11 "Person" means an individual, corporation, association, partnership,
12 trust, foundation or any other entity, however established within or
13 without this State.

14 "Registrant" means any person who has filed a registration
15 statement with the Attorney General required by this act.

16 "Registration statement" means an initial registration, renewal,
17 financial report, or any other document or report required pursuant to
18 section 6, 7, 8, 10 or 11 of this act to be filed with the Attorney
19 General.

20 "Secretary of State" means the Secretary of State of the State of
21 New Jersey.

22 "Solicitation" or "solicit" means the request, directly or indirectly,
23 for money, credit, property, financial assistance, or other thing of any
24 kind or value which will be used for a charitable purpose or benefit a
25 charitable organization. Solicitation shall include, but not be limited
26 to, the following methods of requesting or securing money, credit,
27 property, financial assistance or other thing of value:

28 (1) Any oral or written request;

29 (2) The making of any announcement in the press, over the radio
30 or television, by telephone, through the mail or any other media
31 concerning an appeal or campaign by or for any charitable organization
32 or purpose;

33 (3) The distribution, circulation, posting or publishing of any
34 handbill, written advertisement or other publication which directly or
35 by implication seeks to obtain a contribution;

36 (4) The offer of, attempt to sell, or sale of any advertising space,
37 book, card, tag, coupon, device, magazine, membership, merchandise,
38 subscription, flower, ticket, candy, cookies or other tangible item in
39 connection with which any appeal is made for any charitable
40 organization or purpose, or where the name of any charitable
41 organization is used or referred to in any appeal as an inducement or
42 reason for making any sale, or where any statement is made that the
43 whole or any part of the proceeds from the sale will be used for any
44 charitable purpose or benefit any charitable organization;

45 (5) The use or employment of canisters, cards, receptacles or
46 similar devices for the collection of money or other thing of value in

1 connection with which any appeal is made for any charitable
2 organization or purpose.

3 A solicitation shall take place whether or not the person making the
4 solicitation receives any contribution, except that a charitable
5 organization's use of its own name in any communication shall not
6 alone be sufficient to constitute a solicitation.

7 "Solicitor" means any individual who attempts to solicit or solicits
8 contributions [.] for compensation[, and who is subject to the control
9 of an independent paid fund raiser. The term "control" means the
10 direct management, direction and supervision of performance of a
11 solicitor's activities in connection with the solicitation of contributions
12 by the independent paid fund raiser]. A bona fide salaried officer,
13 employee, or volunteer of a charitable organization shall not be
14 deemed to be a solicitor.

15 (cf: P.L.1994, c.16, s.3)

16

17 2. Section 5 of P.L.1994, c.16 (C.45:17A-22) is amended to read
18 as follows:

19 5. If the Attorney General determines that the registration or
20 contract requirements established by this act are not satisfied, the
21 Attorney General shall notify the filing party or registrant within 10
22 business days of receipt of the registration or contract. If notification
23 is not sent within 10 business days: (1) a registration statement is
24 accepted; or (2) performance may begin on a contract. Within 10
25 business days after receipt of a notification that the requirements have
26 not been satisfied, the charitable organization, fund raising counsel,
27 independent paid fund raiser, commercial co-venturer or solicitor, as
28 appropriate, may satisfy the requirements or request a hearing
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.). Acceptance of a registration or performance of
31 a contract pursuant to this section shall not foreclose the Attorney
32 General from denying an application, enforcing the registration or
33 contract requirements established by P.L.1994, c.16 (C.45:17A-18 et
34 seq.) and the rules adopted pursuant thereto, or taking other
35 appropriate action [based on information that may be subsequently
36 uncovered].

37 (cf: P.L.1994, c.16, s.5)

38

39 3. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to read
40 as follows:

41 7. a. Every charitable organization operating or soliciting within
42 this State, except for those provided for in section 8 of this act or
43 exempt pursuant to section 9 of this act, shall file a long form
44 registration statement with the Attorney General.

45 b. The long form shall contain the following:

46 (1) The name of the organization and any other name or names

1 under which it intends to solicit contributions and the purposes for
2 which it was organized;

3 (2) The name, street address and telephone number of each officer,
4 director and trustee and each principal salaried executive staff
5 employee and whether the person has been adjudged liable in an
6 administrative or civil action, or convicted in a criminal action,
7 involving theft, fraud or deceptive business practices. For the
8 purposes of this paragraph:

9 (a) a plea of guilty, non vult, nolo contendere or any similar
10 disposition of alleged criminal activity shall be deemed a conviction;

11 **[and]**

12 (b) "each principal salaried executive staff employee" shall be
13 limited to no more than the five most highly compensated employees
14 in the organization ; and

15 (c) a judgment of liability in an administrative or civil action shall
16 include, but not be limited to, any finding or admission that the officer,
17 director, trustee or principal salaried executive staff employee engaged
18 in an unlawful practice or practices related to the solicitation of
19 contributions or the administration of charitable assets, regardless of
20 whether that finding was made in the context of an injunction, a
21 proceeding resulting in the denial, suspension or revocation of an
22 organization's registration, consented to in an assurance of voluntary
23 compliance or any similar order or legal agreement with any state or
24 federal agency.

25 (3) A copy of the most recent Internal Revenue Service Form 990
26 and Schedule A (990) for every registrant if the organization filed
27 these forms;

28 (4) A clear description of the specific programs and charitable
29 purpose for which contributions will be used and a statement whether
30 such programs are planned or are in existence;

31 (5) **[Whether]** A statement disclosing pertinent information
32 concerning whether any of the organization's officers, directors,
33 trustees or principal salaried executive staff employees as defined in
34 subparagraph (b) of paragraph (2) of subsection b. of this section
35 **[are]**;

36 (a) Are related by blood, marriage or adoption to each other or to
37 any officers, agents or employees of any fund raising counsel or
38 independent paid fund raiser under contract to the organization, or are
39 related by blood, marriage or adoption to any chief executive
40 employee, any other employee of the organization with a direct
41 financial interest in the transaction, or any partner, proprietor,
42 director, officer, trustee, or to any shareholder of the organization
43 with more than a two percent interest of any supplier or vendor
44 providing goods or services to the organization and, if so, the name
45 and business and home address and telephone number of each related
46 party; or

1 **(b) Have a financial interest in any activity engaged in by a fund**
2 **raising counsel or independent paid fund raiser under contract to the**
3 **organization or any supplier or vendor providing goods or services to**
4 **the organization and, if so, the name and business address and**
5 **telephone number of each interested party.**

6 (6) The amount of any grant or financial assistance from any
7 agency of government in its preceding fiscal year; [and]

8 (7) **A statement setting forth the place where and the date when the**
9 **organization was legally established and the form of the organization;**

10 (8) **The principal street address and telephone number of the**
11 **organization and the address and telephone number of each office in**
12 **this State. If the organization does not maintain an office in this State,**
13 **the name and address of the individual having custody of its financial**
14 **records pertaining to operations or solicitations in this State shall be**
15 **disclosed;**

16 (9) **The name, street address and telephone number of each affiliate**
17 **which shares in the contributions or other revenue raised in this State;**

18 (10) **The date when the organization's fiscal year ends;**

19 (11) **A statement whether:**

20 (a) **The organization is authorized by any other state to solicit**
21 **contributions and, if so, a listing of the states in which authorization**
22 **has been obtained;**

23 (b) **The organization is or has ever been enjoined in any jurisdiction**
24 **from soliciting contributions or has been found to have engaged in**
25 **unlawful practices in the solicitation of contributions or the**
26 **administration of charitable assets;**

27 (c) **The organization's registration has been denied, suspended or**
28 **revoked by any jurisdiction, together with the reasons for that denial,**
29 **suspension or revocation; and**

30 (d) **The organization has voluntarily entered into an assurance of**
31 **voluntary compliance agreement or any similar order or legal**
32 **agreement with any jurisdiction or federal agency or officer;**

33 (12) **Whether the organization intends to solicit contributions from**
34 **the general public; and**

35 (13) Any other information as may be prescribed by rules adopted
36 by the Attorney General. In prescribing the requirements of the long
37 form, the Attorney General shall permit a charitable organization to
38 incorporate by reference any information reported by the organization
39 on its Service Form 990 and Schedule A (990).

40 c. With initial registration only, every charitable organization
41 required to file a long form registration shall also file [the following;
42 provided,] **a copy of the organization's charter, articles of**
43 **organization, agreement of association, instrument of trust,**
44 **constitution or other organizational instrument and bylaws, and a**
45 **statement setting forth the organization's tax exempt status with**
46 **copies of federal or state tax exemption determination or exemption**

1 ruling letters; provided that any changes in the accuracy of this
2 information shall be reported to the Attorney General pursuant to
3 subsection e. of section 14 of this act [:

4 (1) A copy of the organization's charter, articles of organization,
5 agreement of association, instrument of trust, constitution or other
6 organizational instrument and bylaws;

7 (2) A statement setting forth the place where and the date when the
8 organization and its tax exempt status was legally established, the form
9 of its organization, with copies of federal or state tax exemption
10 determination or exemption ruling letters;

11 (3) The principal street address and telephone number of the
12 organization and the address and telephone number of each office in
13 this State. If the organization does not maintain an office in this State,
14 the name and address of the individual having custody of its financial
15 records in this State shall be disclosed;

16 (4) The name, street address and telephone number of each affiliate
17 which shares in the contributions or other revenue raised in this State;

18 (5) The date when the organization's fiscal year ends;

19 (6) A statement whether:

20 (a) The organization is authorized by any other state to solicit
21 contributions, and, if so, a listing of the states in which authorization
22 has been obtained;

23 (b) The organization or any of its present officers, directors,
24 executive personnel or trustees are or have ever been enjoined in any
25 jurisdiction from soliciting contributions or have been found to have
26 engaged in unlawful practices in the solicitation of contributions or the
27 administration of charitable assets;

28 (c) The organization's registration has been denied, suspended or
29 revoked by any jurisdiction, together with the reasons for that denial,
30 suspension or revocation; and

31 (d) The organization has voluntarily entered into an assurance or
32 voluntary discontinuance or agreement with any jurisdiction or federal
33 agency or officer; and

34 (7) Whether the organization intends to solicit contributions from
35 the general public].

36 d. (1) Every charitable organization required to file a long form
37 registration shall file an annual financial report with the Attorney
38 General. The annual financial report shall include: a balance sheet;
39 a statement of support revenue, expenses and changes in fund balance;
40 a statement of functional expenses at least divided into program,
41 management, general, and fund raising; and such other information as
42 the Attorney General shall by rule require.

43 (2) The annual financial report of every charitable organization
44 which received ¹[more than ~~[\$100,000]~~ \$150,000 in]¹ gross revenue
45 ¹in excess of \$250,000, or any greater amount that the Attorney
46 General may prescribe by regulation¹ during its most recently

1 completed fiscal year shall be accompanied by ¹[an audited] ²[:(a)¹]
2 ³:(a)³ a² financial ¹[statement] ²[statements¹] statement² prepared
3 in accordance with generally accepted accounting principles ¹or other
4 comprehensive basis of accounting approved for use by the Attorney
5 General by regulation¹ which ¹[has been examined] ²[have] has² been
6 audited in accordance with generally accepted auditing standards¹ by
7 an independent certified public accountant ¹[for the purpose of
8 expressing an opinion thereon] ²[: and (b) any written communication
9 prepared by the auditor in connection with the audit commenting on
10 the accounting or management practices of the organization¹]² ³; and
11 (b) any management letters prepared by the auditor in connection with
12 the audit commenting on the internal accounting controls or
13 management practices of the organization³.

14 The annual financial reports of all organizations receiving more than
15 \$25,000 but less than ~~[\$100,000]~~ ¹[\$150,000] \$250,000, or any
16 greater amount that the Attorney General may prescribe by regulation¹
17 shall be certified by the organization's president or other authorized
18 officer of the organization's governing board and at the request of the
19 Attorney General, the organization shall submit ¹[an audited] ²[:
20 (a)¹]³:(a)³ a² financial ¹[statement] ²[statements¹] statement²
21 prepared in accordance with generally accepted accounting principles
22 ¹or other comprehensive basis of accounting approved for use by the
23 Attorney General by regulation¹ which ¹[has been examined] ²[have]
24 has² been audited in accordance with generally accepted auditing
25 standards¹ by an independent certified public accountant ²[¹:and (b)
26 any written communication prepared by the auditor in connection with
27 the audit commenting on the accounting or management practices of
28 the organization¹]² ³; and (b) any management letters prepared by the
29 auditor in connection with the audit commenting on the internal
30 accounting controls or management practices of the organization³.

31 (3) The Attorney General may accept a copy of a current financial
32 report previously prepared by a charitable organization for another
33 state agency or officer in compliance with the laws of that state,
34 provided that the report filed with the other state agency or officer
35 shall be substantially similar in content to the report required by this
36 subsection.

37 (4) An independent member agency of a federated fund raising
38 organization shall independently comply with the provisions of this
39 subsection.

40 e. In order to register its qualified local units pursuant to
41 subsection [c.] d. of section 9 of this act, a parent organization
42 registered pursuant to this section shall include with its initial
43 registration and annual renewal statement a separate statement that
44 provides the following:

45 (1) The name, principal street address, and phone number of all

1 local units within this State that it is registering;

2 (2) The amount of gross contributions received by each such unit
3 and the purpose or purposes for which these funds were raised in the
4 preceding fiscal year; and

5 (3) A statement asserting that each such local unit has provided the
6 parent organization with a written statement reporting the information
7 included on its behalf and asserting that the local unit meets all of the
8 requirements of subsection [c.] d. of section 9 of this act.

9 ²[¹f. Any written or similar communication prepared by the auditor
10 in connection with the audit commenting on the accounting or
11 management practices of the organization submitted pursuant to
12 paragraph (2) of subsection d. of this section shall not be considered
13 a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
14 c.404 (C.47:1A-5 et al.), shall not be made available for public
15 inspection nor used for a purpose inconsistent with P.L.1994, c.16
16 (C.45:17A-18 et seq.), and shall be removed from the record in the
17 custody of the Attorney General at such time that such information is
18 no longer necessary for the enforcement of that act. The records
19 required pursuant to this section shall be maintained for a period of at
20 least three years after the end of the period of time to which they
21 relate.¹]²

22 ³f. Any management letters prepared by the auditor in connection
23 with the audit commenting on the internal accounting controls or
24 management practices of the organization submitted pursuant to
25 paragraph (2) of subsection d. of this section shall not be considered
26 a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
27 c.404 (C.47:1A-5 et al.), shall not be made available for public
28 inspection nor used for a purpose inconsistent with P.L.1994, c.16
29 (C.45:17A-18 et seq.), and shall be removed from the record in the
30 custody of the Attorney General at such time that such information is
31 no longer necessary for the enforcement of that act. The records
32 required pursuant to this section shall be maintained for a period of at
33 least three years after the end of the period of time to which they
34 relate.³

35 (cf: P.L.1994, c.16, s.7)

36

37 4. Section 8 of P.L.1994, c.16 (C.45:17A-25) is amended to read
38 as follows:

39 8. a. The following charitable organizations shall be required to
40 file a short form registration on forms prescribed by the Attorney
41 General:

42 (1) Charitable organizations or organizations engaging in a
43 charitable fund raising campaign which do not receive gross
44 contributions in excess of \$25,000 during a fiscal year, if all of their
45 functions including fund raising activities are carried on by volunteers,
46 members, officers or persons who are not compensated for soliciting

1 contributions; except that, if the gross contributions, whether or not
2 all is received by any charitable organization during any fiscal year, are
3 in excess of \$25,000 it shall, within 30 days after the date on which it
4 shall have received the contributions, register with and report to the
5 Attorney General as required by section 7 of this act;

6 (2) Fraternal, patriotic, social or alumni organizations, historical
7 societies, and similar organizations organized under the provisions of
8 Title 15 of the Revised Statutes or Title 15A of the New Jersey
9 Statutes, when solicitation of contributions is confined to their
10 membership and solicitation is performed by members of that
11 organization;

12 (3) Persons requesting any contributions for the relief of any
13 individual, specified by name at the time of the solicitation, if all of the
14 contributions collected, without any deductions whatsoever, are turned
15 over to the named beneficiary;

16 (4) Any local post, camp, chapter or similarly designated element,
17 or a county unit of that element, of a bona fide veterans' organization
18 which issues charters to the local elements throughout this State, or to
19 any veterans' organization chartered under federal law or to any
20 service foundation of such an organization recognized in its bylaws.

21 b. The short form shall contain the following:

22 (1) Name and ¹street¹ address of the organization;

23 (2) **Whether the organization has engaged an** The name of any
24 independent paid fund raiser, fund raising counsel or commercial
25 co-venturer the charitable organization has engaged;

26 (3) The purpose for which the charitable organization is organized;

27 (4) The purposes for which the funds are raised;

28 (5) The tax status of the charitable organization;

29 (6) The reason the organization is eligible to file a short form
30 registration;

31 (7) A copy of the organization's most recent Internal Revenue
32 Service Form 990 and Schedule (A) 990 if the organization filed these
33 forms;

34 (8) The name, ¹[business] street¹ address and telephone number
35 of each officer, director and trustee and each principal salaried
36 executive staff employee and whether the person has been adjudged
37 liable in an administrative or civil action, or convicted in a criminal
38 action, involving theft, fraud or deceptive business practices. For the
39 purposes of this paragraph:

40 (a) a plea of guilty, non vult, nolo contendere or any similar
41 disposition of alleged criminal activity shall be deemed a conviction;

42 (b) "each principal salaried executive staff employee" shall be
43 limited to no more than the five most highly compensated employees
44 in the organization; and

45 (c) a judgment of liability in an administrative or civil action shall
46 include, but not be limited to, any finding or admission that the officer,

1 director, trustee or principal salaried executive staff employee engaged
2 in an unlawful practice or practices related to the solicitation of
3 contributions or the administration of charitable assets, regardless of
4 whether that finding was made in the context of an injunction, a
5 proceeding resulting in the denial, suspension or revocation of an
6 organization's registration, consented to in an assurance of voluntary
7 compliance or any similar order or legal agreement with any state or
8 federal agency.

9 (9) A statement whether:

10 (a) The organization is authorized by any other state to solicit
11 contributions and, if so, a listing of the states in which authorization
12 has been obtained;

13 (b) The organization is or has ever been enjoined in any jurisdiction
14 from soliciting contributions or has been found to have engaged in
15 unlawful practices in the solicitation of contributions or the
16 administration of charitable assets;

17 (c) The organization's registration has been denied, suspended or
18 revoked by any jurisdiction, together with the reasons for that denial,
19 suspension or revocation; and

20 (d) The organization has voluntarily entered into an assurance of
21 voluntary compliance agreement or any similar order or legal
22 agreement with any jurisdiction or federal agency or officer; and

23 (10) Any other information as may be prescribed by rules adopted
24 by the Attorney General.

25 c. In order to register its qualified local units pursuant to
26 subsection [c.] d. of section 9 of this act, a parent organization
27 registered pursuant to this section shall include with its initial
28 registration, a copy of the parent organization's charter, articles of
29 organization, agreement of association, instrument of trust,
30 constitution or other organizational instrument and bylaws, and shall
31 include with its initial registration and annual renewal statement a
32 separate statement that provides the following:

33 (1) The name, principal street address, and phone number of all
34 local units within this State that it is registering;

35 (2) The amount of gross contributions received by each such unit
36 and the purpose or purposes for which these funds were raised in the
37 preceding fiscal year;

38 (3) A statement asserting that each such local unit has provided the
39 parent organization with a written statement reporting the information
40 included on its behalf and asserting that the local unit meets all of the
41 requirements of subsection [c.] d. of section 9 of this act.

42 d. Nothing in subsection c. of this section shall be construed to
43 require a parent organization to register any or all of its local units.

44 (cf: P.L.1994, c.16, s.8)

45

46 5. Section 9 of P.L.1994, c.16 (C.45:17A-26) is amended to read

1 as follows:

2 9. a. The registration requirements of this act shall not apply to
3 any religious corporation, trust, foundation, association or
4 organization incorporated under the provisions of Title 15 or 16 of the
5 Revised Statutes or Title 15A of the New Jersey Statutes or
6 established for religious purposes. Any agency or organization
7 incorporated or established for charitable purposes and engaged in
8 effectuating one or more charitable purposes, which is affiliated with,
9 operated by, or supervised or controlled by a corporation, trust,
10 foundation, association, or organization incorporated or established
11 for religious purposes, or any other religious agency or organization
12 shall also be exempt.

13 b. The registration requirements of this act shall not apply to any
14 educational institution, the curriculums of which in whole or in part
15 are registered or approved by the State Department of Education or
16 the [State Department of] New Jersey Commission on Higher
17 Education, either directly or by acceptance of accreditation by an
18 accredited body recognized by these departments; an educational
19 institution confining its solicitation of contributions to its student
20 body, alumni, faculty and trustees, and their families; or a library
21 registered by the State Department of Education, provided that the
22 annual financial report of that institution or library shall be filed with
23 the State Department of Education where it shall be open for public
24 inspection.

25 c. The registration requirements of P.L.1994, c.16 (C.45:17A-18
26 et seq.) shall not apply to any charitable organization or organizations
27 engaging in a charitable fund raising campaign which do not receive
28 gross contributions in excess of \$10,000 during a fiscal year, if all of
29 its functions, including fund raising activities, are carried on by
30 volunteers, members, officers or persons who are not compensated for
31 soliciting contributions, except that if the gross contributions, whether
32 or not all is received by any charitable organization during any fiscal
33 year, are in excess of \$10,000 the charitable organization shall, within
34 30 days after the date on which it shall have received the
35 contributions, register with and report to the Attorney General as
36 required by section 7 of P.L.1994, c.16 (C.45:17A-24);

37 d. A charitable organization that meets all of the following
38 requirements shall be considered registered as required by this act:

39 (1) The charitable organization is a local unit of a parent
40 organization which is registered pursuant to this act;

41 (2) The parent organization has provided all information
42 concerning the local unit required by subsection e. of section 7 or
43 subsection c. of section 8 of this act;

44 (3) All solicitations made by the local unit are made by members of
45 the local unit or volunteers;

46 (4) The local unit does not employ a fund raising counsel or

1 independent paid fund raiser or utilize paid staff in preparation of
2 materials or records concerning or related to the solicitations; and

3 (5) (a) The local unit does not receive gross contributions in
4 excess of \$25,000 during the fiscal year; or

5 (b) The local unit is an organization that limits membership to
6 persons who are or formerly were employed as officers statutorily
7 authorized to enforce the criminal laws of this State.

8 [d.] e. Nothing in subsection [c.] d. of this section shall be
9 construed to require a parent organization to register any or all of its
10 local units.

11 (cf: P.L.1994, c.16, s.9)

12

13 6. Section 10 of P.L.1994, c.16 (C.45:17A-27) is amended to read
14 as follows:

15 10. a. It shall be unlawful for any person to act as a fund raising
16 counsel or independent paid fund raiser unless registered annually with
17 the Attorney General. Registration statements shall be on forms
18 prescribed by the Attorney General. A registration statement shall be
19 signed and sworn to by the principal officer of the fundraising counsel
20 or independent paid fund raiser and shall contain information as
21 prescribed by rules adopted by the Attorney General.

22 b. The registration statements shall be accompanied by a fee
23 prescribed pursuant to the provisions of this act, except that a fund
24 raising counsel or independent paid fund raiser which is a partnership
25 or corporation which registers shall pay a single fee. Each registration
26 shall expire on June 30.

27 c. The Attorney General shall examine the initial registration
28 statement and supporting documents filed by a fund raising counsel or
29 independent paid fund raiser pursuant to section 5 of this act.

30 d. The relationship between a charitable organization and a fund
31 raising counsel or independent paid fund raiser shall be set forth in a
32 written contract. The relationship between a fund raising counsel or
33 independent paid fund raiser and any other fund raising counsel or
34 independent paid fund raiser shall be set forth in a written contract.

35 The fund raising counsel or independent paid fund raiser shall file a
36 copy of [the contract] all such contracts with the Attorney General at
37 least 10 business days prior to the performance by the fund raising
38 counsel or independent paid fund raiser of any service within this
39 State. It shall be unlawful for any solicitation pursuant to [the] any
40 contract to begin before the Attorney General has reviewed the
41 contract pursuant to section 5 of this act. [The contract] All such
42 contracts shall be signed by two authorized officials of the charitable
43 organization, one of whom must be a member of the organization's
44 governing body, and the authorized contracting officer for the fund
45 raising counsel or independent paid fund raiser. Performance of any
46 contract filed for review shall not foreclose the Attorney General from

1 enforcing the contract requirements established by P.L.1994, c.16
2 (C.45:17A-18 et seq.) and the rules adopted pursuant thereto or taking
3 other appropriate action. For the purposes of this subsection, the term
4 "relationship" shall include, but not be limited to, any contract,
5 agreement, assignment or arrangement or any other obligation relating
6 to the solicitation of contributions.

7 e. [The contract] All contracts for a fund raising counsel or
8 independent paid fund raiser either of whom at any time has or intends
9 to have custody, control, possession or access to a charitable
10 organization's [money] solicited contributions, shall contain the
11 following:

12 (1) A statement of the respective obligations of the [professional
13 fund raiser] fund raising counsel, the independent paid fund raiser, and
14 the charitable organization;

15 (2) A clear statement of the fees or rate which will be paid to the
16 fund raising counsel or independent paid fund raiser;

17 (3) The projected commencement and termination dates of the
18 solicitation campaign;

19 (4) A statement as to whether the fund raising counsel or
20 independent paid fund raiser will have custody, control or access to
21 contributions;

22 (5) A statement as to the guaranteed minimum percentage of the
23 gross receipts from contributions which will be remitted to the
24 charitable organization, if any, or if the solicitation involves the sale of
25 goods, services or tickets to a fund raising event, the percentage of the
26 purchase price which will be remitted to the charitable organization,
27 if any. Any stated percentage shall exclude any amount which the
28 charitable organization is to pay as fund raising costs;

29 (6) A statement of the percentage of the gross revenue from which
30 the ¹[fund raising counsel or]¹ independent paid fund raiser will be
31 compensated ¹and the fixed fee or rate at which the fund raising
32 counsel will be compensated¹. If the compensation of the ¹[fund
33 raising counsel or]¹ independent paid fund raiser is not contingent
34 upon the number of contributions or the amount of revenue received,
35 its compensation shall be expressed as a reasonable estimate of the
36 percentage of the gross revenue, and the contract shall clearly disclose
37 the assumptions upon which the estimate is based. ¹[The] If the
38 compensation of the fund raising counsel is calculated on the basis of
39 a rate and time, the statement shall include a reasonable estimate of the
40 total fee and the contract shall clearly disclose the assumptions upon
41 which the estimate is based. With respect to any such contract, the¹
42 stated assumptions shall be based upon all of the relevant facts known
43 to the fund raising counsel or independent paid fund raiser regarding
44 the solicitation to be conducted by the independent paid fund raiser;

45 (7) The bank and branch where all moneys will be deposited [and],

1 each account number and, for each account, all authorized signatories
2 for withdrawals; and

3 (8) Any other information as may be prescribed by the Attorney
4 General.

5 f. A fund raising counsel or independent paid fund raiser, either of
6 whom at any time has or intends to have custody, control, possession
7 or access to a charitable organization's [money] solicited
8 contributions, shall, if requested by the Attorney General, make
9 available the following information:

10 (1) Each location and telephone number from which the solicitation
11 is conducted;

12 (2) The name, home address and telephone number of each person
13 responsible for directing and supervising the conduct of the campaign
14 and whether the person has been adjudged liable in an administrative
15 or civil action or convicted in a criminal action, involving theft, fraud
16 or deceptive business practices. For the purpose of this paragraph [,
17 a plea of guilty, non vult, nolo contendere or any similar disposition of
18 alleged criminal activity shall be deemed a conviction; and];

19 (a) a plea of guilty, non vult, nolo contendere or any similar
20 disposition of alleged criminal activity shall be deemed a conviction;
21 and

22 (b) a judgment of liability in an administrative or civil action shall
23 include, but not be limited to, any finding or admission that the person
24 responsible for directing and supervising the conduct of the campaign
25 engaged in an unlawful practice or practices related to the solicitation
26 of contributions or the administration of charitable assets, regardless
27 of whether that finding was made in the context of an injunction, a
28 proceeding resulting in the denial, suspension or revocation of an
29 organization's registration, consented to in an assurance of voluntary
30 compliance or any similar order or legal agreement with any state or
31 federal agency; and

32 (3) A statement of the charitable purpose for which the solicitation
33 campaign is being conducted.

34 g. If either a fund raising counsel or independent paid fund raiser
35 at any time has or intends to have custody, control, possession or
36 access to a charitable organization's [money] solicited contributions,
37 that fund raising counsel or independent paid fund raiser shall:

38 (1) At the time of making application for registration, file with the
39 Attorney General a bond in which it shall be the principal obligor,
40 which shall for the initial application be in the sum of \$20,000 and
41 thereafter shall be an amount prescribed by a rule adopted by the
42 Attorney General pursuant to subsection f. of section 4 of this act.
43 The bond shall provide for one or more sureties whose liability in the
44 aggregate shall at least equal that sum. The fund raising counsel or
45 independent paid fund raiser shall maintain the bond in effect during
46 the entire period of registration. The bond shall be payable to the

1 Attorney General for the benefit of any person who may have a cause
2 of action against the principal obligor of the bond for any violation of
3 this act or for the purpose of satisfying any assessment against the
4 principal obligor of the bond for any such violation;

5 (2) Deposit each contribution collected by the fund raising counsel
6 or independent paid fund raiser, in its entirety and within five days of
7 its receipt, in an account at a bank or other federally insured financial
8 institution. The account shall be in the name of the charitable
9 organization with whom the fund raising counsel or independent paid
10 fund raiser has contracted and the charitable organization shall have
11 sole benefit and control of the account and all withdrawals;

12 (3) Within 40 days after a solicitation campaign has been
13 completed, or in the case of a campaign lasting more than 12 months,
14 within 40 days of the end of the charitable organization's fiscal year,
15 file with the Attorney General a financial report for the campaign on
16 such forms as the Attorney General may prescribe. Those forms shall
17 include, but not be limited to, gross revenues, an itemization of all
18 expenses incurred and the bank and branch where all moneys are
19 deposited. This report shall be signed and sworn to by two authorized
20 officials, one from the charitable organization and one from the fund
21 raising counsel or independent paid fund raiser[.] ; and

22 (4) Maintain a copy of each advertisement, publication, solicitation
23 or other material used as part of the charitable sales promotion to
24 directly or indirectly induce a contribution.

25 (cf: P.L.1994, c.16, s.10)

26
27 7. Section 11 of P.L.1994, c.16 (C.45:17A-28) is amended to read
28 as follows:

29 11. a. It shall be unlawful for any person to act as a solicitor of an
30 independent paid fund raiser required to register pursuant to this act
31 unless [the solicitor registers annually.], prior to that person acting as
32 a solicitor of the independent paid fund raiser, the independent paid
33 fund raiser files registration information including the name, street
34 address, telephone number, and any other information as may be
35 prescribed by the Attorney General, of any such solicitor and files such
36 registration information for that solicitor annually thereafter.
37 Registration statements shall be on forms prescribed by the Attorney
38 General and accompanied by a prescribed fee. The Attorney General
39 shall review the statement pursuant to section 5 of this act and
40 prescribe the fees pursuant to subsection f. of section 4 of this act.

41 b. It shall be unlawful for any independent paid fund raiser to
42 engage a solicitor to solicit charitable contributions unless the
43 independent paid fund raiser files the solicitor's registration
44 information with the Attorney General pursuant to this section.

45 (cf: P.L.1994, c.16, s.11)

1 8. Section 12 of P.L.1994, c.16 (C.45:17A-29) is amended to read
2 as follows:

3 12. a. Every charitable organization which permits a charitable
4 sales promotion to be conducted on its behalf shall obtain a written
5 contract from the commercial co-venturer and shall file a copy of the
6 agreement with the Attorney General at least 10 business days prior to
7 the initiation of that charitable sales promotion. All parties to the
8 contract shall be subject to the provisions of P.L.1994, c.16
9 (C.45:17A-18 et seq.) and any rules adopted pursuant thereto. Every
10 contract shall contain a provision clearly and conspicuously stating
11 that the parties are subject to this act and any rules adopted pursuant
12 thereto.

13 b. A charitable organization shall file in writing on forms
14 prescribed by the Attorney General the following information at the
15 conclusion of the charitable sales promotion:

16 (1) [As reported to the charitable organization,] A certification
17 from an officer or principal of the commercial co-venturer attesting to
18 the gross amount of income received by the commercial co-venturer
19 attributable to the charitable sales promotion, solicitation or venture
20 undertaken;

21 (2) The amount of money or other contribution remitted to the
22 organization covering each event or portion of an extended charitable
23 sales promotion; [and]

24 (3) A copy of each advertisement, publication, solicitation or other
25 material used as part of the charitable sales promotion to directly or
26 indirectly induce a contribution; and

27 (4) Any other information as may be required by rules adopted by
28 the Attorney General.

29 c. All filings pursuant to this section shall be accompanied by a fee
30 prescribed pursuant to the provisions of this act.

31 d. The commercial co-venturer shall disclose in each advertisement
32 for the charitable sales promotion the dollar amount or percent per
33 unit of goods or services purchased or used that will benefit the
34 charitable organization or purpose. If the actual dollar amount or
35 percent cannot reasonably be determined prior to the final date of the
36 charitable sales promotion, the commercial co-venturer shall disclose
37 an estimated dollar amount or percent. Any such estimate shall be
38 reasonable and shall be based upon all of the relevant facts known to
39 the commercial co-venturer and the charitable organization regarding
40 the charitable sales promotion.

41 (cf: P.L.1994, c.16, s.12)

42

43 9. Section 13 of P.L.1994, c. 16 (C.45:17A-30) is amended to read
44 as follows:

45 13. a. Prior to soliciting a contribution, either orally or by written
46 request, except for any in-person solicitation, any independent paid

1 fund raiser, commercial co-venturer, solicitor, or charitable
2 organization shall clearly and conspicuously disclose any information
3 as prescribed by the rules adopted by the Attorney General.

4 b. In the case of any solicitation campaign conducted orally,
5 whether by telephone or otherwise, except for any in-person
6 solicitation, a written confirmation or receipt or written reminder shall,
7 upon request of the contributor, be sent and shall include a clear and
8 conspicuous disclosure of any information as prescribed by the rules
9 adopted by the Attorney General.

10 c. Except as otherwise provided in section 14 of this act,
11 registration statements, reports, notices, contracts or agreements
12 between charitable organizations and fund raising counsels or
13 independent paid fund raisers and commercial co-venturers and all
14 other documents and information required to be filed under this act
15 with the Attorney General are public records and shall be open to the
16 general public at such time and under such conditions as the Attorney
17 General may prescribe.

18 d. In addition to all other requirements imposed by this act, a
19 charitable organization that limits its membership to persons who are
20 or formerly were employed as officers statutorily authorized to enforce
21 the criminal laws of this State or that is a parent organization that
22 includes local units that so limit membership shall:

23 (1) At least 10 days prior to initiating any solicitation campaign
24 involving multiple solicitations, give written notice describing the
25 nature, purpose and the proposed dates and location of the
26 solicitations to the Attorney General and the county prosecutor of any
27 county in which the solicitations will be made, unless the organization
28 limits its membership to persons who are or were employed by the
29 State, or is a parent organization with local units in more than one
30 county, in which case notice shall be given to the Attorney General
31 who shall notify the appropriate county prosecutors;

32 (2) Upon request, make any records required by this act available
33 for inspection or provide an audited financial statement of financial
34 records concerning the organization's fund raising activities to the
35 Attorney General.

36 e. In addition to all other requirements imposed by P.L.1994, c.16
37 (C.45:17A-18 et seq.), any charitable organization that is or holds
38 itself out to be soliciting contributions through the use of any name,
39 symbol or statement which implies or that would lead a reasonable
40 person to believe that the charitable organization is in any way
41 affiliated with, related to, recognized by, or organized for the benefit
42 of emergency service employees, officers statutorily authorized to
43 enforce the criminal laws of this State or a governmental agency shall
44 disclose to the potential contributor the nature of the affiliation,
45 relationship, recognition or organization, if any, or shall expressly state
46 that no affiliation, relationship, recognition or organization exists

1 between the charitable organization and emergency service employees,
2 officers statutorily authorized to enforce the criminal laws of this State
3 or governmental agency, as the case may be.

4 (cf: P.L.1994, c.16, s.13)

5

6 10. Section 15 of P.L.1994, c.16 (C.45:17A-32) is amended to
7 read as follows:

8 15. a. Any statement, whether oral or written, made by a
9 charitable organization, or on behalf of a charitable organization by
10 persons including, but not limited to commercial co-venturers, fund
11 raising counsels, independent paid fund raisers or solicitors shall be
12 truthful.

13 b. A charitable organization shall establish and exercise control
14 over fund raising activities conducted for its benefit, including
15 approval of all written contracts and agreements, and shall assure that
16 fund raising activities are conducted without coercion.

17 c. The following acts and practices are declared unlawful as applied
18 to the planning, conduct, or execution of any solicitation or charitable
19 sales promotion:

20 (1) To misrepresent the purpose or nature of the charitable
21 institution or the purpose or beneficiary of a solicitation; to solicit
22 contributions for a purpose other than the charitable purpose
23 expressed in the statement of the charitable organization or expend
24 contributions in a manner inconsistent with that purpose, or to fail to
25 disclose any material fact. A misrepresentation may be accomplished
26 by words or conduct;

27 (2) To violate or fail to comply with any of the applicable
28 provisions of this act or the rules adopted under authority of this act;

29 (3) To violate or fail to comply with any of the applicable
30 provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et
31 seq.) or the regulations adopted pursuant to that act;

32 (4) To utilize a name, symbol or statement so closely related or
33 similar to that used by another charitable organization and registered
34 by that organization with the United States Patent and Trademark
35 Office or registered pursuant to R.S.56:2-1 et seq. that its use would
36 tend to confuse or mislead a solicited person or to solicit contributions
37 in a manner or through representations that falsely imply or are likely
38 to create the mistaken belief that the contributions are solicited by or
39 on behalf of another charitable organization;

40 (5) To utilize or exploit registration so as to lead any person to
41 believe that registration constitutes or implies an endorsement or
42 approval by the State;

43 (6) To distribute [honorary] any form of membership or badges,
44 shields, courtesy cards or cards of a similar nature identifying the
45 organization in connection with or in any manner related to the
46 solicitation of funds or contributions for or on behalf of the

1 organization in the case of any charitable organization that limits its
2 membership to persons who are or formerly were employed as officers
3 statutorily authorized to enforce the criminal laws of this State or that
4 is a parent organization that includes local units that so limit
5 membership;

6 (7) To utilize information, statements or communications that,
7 although literally true, are presented in a manner that has the capacity
8 to mislead the average consumer; [and]

9 (8) To utilize a name, symbol or statement so closely related or
10 similar to that used by any organization that is affiliated with, related
11 to, recognized by or organized for the benefit of emergency service
12 employees, officers statutorily authorized to enforce the criminal laws
13 of this State, or a governmental agency in such a way that its use
14 would tend to confuse or mislead a solicited person or to create the
15 erroneous belief that the contributions are solicited by or on behalf of
16 an organization affiliated with, related to, recognized by or organized
17 for the benefit of emergency service employees, officers statutorily
18 authorized to enforce the criminal laws of this State, or a
19 governmental agency;

20 (9) To utilize a name, symbol or statement that misrepresents the
21 geographic origin or location of a charitable organization or its
22 intended beneficiaries; and

23 (10) To engage in other unlawful acts and practices as may be
24 determined by rules adopted by the Attorney General.

25 d. It shall be unlawful for any charitable organization, fund raising
26 counsel, independent paid fund raiser or commercial co-venturer to
27 enter into any contract with any person who is required to have
28 registered and failed to do so.

29 e. It shall be unlawful for any person to represent that tickets to
30 events will be donated by another, unless the following requirements
31 have been met:

32 (1) The fund raising counsel or independent paid fund raiser shall
33 obtain commitments, in writing and notarized, from charitable
34 organizations stating that they will accept donated tickets and
35 specifying the number of tickets they are willing to accept and for
36 which they are able to provide transportation; copies of such written
37 commitments shall be filed with the Attorney General;

38 (2) The independent paid fund raiser has taken measures to prevent
39 solicitation of contributions for donated tickets in excess of the
40 number of ticket commitments received from charitable organizations;
41 and

42 (3) The number of tickets sold will not be greater than the number
43 of seats available at the facility for each event or performance.

44 (cf: P.L.1998, c.123, s.1)

45

46 11. Section 16 of P.L.1994, c.16 (C.45:17A-33) is amended to

1 read as follows:

2 16. a. For purposes of the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General or his
4 designee shall constitute the agency head and have the final decision
5 making power.

6 b. After notice and an opportunity for a hearing, the Attorney
7 General may revoke, or suspend any registration upon a finding that
8 the registrant or any officer, director, trustee or principal salaried
9 executive staff employee of a registrant or any other person subject to
10 the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.):

11 (1) Has filed a registration statement containing false or misleading
12 facts or omitting material facts;

13 (2) Has violated or failed to comply with any of the provisions of
14 this act or the rules adopted under authority of this act;

15 (3) Has engaged in the use or employment of dishonesty, fraud,
16 deception, misrepresentation, false promise or false pretense;

17 (4) Has been convicted of any criminal offense committed in
18 connection with the performance of activities regulated under this act
19 or any criminal offense involving untruthfulness or dishonesty or any
20 criminal offense relating adversely to the registrant's fitness to perform
21 activities regulated by this act. For the purposes of this paragraph, a
22 plea of guilty, non vult, nolo contendere or any other similar
23 disposition of alleged criminal activity shall be deemed a conviction;

24 (5) Has had the authority to engage in charitable activities denied,
25 revoked or suspended by New Jersey or any other state or jurisdiction;

26 (6) Has been adjudged liable in an administrative or civil
27 proceeding¹ involving theft, fraud or deceptive business practices¹
28 including, but not limited to, any finding of unlawful practice or
29 practices related to the solicitation of contributions or the
30 administration of charitable assets, regardless of whether that finding
31 was made in the context of an injunction, a proceeding resulting in
32 penalties, consented to in an assurance of voluntary compliance or any
33 similar order or legal agreement with any state or federal agency:

34 (7) Has engaged in other forms of misconduct as may be
35 determined by rules adopted by the Attorney General.

36 c. Whenever it shall appear to the Attorney General that a person
37 has engaged in, is engaging in, or is about to engage in, any act or
38 practice declared unlawful by this act, or when the Attorney General
39 determines it to be in the public interest to inquire whether a violation
40 may exist, the Attorney General may:

41 (1) Require any person to file, on a form to be prescribed by the
42 Attorney General, a statement or report in writing under oath, or
43 otherwise, concerning any relevant and material information in
44 connection with an act or practice subject to this act;

45 (2) Examine under oath any person in connection with any act or
46 practice subject to this act;

- 1 (3) Inspect any location from which the activity regulated by this
2 act is conducted;
- 3 (4) Examine any goods, ware or items used in the rendering of any
4 of the services contained in this act;
- 5 (5) Require an audited financial statement of the financial records
6 of the organization or person registered, exempted or required to be
7 registered under this act, prepared in accordance with generally
8 accepted accounting principles ¹or other comprehensive basis of
9 accounting approved for use by the Attorney General by regulation¹
10 which has been ¹[examined] audited in accordance with generally
11 accepted auditing standards¹ by an independent certified public
12 accountant ¹[for the purpose of expressing an opinion thereof] and
13 any ³[written communication] management letters³ prepared by the
14 auditor in connection with the audit commenting on the ³internal³
15 accounting ³controls³ or management practices of the organization¹;
- 16 (6) Examine any book, document, account, computer data,
17 literature, publication or paper maintained by or for any organization
18 or person registered, exempted or required to be registered under this
19 act, in the course of engaging in the activities regulated by this act;
- 20 (7) Apply to Superior Court for an order to impound any record,
21 book, document, account, computer data, literature, publication,
22 paper, goods, ware, or item used or maintained by any organization or
23 person registered, exempted or required to be registered under this act
24 in the regular course of engaging in the activities regulated by this act
25 or rules adopted under this act;
- 26 (8) In order to accomplish the objectives of this act, or the rules
27 adopted under this act, hold investigative hearings as necessary and
28 issue subpoenas to compel the attendance of any person or the
29 production of books, records, computer data, literature, publication or
30 papers at any investigative hearing or inquiry.
- 31 d. Any person who engages in any conduct or an act in violation
32 of any provision of this act and who has not previously violated this
33 act shall, in addition to any other relief authorized by this or any other
34 law, be liable for a civil penalty of not more than ~~[\$7,500]~~ \$10,000
35 for the first violation of this act.
- 36 For a second violation of this act, or if a person is found liable for
37 more than one violation of this act within a single proceeding, the
38 liability for the second violation shall not exceed a civil penalty in the
39 amount of ~~[\$15,000]~~ \$20,000.
- 40 For a third violation of this act, or if a person is found liable for
41 more than two violations of this act within a single proceeding, the
42 liability for a third or any succeeding violation shall not exceed a civil
43 penalty in the amount of ~~[\$15,000]~~ \$20,000 for each additional
44 violation.
- 45 In lieu of an administrative proceeding or an action in the Superior
46 Court, the Attorney General may bring an action for the collection or

1 enforcement of civil penalties for the violation of any provision of this
2 act. The action may be brought in a summary manner, pursuant to
3 ["the penalty enforcement law," N.J.S. 2A:58-1 et seq.] the "Penalty
4 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and
5 the Rules Governing the Courts of the State of New Jersey governing
6 actions for the collection of civil penalties, in the Municipal ¹Court¹
7 or Special Civil Part of the Law Division of the Superior Court in the
8 municipality or county where the offense occurred. Process in the
9 action may be by summons or warrant. If the defendant in the action
10 fails to answer the action, the court shall, upon finding that an
11 unlawful act or practice has been committed by the defendant, issue a
12 warrant for the defendant's arrest in order to bring the person before
13 the court to satisfy the civil penalties imposed.

14 In an action commenced pursuant to this section, the court may
15 order restored to any person in interest any moneys or property
16 acquired by means of an unlawful act or practice. An action alleging
17 the unregistered practice of the activities regulated by this act may be
18 brought pursuant to this section or, where injunctive relief is sought,
19 by an action commenced in the Superior Court. In an action brought
20 pursuant to this act, the Attorney General or the court may order the
21 payment of attorney's fees and costs for the use of the State.

22 e. Whenever it shall appear to the Attorney General that a violation
23 of this act has occurred, is occurring, or will occur, the Attorney
24 General, in addition to any other proceeding authorized by law, may
25 seek and obtain in a summary proceeding in the Superior Court an
26 injunction prohibiting the act or practice. In the proceeding the court
27 may assess a civil penalty in accordance with the provisions of this act,
28 order restoration to any person in interest of any moneys or property,
29 real or personal, acquired by means of an unlawful act or practice and
30 may enter any orders necessary to prevent the performance of an
31 unlawful practice in the future and to remedy fully any past unlawful
32 activity.

33 f. Upon the failure of any person to comply within 10 days after
34 service of any order of the Attorney General directing payment of
35 penalties, attorney's fees, costs or restoration of moneys or property
36 as authorized by this act, the Attorney General may issue a certificate
37 to the Clerk of the Superior Court that the person is indebted to the
38 State for the payment. A copy of the certificate shall be served upon
39 the person against whom the order was entered. The clerk shall
40 immediately enter upon the record of docketed judgments the name of
41 the person so indebted and of the State, a designation of the statute
42 under which each payment was directed, the amount of each payment,
43 a listing of property ordered restored, and the date of the certification.
44 The entry shall have the same force and effect as the entry of a
45 docketed judgment in the Superior Court and the Attorney General
46 shall have all rights and remedies of a judgment creditor, in addition

1 to exercising any other available remedies.

2 g. If a person fails or refuses to file any statement or report, or fails
3 or refuses to grant access to premises from which activities regulated
4 by this act are conducted in any lawfully conducted investigative
5 matter, or fails to obey a subpoena issued pursuant to this act, the
6 Attorney General may apply to the Superior Court and obtain an
7 order:

8 (1) Adjudging that person in contempt of court and assessing civil
9 penalties in accordance with the amounts prescribed by this act;

10 (2) Enjoining the conduct of any practice in violation of this act;
11 or

12 (3) Granting other relief as required.

13 h. If a person who refuses to testify or produce any computer data,
14 book, paper, or document in any proceeding under this act for the
15 reason that the testimony or evidence, documentary or otherwise,
16 required of him may tend to incriminate him, or convict him of a crime,
17 is directed to testify or to produce the computer data, book, paper, or
18 document by the Attorney General, he shall comply with the direction.

19 A person who is entitled by law to and does assert a privilege, and
20 who complies with the direction of the Attorney General, shall not
21 thereafter be prosecuted or subject to any penalty or forfeiture in any
22 criminal proceeding which arises out of and relates to the subject
23 matter of the proceeding. No person so testifying shall be exempt
24 from prosecution or punishment for perjury or false swearing
25 committed by him in giving the testimony or from any civil or
26 administrative action arising from the testimony.

27 i. In addition or as an alternative to revocation or suspension of a
28 registration, the Attorney General may, after affording an opportunity
29 to be heard and finding a violation of this act:

30 (1) Assess civil penalties in accordance with this act;

31 (2) Direct that any person cease and desist from any act or practice
32 in violation of this act or take necessary affirmative corrective action
33 with regard to any unlawful act or practice; **[or]**

34 (3) Order any person to restore to any person aggrieved by an
35 unlawful act or practice any money or property, real or personal,
36 acquired by means of any unlawful act or practice, except that the
37 Attorney General shall not order restoration in a dollar amount greater
38 than those moneys received by the registrant or his agent or any other
39 person violating this act;

40 (4) Order the payment of attorney's fees and costs for the use of
41 the State; or

42 (5) Authorize the release of sums from any bond maintained
43 pursuant to this act in satisfaction of assessments.

44 j. Whenever a person engages in any act or practice in violation of
45 this act the Attorney General may, after notice and opportunity to be
46 heard and upon a finding that the act or practice has occurred, enter

1 an order:

2 (1) Directing the person to cease and desist from that unlawful act
3 or practice;

4 (2) Assessing civil penalties in accordance with this act;

5 (3) Directing that person restore to any person aggrieved by the
6 unlawful act or practice any money or property, real or personal,
7 acquired by means of the unlawful act or practice, except that the
8 Attorney General shall not order restoration in a dollar amount greater
9 than those moneys received by the registrant, agent or any other
10 person violating this act; [or]

11 (4) Directing payment of attorney's fees and costs for the use of the
12 State ; or

13 (5) Authorizing the release of sums from any bond maintained
14 pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) in satisfaction of
15 assessments.

16 k. When it shall appear to the Attorney General that a person
17 against whom an order pursuant to this section has been entered has
18 violated the order, the Attorney General may initiate a summary
19 proceeding in the Superior Court for enforcement of the order. Any
20 person found to have violated such an order shall be ordered to
21 comply with the prior administrative order and may be ordered to pay
22 civil penalties in the amount of not more than \$25,000 for each
23 violation of the order. If a person fails to pay a civil penalty assessed
24 by the court for violation of an order, the court assessing the unpaid
25 penalty is authorized, upon application of the Attorney General, to
26 grant any relief which may be obtained under any statute or court rule
27 governing the collection and enforcement of penalties.

28 1. In any administrative proceeding on a complaint alleging a
29 violation of this act, the Attorney General may issue subpoenas to
30 compel the attendance of witnesses or the production of computer
31 data, books, records, or documents at the hearing on the complaint as
32 provided by this act.

33 m. In addition to any other action or remedy available under this
34 act, a charitable organization aggrieved by a violation of paragraph (4)
35 or (8) of subsection c. of section 15 of this act may initiate a civil
36 action or assert a counterclaim in any court of competent jurisdiction
37 against the violator. Upon establishing the violation, the charitable
38 organization shall recover treble its damages or treble the violator's
39 profits, whichever is greater. In all actions under this subsection the
40 court shall award reasonable attorney's fees, filing fees and reasonable
41 costs of suit.

42 n. Notwithstanding any other provision of this section to the
43 contrary, a parent organization may be held accountable for actions
44 related to information filed on behalf of a local unit only if the parent
45 organization has filed information knowing that the information is false
46 or misleading or knowing that material facts are omitted.

1 o. Notwithstanding any other provision of this section to the
2 contrary, any local unit that has provided to its parent organization
3 timely, truthful and complete information and otherwise conducted
4 itself in compliance with the provisions of this act, shall not be held
5 accountable for the misconduct of a parent organization, including, but
6 not limited to, the failure of the parent organization to file timely
7 reports on behalf of the local unit.

8 (cf: P.L.1994, c.16, s.16)

9
10 12. Section 21 of P.L.1994, c.16 (C.45:17A-38) is amended to
11 read as follows:

12 21. Any printed solicitation, written confirmation, receipt or
13 written reminder of a contribution issued by a charitable organization,
14 independent paid fund raiser or solicitor concerning a solicitation or
15 contribution on behalf of a charitable organization that is registered
16 pursuant to this act shall contain the following statement which shall
17 be conspicuously printed:

18 "INFORMATION FILED WITH THE ATTORNEY GENERAL
19 CONCERNING THIS CHARITABLE SOLICITATION AND THE
20 PERCENTAGE OF ¹[YOUR CONTRIBUTION] CONTRIBUTIONS
21 RECEIVED BY THE CHARITY DURING THE LAST REPORTING
22 PERIOD¹ THAT ¹[WILL BE] WERE¹ DEDICATED TO THE
23 CHARITABLE PURPOSE MAY BE OBTAINED FROM THE
24 ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY
25 CALLING 000-000-0000 AND IS AVAILABLE ON THE
26 INTERNET AT www.xxxxxxxxxx.xxx. REGISTRATION WITH
27 THE ATTORNEY GENERAL DOES NOT IMPLY
28 ENDORSEMENT."

29 (cf: P.L.1994, c.16, s.21)

30
31 13. (New section) Any person soliciting contributions shall not be
32 permitted to use technology that blocks caller identification telephone
33 systems used by any person in this State.

34
35 14. This act shall take effect on the 180th day following enactment.

36
37
38
39
40 Revises "Charitable Registration and Investigation Act."

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 204

STATE OF NEW JERSEY

DATED: JANUARY 10, 2005

The Assembly Regulated Professions and Independent Authorities Committee reports favorably Senate Bill No. 204 (1R).

This bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, and raise penalties and provide for the recovery of costs and attorney fees in administrative proceedings under the act.

Specifically, the bill:

- * Expressly includes within the scope of the law all assignees, subcontractors and independent contractors of fund raising counsels and independent paid fund raisers;
- * Clarifies that a bona fide salaried officer, employee or volunteer of a charitable organization is not a solicitor;
- * Clarifies that adjudgments of civil liability include any finding of liability in an administrative or civil action related to the solicitation of contributions or the administration of charitable assets, regardless of the form or the context of the finding;
- * Requires annual disclosure, rather than disclosure at the initial registration, of organizational information such as the organization's street address, custodian of financial records and any limitations of fund raising activities in other jurisdictions, and adds an annual disclosure as to whether the organization's officers, directors, trustees or principal salaried executive staff employees have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser or any supplier or vendor;
- * Increases the threshold amounts a charitable organization must raise before it is required to register or file financial statements. Gross revenue in excess of \$250,000, or any greater amount prescribed by the Attorney General by regulation, require a

financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved for use by the Attorney General, which statement has been audited in accordance with generally accepted auditing standards by an independent certified public accountant and which statement is accompanied by any written communication prepared by the auditor commenting on the accounting or management practices of the organization. If a charity's gross revenue is less than \$250,000, but more than \$25,000, a financial report shall be certified by the president or other authorized officer, but the Attorney General may require financial statements prepared as described above. Any written communication prepared by the auditor commenting on the accounting or management practices of the charitable organization shall not be considered a public record and shall not be available for public inspection;

- * Provides that the registration requirements do not apply to any charitable organization whose fund raising does not exceed \$10,000 a year if the fund raising activities are done by volunteers;
- * Provides that all relationships between fund raising counsels and independent paid fund raisers must be set forth in written contracts, signed by the charitable organization, and are subject to review by the Attorney General;
- * Provides for more disclosure by fund raising counsels and independent paid fund raisers, including the fixed fee or rate at which the fund raising counsel will be compensated, and disclosure of adjudgments of civil liability regardless of form or the context of the funding, and requires counsel and fund raisers to maintain a copy of each advertisement for solicitations;
- * Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- * Strengthens the State's ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- * Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- * Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- * Permits an action against any entity required to be registered

pursuant to the "Charitable Registration and Investigation Act" based upon proof of criminal convictions or findings of violations of charity and solicitation laws involving theft, fraud or deceptive business practices in other jurisdictions committed by the registrant, or its officers, directors or principal employees;

- * Increases the penalties under the law from up to \$7,500 to up to \$10,000 for a first violation and from up to \$15,000 to up to \$20,000 for a second or subsequent violation and ensures that costs and attorneys' fees are recoverable in administrative proceedings; and
- * Requires every printed charitable solicitation contain a statement that the percentage of contributions received by the charity and dedicated to the charitable purpose during the last reporting period is available by telephoning the Attorney General or on the Internet.

The bill also prohibits in a solicitation or charitable sales promotion the distribution of badges or shields by a charitable organization that limits its membership to persons who are or formerly were employed as law enforcement officers, and prohibits anyone soliciting contributions from blocking the caller identification telephone system used by any person in this State.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 204

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly State Government Committee reports favorably and with committee amendments Senate, No. 204 (2R).

As amended, this bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, and raise penalties and provide for the recovery of costs and attorney fees in administrative proceedings under the act.

Specifically, the bill:

- C** Expressly includes within the scope of the law all assignees, subcontractors and independent contractors of fund raising counsels and independent paid fund raisers;
- C** Clarifies that a bona fide salaried officer, employee or volunteer of a charitable organization is not a solicitor;
- C** Clarifies that adjudgments of civil liability include any finding of liability in an administrative or civil action related to the solicitation of contributions or the administration of charitable assets, regardless of the form or the context of the finding;
- C** Requires annual disclosure, rather than disclosure at the initial registration, of organizational information such as the organization's street address, custodian of financial records and any limitations of fund raising activities in other jurisdictions, and adds an annual disclosure as to whether the organization's officers, directors, trustees or principal salaried executive staff employees have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser or any supplier or vendor;
- C** Increases the threshold amounts a charitable organization must raise before it is required to register or file financial statements. Gross revenue in excess of \$250,000, or any greater amount prescribed by the Attorney General by regulation, require a financial statement prepared in accordance with generally accepted

accounting principles or other comprehensive basis of accounting approved for use by the Attorney General, which statement has been audited in accordance with generally accepted auditing standards by an independent certified public accountant and which statement is accompanied by any written communication prepared by the auditor commenting on the accounting or management practices of the organization. If a charity's gross revenue is less than \$250,000, but more than \$25,000, a financial report shall be certified by the president or other authorized officer, but the Attorney General may require financial statements prepared as described above. Any written communication prepared by the auditor commenting on the accounting or management practices of the charitable organization shall not be considered a public record and shall not be available for public inspection;

- C** Provides that the registration requirements do not apply to any charitable organization whose fund raising does not exceed \$10,000 a year if the fund raising activities are done by volunteers;
- C** Provides that all relationships between fund raising counsels and independent paid fund raisers must be set forth in written contracts, signed by the charitable organization, and are subject to review by the Attorney General;
- C** Provides for more disclosure by fund raising counsels and independent paid fund raisers, including the fixed fee or rate at which the fund raising counsel will be compensated, and disclosure of judgments of civil liability regardless of form or the context of the funding, and requires counsel and fund raisers to maintain a copy of each advertisement for solicitations;
- C** Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- C** Strengthens the State's ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- C** Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- C** Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- C** Permits an action against any entity required to be registered pursuant to the "Charitable Registration and Investigation Act" based upon proof of criminal convictions or findings of violations of charity and solicitation laws involving theft, fraud or deceptive business practices in other jurisdictions committed by the registrant, or its officers, directors or principal employees;
- C** Increases the penalties under the law from up to \$7,500 to up to

\$10,000 for a first violation and from up to \$15,000 to up to \$20,000 for a second or subsequent violation and ensures that costs and attorneys' fees are recoverable in administrative proceedings; and

- Ⓒ Requires that every printed charitable solicitation contain a statement that the percentage of contributions received by the charity and dedicated to the charitable purpose during the last reporting period is available by telephoning the Attorney General or on the Internet.

The bill also prohibits in a solicitation or charitable sales promotion the distribution of badges or shields by a charitable organization that limits its membership to persons who are or formerly were employed as law enforcement officers, and prohibits anyone soliciting contributions from blocking the caller identification telephone system used by any person in this State.

Senate, No. 204 (3R) is the same as Assembly, No. 3233 (1R) of 2004.

COMMITTEE AMENDMENTS

The committee amended the bill to restore with clarifying language previously deleted provisions in the bill stipulating that certain financial statements of charitable organizations that have been audited and submitted to the Attorney General will be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization, and to establish custodial recordkeeping and confidentiality requirements related to those management letters provided pursuant to this requirement. The previously deleted version of these provisions had referred to any written communications. The amendments use more precise language to specify the nature of the particular information which must be submitted to the Attorney General in connection with the audited financial statements.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 204

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2004

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 204.

As amended, this bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, and raise penalties and provide for the recovery of costs and attorney fees in administrative proceedings under the act.

Specifically, the bill:

- * Expressly includes within the scope of the law all assignees, subcontractors and independent contractors of fund raising counsels and independent paid fund raisers;
- * Clarifies that a bona fide salaried officer, employee or volunteer of a charitable organization is not a solicitor;
- * Clarifies that adjudgments of civil liability include any finding of liability in an administrative or civil action related to the solicitation of contributions or the administration of charitable assets, regardless of the form or the context of the finding;
- * Requires annual disclosure, rather than disclosure at the initial registration, of organizational information such as the organization's street address, custodian of financial records and any limitations of fund raising activities in other jurisdictions, and adds an annual disclosure as to whether the organization's officers, directors, trustees or principal salaried executive staff employees have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser or any supplier or vendor;
- * Increases the threshold amounts a charitable organization must raise before it is required to register or file financial statements. Gross revenue in excess of \$250,000, or any greater amount prescribed by the Attorney General by regulation, require a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved for use by the Attorney General, which

statement has been audited in accordance with generally accepted auditing standards by an independent certified public accountant and which statement is accompanied by any written communication prepared by the auditor commenting on the accounting or management practices of the organization. If a charity's gross revenue is less than \$250,000, but more than \$25,000, a financial report shall be certified by the president or other authorized officer, but the Attorney General may require financial statements prepared as described above. Any written communication prepared by the auditor commenting on the accounting or management practices of the charitable organization shall not be considered a public record and shall not be available for public inspection;

- * Provides that the registration requirements do not apply to any charitable organization whose fund raising does not exceed \$10,000 a year if the fund raising activities are done by volunteers;
- * Provides that all relationships between fund raising counsels and independent paid fund raisers must be set forth in written contracts, signed by the charitable organization, and are subject to review by the Attorney General;
- * Provides for more disclosure by fund raising counsels and independent paid fund raisers, including the fixed fee or rate at which the fund raising counsel will be compensated, and disclosure of adjudgments of civil liability regardless of form or the context of the funding, and requires counsel and fund raisers to maintain a copy of each advertisement for solicitations;
- * Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- * Strengthens the State's ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- * Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- * Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- * Permits an action against any entity required to be registered pursuant to the "Charitable Registration and Investigation Act" based upon proof of criminal convictions or findings of violations of charity and solicitation laws involving theft, fraud or deceptive business practices in other jurisdictions committed

by the registrant, or its officers, directors or principal employees;

- * Increases the penalties under the law from up to \$7,500 to up to \$10,000 for a first violation and from up to \$15,000 to up to \$20,000 for a second or subsequent violation and ensures that costs and attorneys' fees are recoverable in administrative proceedings; and
- * Requires every printed charitable solicitation contain a statement that the percentage of contributions received by the charity and dedicated to the charitable purpose during the last reporting period is available by telephoning the Attorney General or on the Internet.

The bill also prohibits in a solicitation or charitable sales promotion the distribution of badges or shields by a charitable organization that limits its membership to persons who are or formerly were employed as law enforcement officers, and prohibits anyone soliciting contributions from blocking the caller identification telephone system used by any person in this State.

The committee amended the bill to:

- * Further increase the threshold amounts requiring audited financial statements from \$150,000 as provided in the bill, as introduced, to \$250,000 in gross revenue; and to expand the second tier requirement for a financial report certified by the president or other officer, with an audited financial statement at the request of the Attorney General, to \$25,000 to \$250,000.
- * Provide that communications prepared by an auditor commenting on the accounting or management practices of a charitable organization shall not be considered public records.
- * Clarify that the fixed rate or fee at which a fund raising counsel will be compensated must be part of the requisite disclosures under the law.
- * Clarify that if an enforcement action is commenced by the Attorney General based on a judgement in an administrative or civil proceeding, that proceeding must have involved theft, fraud or deceptive business practices relative to the solicitation of contributions or administration of charitable assets.
- * Provide that the required disclosure statement states that information concerning the percentage of contributions received by the charity that were dedicated to the charitable purpose during the last reporting period is available from the Attorney General.

This bill was pre-filed for introduction in the 2004 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO

[First Reprint]

SENATE, No. 204

with Assembly Floor Amendments
(Proposed By Assemblyman MANZO)

ADOPTED: DECEMBER 12, 2005

These amendments remove provisions in the bill stipulating that certain financial statements of charitable organizations that have been audited and submitted to the Attorney General shall be accompanied by any written communication prepared by the auditor in connection with the audit commenting on the accounting or management practices of the organization.

ASSEMBLY, No. 3233

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED SEPTEMBER 23, 2004

Sponsored by:

Assemblyman LOUIS MANZO

District 31 (Hudson)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Revises "Charitable Registration and Investigation Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/8/2005)

1 AN ACT concerning charitable registration and amending and
2 supplementing P.L.1994, c.16.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1994, c.16 (C.45:17A-20) is amended to read
8 as follows:

9 3. As used in this act:

10 "Attorney General" means the Attorney General of the State of
11 New Jersey or his designee.

12 "Charitable organization" means: (1) any person determined by the
13 federal Internal Revenue Service to be a tax exempt organization
14 pursuant to section 501(c) (3) of the Internal Revenue Code of 1986,
15 26 U.S.C. § 501(c) (3); or (2) any person who is, or holds himself out
16 to be, established for any benevolent, philanthropic, humane, social
17 welfare, public health, or other eleemosynary purpose, or for the
18 benefit of law enforcement personnel, firefighters or other persons
19 who protect the public safety, or any person who in any manner
20 employs a charitable appeal as the basis of any solicitation, or an
21 appeal which has a tendency to suggest there is a charitable purpose
22 to any such solicitation.

23 "Charitable purpose" means: (1) any purpose described in section
24 501(c) (3), of the Internal Revenue Code of 1986, 26U.S.C. §501(c)
25 (3); or (2) any benevolent, philanthropic, humane, social welfare,
26 public health, or other eleemosynary objective, or an objective that
27 benefits law enforcement personnel, firefighters, or other persons who
28 protect the public safety.

29 "Charitable sales promotion" means an advertising or sales
30 campaign, conducted by a commercial co-venturer, which represents
31 that the purchase or use of goods or services offered by the
32 commercial co-venturer will benefit a charitable organization or
33 purpose.

34 "Commercial co-venturer" means any person, including, but not
35 limited to, any assignee, subcontractor, independent contractor or
36 successor in interest, who, for profit or other consideration is regularly
37 and primarily engaged in trade or commerce other than in connection
38 with the raising of funds or any other thing of value for a charitable
39 organization, and who advertises that the purchase or use of his goods,
40 services, entertainment or any other thing of value will benefit a
41 charitable organization or charitable purpose.

42 "Contribution" means the conveyance, promise or pledge of money,
43 credit, property, financial assistance or other thing of any kind or value

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 in response to a solicitation. It does not include any of the following:
2 bona fide fees, dues or assessments paid by members provided that
3 membership is not conferred solely as consideration for making a
4 contribution in response to a solicitation; moneys received pursuant
5 to a governmental grant or contract; or, personal services rendered by
6 a volunteer.

7 "Federated fundraising organization" means a federation of
8 independent charitable organizations which have voluntarily joined
9 together for purposes of raising and distributing money.

10 "Fund raising counsel" means any person, including, but not limited
11 to, any assignee, subcontractor, independent contractor or successor
12 in interest, who is retained by a charitable organization for a fixed fee
13 or rate to plan, manage, advise, consult or prepare material for or with
14 respect to the solicitation in this State of contributions for a charitable
15 organization, but who does not solicit contributions or employ,
16 procure or engage any compensated person to solicit contributions.
17 A bona fide salaried officer, employee, or volunteer of a charitable
18 organization shall not be deemed to be a fund raising counsel. No
19 attorney, accountant or banker who renders professional services to a
20 charitable organization or advises a person to make a charitable
21 contribution during the course of rendering professional services to
22 that person shall be deemed, as a result of the professional service or
23 advice rendered, to be a fund raising counsel.

24 "Independent paid fund raiser" means any person, including, but not
25 limited to, any assignee, subcontractor, independent contractor or
26 successor in interest, who for compensation performs for or on behalf
27 of a charitable organization any service in connection with which
28 contributions are [,] or will be solicited in this State by that
29 compensated person or by any compensated person he employs,
30 procures, or engages, directly or indirectly to solicit contributions. A
31 bona fide salaried officer, employee, or volunteer of a charitable
32 organization shall not be deemed to be an independent paid fund
33 raiser. No attorney, accountant or banker who advises a person to
34 make a charitable contribution during the course of rendering
35 professional services to that person shall be deemed, as a result of that
36 advice, to be an independent paid fund raiser.

37 "Local unit" means a charitable organization that is affiliated with
38 a parent organization under terms specified in the parent organization's
39 charter, articles of organization, agreement of association, instrument
40 of trust, constitution or other organizational instrument or by-laws.

41 "Membership" means a relationship which entitles a person to the
42 privileges, professional standing, honors or other direct benefit of the
43 organization and either the right to vote or elect officers, or hold
44 office in the organization. Membership shall not include any
45 relationship granted solely upon making a contribution as a result of
46 a solicitation.

1 "Parent organization" means a charitable organization which
2 charters or affiliates local units under terms specified in the charitable
3 organization's charter, articles of organization, agreement of
4 association, instrument of trust, constitution or other organizational
5 instrument or bylaws.

6 "Person" means an individual, corporation, association, partnership,
7 trust, foundation or any other entity, however established within or
8 without this State.

9 "Registrant" means any person who has filed a registration
10 statement with the Attorney General required by this act.

11 "Registration statement" means an initial registration, renewal,
12 financial report, or any other document or report required pursuant to
13 section 6, 7, 8, 10 or 11 of this act to be filed with the Attorney
14 General.

15 "Secretary of State" means the Secretary of State of the State of
16 New Jersey.

17 "Solicitation" or "solicit" means the request, directly or indirectly,
18 for money, credit, property, financial assistance, or other thing of any
19 kind or value which will be used for a charitable purpose or benefit a
20 charitable organization. Solicitation shall include, but not be limited
21 to, the following methods of requesting or securing money, credit,
22 property, financial assistance or other thing of value:

23 (1) Any oral or written request;

24 (2) The making of any announcement in the press, over the radio
25 or television, by telephone, through the mail or any other media
26 concerning an appeal or campaign by or for any charitable organization
27 or purpose;

28 (3) The distribution, circulation, posting or publishing of any
29 handbill, written advertisement or other publication which directly or
30 by implication seeks to obtain a contribution;

31 (4) The offer of, attempt to sell, or sale of any advertising space,
32 book, card, tag, coupon, device, magazine, membership, merchandise,
33 subscription, flower, ticket, candy, cookies or other tangible item in
34 connection with which any appeal is made for any charitable
35 organization or purpose, or where the name of any charitable
36 organization is used or referred to in any appeal as an inducement or
37 reason for making any sale, or where any statement is made that the
38 whole or any part of the proceeds from the sale will be used for any
39 charitable purpose or benefit any charitable organization;

40 (5) The use or employment of canisters, cards, receptacles or
41 similar devices for the collection of money or other thing of value in
42 connection with which any appeal is made for any charitable
43 organization or purpose.

44 A solicitation shall take place whether or not the person making the
45 solicitation receives any contribution, except that a charitable
46 organization's use of its own name in any communication shall not

1 alone be sufficient to constitute a solicitation.

2 "Solicitor" means any individual who attempts to solicit or solicits
3 contributions [.] for compensation[, and who is subject to the control
4 of an independent paid fund raiser. The term "control" means the
5 direct management, direction and supervision of performance of a
6 solicitor's activities in connection with the solicitation of contributions
7 by the independent paid fund raiser]. A bona fide salaried officer,
8 employee, or volunteer of a charitable organization shall not be
9 deemed to be a solicitor.

10 (cf: P.L.1994, c.16, s.3)

11

12 2. Section 5 of P.L.1994, c.16 (C.45:17A-22) is amended to read
13 as follows:

14 5. If the Attorney General determines that the registration or
15 contract requirements established by this act are not satisfied, the
16 Attorney General shall notify the filing party or registrant within 10
17 business days of receipt of the registration or contract. If notification
18 is not sent within 10 business days: (1) a registration statement is
19 accepted; or (2) performance may begin on a contract. Within 10
20 business days after receipt of a notification that the requirements have
21 not been satisfied, the charitable organization, fund raising counsel,
22 independent paid fund raiser, commercial co-venturer or solicitor, as
23 appropriate, may satisfy the requirements or request a hearing
24 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.). Acceptance of a registration or performance of
26 a contract pursuant to this section shall not foreclose the Attorney
27 General from denying an application, enforcing the registration or
28 contract requirements established by P.L.1994, c.16 (C.45:17A-18 et
29 seq.) and the rules adopted pursuant thereto, or taking other
30 appropriate action [based on information that may be subsequently
31 uncovered].

32 (cf: P.L.1994, c.16, s.5)

33

34 3. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to read
35 as follows:

36 7. a. Every charitable organization operating or soliciting within
37 this State, except for those provided for in section 8 of this act or
38 exempt pursuant to section 9 of this act, shall file a long form
39 registration statement with the Attorney General.

40 b. The long form shall contain the following:

41 (1) The name of the organization and any other name or names
42 under which it intends to solicit contributions and the purposes for
43 which it was organized;

44 (2) The name, street address and telephone number of each officer,
45 director and trustee and each principal salaried executive staff
46 employee and whether the person has been adjudged liable in an

1 administrative or civil action, or convicted in a criminal action,
2 involving theft, fraud or deceptive business practices. For the
3 purposes of this paragraph:

4 (a) a plea of guilty, non vult, nolo contendere or any similar
5 disposition of alleged criminal activity shall be deemed a conviction;

6 [and]

7 (b) "each principal salaried executive staff employee" shall be
8 limited to no more than the five most highly compensated employees
9 in the organization ; and

10 (c) a judgment of liability in an administrative or civil action shall
11 include, but not be limited to, any finding or admission that the officer,
12 director, trustee or principal salaried executive staff employee engaged
13 in an unlawful practice or practices related to the solicitation of
14 contributions or the administration of charitable assets, regardless of
15 whether that finding was made in the context of an injunction, a
16 proceeding resulting in the denial, suspension or revocation of an
17 organization's registration, consented to in an assurance of voluntary
18 compliance or any similar order or legal agreement with any state or
19 federal agency.

20 (3) A copy of the most recent Internal Revenue Service Form 990
21 and Schedule A (990) for every registrant if the organization filed
22 these forms;

23 (4) A clear description of the specific programs and charitable
24 purpose for which contributions will be used and a statement whether
25 such programs are planned or are in existence;

26 (5) [Whether] A statement disclosing pertinent information
27 concerning whether any of the organization's officers, directors,
28 trustees or principal salaried executive staff employees as defined in
29 subparagraph (b) of paragraph (2) of subsection b. of this section
30 [are]:

31 (a) Are related by blood, marriage or adoption to each other or to
32 any officers, agents or employees of any fund raising counsel or
33 independent paid fund raiser under contract to the organization, or are
34 related by blood, marriage or adoption to any chief executive
35 employee, any other employee of the organization with a direct
36 financial interest in the transaction, or any partner, proprietor,
37 director, officer, trustee, or to any shareholder of the organization
38 with more than a two percent interest of any supplier or vendor
39 providing goods or services to the organization and, if so, the name
40 and business and home address and telephone number of each related
41 party; or

42 (b) Have a financial interest in any activity engaged in by a fund
43 raising counsel or independent paid fund raiser under contract to the
44 organization or any supplier or vendor providing goods or services to
45 the organization and, if so, the name and business address and
46 telephone number of each interested party.

1 (6) The amount of any grant or financial assistance from any
2 agency of government in its preceding fiscal year; [and]

3 (7) A statement setting forth the place where and the date when the
4 organization was legally established and the form of the organization;

5 (8) The principal street address and telephone number of the
6 organization and the address and telephone number of each office in
7 this State. If the organization does not maintain an office in this State,
8 the name and address of the individual having custody of its financial
9 records pertaining to operations or solicitations in this State shall be
10 disclosed;

11 (9) The name, street address and telephone number of each affiliate
12 which shares in the contributions or other revenue raised in this State;

13 (10) The date when the organization's fiscal year ends;

14 (11) A statement whether:

15 (a) The organization is authorized by any other state to solicit
16 contributions and, if so, a listing of the states in which authorization
17 has been obtained;

18 (b) The organization is or has ever been enjoined in any jurisdiction
19 from soliciting contributions or has been found to have engaged in
20 unlawful practices in the solicitation of contributions or the
21 administration of charitable assets;

22 (c) The organization's registration has been denied, suspended or
23 revoked by any jurisdiction, together with the reasons for that denial,
24 suspension or revocation; and

25 (d) The organization has voluntarily entered into an assurance of
26 voluntary compliance agreement or any similar order or legal
27 agreement with any jurisdiction or federal agency or officer;

28 (12) Whether the organization intends to solicit contributions from
29 the general public; and

30 (13) Any other information as may be prescribed by rules adopted
31 by the Attorney General. In prescribing the requirements of the long
32 form, the Attorney General shall permit a charitable organization to
33 incorporate by reference any information reported by the organization
34 on its Service Form 990 and Schedule A (990).

35 c. With initial registration only, every charitable organization
36 required to file a long form registration shall also file [the following;
37 provided,] a copy of the organization's charter, articles of
38 organization, agreement of association, instrument of trust,
39 constitution or other organizational instrument and bylaws, and a
40 statement setting forth the organization's tax exempt status with
41 copies of federal or state tax exemption determination or exemption
42 ruling letters; provided that any changes in the accuracy of this
43 information shall be reported to the Attorney General pursuant to
44 subsection e. of section 14 of this act [:

45 (1) A copy of the organization's charter, articles of organization,
46 agreement of association, instrument of trust, constitution or other

1 organizational instrument and bylaws;

2 (2) A statement setting forth the place where and the date when the
3 organization and its tax exempt status was legally established, the form
4 of its organization, with copies of federal or state tax exemption
5 determination or exemption ruling letters;

6 (3) The principal street address and telephone number of the
7 organization and the address and telephone number of each office in
8 this State. If the organization does not maintain an office in this State,
9 the name and address of the individual having custody of its financial
10 records in this State shall be disclosed;

11 (4) The name, street address and telephone number of each affiliate
12 which shares in the contributions or other revenue raised in this State;

13 (5) The date when the organization's fiscal year ends;

14 (6) A statement whether:

15 (a) The organization is authorized by any other state to solicit
16 contributions, and, if so, a listing of the states in which authorization
17 has been obtained;

18 (b) The organization or any of its present officers, directors,
19 executive personnel or trustees are or have ever been enjoined in any
20 jurisdiction from soliciting contributions or have been found to have
21 engaged in unlawful practices in the solicitation of contributions or the
22 administration of charitable assets;

23 (c) The organization's registration has been denied, suspended or
24 revoked by any jurisdiction, together with the reasons for that denial,
25 suspension or revocation; and

26 (d) The organization has voluntarily entered into an assurance or
27 voluntary discontinuance or agreement with any jurisdiction or federal
28 agency or officer; and

29 (7) Whether the organization intends to solicit contributions from
30 the general public].

31 d. (1) Every charitable organization required to file a long form
32 registration shall file an annual financial report with the Attorney
33 General. The annual financial report shall include: a balance sheet;
34 a statement of support revenue, expenses and changes in fund balance;
35 a statement of functional expenses at least divided into program,
36 management, general, and fund raising; and such other information as
37 the Attorney General shall by rule require.

38 (2) The annual financial report of every charitable organization
39 which received [more than \$100,000 in] gross revenue in excess of
40 \$250,000, or any greater amount that the Attorney General may
41 prescribe by regulation during its most recently completed fiscal year
42 shall be accompanied by [an audited]; (a) financial [statement]
43 statements prepared in accordance with generally accepted accounting
44 principles or other comprehensive basis of accounting approved for
45 use by the Attorney General by regulation which [has been examined]
46 have been audited in accordance with generally accepted auditing

1 standards by an independent certified public accountant [for the
2 purpose of expressing an opinion thereon]; and (b) any written
3 communication prepared by the auditor in connection with the audit
4 commenting on the accounting or management practices of the
5 organization.

6 The annual financial reports of all organizations receiving more than
7 \$25,000 but less than [~~\$100,000~~] ~~\$250,000~~, or any greater amount
8 that the Attorney General may prescribe by regulation shall be certified
9 by the organization's president or other authorized officer of the
10 organization's governing board and at the request of the Attorney
11 General, the organization shall submit [an audited]; (a) financial
12 [statement] statements prepared in accordance with generally
13 accepted accounting principles or other comprehensive basis of
14 accounting approved for use by the Attorney General by regulation
15 which [has been examined] have been audited in accordance with
16 generally accepted auditing standards by an independent certified
17 public accountant ; and (b) any written communication prepared by the
18 auditor in connection with the audit commenting on the accounting or
19 management practices of the organization.

20 (3) The Attorney General may accept a copy of a current financial
21 report previously prepared by a charitable organization for another
22 state agency or officer in compliance with the laws of that state,
23 provided that the report filed with the other state agency or officer
24 shall be substantially similar in content to the report required by this
25 subsection.

26 (4) An independent member agency of a federated fund raising
27 organization shall independently comply with the provisions of this
28 subsection.

29 e. In order to register its qualified local units pursuant to
30 subsection [c.] d. of section 9 of this act, a parent organization
31 registered pursuant to this section shall include with its initial
32 registration and annual renewal statement a separate statement that
33 provides the following:

34 (1) The name, principal street address, and phone number of all
35 local units within this State that it is registering;

36 (2) The amount of gross contributions received by each such unit
37 and the purpose or purposes for which these funds were raised in the
38 preceding fiscal year; and

39 (3) A statement asserting that each such local unit has provided the
40 parent organization with a written statement reporting the information
41 included on its behalf and asserting that the local unit meets all of the
42 requirements of subsection [c.] d. of section 9 of this act.

43 f. Any written or similar communication prepared by the auditor in
44 connection with the audit commenting on the accounting or
45 management practices of the organization submitted pursuant to
46 paragraph (2) of subsection d. of this section shall not be considered

1 a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
2 c.404 (C.47:1A-5 et al.), shall not be made available for public
3 inspection nor used for a purpose inconsistent with P.L.1994, c.16
4 (C.45:17A-18 et seq.), and shall be removed from the record in the
5 custody of the Attorney General at such time that such information is
6 no longer necessary for the enforcement of that act. The records
7 required pursuant to this section shall be maintained for a period of at
8 least three years after the end of the period of time to which they
9 relate.

10 (cf: P.L.1994, c.16, s.7)

11

12 4. Section 8 of P.L.1994, c.16 (C.45:17A-25) is amended to read
13 as follows:

14 8. a. The following charitable organizations shall be required to
15 file a short form registration on forms prescribed by the Attorney
16 General:

17 (1) Charitable organizations or organizations engaging in a
18 charitable fund raising campaign which do not receive gross
19 contributions in excess of \$25,000 during a fiscal year, if all of their
20 functions including fund raising activities are carried on by volunteers,
21 members, officers or persons who are not compensated for soliciting
22 contributions; except that, if the gross contributions, whether or not
23 all is received by any charitable organization during any fiscal year, are
24 in excess of \$25,000 it shall, within 30 days after the date on which it
25 shall have received the contributions, register with and report to the
26 Attorney General as required by section 7 of this act;

27 (2) Fraternal, patriotic, social or alumni organizations, historical
28 societies, and similar organizations organized under the provisions of
29 Title 15 of the Revised Statutes or Title 15A of the New Jersey
30 Statutes, when solicitation of contributions is confined to their
31 membership and solicitation is performed by members of that
32 organization;

33 (3) Persons requesting any contributions for the relief of any
34 individual, specified by name at the time of the solicitation, if all of the
35 contributions collected, without any deductions whatsoever, are turned
36 over to the named beneficiary;

37 (4) Any local post, camp, chapter or similarly designated element,
38 or a county unit of that element, of a bona fide veterans' organization
39 which issues charters to the local elements throughout this State, or to
40 any veterans' organization chartered under federal law or to any
41 service foundation of such an organization recognized in its bylaws.

42 b. The short form shall contain the following:

43 (1) Name and street address of the organization;

44 (2) **【Whether the organization has engaged an】** The name of any
45 independent paid fund raiser, fund raising counsel or commercial
46 co-venturer the charitable organization has engaged;

- 1 (3) The purpose for which the charitable organization is organized;
- 2 (4) The purposes for which the funds are raised;
- 3 (5) The tax status of the charitable organization;
- 4 (6) The reason the organization is eligible to file a short form
5 registration;
- 6 (7) A copy of the organization's most recent Internal Revenue
7 Service Form 990 and Schedule (A) 990 if the organization filed these
8 forms;
- 9 (8) The name, street address and telephone number of each officer,
10 director and trustee and each principal salaried executive staff
11 employee and whether the person has been adjudged liable in an
12 administrative or civil action, or convicted in a criminal action,
13 involving theft, fraud or deceptive business practices. For the
14 purposes of this paragraph:
- 15 (a) a plea of guilty, non vult, nolo contendere or any similar
16 disposition of alleged criminal activity shall be deemed a conviction;
- 17 (b) "each principal salaried executive staff employee" shall be
18 limited to no more than the five most highly compensated employees
19 in the organization; and
- 20 (c) a judgment of liability in an administrative or civil action shall
21 include, but not be limited to, any finding or admission that the officer,
22 director, trustee or principal salaried executive staff employee engaged
23 in an unlawful practice or practices related to the solicitation of
24 contributions or the administration of charitable assets, regardless of
25 whether that finding was made in the context of an injunction, a
26 proceeding resulting in the denial, suspension or revocation of an
27 organization's registration, consented to in an assurance of voluntary
28 compliance or any similar order or legal agreement with any state or
29 federal agency.
- 30 (9) A statement whether:
- 31 (a) The organization is authorized by any other state to solicit
32 contributions and, if so, a listing of the states in which authorization
33 has been obtained;
- 34 (b) The organization is or has ever been enjoined in any jurisdiction
35 from soliciting contributions or has been found to have engaged in
36 unlawful practices in the solicitation of contributions or the
37 administration of charitable assets;
- 38 (c) The organization's registration has been denied, suspended or
39 revoked by any jurisdiction, together with the reasons for that denial,
40 suspension or revocation; and
- 41 (d) The organization has voluntarily entered into an assurance of
42 voluntary compliance agreement or any similar order or legal
43 agreement with any jurisdiction or federal agency or officer; and
- 44 (10) Any other information as may be prescribed by rules adopted
45 by the Attorney General.
- 46 c. In order to register its qualified local units pursuant to

1 subsection [c.] d. of section 9 of this act, a parent organization
2 registered pursuant to this section shall include with its initial
3 registration, a copy of the parent organization's charter, articles of
4 organization, agreement of association, instrument of trust,
5 constitution or other organizational instrument and bylaws, and shall
6 include with its initial registration and annual renewal statement a
7 separate statement that provides the following:

8 (1) The name, principal street address, and phone number of all
9 local units within this State that it is registering;

10 (2) The amount of gross contributions received by each such unit
11 and the purpose or purposes for which these funds were raised in the
12 preceding fiscal year;

13 (3) A statement asserting that each such local unit has provided the
14 parent organization with a written statement reporting the information
15 included on its behalf and asserting that the local unit meets all of the
16 requirements of subsection [c.] d. of section 9 of this act.

17 d. Nothing in subsection c. of this section shall be construed to
18 require a parent organization to register any or all of its local units.
19 (cf: P.L.1994, c.16, s.8)

20

21 5. Section 9 of P.L.1994, c.16 (C.45:17A-26) is amended to read
22 as follows:

23 9. a. The registration requirements of this act shall not apply to
24 any religious corporation, trust, foundation, association or
25 organization incorporated under the provisions of Title 15 or 16 of the
26 Revised Statutes or Title 15A of the New Jersey Statutes or
27 established for religious purposes. Any agency or organization
28 incorporated or established for charitable purposes and engaged in
29 effectuating one or more charitable purposes, which is affiliated with,
30 operated by, or supervised or controlled by a corporation, trust,
31 foundation, association, or organization incorporated or established
32 for religious purposes, or any other religious agency or organization
33 shall also be exempt.

34 b. The registration requirements of this act shall not apply to any
35 educational institution, the curriculums of which in whole or in part
36 are registered or approved by the State Department of Education or
37 the [State Department of] New Jersey Commission on Higher
38 Education, either directly or by acceptance of accreditation by an
39 accredited body recognized by these departments; an educational
40 institution confining its solicitation of contributions to its student
41 body, alumni, faculty and trustees, and their families; or a library
42 registered by the State Department of Education, provided that the
43 annual financial report of that institution or library shall be filed with
44 the State Department of Education where it shall be open for public
45 inspection.

46 c. The registration requirements of P.L.1994, c.16 (C.45:17A-18

1 et seq.) shall not apply to any charitable organization or organizations
2 engaging in a charitable fund raising campaign which do not receive
3 gross contributions in excess of \$10,000 during a fiscal year, if all of
4 its functions, including fund raising activities, are carried on by
5 volunteers, members, officers or persons who are not compensated for
6 soliciting contributions, except that if the gross contributions, whether
7 or not all is received by any charitable organization during any fiscal
8 year, are in excess of \$10,000 the charitable organization shall, within
9 30 days after the date on which it shall have received the
10 contributions, register with and report to the Attorney General as
11 required by section 7 of P.L.1994, c.16 (C.45:17A-24);

12 d. A charitable organization that meets all of the following
13 requirements shall be considered registered as required by this act:

14 (1) The charitable organization is a local unit of a parent
15 organization which is registered pursuant to this act;

16 (2) The parent organization has provided all information
17 concerning the local unit required by subsection e. of section 7 or
18 subsection c. of section 8 of this act;

19 (3) All solicitations made by the local unit are made by members of
20 the local unit or volunteers;

21 (4) The local unit does not employ a fund raising counsel or
22 independent paid fund raiser or utilize paid staff in preparation of
23 materials or records concerning or related to the solicitations; and

24 (5) (a) The local unit does not receive gross contributions in
25 excess of \$25,000 during the fiscal year; or

26 (b) The local unit is an organization that limits membership to
27 persons who are or formerly were employed as officers statutorily
28 authorized to enforce the criminal laws of this State.

29 [d.] e. Nothing in subsection [c.] d. of this section shall be
30 construed to require a parent organization to register any or all of its
31 local units.

32 (cf: P.L.1994, c.16, s.9)

33

34 6. Section 10 of P.L.1994, c.16 (C.45:17A-27) is amended to read
35 as follows:

36 10. a. It shall be unlawful for any person to act as a fund raising
37 counsel or independent paid fund raiser unless registered annually with
38 the Attorney General. Registration statements shall be on forms
39 prescribed by the Attorney General. A registration statement shall be
40 signed and sworn to by the principal officer of the fundraising counsel
41 or independent paid fund raiser and shall contain information as
42 prescribed by rules adopted by the Attorney General.

43 b. The registration statements shall be accompanied by a fee
44 prescribed pursuant to the provisions of this act, except that a fund
45 raising counsel or independent paid fund raiser which is a partnership
46 or corporation which registers shall pay a single fee. Each registration

1 shall expire on June 30.

2 c. The Attorney General shall examine the initial registration
3 statement and supporting documents filed by a fund raising counsel or
4 independent paid fund raiser pursuant to section 5 of this act.

5 d. The relationship between a charitable organization and a fund
6 raising counsel or independent paid fund raiser shall be set forth in a
7 written contract. The relationship between a fund raising counsel or
8 independent paid fund raiser and any other fund raising counsel or
9 independent paid fund raiser shall be set forth in a written contract.
10 The fund raising counsel or independent paid fund raiser shall file a
11 copy of ~~the contract~~ all such contracts with the Attorney General at
12 least 10 business days prior to the performance by the fund raising
13 counsel or independent paid fund raiser of any service within this
14 State. It shall be unlawful for any solicitation pursuant to ~~the~~ any
15 contract to begin before the Attorney General has reviewed the
16 contract pursuant to section 5 of this act. ~~The contract~~ All such
17 contracts shall be signed by two authorized officials of the charitable
18 organization, one of whom must be a member of the organization's
19 governing body, and the authorized contracting officer for the fund
20 raising counsel or independent paid fund raiser. Performance of any
21 contract filed for review shall not foreclose the Attorney General from
22 enforcing the contract requirements established by P.L.1994, c.16
23 (C.45:17A-18 et seq.) and the rules adopted pursuant thereto or taking
24 other appropriate action. For the purposes of this subsection, the term
25 "relationship" shall include, but not be limited to, any contract,
26 agreement, assignment or arrangement or any other obligation relating
27 to the solicitation of contributions.

28 e. ~~The contract~~ All contracts for a fund raising counsel or
29 independent paid fund raiser either of whom at any time has or intends
30 to have custody, control, possession or access to a charitable
31 organization's ~~money~~ solicited contributions, shall contain the
32 following:

33 (1) A statement of the respective obligations of the ~~professional~~
34 ~~fund raiser~~ fund raising counsel, the independent paid fund raiser, and
35 the charitable organization;

36 (2) A clear statement of the fees or rate which will be paid to the
37 fund raising counsel or independent paid fund raiser;

38 (3) The projected commencement and termination dates of the
39 solicitation campaign;

40 (4) A statement as to whether the fund raising counsel or
41 independent paid fund raiser will have custody, control or access to
42 contributions;

43 (5) A statement as to the guaranteed minimum percentage of the
44 gross receipts from contributions which will be remitted to the
45 charitable organization, if any, or if the solicitation involves the sale of
46 goods, services or tickets to a fund raising event, the percentage of the

1 purchase price which will be remitted to the charitable organization,
2 if any. Any stated percentage shall exclude any amount which the
3 charitable organization is to pay as fund raising costs;

4 (6) A statement of the percentage of the gross revenue from which
5 the [fund raising counsel or] independent paid fund raiser will be
6 compensated and the fixed fee or rate at which the fund raising counsel
7 will be compensated. If the compensation of the [fund raising counsel
8 or] independent paid fund raiser is not contingent upon the number of
9 contributions or the amount of revenue received, its compensation
10 shall be expressed as a reasonable estimate of the percentage of the
11 gross revenue, and the contract shall clearly disclose the assumptions
12 upon which the estimate is based. [The] If the compensation of the
13 fund raising counsel is calculated on the basis of a rate and time, the
14 statement shall include a reasonable estimate of the total fee and the
15 contract shall clearly disclose the assumptions upon which the estimate
16 is based. With respect to any such contract, the stated assumptions
17 shall be based upon all of the relevant facts known to the fund raising
18 counsel or independent paid fund raiser regarding the solicitation to be
19 conducted by the independent paid fund raiser;

20 (7) The bank and branch where all moneys will be deposited [and],
21 each account number and, for each account, all authorized signatories
22 for withdrawals; and

23 (8) Any other information as may be prescribed by the Attorney
24 General.

25 f. A fund raising counsel or independent paid fund raiser, either of
26 whom at any time has or intends to have custody, control, possession
27 or access to a charitable organization's [money] solicited
28 contributions, shall, if requested by the Attorney General, make
29 available the following information:

30 (1) Each location and telephone number from which the solicitation
31 is conducted;

32 (2) The name, home address and telephone number of each person
33 responsible for directing and supervising the conduct of the campaign
34 and whether the person has been adjudged liable in an administrative
35 or civil action or convicted in a criminal action, involving theft, fraud
36 or deceptive business practices. For the purpose of this paragraph [,
37 a plea of guilty, non vult, nolo contendere or any similar disposition of
38 alleged criminal activity shall be deemed a conviction; and];

39 (a) a plea of guilty, non vult, nolo contendere or any similar
40 disposition of alleged criminal activity shall be deemed a conviction;
41 and

42 (b) a judgment of liability in an administrative or civil action shall
43 include, but not be limited to, any finding or admission that the person
44 responsible for directing and supervising the conduct of the campaign
45 engaged in an unlawful practice or practices related to the solicitation
46 of contributions or the administration of charitable assets, regardless

1 of whether that finding was made in the context of an injunction, a
2 proceeding resulting in the denial, suspension or revocation of an
3 organization's registration, consented to in an assurance of voluntary
4 compliance or any similar order or legal agreement with any state or
5 federal agency; and

6 (3) A statement of the charitable purpose for which the solicitation
7 campaign is being conducted.

8 g. If either a fund raising counsel or independent paid fund raiser
9 at any time has or intends to have custody, control, possession or
10 access to a charitable organization's [money] solicited contributions,
11 that fund raising counsel or independent paid fund raiser shall:

12 (1) At the time of making application for registration, file with the
13 Attorney General a bond in which it shall be the principal obligor,
14 which shall for the initial application be in the sum of \$20,000 and
15 thereafter shall be an amount prescribed by a rule adopted by the
16 Attorney General pursuant to subsection f. of section 4 of this act.
17 The bond shall provide for one or more sureties whose liability in the
18 aggregate shall at least equal that sum. The fund raising counsel or
19 independent paid fund raiser shall maintain the bond in effect during
20 the entire period of registration. The bond shall be payable to the
21 Attorney General for the benefit of any person who may have a cause
22 of action against the principal obligor of the bond for any violation of
23 this act or for the purpose of satisfying any assessment against the
24 principal obligor of the bond for any such violation;

25 (2) Deposit each contribution collected by the fund raising counsel
26 or independent paid fund raiser, in its entirety and within five days of
27 its receipt, in an account at a bank or other federally insured financial
28 institution. The account shall be in the name of the charitable
29 organization with whom the fund raising counsel or independent paid
30 fund raiser has contracted and the charitable organization shall have
31 sole benefit and control of the account and all withdrawals;

32 (3) Within 40 days after a solicitation campaign has been
33 completed, or in the case of a campaign lasting more than 12 months,
34 within 40 days of the end of the charitable organization's fiscal year,
35 file with the Attorney General a financial report for the campaign on
36 such forms as the Attorney General may prescribe. Those forms shall
37 include, but not be limited to, gross revenues, an itemization of all
38 expenses incurred and the bank and branch where all moneys are
39 deposited. This report shall be signed and sworn to by two authorized
40 officials, one from the charitable organization and one from the fund
41 raising counsel or independent paid fund raiser[.] ; and

42 (4) Maintain a copy of each advertisement, publication, solicitation
43 or other material used as part of the charitable sales promotion to
44 directly or indirectly induce a contribution.

45 (cf: P.L.1994, c.16, s.10)

1 7. Section 11 of P.L.1994, c.16 (C.45:17A-28) is amended to read
2 as follows:

3 11. a. It shall be unlawful for any person to act as a solicitor of an
4 independent paid fund raiser required to register pursuant to this act
5 unless [the solicitor registers annually.], prior to that person acting as
6 a solicitor of the independent paid fund raiser, the independent paid
7 fund raiser files registration information including the name, street
8 address, telephone number, and any other information as may be
9 prescribed by the Attorney General, of any such solicitor and files such
10 registration information for that solicitor annually thereafter.
11 Registration statements shall be on forms prescribed by the Attorney
12 General and accompanied by a prescribed fee. The Attorney General
13 shall review the statement pursuant to section 5 of this act and
14 prescribe the fees pursuant to subsection f. of section 4 of this act.

15 b. It shall be unlawful for any independent paid fund raiser to
16 engage a solicitor to solicit charitable contributions unless the
17 independent paid fund raiser files the solicitor's registration
18 information with the Attorney General pursuant to this section.

19 (cf: P.L.1994, c.16, s.11)

20

21 8. Section 12 of P.L.1994, c.16 (C.45:17A-29) is amended to read
22 as follows:

23 12. a. Every charitable organization which permits a charitable
24 sales promotion to be conducted on its behalf shall obtain a written
25 contract from the commercial co-venturer and shall file a copy of the
26 agreement with the Attorney General at least 10 business days prior to
27 the initiation of that charitable sales promotion. All parties to the
28 contract shall be subject to the provisions of P.L.1994, c.16
29 (C.45:17A-18 et seq.) and any rules adopted pursuant thereto. Every
30 contract shall contain a provision clearly and conspicuously stating
31 that the parties are subject to this act and any rules adopted pursuant
32 thereto.

33 b. A charitable organization shall file in writing on forms
34 prescribed by the Attorney General the following information at the
35 conclusion of the charitable sales promotion:

36 (1) [As reported to the charitable organization,] A certification
37 from an officer or principal of the commercial co-venturer attesting to
38 the gross amount of income received by the commercial co-venturer
39 attributable to the charitable sales promotion, solicitation or venture
40 undertaken;

41 (2) The amount of money or other contribution remitted to the
42 organization covering each event or portion of an extended charitable
43 sales promotion; [and]

44 (3) A copy of each advertisement, publication, solicitation or other
45 material used as part of the charitable sales promotion to directly or
46 indirectly induce a contribution; and

1 (4) Any other information as may be required by rules adopted by
2 the Attorney General.

3 c. All filings pursuant to this section shall be accompanied by a fee
4 prescribed pursuant to the provisions of this act.

5 d. The commercial co-venturer shall disclose in each advertisement
6 for the charitable sales promotion the dollar amount or percent per
7 unit of goods or services purchased or used that will benefit the
8 charitable organization or purpose. If the actual dollar amount or
9 percent cannot reasonably be determined prior to the final date of the
10 charitable sales promotion, the commercial co-venturer shall disclose
11 an estimated dollar amount or percent. Any such estimate shall be
12 reasonable and shall be based upon all of the relevant facts known to
13 the commercial co-venturer and the charitable organization regarding
14 the charitable sales promotion.

15 (cf: P.L.1994, c.16, s.12)

16
17 9. Section 13 of P.L.1994, c. 16 (C.45:17A-30) is amended to read
18 as follows:

19 13. a. Prior to soliciting a contribution, either orally or by written
20 request, except for any in-person solicitation, any independent paid
21 fund raiser, commercial co-venturer, solicitor, or charitable
22 organization shall clearly and conspicuously disclose any information
23 as prescribed by the rules adopted by the Attorney General.

24 b. In the case of any solicitation campaign conducted orally,
25 whether by telephone or otherwise, except for any in-person
26 solicitation, a written confirmation or receipt or written reminder shall,
27 upon request of the contributor, be sent and shall include a clear and
28 conspicuous disclosure of any information as prescribed by the rules
29 adopted by the Attorney General.

30 c. Except as otherwise provided in section 14 of this act,
31 registration statements, reports, notices, contracts or agreements
32 between charitable organizations and fund raising counsels or
33 independent paid fund raisers and commercial co-venturers and all
34 other documents and information required to be filed under this act
35 with the Attorney General are public records and shall be open to the
36 general public at such time and under such conditions as the Attorney
37 General may prescribe.

38 d. In addition to all other requirements imposed by this act, a
39 charitable organization that limits its membership to persons who are
40 or formerly were employed as officers statutorily authorized to enforce
41 the criminal laws of this State or that is a parent organization that
42 includes local units that so limit membership shall:

43 (1) At least 10 days prior to initiating any solicitation campaign
44 involving multiple solicitations, give written notice describing the
45 nature, purpose and the proposed dates and location of the
46 solicitations to the Attorney General and the county prosecutor of any

1 county in which the solicitations will be made, unless the organization
2 limits its membership to persons who are or were employed by the
3 State, or is a parent organization with local units in more than one
4 county, in which case notice shall be given to the Attorney General
5 who shall notify the appropriate county prosecutors;

6 (2) Upon request, make any records required by this act available
7 for inspection or provide an audited financial statement of financial
8 records concerning the organization's fund raising activities to the
9 Attorney General.

10 e. In addition to all other requirements imposed by P.L.1994, c.16
11 (C.45:17A-18 et seq.), any charitable organization that is or holds
12 itself out to be soliciting contributions through the use of any name,
13 symbol or statement which implies or that would lead a reasonable
14 person to believe that the charitable organization is in any way
15 affiliated with, related to, recognized by, or organized for the benefit
16 of emergency service employees, officers statutorily authorized to
17 enforce the criminal laws of this State or a governmental agency shall
18 disclose to the potential contributor the nature of the affiliation,
19 relationship, recognition or organization, if any, or shall expressly state
20 that no affiliation, relationship, recognition or organization exists
21 between the charitable organization and emergency service employees,
22 officers statutorily authorized to enforce the criminal laws of this State
23 or governmental agency, as the case may be.

24 (cf: P.L.1994, c.16, s.13)

25
26 10. Section 15 of P.L.1994, c.16 (C.45:17A-32) is amended to
27 read as follows:

28 15. a. Any statement, whether oral or written, made by a
29 charitable organization, or on behalf of a charitable organization by
30 persons including, but not limited to commercial co-venturers, fund
31 raising counsels, independent paid fund raisers or solicitors shall be
32 truthful.

33 b. A charitable organization shall establish and exercise control
34 over fund raising activities conducted for its benefit, including
35 approval of all written contracts and agreements, and shall assure that
36 fund raising activities are conducted without coercion.

37 c. The following acts and practices are declared unlawful as applied
38 to the planning, conduct, or execution of any solicitation or charitable
39 sales promotion:

40 (1) To misrepresent the purpose or nature of the charitable
41 institution or the purpose or beneficiary of a solicitation; to solicit
42 contributions for a purpose other than the charitable purpose
43 expressed in the statement of the charitable organization or expend
44 contributions in a manner inconsistent with that purpose, or to fail to
45 disclose any material fact. A misrepresentation may be accomplished
46 by words or conduct;

1 (2) To violate or fail to comply with any of the applicable
2 provisions of this act or the rules adopted under authority of this act;

3 (3) To violate or fail to comply with any of the applicable
4 provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et
5 seq.) or the regulations adopted pursuant to that act;

6 (4) To utilize a name, symbol or statement so closely related or
7 similar to that used by another charitable organization and registered
8 by that organization with the United States Patent and Trademark
9 Office or registered pursuant to R.S.56:2-1 et seq. that its use would
10 tend to confuse or mislead a solicited person or to solicit contributions
11 in a manner or through representations that falsely imply or are likely
12 to create the mistaken belief that the contributions are solicited by or
13 on behalf of another charitable organization;

14 (5) To utilize or exploit registration so as to lead any person to
15 believe that registration constitutes or implies an endorsement or
16 approval by the State;

17 (6) To distribute [~~honorary~~] any form of membership or badges,
18 shields, courtesy cards or cards of a similar nature identifying the
19 organization in connection with or in any manner related to the
20 solicitation of funds or contributions for or on behalf of the
21 organization in the case of any charitable organization that limits its
22 membership to persons who are or formerly were employed as officers
23 statutorily authorized to enforce the criminal laws of this State or that
24 is a parent organization that includes local units that so limit
25 membership;

26 (7) To utilize information, statements or communications that,
27 although literally true, are presented in a manner that has the capacity
28 to mislead the average consumer; [and]

29 (8) To utilize a name, symbol or statement so closely related or
30 similar to that used by any organization that is affiliated with, related
31 to, recognized by or organized for the benefit of emergency service
32 employees, officers statutorily authorized to enforce the criminal laws
33 of this State, or a governmental agency in such a way that its use
34 would tend to confuse or mislead a solicited person or to create the
35 erroneous belief that the contributions are solicited by or on behalf of
36 an organization affiliated with, related to, recognized by or organized
37 for the benefit of emergency service employees, officers statutorily
38 authorized to enforce the criminal laws of this State, or a
39 governmental agency;

40 (9) To utilize a name, symbol or statement that misrepresents the
41 geographic origin or location of a charitable organization or its
42 intended beneficiaries; and

43 (10) To engage in other unlawful acts and practices as may be
44 determined by rules adopted by the Attorney General.

45 d. It shall be unlawful for any charitable organization, fund raising
46 counsel, independent paid fund raiser or commercial co-venturer to

1 enter into any contract with any person who is required to have
2 registered and failed to do so.

3 e. It shall be unlawful for any person to represent that tickets to
4 events will be donated by another, unless the following requirements
5 have been met:

6 (1) The fund raising counsel or independent paid fund raiser shall
7 obtain commitments, in writing and notarized, from charitable
8 organizations stating that they will accept donated tickets and
9 specifying the number of tickets they are willing to accept and for
10 which they are able to provide transportation; copies of such written
11 commitments shall be filed with the Attorney General;

12 (2) The independent paid fund raiser has taken measures to prevent
13 solicitation of contributions for donated tickets in excess of the
14 number of ticket commitments received from charitable organizations;
15 and

16 (3) The number of tickets sold will not be greater than the number
17 of seats available at the facility for each event or performance.

18 (cf: P.L.1998, c.123, s.1)

19

20 11. Section 16 of P.L.1994, c.16 (C.45:17A-33) is amended to
21 read as follows:

22 16. a. For purposes of the "Administrative Procedure Act,"
23 P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General or his
24 designee shall constitute the agency head and have the final decision
25 making power.

26 b. After notice and an opportunity for a hearing, the Attorney
27 General may revoke, or suspend any registration upon a finding that
28 the registrant or any officer, director, trustee or principal salaried
29 executive staff employee of a registrant or any other person subject to
30 the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.):

31 (1) Has filed a registration statement containing false or misleading
32 facts or omitting material facts;

33 (2) Has violated or failed to comply with any of the provisions of
34 this act or the rules adopted under authority of this act;

35 (3) Has engaged in the use or employment of dishonesty, fraud,
36 deception, misrepresentation, false promise or false pretense;

37 (4) Has been convicted of any criminal offense committed in
38 connection with the performance of activities regulated under this act
39 or any criminal offense involving untruthfulness or dishonesty or any
40 criminal offense relating adversely to the registrant's fitness to perform
41 activities regulated by this act. For the purposes of this paragraph, a
42 plea of guilty, non vult, nolo contendere or any other similar
43 disposition of alleged criminal activity shall be deemed a conviction;

44 (5) Has had the authority to engage in charitable activities denied,
45 revoked or suspended by New Jersey or any other state or jurisdiction;

46 (6) Has been adjudged liable in an administrative or civil

1 proceeding involving theft, fraud or deceptive business practices
2 including, but not limited to, any finding of unlawful practice or
3 practices related to the solicitation of contributions or the
4 administration of charitable assets, regardless of whether that finding
5 was made in the context of an injunction, a proceeding resulting in
6 penalties, consented to in an assurance of voluntary compliance or any
7 similar order or legal agreement with any state or federal agency;

8 (7) Has engaged in other forms of misconduct as may be
9 determined by rules adopted by the Attorney General.

10 c. Whenever it shall appear to the Attorney General that a person
11 has engaged in, is engaging in, or is about to engage in, any act or
12 practice declared unlawful by this act, or when the Attorney General
13 determines it to be in the public interest to inquire whether a violation
14 may exist, the Attorney General may:

15 (1) Require any person to file, on a form to be prescribed by the
16 Attorney General, a statement or report in writing under oath, or
17 otherwise, concerning any relevant and material information in
18 connection with an act or practice subject to this act;

19 (2) Examine under oath any person in connection with any act or
20 practice subject to this act;

21 (3) Inspect any location from which the activity regulated by this
22 act is conducted;

23 (4) Examine any goods, ware or items used in the rendering of any
24 of the services contained in this act;

25 (5) Require an audited financial statement of the financial records
26 of the organization or person registered, exempted or required to be
27 registered under this act, prepared in accordance with generally
28 accepted accounting principles or other comprehensive basis of
29 accounting approved for use by the Attorney General by regulation
30 which has been [examined] audited in accordance with generally
31 accepted auditing standards by an independent certified public
32 accountant [for the purpose of expressing an opinion thereof] and any
33 written communication prepared by the auditor in connection with the
34 audit commenting on the accounting or management practices of the
35 organization;

36 (6) Examine any book, document, account, computer data,
37 literature, publication or paper maintained by or for any organization
38 or person registered, exempted or required to be registered under this
39 act, in the course of engaging in the activities regulated by this act;

40 (7) Apply to Superior Court for an order to impound any record,
41 book, document, account, computer data, literature, publication,
42 paper, goods, ware, or item used or maintained by any organization or
43 person registered, exempted or required to be registered under this act
44 in the regular course of engaging in the activities regulated by this act
45 or rules adopted under this act;

46 (8) In order to accomplish the objectives of this act, or the rules

1 adopted under this act, hold investigative hearings as necessary and
2 issue subpoenas to compel the attendance of any person or the
3 production of books, records, computer data, literature, publication or
4 papers at any investigative hearing or inquiry.

5 d. Any person who engages in any conduct or an act in violation
6 of any provision of this act and who has not previously violated this
7 act shall, in addition to any other relief authorized by this or any other
8 law, be liable for a civil penalty of not more than ~~[\$7,500]~~ \$10,000
9 for the first violation of this act.

10 For a second violation of this act, or if a person is found liable for
11 more than one violation of this act within a single proceeding, the
12 liability for the second violation shall not exceed a civil penalty in the
13 amount of ~~[\$15,000]~~ \$20,000.

14 For a third violation of this act, or if a person is found liable for
15 more than two violations of this act within a single proceeding, the
16 liability for a third or any succeeding violation shall not exceed a civil
17 penalty in the amount of ~~[\$15,000]~~ \$20,000 for each additional
18 violation.

19 In lieu of an administrative proceeding or an action in the Superior
20 Court, the Attorney General may bring an action for the collection or
21 enforcement of civil penalties for the violation of any provision of this
22 act. The action may be brought in a summary manner, pursuant to
23 ~~["the penalty enforcement law," N.J.S. 2A:58-1 et seq.]~~ the "Penalty
24 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and
25 the Rules Governing the Courts of the State of New Jersey governing
26 actions for the collection of civil penalties, in the Municipal Court or
27 Special Civil Part of the Law Division of the Superior Court in the
28 municipality or county where the offense occurred. Process in the
29 action may be by summons or warrant. If the defendant in the action
30 fails to answer the action, the court shall, upon finding that an
31 unlawful act or practice has been committed by the defendant, issue a
32 warrant for the defendant's arrest in order to bring the person before
33 the court to satisfy the civil penalties imposed.

34 In an action commenced pursuant to this section, the court may
35 order restored to any person in interest any moneys or property
36 acquired by means of an unlawful act or practice. An action alleging
37 the unregistered practice of the activities regulated by this act may be
38 brought pursuant to this section or, where injunctive relief is sought,
39 by an action commenced in the Superior Court. In an action brought
40 pursuant to this act, the Attorney General or the court may order the
41 payment of attorney's fees and costs for the use of the State.

42 e. Whenever it shall appear to the Attorney General that a violation
43 of this act has occurred, is occurring, or will occur, the Attorney
44 General, in addition to any other proceeding authorized by law, may
45 seek and obtain in a summary proceeding in the Superior Court an
46 injunction prohibiting the act or practice. In the proceeding the court

1 may assess a civil penalty in accordance with the provisions of this act,
2 order restoration to any person in interest of any moneys or property,
3 real or personal, acquired by means of an unlawful act or practice and
4 may enter any orders necessary to prevent the performance of an
5 unlawful practice in the future and to remedy fully any past unlawful
6 activity.

7 f. Upon the failure of any person to comply within 10 days after
8 service of any order of the Attorney General directing payment of
9 penalties, attorney's fees, costs or restoration of moneys or property
10 as authorized by this act, the Attorney General may issue a certificate
11 to the Clerk of the Superior Court that the person is indebted to the
12 State for the payment. A copy of the certificate shall be served upon
13 the person against whom the order was entered. The clerk shall
14 immediately enter upon the record of docketed judgments the name of
15 the person so indebted and of the State, a designation of the statute
16 under which each payment was directed, the amount of each payment,
17 a listing of property ordered restored, and the date of the certification.
18 The entry shall have the same force and effect as the entry of a
19 docketed judgment in the Superior Court and the Attorney General
20 shall have all rights and remedies of a judgment creditor, in addition
21 to exercising any other available remedies.

22 g. If a person fails or refuses to file any statement or report, or fails
23 or refuses to grant access to premises from which activities regulated
24 by this act are conducted in any lawfully conducted investigative
25 matter, or fails to obey a subpoena issued pursuant to this act, the
26 Attorney General may apply to the Superior Court and obtain an
27 order:

28 (1) Adjudging that person in contempt of court and assessing civil
29 penalties in accordance with the amounts prescribed by this act;

30 (2) Enjoining the conduct of any practice in violation of this act;
31 or

32 (3) Granting other relief as required.

33 h. If a person who refuses to testify or produce any computer data,
34 book, paper, or document in any proceeding under this act for the
35 reason that the testimony or evidence, documentary or otherwise,
36 required of him may tend to incriminate him, or convict him of a crime,
37 is directed to testify or to produce the computer data, book, paper, or
38 document by the Attorney General, he shall comply with the direction.

39 A person who is entitled by law to and does assert a privilege, and
40 who complies with the direction of the Attorney General, shall not
41 thereafter be prosecuted or subject to any penalty or forfeiture in any
42 criminal proceeding which arises out of and relates to the subject
43 matter of the proceeding. No person so testifying shall be exempt
44 from prosecution or punishment for perjury or false swearing
45 committed by him in giving the testimony or from any civil or
46 administrative action arising from the testimony.

1 i. In addition or as an alternative to revocation or suspension of a
2 registration, the Attorney General may, after affording an opportunity
3 to be heard and finding a violation of this act:

4 (1) Assess civil penalties in accordance with this act;

5 (2) Direct that any person cease and desist from any act or practice
6 in violation of this act or take necessary affirmative corrective action
7 with regard to any unlawful act or practice; [or]

8 (3) Order any person to restore to any person aggrieved by an
9 unlawful act or practice any money or property, real or personal,
10 acquired by means of any unlawful act or practice, except that the
11 Attorney General shall not order restoration in a dollar amount greater
12 than those moneys received by the registrant or his agent or any other
13 person violating this act;

14 (4) Order the payment of attorney's fees and costs for the use of
15 the State; or

16 (5) Authorize the release of sums from any bond maintained
17 pursuant to this act in satisfaction of assessments.

18 j. Whenever a person engages in any act or practice in violation of
19 this act the Attorney General may, after notice and opportunity to be
20 heard and upon a finding that the act or practice has occurred, enter
21 an order:

22 (1) Directing the person to cease and desist from that unlawful act
23 or practice;

24 (2) Assessing civil penalties in accordance with this act;

25 (3) Directing that person restore to any person aggrieved by the
26 unlawful act or practice any money or property, real or personal,
27 acquired by means of the unlawful act or practice, except that the
28 Attorney General shall not order restoration in a dollar amount greater
29 than those moneys received by the registrant, agent or any other
30 person violating this act; [or]

31 (4) Directing payment of attorney's fees and costs for the use of the
32 State; or

33 (5) Authorizing the release of sums from any bond maintained
34 pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) in satisfaction of
35 assessments.

36 k. When it shall appear to the Attorney General that a person
37 against whom an order pursuant to this section has been entered has
38 violated the order, the Attorney General may initiate a summary
39 proceeding in the Superior Court for enforcement of the order. Any
40 person found to have violated such an order shall be ordered to
41 comply with the prior administrative order and may be ordered to pay
42 civil penalties in the amount of not more than \$25,000 for each
43 violation of the order. If a person fails to pay a civil penalty assessed
44 by the court for violation of an order, the court assessing the unpaid
45 penalty is authorized, upon application of the Attorney General, to
46 grant any relief which may be obtained under any statute or court rule

1 governing the collection and enforcement of penalties.

2 l. In any administrative proceeding on a complaint alleging a
3 violation of this act, the Attorney General may issue subpoenas to
4 compel the attendance of witnesses or the production of computer
5 data, books, records, or documents at the hearing on the complaint as
6 provided by this act.

7 m. In addition to any other action or remedy available under this
8 act, a charitable organization aggrieved by a violation of paragraph (4)
9 or (8) of subsection c. of section 15 of this act may initiate a civil
10 action or assert a counterclaim in any court of competent jurisdiction
11 against the violator. Upon establishing the violation, the charitable
12 organization shall recover treble its damages or treble the violator's
13 profits, whichever is greater. In all actions under this subsection the
14 court shall award reasonable attorney's fees, filing fees and reasonable
15 costs of suit.

16 n. Notwithstanding any other provision of this section to the
17 contrary, a parent organization may be held accountable for actions
18 related to information filed on behalf of a local unit only if the parent
19 organization has filed information knowing that the information is false
20 or misleading or knowing that material facts are omitted.

21 o. Notwithstanding any other provision of this section to the
22 contrary, any local unit that has provided to its parent organization
23 timely, truthful and complete information and otherwise conducted
24 itself in compliance with the provisions of this act, shall not be held
25 accountable for the misconduct of a parent organization, including, but
26 not limited to, the failure of the parent organization to file timely
27 reports on behalf of the local unit.

28 (cf: P.L.1994, c.16, s.16)

29

30 12. Section 21 of P.L.1994, c.16 (C.45:17A-38) is amended to
31 read as follows:

32 21. Any printed solicitation, written confirmation, receipt or
33 written reminder of a contribution issued by a charitable organization,
34 independent paid fund raiser or solicitor concerning a solicitation or
35 contribution on behalf of a charitable organization that is registered
36 pursuant to this act shall contain the following statement which shall
37 be conspicuously printed:

38 "INFORMATION FILED WITH THE ATTORNEY GENERAL
39 CONCERNING THIS CHARITABLE SOLICITATION AND THE
40 PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE
41 CHARITY DURING THE LAST REPORTING PERIOD THAT
42 WERE DEDICATED TO THE CHARITABLE PURPOSE MAY BE
43 OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE
44 OF NEW JERSEY BY CALLING 000-000-0000 AND IS
45 AVAILABLE ON THE INTERNET AT www.xxxxxxxxxx.xxx.
46 REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT

1 IMPLY ENDORSEMENT."

2 (cf: P.L.1994, c.16, s.21)

3

4 13. (New section) Any person soliciting contributions shall not be
5 permitted to use technology that blocks caller identification telephone
6 systems used by any person in this State.

7

8 14. This act shall take effect on the 180th day following enactment.

9

10

11

STATEMENT

12

13 This bill makes various changes to the "Charitable Registration and
14 Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These
15 changes are intended to provide enhanced disclosure requirements and
16 prohibitions against misleading prospective donors, enhance the
17 Attorney General's enforcement authority under the act, ease statutory
18 compliance for smaller volunteer organizations, and raise penalties and
19 provide for the recovery of costs and attorney fees in administrative
20 proceedings under the act.

21

Specifically, the bill:

22

* Expressly includes within the scope of the law all assignees,
23 subcontractors and independent contractors of fund raising
24 counsels and independent paid fund raisers;

25

* Clarifies that a bona fide salaried officer, employee or volunteer
26 of a charitable organization is not a solicitor;

27

* Clarifies that judgments of civil liability include any finding of
28 liability in an administrative or civil action related to the
29 solicitation of contributions or the administration of charitable
30 assets, regardless of the form or the context of the finding;

31

* Requires annual disclosure, rather than disclosure at the initial
32 registration, of organizational information such as the
33 organization's street address, custodian of financial records and
34 any limitations of fund raising activities in other jurisdictions,
35 and adds an annual disclosure as to whether the organization's
36 officers, directors, trustees or principal salaried executive staff
37 employees have a financial interest in any activity engaged in by
38 a fund raising counsel or independent paid fund raiser or any
39 supplier or vendor;

40

* Increases the threshold amounts a charitable organization must
41 raise before it is required to register or file financial statements.

42

Gross revenue in excess of \$250,000, or any greater amount
43 prescribed by the Attorney General by regulation, require a
44 financial statement prepared in accordance with generally
45 accepted accounting principles or other comprehensive basis of
46 accounting approved for use by the Attorney General, which

1 statement has been audited in accordance with generally
2 accepted auditing standards by an independent certified public
3 accountant and which statement is accompanied by any written
4 communication prepared by the auditor commenting on the
5 accounting or management practices of the organization. If a
6 charity's gross revenue is less than \$250,000, but more than
7 \$25,000, a financial report shall be certified by the president or
8 other authorized officer, but the Attorney General may require
9 financial statements prepared as described above. Any written
10 communication prepared by the auditor commenting on the
11 accounting or management practices of the charitable
12 organization shall not be considered a public record and shall not
13 be available for public inspection;

14 * Provides that the registration requirements do not apply to any
15 charitable organization whose fund raising does not exceed
16 \$10,000 a year if the fund raising activities are done by
17 volunteers;

18 * Provides that all relationships between fund raising counsels and
19 independent paid fund raisers must be set forth in written
20 contracts, signed by the charitable organization, and are subject
21 to review by the Attorney General;

22 * Provides for more disclosure by fund raising counsels and
23 independent paid fund raisers, including the fixed fee or rate at
24 which the fund raising counsel will be compensated, and
25 disclosure of judgments of civil liability regardless of form or
26 the context of the funding, and requires counsel and fund raisers
27 to maintain a copy of each advertisement for solicitations;

28 * Shifts the responsibility for registration of the solicitors to the
29 independent paid fund raiser, and prohibits a fund raiser from
30 using a solicitor who has not been registered;

31 * Strengthens the State's ability to enforce promises made by
32 commercial co-venturers by requiring them to certify the amount
33 of funds raised during a charitable sales promotion and to make
34 certain disclosures regarding the advertising of their promotions;

35 * Requires a charitable organization to disclose any relationship
36 with a government agency or emergency services personnel;

37 * Includes as a violation of the law any misrepresentation
38 regarding the geographic location of a charitable organization or
39 the intended beneficiaries of a solicitation, or any
40 misrepresentation regarding the relationship between a charitable
41 organization and a government agency or emergency services
42 personnel;

43 * Permits an action against any entity required to be registered
44 pursuant to the "Charitable Registration and Investigation Act"
45 based upon proof of criminal convictions or findings of
46 violations of charity and solicitation laws involving theft, fraud

1 or deceptive business practices in other jurisdictions committed
2 by the registrant, or its officers, directors or principal employees;

3 * Increases the penalties under the law from up to \$7,500 to up to
4 \$10,000 for a first violation and from up to \$15,000 to up to
5 \$20,000 for a second or subsequent violation and ensures that
6 costs and attorneys' fees are recoverable in administrative
7 proceedings; and

8 * Requires every printed charitable solicitation contain a statement
9 that the percentage of contributions received by the charity and
10 dedicated to the charitable purpose during the last reporting
11 period is available by telephoning the Attorney General or on the
12 Internet.

13 The bill also prohibits in a solicitation or charitable sales promotion
14 the distribution of badges or shields by a charitable organization that
15 limits its membership to persons who are or formerly were employed
16 as law enforcement officers, and prohibits anyone soliciting
17 contributions from blocking the caller identification telephone system
18 used by any person in this State.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3233

STATE OF NEW JERSEY

DATED: JANUARY 10, 2005

The Assembly Regulated Professions and Independent Authorities Committee reports favorably Assembly Bill No. 3233.

This bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, and raise penalties and provide for the recovery of costs and attorney fees in administrative proceedings under the act.

Specifically, the bill:

- * Expressly includes within the scope of the law all assignees, subcontractors and independent contractors of fund raising counsels and independent paid fund raisers;
- * Clarifies that a bona fide salaried officer, employee or volunteer of a charitable organization is not a solicitor;
- * Clarifies that adjudgments of civil liability include any finding of liability in an administrative or civil action related to the solicitation of contributions or the administration of charitable assets, regardless of the form or the context of the finding;
- * Requires annual disclosure, rather than disclosure at the initial registration, of organizational information such as the organization's street address, custodian of financial records and any limitations of fund raising activities in other jurisdictions, and adds an annual disclosure as to whether the organization's officers, directors, trustees or principal salaried executive staff employees have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser or any supplier or vendor;
- * Increases the threshold amounts a charitable organization must raise before it is required to register or file financial statements. Gross revenue in excess of \$250,000, or any greater amount prescribed by the Attorney General by regulation, require a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of

accounting approved for use by the Attorney General, which statement has been audited in accordance with generally accepted auditing standards by an independent certified public accountant and which statement is accompanied by any written communication prepared by the auditor commenting on the accounting or management practices of the organization. If a charity's gross revenue is less than \$250,000, but more than \$25,000, a financial report shall be certified by the president or other authorized officer, but the Attorney General may require financial statements prepared as described above. Any written communication prepared by the auditor commenting on the accounting or management practices of the charitable organization shall not be considered a public record and shall not be available for public inspection;

- * Provides that the registration requirements do not apply to any charitable organization whose fund raising does not exceed \$10,000 a year if the fund raising activities are done by volunteers;
- * Provides that all relationships between fund raising counsels and independent paid fund raisers must be set forth in written contracts, signed by the charitable organization, and are subject to review by the Attorney General;
- * Provides for more disclosure by fund raising counsels and independent paid fund raisers, including the fixed fee or rate at which the fund raising counsel will be compensated, and disclosure of adjudgments of civil liability regardless of form or the context of the funding, and requires counsel and fund raisers to maintain a copy of each advertisement for solicitations;
- * Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- * Strengthens the State's ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- * Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- * Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- * Permits an action against any entity required to be registered pursuant to the "Charitable Registration and Investigation Act" based upon proof of criminal convictions or findings of

violations of charity and solicitation laws involving theft, fraud or deceptive business practices in other jurisdictions committed by the registrant, or its officers, directors or principal employees;

- * Increases the penalties under the law from up to \$7,500 to up to \$10,000 for a first violation and from up to \$15,000 to up to \$20,000 for a second or subsequent violation and ensures that costs and attorneys' fees are recoverable in administrative proceedings; and
- * Requires every printed charitable solicitation contain a statement that the percentage of contributions received by the charity and dedicated to the charitable purpose during the last reporting period is available by telephoning the Attorney General or on the Internet.

The bill also prohibits in a solicitation or charitable sales promotion the distribution of badges or shields by a charitable organization that limits its membership to persons who are or formerly were employed as law enforcement officers, and prohibits anyone soliciting contributions from blocking the caller identification telephone system used by any person in this State.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3233

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 3233.

As amended, this bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, and raise penalties and provide for the recovery of costs and attorney fees in administrative proceedings under the act.

Specifically, the bill:

- C** Expressly includes within the scope of the law all assignees, subcontractors and independent contractors of fund raising counsels and independent paid fund raisers;
- C** Clarifies that a bona fide salaried officer, employee or volunteer of a charitable organization is not a solicitor;
- C** Clarifies that adjudgments of civil liability include any finding of liability in an administrative or civil action related to the solicitation of contributions or the administration of charitable assets, regardless of the form or the context of the finding;
- C** Requires annual disclosure, rather than disclosure at the initial registration, of organizational information such as the organization's street address, custodian of financial records and any limitations of fund raising activities in other jurisdictions, and adds an annual disclosure as to whether the organization's officers, directors, trustees or principal salaried executive staff employees have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser or any supplier or vendor;
- C** Increases the threshold amounts a charitable organization must raise before it is required to register or file financial statements. Gross revenue in excess of \$250,000, or any greater amount prescribed by the Attorney General by regulation, require a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting

approved for use by the Attorney General, which statement has been audited in accordance with generally accepted auditing standards by an independent certified public accountant and which statement is accompanied by any written communication prepared by the auditor commenting on the accounting or management practices of the organization. If a charity's gross revenue is less than \$250,000, but more than \$25,000, a financial report shall be certified by the president or other authorized officer, but the Attorney General may require financial statements prepared as described above. Any written communication prepared by the auditor commenting on the accounting or management practices of the charitable organization shall not be considered a public record and shall not be available for public inspection;

- C** Provides that the registration requirements do not apply to any charitable organization whose fund raising does not exceed \$10,000 a year if the fund raising activities are done by volunteers;
- C** Provides that all relationships between fund raising counsels and independent paid fund raisers must be set forth in written contracts, signed by the charitable organization, and are subject to review by the Attorney General;
- C** Provides for more disclosure by fund raising counsels and independent paid fund raisers, including the fixed fee or rate at which the fund raising counsel will be compensated, and disclosure of judgments of civil liability regardless of form or the context of the funding, and requires counsel and fund raisers to maintain a copy of each advertisement for solicitations;
- C** Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- C** Strengthens the State's ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- C** Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- C** Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- C** Permits an action against any entity required to be registered pursuant to the "Charitable Registration and Investigation Act" based upon proof of criminal convictions or findings of violations of charity and solicitation laws involving theft, fraud or deceptive business practices in other jurisdictions committed by the registrant, or its officers, directors or principal employees;
- C** Increases the penalties under the law from up to \$7,500 to up to \$10,000 for a first violation and from up to \$15,000 to up to

\$20,000 for a second or subsequent violation and ensures that costs and attorneys' fees are recoverable in administrative proceedings; and

- C** Requires that every printed charitable solicitation contain a statement that the percentage of contributions received by the charity and dedicated to the charitable purpose during the last reporting period is available by telephoning the Attorney General or on the Internet.

The bill also prohibits in a solicitation or charitable sales promotion the distribution of badges or shields by a charitable organization that limits its membership to persons who are or formerly were employed as law enforcement officers, and prohibits anyone soliciting contributions from blocking the caller identification telephone system used by any person in this State.

Assembly, No. 3233 (1R) is the same as Senate, No. 204 (3R) of 2004.

COMMITTEE AMENDMENTS

The committee amended the bill to stipulate that certain financial statements of charitable organizations that have been audited and submitted to the Attorney General will be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization, and to establish custodial recordkeeping and confidentiality requirements related to those management letters pursuant to this requirement. The bill currently refers to any written communications; these amendments use more precise language to specify the nature of the particular information which must be submitted to the Attorney General in connection with the audited financial statements.