

No. 1986-36

AN ACT

HB 1970

Relating to charitable organizations; requiring the registration of such organizations; and regulating the solicitation of money and property by, or on behalf of, charitable organizations.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Charitable Organization Reform Act.

Section 2. Legislative intent.

It is the intention of the General Assembly that this shall not be a mere registry statute but an act intended not only to require proper registration of charitable organizations, professional fundraisers and professional solicitors, but also to regulate the soliciting of money and property by, or on behalf of, charitable organizations, professional fundraisers and professional solicitors and to require proper accounting for the use and distribution of said funds.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Actual contributions.” Gross contributions minus the actual cost to the charitable organization or professional solicitor of goods sold or service provided to the public in connection with the soliciting of contributions.

“Bureau.” The Bureau on Charitable Organizations of the Department of State.

“Charitable organization.” A person which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, religious or eleemosynary organization or any person which solicits or obtains contributions solicited from the public for charitable purposes after the effective date of this act. A chapter, branch, area, office or similar affiliate or any person soliciting contributions within this Commonwealth for a charitable organization which has its principal place of business outside this Commonwealth shall be a charitable organization for the purposes of this act: Provided, That no affiliated group shall be required to obtain such declaration if the parent or principal organization shall have obtained same.

“Charitable sales promotion.” An advertising or sales campaign, conducted by a commercial coventurer, which represents that the purchase or use of goods or services offered by the commercial coventurer will benefit a charitable organization or purpose.

“Commercial coventurer.” A person who for profit is regularly and primarily engaged in trade or commerce in this Commonwealth other than in connection with the raising of funds for charitable organizations or purposes and who conducts a charitable sales promotion.

“Contributions.” The promise or grant of any money or property of any kind or value.

“Department.” The Department of State of the Commonwealth.

“Federated fundraising organization.” A federation of independent charitable organizations which have voluntarily joined together, including, but not limited to, a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

“Gross contributions.” The aggregate amount of money, pledges or other property raised or received by reason of any solicitation activities or campaigns.

“Parent organization.” That part of a charitable organization which coordinates, supervises or exercises control over policy, fundraising and expenditures, or assists or advises one or more chapters, branches or affiliates in this Commonwealth.

“Person.” Any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them.

“Professional fundraising counsel.” Any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises or

acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable organization but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a charitable organization maintaining a permanent establishment within this Commonwealth shall not be deemed to be a professional fundraising counsel.

“Professional solicitor.” Any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable organization, whether such solicitation is performed personally or through their agents, servants or employees or through agents, servants or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person, or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in connection with the solicitation of contributions but does not qualify as “professional fundraising counsel” within the meaning of this act. A bona fide full-time salaried officer or employee of a charitable organization maintaining a permanent establishment within this Commonwealth shall not be deemed to be a professional solicitor, nor shall an individual who works as an independent contractor under the direction and control of such officer or employee of not more than two charitable organizations per year be deemed to be a professional solicitor. No attorney, investment counselor or banker who advises any person to make a contribution to a charitable organization shall be deemed, as the result of such advice, to be a professional fundraising counsel or a professional solicitor.

“Solicitation.” The asking, seeking, appealing, requesting, directly or indirectly by means of mail, personal contact, written material, radio, television, news media, magazines or other periodicals or any other means of communication, of money or property of any kind or value or pledges for the same.

Section 4. Powers and duties of the department.

(a) Powers and duties.—The department shall have the power, and its duty shall be, to promulgate rules and regulations and prescribe forms for registration or other purposes consistent with the specific requirements of this act and, after due notice to and consultation with representatives of charitable organizations, professional fundraising counsel and professional solicitors and an opportunity for all such to be heard, to make effective such rules, regulations, forms and procedures and, when necessary, to hold hearings and make adjudications as provided in this act and make recommendations to the Attorney General for enforcement of this act.

(b) Advisory board.—An advisory board shall be created within the Department of State made up of five individuals to be appointed by the Secretary of the Commonwealth, to be called upon by the department, or of their own volition, to offer advice or consultation regarding registration and/or regulation of charitable organizations in this Commonwealth as provided for in this act. Three of the appointees shall be representatives from registered charities, with one of the three to be a certified public accountant

experienced in examining financial reports; two of the appointees shall be from the public at large, who are currently neither an official nor an employee of a registered charity. Such advisory board may elect a chairperson from among its membership. Staff assistance to the board shall be provided by the department.

(c) Rules and regulations.—The department shall develop regulations for governing the manner and criteria for which cases are referred to the Attorney General and local law enforcement agencies.

(d) Fees.—If the revenues raised by fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures over a two-year period, the department shall increase those fees by regulation, subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, so that the projected revenues will meet or exceed projected expenditures.

(e) Annual report.—The department shall submit annually, to the Governor and the House and Senate State Government Committees, as well as interested registered charities, a report on the number of registered charities, the number of charities ordered to cease and desist, the number of charities that applied but were denied registration and the number of alleged charities referred to law enforcement agencies, along with the results of such referrals.

Section 5. Bureau on Charitable Organizations.

The Bureau on Charitable Organizations shall be a bureau within the Department of State. The bureau shall have the power, and its duty shall be, to carry out the purposes consistent with the specific requirements of this act and make recommendations to the Attorney General and Secretary of the Commonwealth for enforcement of this act.

Section 6. Registration of charitable organizations.

(a) Registration statement.—Every charitable organization which intends to solicit contributions within this Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the department upon forms prescribed by the department, which shall be good for one full year and which shall be refiled in the next and each following year in which such charitable organization is engaged in solicitation activities. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this act. Such statements shall be sworn to and shall contain the following information:

(1) The name of the organization and the purpose for which it was organized.

(2) The principal address of the organization and the address of any offices in this Commonwealth. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(3) The names and addresses of any chapters, branches or affiliates in this Commonwealth.

(4) The place where and the date when the organization was legally established, the form of its organization and a reference to any determina-

tion of its tax-exempt status under the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.).

(5) The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer.

(6) (i) A copy of the financial statements of the charitable organization's immediately preceding fiscal year. If the gross contributions of the organization exceed \$15,000, but are less than \$50,000, the financial statements shall be audited or reviewed by an independent public accountant or an independent certified public accountant. If the gross contributions of the organization exceeds \$50,000, the financial statements shall be audited by an independent public accountant or an independent certified public accountant. In the event that the gross contributions of the organization are less than \$15,000, the submission of an audit or review is optional. The financial statements shall be completed in accordance with the accounting standards set forth in the rules and regulations promulgated by the department.

(ii) Government audits of government grants shall be accepted and shall be included as part of the financial statements.

(iii) The department shall have the discretion to require that an audit or review be submitted by any charitable organization which files a registration statement. The department shall have the discretion to accept the financial statements submitted by the organization in lieu of the audit or review in the event that special facts and circumstances are presented.

(iv) For purposes of this paragraph all audits shall be performed in accordance with the American Institute of Certified Public Accountants Statements on auditing standards, and reviews shall be the same as and performed in accordance with the standards and procedures set forth in the American Institute of Certified Public Accountants Statement on Standards for Accounting and Review Services.

(7) Whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.

(8) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.

(9) The general purpose or purposes for which the contributions to be solicited shall be used.

(10) The name or names under which it intends to solicit contributions.

(11) The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.

(12) The names of the individuals or officers of the organization responsible for the final distribution of the contributions.

(b) Approval of registration.—The department shall examine each initial application of charitable organizations for the right to solicit funds and each renewal application of charitable organizations for the right to solicit funds, and, if found to be in conformity with the requirements of this act and all rel-

evant rules and regulations, it shall be approved for registration. Any applicant who is denied approved registration may, within 15 days from the date of notification of such denial, request, in writing, a hearing before the Secretary of the Commonwealth, or his designee, which hearing shall be held within 15 days from the date of the request.

(c) Reports.—Each chapter, branch or affiliate, except an independent member agency of a federated fundraising organization, may separately report the information required by this section or report the information to its parent organization which shall then furnish such information as to its Pennsylvania affiliates, chapters and branches in a consolidated form to the department. An independent member agency of a federated fundraising organization, as hereinbefore defined, shall comply with the provisions of this act independently, unless specifically exempted from doing so.

(d) Forms.—The registration forms and any other documents prescribed by the department shall be signed by an authorized officer or by an independent public accountant and by the chief fiscal officer of the charitable organization and shall be verified under oath.

(e) Registration fee.—Every charitable organization which submits a short form registration statement pursuant to section 4(e) or receives less than \$15,000 in gross contributions shall pay an annual registration fee of \$10. Every charitable organization which submits a full registration statement to the department shall pay an annual registration fee of \$25 if the charitable organization solicits and receives gross contributions from the public which exceed \$15,000 but are less than \$25,000 during the immediate preceding fiscal year. Every charitable organization which submits a full registration statement to the department shall pay an annual registration fee of \$100 if the charitable organization solicits and receives gross contributions in excess of \$25,000 during the immediate preceding fiscal year. A parent organization filing on behalf of one or more chapters, branches or affiliates and a federated fundraising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and such chapters, branches, affiliates or member agencies included in the registration statement.

(f) Applicability.—Both the chapter, branch, area office or similar affiliate soliciting in this Commonwealth as well as the parent of a charitable organization which has its principal place of business outside of this Commonwealth shall be subject to all of the provisions hereof.

(g) Investigations.—The department may make or cause to be made such investigation of any applicant as it shall deem necessary. As a result of its investigation and action, the department shall certify its approval or disapproval of the application. No applicant shall be approved if one or more of the following facts is found to exist:

- (1) That one or more of the statements in the application are not true.
- (2) That the applicant is or has engaged in a fraudulent transaction or enterprise.
- (3) That a solicitation would be a fraud upon the public.

(4) That solicitation and fundraising expenses (including not only payments to professional solicitors, but also payments to professional fundraisers, and internal fundraising and solicitation salaries and expenses) during any of the three years immediately preceding the date of application have exceeded 35% of the actual contributions received. As used in this subsection the term "internal fundraising and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as were fairly allocable (on a time or other appropriate basis) to its solicitation and/or fundraising expense. In the event special facts or circumstances are presented showing that expenses higher than 35% were not unreasonable, the Secretary of the Commonwealth, or his designee, has the discretion to allow such higher expense.

(5) That the expected cost of solicitation and fundraising expenses for the specific year in which the application is submitted (including not only payments to professional solicitors, but also payments to professional fundraisers, and internal fundraising and solicitation salaries and expenses) will exceed 35% of the actual contributions received. As used in this subsection the term "internal fundraising and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as will be fairly allocable (on a time or other appropriate basis) to its solicitation and/or fundraising expense. In the event special facts or circumstances are presented, showing that expenses higher than 35% will not be unreasonable, the Secretary of the Commonwealth, or his designee, has the discretion to allow such higher expense.

(6) That such activities to be financed will be incompatible with the health, safety or welfare of the citizens of the Commonwealth of Pennsylvania.

Section 7. Exemptions and short form registration.

(a) Exemptions.—The following charitable organizations shall be exempted from the registration requirements in this act:

(1) Religious organizations which are duly constituted, or a group affiliated with and forming an integral part of the religious organizations, and in which no part of their net income inures to the direct benefit of an individual and which has received a declaration of current tax-exempt status from the Federal Government.

(2) Educational institutions, the curriculums of which, in whole or in part, are registered or approved by the State Board of Education of the Commonwealth of Pennsylvania, either directly or by acceptance of accreditation by an accrediting body recognized by the State Board of Education.

(3) Hospitals which are nonprofit and charitable and are required by law to file financial reports at least annually with the Auditor General of the Commonwealth of Pennsylvania: Provided, That a copy of the annual fiscal report so filed is also filed simultaneously with the bureau.

(4) A local post, camp, chapter or similarly designated element or a county unit of such elements of a bona fide veterans' organization which issues charters to such local elements throughout this Commonwealth, a

bona fide organization of volunteer firemen, a bona fide ambulance association or bona fide rescue squad association or a bona fide auxiliary or affiliate of any such organization, provided all its fundraising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation directly or indirectly therefor.

(5) Public nonprofit library organizations which receive financial aid from municipal and State governments and file an annual fiscal report with the State Library System.

(6) Senior citizen centers which are nonprofit and charitable and which have been granted tax-exempt status under the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.), provided all fundraising activities are carried on by members or officers of such an organization and such members or officers receive no compensation directly or indirectly therefor.

(7) Bona fide parent/teacher associations or organizations as recognized in a notarized letter from the school district in which they are located.

(b) Short form.—The following charitable organizations shall be required to file a short form annual registration statement with the department:

(1) Persons requesting contributions for the relief of any individual specified by name at the time of solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

(2) Charitable organizations which do not intend to solicit and receive and do not actually raise or receive contributions from the public in excess of \$15,000 during a calendar year and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public exceed \$15,000, the charitable organization shall, within 30 days after the date it has received said amount, file a full registration statement with the department.

(3) Organizations which solicit only within the membership of the organization by the members thereof. The term "membership" shall not include persons who are granted a membership upon making a contribution as the result of solicitation.

Section 8. Limitations on amount of payments for solicitation or fundraising activities.

(a) Limitation on payments.—No charitable organization shall pay or agree to pay to a professional solicitor or his agents, servants or employees in the aggregate a total amount in excess of 15%, including reimbursement for expenses incurred and direct payment of expenses incurred, of the actual contributions received.

(b) Limitation on expense.—No charitable organization shall incur solicitation and fundraising expenses (including not only payments to professional solicitors, but also payments to professional fundraisers, and internal fundraising and solicitation salaries and expenses) in excess of 35% of the actual contributions received. As used in this subsection the term "internal

fundraising and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as are fairly allocable, on a time or other appropriate basis, to its solicitation and/or fundraising expense. In the event special facts or circumstances are presented showing expenses higher than 35%, the department has the discretion to allow such higher funds and may impose such conditions as the Secretary of the Commonwealth, or his designee, shall deem necessary for such exemption.

(c) Calculation of expense.—Fundraising expenses shall not include the actual amount the charitable organization paid to the United States Postal Service for postage in connection with the solicitation of contributions. The postage costs shall be allocated, on a time or other appropriate basis, to program service costs or management in general costs.

(d) Filing contracts.—Every contract or written agreement between professional fundraising counsel and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded.

(e) Examination of contracts.—Every contract or a written statement of the nature of the arrangement to prevail in the absence of a contract between a professional solicitor and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded. If the contract or arrangement with a professional solicitor does not provide for compensation on a percentage basis, the department shall examine the contract to ascertain whether the compensation to be paid in such circumstances is likely to exceed 15% of the actual contributions received as a result of the contract or arrangement; if the reasonable probabilities are that the compensation will exceed 15% of the actual contributions received, the secretary shall disapprove the contract or arrangement within ten days after its filing. No registered charitable organization or professional solicitor shall carry out or execute a disapproved contract, or receive or perform services, or receive or make payments pursuant to a disapproved contract. Any party to a disapproved contract shall, upon written request made within 30 days of disapproval, be given a hearing before the Secretary of the Commonwealth, or his designee, within 30 days after such request is filed.

Section 9. Limitation on activities of charitable organizations.

No charitable organization subject to this act shall solicit funds from the public except for charitable purposes or expend funds raised for charitable purposes for noncharitable purposes.

Section 10. Registration of professional fundraising counsel and professional solicitor; bonds; records; books.

(a) Registration.—No person shall act as a professional fundraising counsel or professional solicitor for a charitable organization subject to the provisions of this act, unless he has first registered with the department. Applications for such registration shall be in writing under oath or affirmation in the form prescribed by the department and contain such information as the department may require. The application for registration by profes-

sional fundraising counsel or professional solicitor shall be accompanied by an annual fee in the sum of \$100. A partnership or corporation, which is a professional fundraising counsel or professional solicitor, may register for and pay a single fee on behalf of all its members, officers, agents and employees. However, the names and addresses of all officers, agents and employees of professional fundraising counsel and all professional solicitors, their officers, agents, servants or employees employed to work under the direction of a professional solicitor must be listed in the application.

(b) **Bond.**—The applicant shall, at the time of making application, file with and have approved by the department a bond in which the applicant shall be the principal obligor in the sum of \$10,000 with one or more sureties satisfactory to the department, whose liability in the aggregate as such sureties will at least equal the said sum and maintain said bond in effect so long as a registration is in effect. The bond shall run to the Commonwealth of Pennsylvania for the use of the department and any person who may have a cause of action against the obligor of said bonds for any losses resulting from malfeasance, nonfeasance or misfeasance in the conduct of solicitation activities. A partnership or corporation which is a professional fundraising counsel or professional solicitor may file a consolidated bond on behalf of all its members, officers and employees.

(c) **Term of registration.**—Each registration shall be valid throughout this Commonwealth for a period of one year and may be renewed for additional one-year periods upon written application under oath in the form prescribed by the department and the payment of the fee prescribed herein.

(d) **Approval of application.**—The Secretary of the Commonwealth, or his designee, shall examine each application, and, if he finds it to be in conformity with the requirements of this act and all relevant rules and regulations and the registrant has complied with the requirements of this act and all relevant rules and regulations, he shall approve the registration. Any applicant who is denied approved registration may, within 15 days from the date of notification of such denial, request, in writing, a hearing before the Secretary of the Commonwealth, or his designee, which hearing shall be held within 15 days from the date of the request.

Section 11. Information filed to become public records.

Registration statements and applications, reports, professional fundraising counsel contracts or professional solicitor contracts, and all other documents and information required to be filed under this act or by the department or by the bureau shall become public records in the office of the department and shall be open to the general public for inspection at such time and under such conditions as the department may prescribe.

Section 12. Records to be kept by charitable organizations, professional fundraising counsel and professional solicitors.

(a) **General rule.**—Every charitable organization subject to the provisions of this act shall, in accordance with the rules and regulations prescribed by the department, keep true fiscal records as to its activities in Pennsylvania as may be covered by this act in such form as will enable it accurately to provide the information required by this act. Upon demand, such records

shall be made available to the department, the bureau or the Attorney General for inspection. Such records shall be retained for a period of at least three years after the end of the period of registration to which they relate.

(b) **Soliciting for named individual.**—A person or charitable organization soliciting contributions for the benefit of a named individual who receives in excess of \$5,000 shall hold the funds collected in trust and shall be subject to the provisions of 20 Pa.C.S. Ch. 71 (relating to trust estates). A person who makes a contribution to a person or charitable organization in response to a solicitation for the benefit of a named individual shall have the right to petition the court of common pleas of the county in which the trust is located for an accounting on behalf of all contributors.

Section 13. Reciprocal agreements.

The department may enter into reciprocal agreements with the appropriate authority of any other state for the purpose of exchanging information with respect to charitable organizations, professional fundraising counsel and professional solicitors. Pursuant to such agreements, the department may accept information filed by a charitable organization, professional fundraising counsel or professional solicitor with the appropriate authority of another state in lieu of the information required to be filed in accordance with the provisions of this act, if such information is substantially similar to the information required under this act. The department shall also grant exemption from the requirement for the filing of annual registration statement with the department to charitable organizations organized under the laws of another state having their principal place of business outside this Commonwealth, whose funds are derived principally from sources outside this Commonwealth and which have been granted exemption from the filing of registration statements by the state under whose laws they are organized, if such state has a statute similar in substance to the provisions of this act.

Section 14. Prohibited acts.

(a) **Exploitation of registration.**—No charitable organization, professional fundraising counsel or professional solicitor, subject to the provisions of this act, shall use or exploit the fact of registration so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by the Commonwealth: Provided, however, That the use of the following statement shall not be deemed a prohibited exploitation: “Registered with the Pennsylvania Department of State as required by law. Registration does not imply endorsement of a public solicitation for contributions.”

(b) **Sale of goods.**—No person shall, in connection with the solicitation of contributions for or the sale of goods or services of a person other than a charitable organization, misrepresent to or mislead anyone by any manner, means, practice or device whatsoever, to believe that the person on whose behalf such solicitation or sale is being conducted is a charitable organization or that the proceeds of such solicitation or sale will be used for charitable purposes, if such is not the fact.

(c) **Sponsors or endorsement.**—No person shall in connection with the solicitation of contributions or the sale of goods or services for charitable purposes represent to or lead anyone by any manner, means, practice or

device whatsoever, to believe that any other person sponsors or endorses such solicitation of contributions, sale of goods or services for charitable purposes or approves of such charitable purposes or a charitable organization connected therewith when such other person has not given consent to the use of his name for these purposes; any member of the board of directors or trustees of a charitable organization or any other person who has agreed either to serve or to participate in any voluntary capacity in the campaign shall be deemed thereby to have given his consent to the use of his name in said campaign.

(d) **Representations.**—No person shall make any representation that he is soliciting contributions for, or on behalf of, a charitable organization or shall use or display any emblem, device or printed matter belonging to or associated with a charitable organization for the purpose of soliciting or inducing contributions from the public without first being authorized to do so by the charitable organization.

(e) **Required authorization.**—No professional solicitor shall solicit in the name of or on behalf of any charitable organization unless such solicitor has:

(1) Written authorization of two officers of such organization, a copy of which shall be filed with the department. Such written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued.

(2) Such authorization with him when making solicitations and exhibits the same on request to persons solicited or police officers or agents of the department.

(f) **Similar marks.**—No charitable organization, professional fundraiser, commercial coventurer, professional solicitor or other person soliciting contributions for, or on behalf of, a charitable organization shall use a name, symbol or registered service mark so closely related or similar to that used by another charitable organization, registered in this State or a national organization with a chapter, branch or affiliate in this State or a governmental agency that the use thereof would tend to confuse or mislead the public.

Section 15. Enforcement and penalties.

(a) **Notification by department.**—If any charitable organization, professional fundraising counsel or professional solicitor fails to file any registration application or statement, report or other information required to be filed by the department or the bureau under this act, or otherwise violates the provisions of this act, the department shall notify the delinquent charitable organization, professional fundraising counsel or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to its or his last known address. If the required registration application or statement, annual report or other information is not filed or if the existing violation is not discontinued within two weeks after the formal notification or receipt of such notice, the department may cancel, suspend or refuse to accept the registration of such delinquent charitable organization, professional fundraising counsel or professional solicitor.

(b) Department action.—The department, upon its own motion or upon complaint of any person, may, if it has reasonable ground to suspect a violation, investigate or request an audit of any charitable organization, professional fundraising counsel or professional solicitor to determine whether such charitable organization, professional fundraising counsel or professional solicitor has violated the provisions of this act or has filed any application or other information required under this act which contains false or misleading statements. If the department finds that any application or other information contains false or misleading statements or that a registrant under this act has violated the provisions thereof, the department may order the registration be suspended or canceled.

(c) False statements.—The registration of any charitable organization, professional fundraising counsel or professional solicitor, which or who knowingly makes a false or misleading statement in any registration application or statement, report or other information required to be filed by the department or this act, shall be revoked.

(d) Procedure.—All proceedings under this act shall be conducted in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure), and all department adjudications shall be subject to review and appeal as provided therein.

(e) Penalty.—In addition to the foregoing, any person who willfully and knowingly violates any provisions of this act or who shall willfully and knowingly give false or incorrect information to the department in filing statements or reports required by this act, whether such report or statement is verified or not, commits a misdemeanor and shall, upon conviction, be sentenced for the first offense to pay a fine of not less than \$100 and not more than \$500 or to imprisonment for not more than six months or both, and for the second and any subsequent offense to pay a fine of not less than \$500 and not more than \$1,000 or to imprisonment for not more than one year or both.

(f) Attorney General or district attorney.—Whenever the Attorney General or any district attorney shall have reason to believe or shall be advised by the Secretary of the Commonwealth, who shall have given due notice and full hearing to the charitable organization, professional fundraiser or professional solicitor, that the said fundraising counsel, charitable organization or professional solicitor is operating in violation of the provisions of this act or has knowingly and willfully made any false statements in any initial or any renewal application to solicit or in any other information required to be filed by this act or whenever a charitable organization, professional fundraising counsel or professional solicitor has failed to file a registration statement required by this act, or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or whenever the officers or representatives of any charitable organization, professional fundraising counsel or professional solicitor have refused or failed after notice to produce any records of such organization, or

whenever the funds raised by solicitation activities are not devoted or will not be devoted to the charitable purposes of the charitable organization, in addition to all other actions authorized by law, the Attorney General or district attorney may bring an action in the name of the Commonwealth of Pennsylvania against such charitable organization and its officers, such professional fundraising counsel or professional solicitor or any other person who has violated this act or who has participated or is about to participate in any solicitation or collection by employing any device, scheme, artifice, false representation or promise, to defraud or obtain money or other property, to enjoin such charitable organization or professional fundraising counsel or professional solicitor or other person from continuing such violation, solicitation or collection, or engaging therein, or doing any acts in furtherance thereof and for such other relief as to the court deems appropriate.

(g) Refusal by department.—The department may refuse to grant an initial application to solicit, may refuse to renew an application and may revoke a registration of any charitable organization, professional fundraising counsel or professional solicitor which or who knowingly makes a false statement in any initial registration application or renewal application or statement, annual report or other information required to be filed by the department or the act.

Section 16. Appropriation.

All fees shall be paid to the State Treasurer and are hereby appropriated to the Department of State for the administration and enforcement of this act.

Section 17. Rules and regulations.

Rules and regulations promulgated under the act of August 9, 1963 (P.L.628, No.337), known as the Solicitation of Charitable Funds Act, in effect on the effective date of this act shall remain in effect until amended in accordance with the provisions of this act.

Section 18. Continuation of registration.

Any charitable organization or person who holds a valid registration under the act of August 9, 1963 (P.L.628, No.337), known as the Solicitation of Charitable Funds Act, will be deemed registered under this act.

Section 19. Repeal.

The act of August 9, 1963 (P.L.628, No.337), known as the Solicitation of Charitable Funds Act, is repealed.

Section 20. Effective date.

This act shall take effect April 30, 1986.

APPROVED—The 30th day of April, A. D. 1986.

DICK THORNBURGH