

45:17A-18 to 45:17A-60

LEGISLATIVE HISTORY CHECKLIST
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"Charitable Registration &
Investigation Act"

NJSA: 45:17A-18 to 45:17A-40

LAWS OF: 1994 CHAPTER: 16

BILL NO: A839

SPONSOR(S): Moran

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Commerce and Regulated Professions
SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: February 17, 1994
SENATE: March 3, 1994

DATE OF APPROVAL: April 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FISCAL NOTE: ~~No~~ Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:

"Whitman signs touch charity fraud law," 4-13-94, Bergen Record.

"Charity cheat bill signed," 4-13-94, Asbury Park Press.

Also attached: 4 part series from Asbury Park Press- 4-24-93, 4-25-93,
4-26-93 & 4-27-93

KBG:pp

P.L.1994, CHAPTER 16, *approved April 11, 1994*
1994 Assembly No. 839

1 AN ACT concerning charitable fund raising and repealing parts of
2 the statutory law.

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

6 1. This act shall be known and may be cited as the "Charitable
7 Registration and Investigation Act."

8 2. The Legislature finds and declares that in order to protect
9 the public from fraud and deceptive practices, it is essential that
10 information concerning charitable fund raising activities of
11 charitable organizations, professional fund raisers, commercial
12 co-venturers and solicitors be readily available to the people of
13 this State. The Legislature declares that information concerning
14 the financial ends and means of charitable fund raising in this
15 State must be more readily available to the citizens by whose
16 generosity such funds are raised. The Legislature declares that,
17 to accomplish these ends, it is necessary to require the
18 registration of charitable organizations, professional fund raisers,
19 and solicitors with the Attorney General, and that the Attorney
20 General have the powers necessary to obtain and disseminate to
21 the public data concerning fund raising practices of these persons.

22 3. As used in this act:

23 "Attorney General" means the Attorney General of the State
24 of New Jersey or his designee.

25 "Charitable organization" means: (1) any person determined by
26 the federal Internal Revenue Service to be a tax exempt
27 organization pursuant to section 501(c)(3) of the Internal Revenue
28 Code of 1986, 26 U.S.C. §501(c)(3); or (2) any person who is, or
29 holds himself out to be, established for any benevolent,
30 philanthropic, humane, social welfare, public health, or other
31 eleemosynary purpose, or for the benefit of law enforcement
32 personnel, firefighters or other persons who protect the public
33 safety, or any person who in any manner employs a charitable
34 appeal as the basis of any solicitation, or an appeal which has a
35 tendency to suggest there is a charitable purpose to any such
36 solicitation.

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

43 "Charitable sales promotion" means an advertising or sales
44 campaign, conducted by a commercial co-venturer, which
45 represents that the purchase or use of goods or services offered

1 by the commercial co-venturer will benefit a charitable
2 organization or purpose.

3 "Commercial co-venturer" means any person who, for profit or
4 other consideration is regularly and primarily engaged in trade or
5 commerce other than in connection with the raising of funds or
6 any other thing of value for a charitable organization, and who
7 advertises that the purchase or use of his goods, services,
8 entertainment or any other thing of value will benefit a
9 charitable organization.

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

18 "Federated fundraising organization" means a federation of
19 independent charitable organizations which have voluntarily
20 joined together for purposes of raising and distributing money.

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

35 "Independent paid fund raiser" means any person who for
36 compensation performs for a charitable organization any service
37 in connection with which contributions are, or will be solicited in
38 this State by that compensated person or by any compensated
39 person he employs, procures, or engages, directly or indirectly to
40 solicit contributions. A bona fide salaried officer, employee, or
41 volunteer of a charitable organization shall not be deemed to be
42 an independent paid fund raiser. No attorney, accountant or
43 banker who advises a person to make a charitable contribution
44 during the course of rendering professional services to that
45 person shall be deemed, as a result of that advice, to be an
46 independent paid fund raiser.

47 "Local unit" means a charitable organization that is affiliated
48 with a parent organization under terms specified in the parent
49 organization's charter, articles of organization, agreement of
50 association, instrument of trust, constitution or other
51 organizational instrument or by-laws.

52 "Membership" means a relationship which entitles a person to
53 the privileges, professional standing, honors or other direct
54 benefit of the organization and either the right to vote or elect

1 officers, or hold office in the organization. Membership shall not
2 include any relationship granted solely upon making a
3 contribution as a result of a solicitation.

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

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

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

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

18 "Secretary of State" means the Secretary of State of the State
19 of New Jersey.

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

27 (1) Any oral or written request;

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

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

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

49 A solicitation shall take place whether or not the person
50 making the solicitation receives any contribution, except that a
51 charitable organization's use of its own name in any
52 communication shall not alone be sufficient to constitute a
53 solicitation.

54 "Solicitor" means any individual who attempts to solicit or

1 solicits contributions, for compensation, and who is subject to the
2 control of an independent paid fund raiser. The term "control"
3 means the direct management, direction and supervision of
4 performance of a solicitor's activities in connection with the
5 solicitation of contributions by the independent paid fund raiser.

6 4. The Attorney General shall:

7 a. Administer and enforce the provisions of this act;

8 b. Propose and adopt rules pursuant to the "Administrative
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to
10 effectuate the purposes of this act;

11 c. Conduct hearings pursuant to the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) including
13 the authority to administer oaths to witnesses, and shall have the
14 power to issue subpoenas for the compulsory attendance of
15 witnesses and the production of pertinent documents, books,
16 records, accounts, computer data, papers, or records;

17 d. Prosecute proceedings before any court of competent
18 jurisdiction for the enforcement of the provisions of this act;

19 e. Keep a record of the names and addresses of all registered
20 charitable organizations, fund raising counsels, independent paid
21 fund raisers, and solicitors;

22 f. Prescribe the fees for all registration statements, and other
23 filings required by this act and set all bonding amounts as
24 necessary in accordance with the provisions of this act. All fees
25 shall be prescribed pursuant to the "Administrative Procedure
26 Act," P.L.1968, c.410 (C.52:14B-1 et seq.);"

27 g. Publish and disseminate information concerning charities to
28 the public;

29 h. Examine each contract, registration statement and
30 supporting document, if any, and determine whether they satisfy
31 the requirements of this act;

32 i. Perform any other functions and duties which may be
33 necessary to carry out the provisions of this act.

34 5. If the Attorney General determines that the registration or
35 contract requirements established by this act are not satisfied,
36 the Attorney General shall notify the filing party or registrant
37 within 10 business days of receipt of the registration or contract.
38 If notification is not sent within 10 business days: (1) a
39 registration statement is accepted; or (2) performance may begin
40 on a contract. Within 10 business days after receipt of a
41 notification that the requirements have not been satisfied, the
42 charitable organization, fund raising counsel, independent paid
43 fund raiser, commercial co-venturer or solicitor, as appropriate,
44 may satisfy the requirements or request a hearing pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
46 et seq.). Acceptance of a registration or performance of a
47 contract pursuant to this section shall not foreclose the Attorney
48 General from denying an application or taking other appropriate
49 action based on information that may be subsequently uncovered.

50 6. a. A charitable organization, unless exempted from
51 registration requirements pursuant to section 9 of this act, shall
52 file a registration statement with the Attorney General on forms
53 prescribed by the Attorney General.

54 b. It shall be unlawful for any charitable organization to solicit

1 contributions or have contributions solicited in its behalf before
2 the Attorney General has been given the opportunity to review
3 the registration statement pursuant to section 5 of this act. A
4 renewal statement must be filed annually within six months after
5 the close of the charitable organization's fiscal year. For good
6 cause shown, the Attorney General may extend the time for the
7 annual filing of the renewal statement and financial report for a
8 period not to exceed 180 days, during which time the previous
9 registration shall remain in effect. The request for an extension
10 shall be in writing and received by the Attorney General before
11 the filing deadline.

12 c. All registration statements shall be signed by two
13 authorized officers, including the chief fiscal officer of the
14 organization, who shall certify that information contained in the
15 registration statements are correct.

16 d. The Attorney General shall prescribe all fees for the filing
17 of all registration statements according to the provisions of this
18 act. The fees for the filing of registration statements by
19 charitable organizations may be graduated based upon the
20 amount of contributions received during the previous fiscal year.
21 A parent organization filing on behalf of one or more local units
22 shall pay a single annual registration fee for itself and a fee for
23 each local unit included in the registration statement.

24 7. a. Every charitable organization, except for those provided
25 for in section 8 of this act or exempt pursuant to section 9 of this
26 act, shall file a long form registration statement with the
27 Attorney General.

28 b. The long form shall contain the following:

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

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

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

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

44 (3) A copy of the most recent Internal Revenue Service Form
45 990 and Schedule A(990) for every registrant if the organization
46 filed these forms;

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

50 (5) Whether any of the organization's officers, directors,
51 trustees or principal salaried executive staff employees as
52 defined in subparagraph (b) of paragraph (2) of subsection b. of
53 this section are related by blood, marriage or adoption to each
54 other or to any officers, agents or employees of any fund raising

1 counsel or independent paid fund raiser under contract to the
2 organization, or are related by blood, marriage or adoption to any
3 chief executive employee, any other employee of the
4 organization with a direct financial interest in the transaction, or
5 any partner, proprietor, director, officer, trustee, or to any
6 shareholder of the organization with more than a two percent
7 interest of any supplier or vendor providing goods or services to
8 the organization and the name and business and home address and
9 telephone number of each related party;

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

12 (7) Any other information as may be prescribed by rules
13 adopted by the Attorney General. In prescribing the
14 requirements of the long form, the Attorney General shall permit
15 a charitable organization to incorporate by reference any
16 information reported by the organization on its Service Form 990
17 and Schedule A(990).

18 c. With initial registration only, every charitable organization
19 required to file a long form registration shall also file the
20 following; provided, that any changes in the accuracy of this
21 information shall be reported to the Attorney General pursuant to
22 subsection e. of section 14 of this act:

23 (1) A copy of the organization's charter, articles of
24 organization, agreement of association, instrument of trust,
25 constitution or other organizational instrument and by-laws;

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

30 (3) The principal street address and telephone number of the
31 organization and the address and telephone number of each office
32 in this State. If the organization does not maintain an office in
33 this State, the name and address of the individual having custody
34 of its financial records in this State shall be disclosed;

35 (4) The name, street address and telephone number of each
36 affiliate which shares in the contributions or other revenue raised
37 in this State.

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

39 (6) A statement whether:

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

43 (b) The organization or any of its present officers, directors,
44 executive personnel or trustees are or have ever been enjoined in
45 any jurisdiction from soliciting contributions or have been found
46 to have engaged in unlawful practices in the solicitation of
47 contributions or the administration of charitable assets;

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

51 (d) The organization has voluntarily entered into an assurance
52 or voluntary discontinuance or agreement with any jurisdiction or
53 federal agency or officer; and

54 (7) Whether the organization intends to solicit contributions

1 from the general public.

2 d. (1) Every charitable organization required to file a long
3 form registration shall file an annual financial report with the
4 Attorney General. The annual financial report shall include: a
5 balance sheet; a statement of support revenue, expenses and
6 changes in fund balance; a statement of functional expenses at
7 least divided into program, management, general, and fund
8 raising; and such other information as the Attorney General shall
9 by rule require.

10 (2) The annual financial report of every charitable
11 organization which received more than \$100,000 in gross revenue
12 during its most recently completed fiscal year shall be
13 accompanied by an audited financial statement prepared in
14 accordance with generally accepted accounting principles which
15 has been examined by an independent certified public accountant
16 for the purpose of expressing an opinion thereon.

17 The annual financial reports of all organizations receiving more
18 than \$25,000 but less than \$100,000 shall be certified by the
19 organization's president or other authorized officer of the
20 organization's governing board and at the request of the
21 Attorney General, the organization shall submit an audited
22 financial statement prepared in accordance with generally
23 accepted accounting principles which has been examined by an
24 independent certified public accountant.

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

31 (4) An independent member agency of a federated fund raising
32 organization shall independently comply with the provisions of
33 this subsection.

34 e. In order to register its qualified local units pursuant to
35 subsection c. of section 9 of this act, a parent organization
36 registered pursuant to this section shall include with its initial
37 registration and annual renewal statement a separate statement
38 that provides the following:

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

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

44 (3) A statement asserting that each such local unit has
45 provided the parent organization with a written statement
46 reporting the information included on its behalf and asserting
47 that the local unit meets all of the requirements of subsection c.
48 of section 9 of this act.

49 8. a. The following charitable organizations shall be required
50 to file a short form registration on forms prescribed by the
51 Attorney General:

52 (1) Charitable organizations or organizations engaging in a
53 charitable fund raising campaign which do not receive gross
54 contributions in excess of \$25,000 during a fiscal year, if all of

1 their functions including fund raising activities are carried on by
2 volunteers, members, officers or persons who are not
3 compensated for soliciting contributions; except that, if the gross
4 contributions, whether or not all is received by any charitable
5 organization during any fiscal year, is in excess of \$25,000 it
6 shall, within 30 days after the date on which it shall have
7 received the contributions, register with and report to the
8 Attorney General as required by section 7 of this act;

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

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

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

25 b. The short form shall contain the following:

26 (1) Name and address of the organization;

27 (2) Whether the organization has engaged an independent paid
28 fund raiser, fund raising counsel or commercial co-venturer;

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

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

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

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

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

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

40 c. In order to register its qualified local units pursuant to
41 subsection c. of section 9 of this act, a parent organization
42 registered pursuant to this section shall include with its initial
43 registration, a copy of the parent organization's charter, articles
44 or organization, agreement of association, instrument of trust,
45 constitution or other organizational instrument and by-laws, and
46 shall include with its initial registration and annual renewal
47 statement a separate statement that provides the following:

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

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

53 (3) A statement asserting that each such local unit has
54 provided the parent organization with a written statement

1 reporting the information included on its behalf and asserting
2 that the local unit meets all of the requirements of subsection c.
3 of section 9 of this act.

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

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

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

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

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

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

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

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

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

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

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

51 10. a. It shall be unlawful for any person to act as a fund
52 raising counsel or independent paid fund raiser unless registered
53 annually with the Attorney General. Registration statements
54 shall be on forms prescribed by the Attorney General. A

1 registration statement shall be signed and sworn to by the
2 principal officer of the fund raising counsel or independent paid
3 fund raiser and shall contain information as prescribed by rules
4 adopted by the Attorney General.

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

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

14 d. The relationship between a charitable organization and a
15 fund raising counsel or independent paid fund raiser shall be set
16 forth in a written contract. The fund raising counsel or
17 independent paid fund raiser shall file a copy of the contract with
18 the Attorney General at least 10 days prior to the performance
19 by the fund raising counsel or independent paid fund raiser of any
20 service within this State. It shall be unlawful for any solicitation
21 pursuant to the contract to begin before the Attorney General
22 has reviewed the contract pursuant to section 5 of this act. The
23 contract shall be signed by two authorized officials of the
24 charitable organization, one of whom must be a member of the
25 organization's governing body, and the authorized contracting
26 officer for the fund raising counsel or independent paid fund
27 raiser.

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

32 (1) A statement of the respective obligations of the
33 professional fund raiser and the charitable organization;

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

36 (3) The projected commencement and termination dates of the
37 solicitation campaign;

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

41 (5) A statement as to the guaranteed minimum percentage of
42 the gross receipts from contributions which will be remitted to
43 the charitable organization, if any, or if the solicitation involves
44 the sale of goods, services or tickets to a fund raising event, the
45 percentage of the purchase price which will be remitted to the
46 charitable organization, if any. Any stated percentage shall
47 exclude any amount which the charitable organization is to pay as
48 fund raising costs;

49 (6) A statement of the percentage of the gross revenue from
50 which the fund raising counsel or independent paid fund raiser
51 will be compensated. If the compensation of the fund raising
52 counsel or independent paid fund raiser is not contingent upon the
53 number of contributions or the amount of revenue received, its
54 compensation shall be expressed as a reasonable estimate of the

1 percentage of the gross revenue, and the contract shall clearly
2 disclose the assumptions upon which the estimate is based. The
3 stated assumptions shall be based upon all of the relevant facts
4 known to the fund raising counsel or independent paid fund raiser
5 regarding the solicitation to be conducted by the independent
6 paid fund raiser;

7 (7) The bank and branch where all monies will be deposited and
8 each account number; and

9 (8) Any other information as may be prescribed by the
10 Attorney General.

11 f. A fund raising counsel or independent paid fund raiser,
12 either of whom at any time has or intends to have custody,
13 control, or access to a charitable organization's money, shall, if
14 requested by the Attorney General, make available the following
15 information:

16 (1) Each location and telephone number from which the
17 solicitation is conducted;

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

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

28 g. If either a fund raising counsel or independent paid fund
29 raiser at any time has or intends to have custody, control, or
30 access to a charitable organization's money, that fund raising
31 counsel or independent paid fund raiser shall:

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

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

53 (3) Within 40 days after a solicitation campaign has been
54 completed, or in the case of a campaign lasting more than

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

10 11. It shall be unlawful for any person to act as a solicitor of
11 an independent paid fund raiser required to register pursuant to
12 this act unless the solicitor registers annually. Registration
13 statements shall be on forms prescribed by the Attorney General
14 and accompanied by a prescribed fee. The Attorney General
15 shall review the statement pursuant to section 5 of this act and
16 prescribe the fees pursuant to subsection f. of section 4 of this
17 act.

18 12. a. Every charitable organization which permits a
19 charitable sales promotion to be conducted on its behalf shall
20 obtain a written contract from the commercial co-venturer and
21 shall file a copy of the agreement with the Attorney General at
22 least 10 days prior to the initiation of that charitable sales
23 promotion.

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

27 (1) As reported to the charitable organization, the gross
28 amount of income received by the commercial co-venturer
29 attributable to the charitable sales promotion, solicitation or
30 venture undertaken; and,

31 (2) The amount of money or other contribution remitted to the
32 organization covering each event or portion of an extended
33 charitable sales promotion;

34 (3) Any other information as may be required by rules adopted
35 by the Attorney General.

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

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

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

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

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

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

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

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

35 14. a. Every charitable organization, unless exempted
36 pursuant to subsections a. or b. of section 9 of this act, and every
37 fund raising counsel, independent paid fund raiser and commercial
38 co-venturer subject to the provisions of this act shall keep
39 complete and accurate records of its activities in this State as
40 may be required by this act, in such form as will enable them to
41 accurately provide the information required by this act or
42 regulations promulgated under the authority of this act. The
43 records shall be made available upon demand by the Attorney
44 General. Where such records include the names, addresses and
45 telephone numbers of contributors and amounts contributed by
46 them and home addresses and home telephone numbers of any of
47 the organization's officers, director's, trustees, employees or
48 vendors required to provide such information pursuant to
49 paragraph (5) of subsection b. of section 7 of this act, this
50 information shall not be considered a matter of public record and
51 shall not be made available for public inspection, shall not be
52 used for a purpose inconsistent with this act, and shall be
53 removed from the record in the custody of the Attorney General
54 at such time that such information is no longer necessary for the

1 enforcement of this act. The records shall be maintained for a
2 period of at least three years after the end of the period of time
3 to which they relate.

4 b. In addition to subsection a. of this section, every fund
5 raising counsel or independent paid fund raiser subject to
6 subsection g. of section 10 of this act shall maintain during each
7 solicitation campaign and for not less than three years after its
8 completion, the following records:

9 (1) A record of all contributions, including the name and
10 address of each contributor and the date and amount of the
11 contribution, except that record keeping with regard to donations
12 of goods and personal property shall be limited to the dollar value
13 received by or accruing to the charitable organization and shall
14 be determined by regulation;

15 (2) The name, location and account number of each bank or
16 other financial institution in which the fund raising counsel or
17 independent paid fund raiser has deposited revenue from the
18 solicitation campaign; and

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

21 c. In addition to subsections a. and b. of this section, a fund
22 raising counsel or independent paid fund raiser subject to
23 subsection g. of section 10 of this act shall also maintain during
24 each solicitation campaign, and for not less than three years
25 after the completion of such campaign, the following records,
26 which shall be available for inspection upon demand by the
27 Attorney General:

28 (1) The name, home address and telephone number of each
29 employee, solicitor or other person involved in the solicitation;

30 (2) Records of all revenue received and expenses incurred in
31 the course of the solicitation campaign; and

32 (3) Records of the name, address and telephone number of
33 each contributor donating tickets and the number of tickets
34 donated, and of the name, address and telephone number of each
35 organization receiving donated tickets for use by others,
36 including the number of tickets for use by others, if an
37 independent paid fund raiser sells tickets to an event and
38 represents that tickets will be donated for use by another.

39 d. A fund raising counsel or independent paid fund raiser who
40 performs services for a charitable organization exempt pursuant
41 to section 9 of this act shall nonetheless be subject to the
42 requirements of this section.

43 e. Any material change in any information filed with the
44 Attorney General pursuant to this act shall be reported in writing
45 to the Attorney General within 10 business days of the change.

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

51 b. A charitable organization shall establish and exercise
52 control over fund raising activities conducted for its benefit,
53 including approval of all written contracts and agreements, and
54 shall assure that fund raising activities are conducted without

1 coercion.

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

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

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

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

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

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

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

39 (7) To engage in other unlawful acts and practices as may be
40 determined by rules adopted by the Attorney General.

41 d. It shall be unlawful for any charitable organization to enter
42 into any contract with any person who is required to have
43 registered and failed to do so.

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

47 (1) The fund raising counsel or independent paid fund raiser
48 shall obtain commitments, in writing and notarized, from
49 charitable organizations stating that they will accept donated
50 tickets and specifying the number of tickets they are willing to
51 accept and for which they are able to provide transportation;
52 copies of such written commitments shall be filed with the
53 Attorney General; and,

54 (2) The independent paid fund raiser has taken measures to

1 prevent solicitation of contributions for donated tickets in excess
2 of the number of ticket commitments received from charitable
3 organizations; and,

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

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

11 b. After notice and an opportunity for a hearing, the Attorney
12 General may revoke, or suspend any registration upon a finding
13 that the registrant:

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

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

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

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

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

31 (6) Has engaged in other forms of misconduct as may be
32 determined by rules adopted by the Attorney General.

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

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

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

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

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

49 (5) Require an audited financial statement of the financial
50 records of the organization or person registered, exempted or
51 required to be registered under this act, prepared in accordance
52 with generally accepted accounting principles which has been
53 examined by an independent certified public accountant for the
54 purpose of expressing an opinion thereof;

- 1 (6) Examine any book, document, account, computer data,
2 literature, publication or paper maintained by or for any
3 organization or person registered, exempted or required to be
4 registered under this act, in the course of engaging in the
5 activities regulated by this act;
- 6 (7) Apply to Superior Court for an order to impound any
7 record, book, document, account, computer data, literature,
8 publication, paper, goods, ware, or item used or maintained by
9 any organization or person registered, exempted or required to be
10 registered under this act in the regular course of engaging in the
11 activities regulated by this act or rules adopted under this act;
- 12 (8) In order to accomplish the objectives of this act, or the
13 rules adopted under this act, hold investigative hearings as
14 necessary and issue subpoenas to compel the attendance of any
15 person or the production of books, records, computer data,
16 literature, publication or papers at any investigative hearing or
17 inquiry.
- 18 d. Any person who engages in any conduct or an act in
19 violation of any provision of this act and who has not previously
20 violated this act shall, in addition to any other relief authorized
21 by this or any other law, be liable for a civil penalty of not more
22 than \$7,500 for the first violation of this act.
- 23 For a second violation of this act, or if a person is found liable
24 for more than one violation of this act within a single proceeding,
25 the liability for the second violation shall not exceed a civil
26 penalty in the amount of \$15,000.
- 27 For a third violation of this act, or if a person is found liable
28 for more than two violations of this act within a single
29 proceeding, the liability for a third or any succeeding violation
30 shall not exceed a civil penalty in the amount of \$15,000 for each
31 additional violation.
- 32 In lieu of an administrative proceeding or an action in the
33 Superior Court, the Attorney General may bring an action for the
34 collection or enforcement of civil penalties for the violation of
35 any provision of this act. The action may be brought in a
36 summary manner, pursuant to "the penalty enforcement law,"
37 N.J.S.2A:58-1 et seq. and the Rules Governing the Courts of the
38 State of New Jersey governing actions for the collection of civil
39 penalties, in the Municipal or Special Civil Part of the Law
40 Division of the Superior Court in the municipality or county
41 where the offense occurred. Process in the action may be by
42 summons or warrant. If the defendant in the action fails to
43 answer the action, the court shall, upon finding that an unlawful
44 act or practice has been committed by the defendant, issue a
45 warrant for the defendant's arrest in order to bring the person
46 before the court to satisfy the civil penalties imposed.
- 47 In an action commenced pursuant to this section, the court may
48 order restored to any person in interest any moneys or property
49 acquired by means of an unlawful act or practice. An action
50 alleging the unregistered practice of the activities regulated by
51 this act may be brought pursuant to this section or, where
52 injunctive relief is sought, by an action commenced in the
53 Superior Court. In an action brought pursuant to this act, the
54 Attorney General or the court may order the payment of

1 attorney's fees and costs for the use of the State.

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

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

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

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

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

40 (3) Granting other relief as required.

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

48 A person who is entitled by law to and does assert a privilege,
49 and who complies with the direction of the Attorney General,
50 shall not thereafter be prosecuted or subject to any penalty or
51 forfeiture in any criminal proceeding which arises out of and
52 relates to the subject matter of the proceeding. No person so
53 testifying shall be exempt from prosecution or punishment for
54 perjury or false swearing committed by him in giving the

- 1 testimony or from any civil or administrative action arising from
2 the testimony.
- 3 i. In addition or as an alternative to revocation or suspension
4 of a registration, the Attorney General may, after affording an
5 opportunity to be heard and finding a violation of this act:
- 6 (1) Assess civil penalties in accordance with this act;
7 (2) Direct that any person cease and desist from any act or
8 practice in violation of this act or take necessary affirmative
9 corrective action with regard to any unlawful act or practice; or
10 (3) Order any person to restore to any person aggrieved by an
11 unlawful act or practice any money or property, real or personal,
12 acquired by means of any unlawful act or practice, except that
13 the Attorney General shall not order restoration in a dollar
14 amount greater than those moneys received by the registrant or
15 his agent or any other person violating this act.
- 16 j. Whenever a person engages in any act or practice in
17 violation of this act the Attorney General may, after notice and
18 opportunity to be heard and upon a finding that the act or
19 practice has occurred, enter an order:
- 20 (1) Directing the person to cease and desist from that unlawful
21 act or practice;
22 (2) Assessing civil penalties in accordance with this act;
23 (3) Directing that person restore to any person aggrieved by
24 the unlawful act or practice any money or property, real or
25 personal, acquired by means of the unlawful act or practice,
26 except that the Attorney General shall not order restoration in a
27 dollar amount greater than those moneys received by the
28 registrant, agent or any other person violating this act; or
29 (4) Directing payment of attorney's fees and costs for the use
30 of the State.
- 31 k. When it shall appear to the Attorney General that a person
32 against whom an order pursuant to this section has been entered
33 has violated the order, the Attorney General may initiate a
34 summary proceeding in the Superior Court for enforcement of the
35 order. Any person found to have violated such an order shall be
36 ordered to comply with the prior administrative order and may be
37 ordered to pay civil penalties in the amount of not more than
38 \$25,000 for each violation of the order. If a person fails to pay a
39 civil penalty assessed by the court for violation of an order, the
40 court assessing the unpaid penalty is authorized, upon application
41 of the Attorney General, to grant any relief which may be
42 obtained under any statute or court rule governing the collection
43 and enforcement of penalties.
- 44 l. In any administrative proceeding on a complaint alleging a
45 violation of this act, the Attorney General may issue subpoenas
46 to compel the attendance of witnesses or the production of
47 computer data, books, records, or documents at the hearing on
48 the complaint as provided by this act.
- 49 m. In addition to any other action or remedy available under
50 this act, a charitable organization aggrieved by a violation of
51 paragraph (4) of subsection c. of section 15 of this act may
52 initiate a civil action or assert a counterclaim in any court of
53 competent jurisdiction against the violator. Upon establishing
54 the violation, the charitable organization shall recover treble its

1 damages or treble the violator's profits, whichever is greater. In
2 all actions under this subsection the court shall award reasonable
3 attorney's fees, filing fees and reasonable costs of suit.

4 n. Notwithstanding any other provision of this section to the
5 contrary, a parent organization may be held accountable for
6 actions related to information filed on behalf of a local unit only
7 if the parent organization has filed information knowing that the
8 information is false or misleading or knowing that material facts
9 are omitted.

10 o. Notwithstanding any other provision of this section to the
11 contrary, any local unit that has provided to its parent
12 organization timely, truthful and complete information and
13 otherwise conducted itself in compliance with the provisions of
14 this act, shall not be held accountable for the misconduct of a
15 parent organization, including, but not limited to, the failure of
16 the parent organization to file timely reports on behalf of the
17 local unit.

18 17. Nothing in this act shall be construed to limit, impair or
19 modify any of the common law powers previously afforded to the
20 Attorney General under the common law.

21 18. Nothing in this act shall be construed to limit, impair or
22 modify the ability of any municipality to enact rules or
23 ordinances to regulate the solicitation of contributions within its
24 jurisdiction, provided that those rules or ordinances are in
25 addition to and not duplicative of or in conflict with the
26 provisions of this act. To the extent that a municipal ordinance
27 is violative of this act it is invalid.

28 19. Nothing in this act shall affect the validity of any
29 registration previously issued by the Attorney General, but all
30 persons currently registered shall in all other respects be subject
31 to the provisions of this act.

32 20. a. The Attorney General shall establish a telephone
33 information line which shall be readily accessible to the public
34 which shall offer information concerning the charitable
35 organizations, fund raising counsels, independent paid fund raisers
36 and solicitors registered in accordance with the requirements of
37 this act.

38 b. The information available to the public through the
39 telephone information line shall include:

40 (1) The public information, as required by this act, provided by
41 registration statements, reports, notices, contracts or
42 agreements, including those between charitable organizations and
43 fund raising counsels, independent paid fund raisers, and
44 commercial co-venturers;

45 (2) The information provided by a solicitor in an application
46 for registration and reregistration in accordance with section 11
47 of this act;

48 (3) any other information which the Attorney General deems
49 appropriate.

50 21. Any printed solicitation, written confirmation, receipt or
51 written reminder of a contribution issued by a charitable
52 organization, independent paid fund raiser or solicitor concerning
53 a solicitation or contribution on behalf of a charitable
54 organization that is registered pursuant to this act shall contain

1 the following statement which shall be conspicuously printed:

2
3 "INFORMATION FILED WITH THE ATTORNEY GENERAL
4 CONCERNING THIS CHARITABLE SOLICITATION MAY BE
5 OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE
6 OF NEW JERSEY BY CALLING 000-000-0000. REGISTRATION
7 WITH THE ATTORNEY GENERAL DOES NOT IMPLY
8 ENDORSEMENT."

9 22. The provisions of this act shall apply to any person
10 engaging in any of the activities regulated by this act, including
11 persons whose principal place of business is located outside this
12 State.

13 23. Fees shall be established, prescribed or charged by the
14 Attorney General pursuant to his regulatory authority to the
15 extent necessary to defray all proper expenses incurred by the
16 Attorney General and any staff employed to administer this act,
17 provided that fees shall not be fixed at a level that will raise
18 amounts in excess of the amount estimated to be so required and
19 provided, further, that any fees set by the Attorney General shall
20 not exceed the following amounts:

21 a. A charitable organization which is required pursuant to
22 section 8 of this act to file a short form registration statement
23 and received gross contributions of not more than \$10,000 during
24 the most recently filed fiscal year shall not be required to pay an
25 annual registration fee.

26 b. A charitable organization which is required pursuant to
27 section 8 of this act to file a short form registration statement
28 and received gross contributions in excess of \$10,000 during the
29 most recently filed fiscal year of the organization shall pay an
30 annual registration fee of not more than \$30 a year.

31 c. A charitable organization which is required pursuant to
32 section 7 of this act to file a long form registration statement
33 and received gross contributions of not more than \$100,000 during
34 the most recently filed fiscal year of the organization shall pay
35 an annual registration fee of not more than \$60 a year.

36 d. A charitable organization which is required pursuant to
37 section 7 of this act to file a long form registration statement
38 and received gross contributions of more than \$100,000 but not
39 more than \$500,000 during the most recently filed fiscal year of
40 the organization shall pay an annual registration fee of not more
41 than \$150 a year.

42 e. A charitable organization which is required pursuant to
43 section 7 of this act to file a long form registration statement
44 and received gross contributions of more than \$500,000 during the
45 most recently filed fiscal year of the organization shall pay an
46 annual registration fee of not more than \$250 a year.

47 f. Contract filing fees established pursuant to this act shall be
48 set at not more than \$30 for each such fee.

49 g. A parent organization that registers local units in
50 accordance with the provisions of subsection e. of section 7 or
51 subsection c. of section 8 of this act shall pay an additional fee
52 not to exceed \$10 for each local unit.

53 All fees payable to the Attorney General and any civil
54 penalties imposed by the Attorney General in accordance with

1 the provisions of this act shall be paid to the Attorney General
2 and shall be forwarded to the State Treasurer and become part of
3 the General Fund. These fees and penalties shall be available to
4 the Attorney General on a non-lapsing basis to effectuate the
5 purposes of this act.

6 24. P.L.1971, c.489 (C.45:17A-1 et seq.), N.J.S.2A:170-20 ,
7 P.L.1956, c.230 (C.2A:170-20.9 and 20.10), P.L.1975, c.183
8 (C.2A:170-20.11 and 170-20.12) and sections 3 through 8 of
9 P.L.1954, c.181 (C.2A:170-20.2 through 2A:170-20.7) are
10 repealed.

11 25. This act shall take effect 120 days following enactment,
12 except for subsection b. of section 4 of this act, which shall take
13 effect immediately, and subsection b. of section 13 and sections
14 20 and 21 which shall take effect on the 365th day following
15 enactment.

16

17

18

19

20 "Charitable Registration and Investigation Act."

1 the provisions of this act shall be paid to the Attorney General
2 and shall be forwarded to the State Treasurer and become part of
3 the General Fund. These fees and penalties shall be available to
4 the Attorney General on a non-lapsing basis to effectuate the
5 purposes of this act.

6 25. P.L.1971, c.469 (C.45:17A-1 et seq.), N.J.S.2A:170-20 ,
7 P.L.1956, c.230 (C.2A:170-20.9 and 20.10), P.L.1975, c.183
8 (C.2A:170-20.11 and 170-20.12) and sections 3 through 8 of
9 P.L.1954, c.181 (C.2A:170-20.2 through 2A:170-20.7) are
10 repealed.

11 26. This act shall take effect 120 days following enactment,
12 except for subsection b. of section 4 of this act, which shall take
13 effect immediately, and subsection b. of section 13 and sections
14 21 and 22 which shall take effect on the 365th day following
15 enactment.

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18 *SPONSOR'S* STATEMENT

19
20 This bill repeals the "Charitable Fundraising Act of 1971,"
21 P.L.1971, c.469 (C.45:17A-1 et seq.), which currently regulates
22 charitable fund raising, N.J.S.2A:170-20, and various parts of the
23 statutory law which concern the solicitation of funds by law
24 enforcement organizations, and in its place establishes the
25 "Charitable Registration and Investigation Act."

26 The bill provides for the registration of charitable
27 organizations, fund raising counsels, independent paid fund raisers
28 and solicitors, who are individuals attempting to solicit or
29 soliciting contributions for compensation and who are subject to
30 the control of independent paid fund raisers. Police and fire
31 organizations are also included under its provisions.

32 The bill establishes a two-tiered system of registration; a long
33 form registration statement is required for certain charitable
34 organizations and a short form registration statement is required
35 to be submitted by other charitable organizations, resulting in a
36 wider range of charities being covered under the bill than under
37 current law. In addition, the bill establishes an abbreviated
38 review period, of not more than 10 business days from the receipt
39 of a registration or contract, for the Attorney General to process
40 these registration statements or contracts in order to safeguard a
41 charity's first amendment rights.

42 Under the provisions of the bill, all fund raising counsels and
43 independent paid fund raisers who have or intend to have custody,
44 control, or access to a charity's money, are required to post a
45 bond in the initial amount of \$20,000. The bill also creates a
46 stronger enforcement authority by imposing for violations
47 monetary penalties of up to \$7,500 for an initial violation and
48 \$15,000 for any subsequent violation. Furthermore, after a
49 hearing and a finding of a violation, the Attorney General may:
50 (1) issue cease and desist orders; (2) order restitution to aggrieved
51 parties; and (3) assess civil penalties and legal costs to the
52 violator.

53 This bill also contains provisions requiring detailed disclosures
54 including the filing of contracts between either commercial

1 co-venturers or fund raising counsels or independent paid fund
2 raisers and the charitable organizations; mandatory disclosures in
3 certain instances at the point-of-solicitation, to be adopted by
4 regulation; stipulations that in the case of any solicitation
5 campaign conducted orally, whether by telephone or otherwise,
6 except in the case of an in-person solicitation, follow-up
7 material must be sent upon the request of the contributor; and
8 requirements that commercial co-ventures disclose in each
9 advertisement for a charitable organization the dollar amount or
10 percentage of goods and services purchased or used that will
11 benefit the charitable organization.

12 The bill further requires that a charity exercise control over
13 fund raising activities conducted for its benefit. Under the bill,
14 it is an unlawful practice to solicit contributions for donated
15 tickets if the number of tickets sold exceeds the number of seats
16 available at the facility or to utilize registration as a means of
17 implying that it constitutes State endorsement.

18 The bill establishes a schedule of maximum fees that may be
19 collected by the Attorney General from the various classes of
20 registrants to defray administrative costs.

21 The bill also requires the Attorney General to establish a
22 telephone information line to provide the public with pertinent
23 information about charitable organizations.

24 This bill greatly increases the State's ability to collect
25 information useful to New Jersey contributors and take strong
26 action against those individuals who would defraud and abuse the
27 public's generosity for their own personal gain.

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32 "Charitable Registration and Investigation Act."

ASSEMBLY COMMERCE AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 839

STATE OF NEW JERSEY

DATED: JANUARY 24, 1994

The Assembly Commerce and Regulated Professions Committee reports favorably Assembly, No. 839.

This bill repeals the "Charitable Fundraising Act of 1971," P.L.1971, c.469 (C.45:17A-1 et seq.), which currently regulates charitable fund raising, N.J.S.2A:170-20, and various parts of the statutory law which concern the solicitation of funds by law enforcement organizations, and in its place establishes the "Charitable Registration and Investigation Act."

The bill provides for the registration of charitable organizations, fund raising counsels, independent paid fund raisers and solicitors, who are individuals attempting to solicit or soliciting contributions for compensation and who are subject to the control of independent paid fund raisers. Police and fire organizations are also included under its provisions.

The bill establishes a two-tiered system of registration; a long form registration statement is required for certain charitable organizations and a short form registration statement is required to be submitted by other charitable organizations, resulting in a wider range of charities being covered under the bill than under current law. In addition, the bill establishes an abbreviated review period, of not more than 10 business days from the receipt of a registration or contract, for the Attorney General to process these registration statements or contracts in order to safeguard a charity's first amendment rights.

Under the provisions of the bill, all fund raising counsels and independent paid fund raisers who have or intend to have custody, control, or access to a charity's money, are required to post a bond in the initial amount of \$20,000. The bill also creates a stronger enforcement authority by imposing for violations monetary penalties of up to \$7,500 for an initial violation and \$15,000 for any subsequent violation. Furthermore, after a hearing and a finding of a violation, the Attorney General may: (1) issue cease and desist orders; (2) order restitution to aggrieved parties; and (3) assess civil penalties and legal costs to the violator.

This bill also contains provisions requiring detailed disclosures including: the filing of contracts between either commercial co-venturers or fund raising counsels or independent paid fund raisers and the charitable organizations; mandatory disclosures in certain instances at the point-of-solicitation, to be adopted by regulation; stipulations that in the case of any solicitation campaign conducted orally, whether by telephone or otherwise, except in the case of an in-person solicitation, follow-up material must be sent upon the request of the contributor; and requirements that commercial co-ventures disclose in each advertisement for a charitable organization the dollar amount or percentage of goods and services purchased or used that will benefit the charitable organization.

The bill further requires that a charity exercise control over fund raising activities conducted for its benefit. Under the bill, it is an unlawful practice to solicit contributions for donated tickets if the number of tickets sold exceeds the number of seats available at the facility or to utilize registration as a means of implying that it constitutes State endorsement.

The bill establishes a schedule of maximum fees that may be collected by the Attorney General from the various classes of registrants to defray administrative costs.

The bill also requires the Attorney General to establish a telephone information line to provide the public with pertinent information about charitable organizations.

This bill was pre-filed for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 839

STATE OF NEW JERSEY

DATED: March 8, 1994

Assembly Bill No. 839 of 1994 establishes a system of registration and regulation for charitable organizations, fund raising counsels and other individuals involved in professional fund raising. The purpose of this bill is to protect the public from fraud and deceptive practices.

Charitable organizations, with certain exceptions, would be required to provide the Attorney General with a statement detailing their purpose, personnel and operations. Organizations which raised more than \$25,000 in their most recent fiscal year also would be required to file annual financial reports for review by the Attorney General. Fund raising counsels and independent fund raisers would be required to register annually with the Attorney General. Also, contracts between charitable organizations and independent fund raisers would be subject to Attorney General review before solicitation begins. Violations of the bill's requirements would be punishable by civil penalties of up to \$7,500 for a first offense and up to \$15,000 for a subsequent offense. The bill also requires the Attorney General to establish a telephone information line to provide pertinent information about charitable organizations to the public.

The bill establishes a schedule of maximum fees that may be collected by the Attorney General from the various classes of registrants to defray administrative costs. The program established by the bill would be administered by the Division of Consumer Affairs in the Department of Law and Public Safety.

Information provided informally by the Division of Consumer Affairs, in response to similar legislation introduced in the previous legislative session, indicates that 3,500 long form registrations and 6,500 short form registrations would be filed under the terms of the bill. In addition, the division estimates that 120 professional fund raisers and 300 professional agents would be registered annually.

Based on these workload indicators, the division estimates its administrative costs in the first year after enactment of the bill at \$785,000. This amount includes \$496,000 for the salaries and fringe benefits of 11 staff: a supervising administrative analyst, four auditors, two investigators, a clerk typist and three data entry operators. Also included are \$44,000 for services other than personal, \$25,000 for data processing, and \$20,000 for professional and other services. The total also includes \$44,000 for data processing and office equipment, \$59,000 for services provided by the Division of Law, and \$95,000 for reimbursement for administrative overhead of the division. The division maintains it receives no budget appropriation for its overall administrative costs and must, therefore, assess these costs against each component agency or program.

The Office of Legislative Services (OLS) concurs with this estimate, with the exception of the proposed \$95,000 administrative overhead reimbursement. The bill clearly states that fee revenues are intended solely to defray the cost of administering its provisions. OLS further notes that the program established by this bill would subsume the functions of a current charities registration program, which would be abolished. Therefore, the cost of the current program, estimated by the division at approximately \$100,000, less its anticipated fee revenue of \$15,000, should represent a net gain for the State. After deducting these savings from the division's estimate, OLS estimates the State cost of administration in the first year to be \$605,000. After deducting fixed costs and applying a 5 percent inflation rate, OLS estimates the cost of this program at \$689,050 in the second year and \$618,503 in the third year.

The division estimates that the maximum fees permitted by the bill will be required to defray the administrative cost of the bill. These maximums are \$30 a year for certain short-form registration filers, and fees of \$60, \$150 and \$250 for long-form filers, depending upon the amount of contributions received. The division also proposes adoption of the maximum fee of \$250 annually for professional fundraisers. This fee schedule would yield \$800,000 in revenues in the first year after enactment, according to the division. OLS concurs with this estimate, but observes that these fees will yield annual revenue in excess of that needed for program operations in the first three years. Therefore, the level of the proposed fees should be reduced accordingly. OLS further notes that additional revenues should be realized as a result of the civil penalties provided in the bill. This amount cannot be estimated.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.