CHAPTER 385

CHARITABLE SOLICITATIONS ACT

§5001. Short title

This Act shall be known and may be cited as the "Charitable Solicitations Act." [PL 1977, c. 488, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW).

§5002. Intent

It is the intent of the Legislature to require the licensure and financial reporting of charitable organizations and professional solicitors and the bonding of professional solicitors. [PL 2013, c. 539, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1999, c. 386, §A1 (AMD). PL 2005, c. 497, §1 (AMD). PL 2007, c. 402, Pt. A, §1 (AMD). PL 2013, c. 313, §1 (AMD). PL 2013, c. 539, §1 (AMD).

§5003. Definitions

As used in this Act, unless the context specifically indicates otherwise, the following words shall have the following meanings. [PL 1977, c. 488, §1 (NEW).]

1. Charitable organization. "Charitable organization" means any person or entity, including any person or entity organized in a foreign state, that is or holds itself out to be organized or operated for any charitable purpose and that solicits, accepts or obtains contributions from the public for any charitable purpose and by any means, including, but not limited to, personal contact, telephone, mail, newspaper advertisement, television or radio. Status as a tax-exempt entity does not necessarily qualify that entity as a charitable organization. For purposes of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.
[PL 2013, c. 539, §2 (AMD).]

2. Charitable purpose. "Charitable purpose" means any charitable, benevolent, educational, philanthropic, humane, patriotic or eleemosynary purpose.
[PL 1983, c. 277, §1 (AMD).]

3. Commercial co-venturer.
[PL 2013, c. 313, §2 (RP).]

3-A. Commissioner.
[PL 2013, c. 313, §3 (RP).]

4. Contribution. "Contribution" means the promise or grant of any money or property of any kind or value, including the payment or promise to pay in consideration of a sale, performance or event of any kind which is advertised in conjunction with the name of any charitable organization. This definition does not include:

A. Payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor or other direct benefits, other than the right to vote, elect officers or hold offices; [PL 2005, c. 497, §3 (AMD).]

B. Money or property received from any governmental authority; or [PL 2005, c. 497, §4 (AMD).]

C. Money or property received from a foundation established for charitable or educational purposes. [PL 2005, c. 497, §5 (NEW).]

[PL 2005, c. 497, §§3-5 (AMD).]

4-A. Entity. "Entity" means any natural person, corporation, partnership, limited liability company, association or any other organization.

[PL 1999, c. 386, Pt. A, §4 (NEW).]

4-B. Department.

[PL 2013, c. 313, §4 (RP).]

4-C. Free clinic. "Free clinic" means an incorporated nonprofit health facility that provides health care to persons at no charge.

[PL 2013, c. 60, §1 (NEW).]

4-D. Director. "Director" means the Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation.

[PL 2013, c. 313, §5 (NEW).]

5. Federated fund-raising organization. "Federated fund-raising organization" means a federation of independent charitable organizations which have voluntarily joined together, including, but not limited to, a United Fund, United Way 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 organizations upon the federated fund-raising organization.

[PL 1977, c. 488, §1 (NEW).]

5-A. Independent public accountant.

[PL 2013, c. 313, §6 (RP).]

5-B. Fund raising. "Fund raising" means a solicitation to the public for funds, except those solicitations which are made as an integral part of the presentation of program services.

[PL 1979, c. 678, §1 (NEW).]

5-C. Hospital. "Hospital" means an institution that is engaged primarily in providing inpatient, outpatient or both inpatient and outpatient medical and psychiatric diagnostic and therapeutic services in the care and treatment of injured, disabled, sick or mentally ill persons who are under the supervision of a physician.

[PL 1999, c. 386, Pt. A, §5 (AMD).]

5-D. Management. "Management" means the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related management functions.

[PL 1979, c. 678, §1 (NEW).]

5-E. Membership. "Membership" means the relationship of a person to an organization that entitles that person to the privileges, professional standing, honors or other direct benefits of the organization in addition to the right to vote, elect officers and hold office in the organization.

[PL 1999, c. 386, Pt. A, §6 (NEW).]

5-F. Office.

[PL 2013, c. 313, §7 (RP).]

6. Parent organization. "Parent organization" means that part of a charitable organization which coordinates, supervises or exercises control over policy, fund-raising and expenditures, or assists or advises one or more chapters, branches or affiliates in the State. A federated fund-raising organization, as defined in this chapter, shall not be considered a parent organization.

[PL 1977, c. 488, §1 (NEW).]

7. Person. "Person" means any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them.
[PL 1977, c. 488, §1 (NEW).]

8. Principal officer. "Principal officer" means the president, chair, executive director or other officer or employee responsible for the daily operation of a charitable organization or a professional solicitor.
[PL 2013, c. 539, §3 (AMD).]

9. Professional fund-raising counsel.
[PL 2013, c. 539, §4 (RP).]

10. Professional solicitor. "Professional solicitor" means any person or entity that, alone or through its employees or agents, solicits contributions from the public on behalf of a charitable organization in exchange for a fee or other remuneration. "Professional solicitor" does not include a bona fide employee, bona fide salaried officer, attorney, accountant or investment counselor of a charitable organization.
[PL 1999, c. 386, Pt. A, §7 (AMD).]

10-A. Program services. "Program services" means those activities directly related to the stated charitable purposes of the charitable organization. "Program services" does not mean activities related to fund raising or management.
[PL 1979, c. 678, §2 (NEW).]

11. Solicit and solicitation. "Solicit and solicitation" means any oral or written request, however communicated directly or indirectly, for any contribution. "Solicitation" as defined herein shall be deemed to have taken place when the request is made, whether or not the person making the solicitation receives any contribution in response.
[PL 1977, c. 488, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1977, c. 654, §1 (AMD). PL 1977, c. 696, §359 (AMD). PL 1979, c. 127, §50 (AMD). PL 1979, c. 678, §§1,2 (AMD). PL 1981, c. 456, §A23 (AMD). PL 1983, c. 277, §§1,2 (AMD). PL 1999, c. 221, §1 (AMD). PL 1999, c. 386, §§A2-7 (AMD). PL 2003, c. 541, §§1-4 (AMD). PL 2005, c. 497, §§2-5 (AMD). PL 2007, c. 402, Pt. A, §2 (AMD). PL 2011, c. 286, Pt. A, §§1, 2 (AMD). PL 2011, c. 286, Pt. B, §5 (REV). PL 2013, c. 60, §1 (NEW). PL 2013, c. 313, §§2-8 (AMD). PL 2013, c. 539, §§2-4 (AMD).

§5004. Licensure of charitable organizations

1. Initial licensure as a charitable organization. The following provisions govern license applications by charitable organizations.

A. Unless it has received an exemption pursuant to section 5006, a charitable organization that intends to solicit, accept or obtain contributions in this State or to have contributions solicited, accepted or obtained on its behalf within this State shall file a license application with the director and pay the application and license fees as set under section 5015-A at least 30 days before soliciting, accepting or obtaining contributions. Before it is issued a license by the director, a charitable organization that is required to file an initial license application may not solicit, accept or obtain contributions or have contributions solicited, accepted or obtained on its behalf by any other person, charitable organization or professional solicitor. The charitable organization shall identify any affiliate organizations or chapters on its license application. [PL 2013, c. 313, §9 (AMD).]

B. A parent organization may file a consolidated license application for its affiliates, chapters and branches in this State and shall pay a single fee for such a consolidated license application. [PL 2007, c. 402, Pt. A, §3 (AMD).]

C. [PL 2013, c. 313, §9 (RP).]

[PL 2013, c. 313, §9 (AMD).]

2. Fee for registration statement.

[PL 1977, c. 654, §2 (RP).]

2-A. Fee for license application.

[PL 2013, c. 313, §9 (RP).]

3. Content of application for initial licensure. A license application must be sworn to or affirmed by the principal officer of the charitable organization and must contain the following information:

A. The name of the organization and the purpose for which it was organized; [PL 1977, c. 488, §1 (NEW).]

B. The principal mailing address of the organization and the mailing address of any offices in this State, or, if the organization does not maintain an office, the name and mailing address of the person having custody of its financial records; [PL 2013, c. 313, §9 (AMD).]

C. The names and mailing addresses of any chapters, branches or affiliates in this State; [PL 2013, c. 313, §9 (AMD).]

D. The place where and the date when the organization was legally established, the form of its organization and a copy of its certificate of existence or other organizing document; [PL 2013, c. 313, §9 (AMD).]

E. The names and mailing addresses of the officers, directors or trustees and the principal salaried executive staff officer; [PL 2013, c. 313, §9 (AMD).]

F. A statement as to whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others; [PL 1977, c. 488, §1 (NEW).]

G. The name, mailing address and license number of any professional solicitor who acts or will act on behalf of the charitable organization in connection with fund-raising campaigns for contributions from the State's residents; [PL 2013, c. 539, §5 (AMD).]

H. A list of all jurisdictions in which the organization is authorized to solicit contributions; [PL 2013, c. 313, §9 (AMD).]

I. The purpose or purposes for which the contributions to be solicited will be used; [PL 2007, c. 402, Pt. A, §3 (AMD).]

J. [PL 1999, c. 386, Pt. A, §11 (RP).]

K. [PL 2013, c. 313, §9 (RP).]

L. The names of the individuals or officers of the organizations who will have final responsibility for the custody of the contributions; [PL 1977, c. 488, §1 (NEW).]

M. The names of the individuals or officers of the organization responsible for the final distribution of the contributions; [PL 1977, c. 488, §1 (NEW).]

N. [PL 2013, c. 313, §9 (RP).]

O. [PL 2007, c. 402, Pt. A, §3 (RP).]

P. [PL 2013, c. 539, §6 (RP).]

Q. Disclosure of, and the final disposition document pertaining to, any disciplinary action taken against the applicant by a licensing, registration or regulatory authority in any jurisdiction; [PL 2013, c. 313, §9 (AMD).]

R. Disclosure of, and the final disposition document pertaining to, any court action taken against the applicant by a licensing, registration or regulatory authority or law enforcement agency in any jurisdiction that resulted in a restraining order, injunction, civil judgment, criminal conviction, consent judgment, consent agreement, agreement to pay restitution or investigative costs or any other type of negotiated disposition; and [PL 2013, c. 313, §9 (NEW).]

S. Other information as the director may require, including but not limited to documentation as to the current federal tax-exempt status of the charitable organization. [PL 2013, c. 313, §9 (NEW).]
[PL 2013, c. 539, §§5,6 (AMD).]

4. Renewal of licensure as a charitable organization. A license issued by the director to a charitable organization expires on November 30th annually or such other time as the director may designate. A charitable organization shall apply for renewal by filing a renewal application with the director prior to the expiration date and paying the license fee as set under section 5015-A.

A. [PL 2013, c. 313, §9 (RP).]

B. [PL 2013, c. 313, §9 (RP).]

C. [PL 2013, c. 313, §9 (RP).]

D. [PL 2013, c. 313, §9 (RP).]
[PL 2013, c. 313, §9 (AMD).]

5. Content of renewal application. A renewal application pursuant to subsection 4 must contain the following information:

A. The annual fund-raising activity report required by section 5005-B; [PL 2013, c. 313, §9 (NEW).]

B. Disclosure of, and the final disposition document pertaining to, any disciplinary action taken against the licensee by a licensing, registration or regulatory authority in any jurisdiction since the date of the most recent application submitted by the charitable organization; [PL 2013, c. 313, §9 (NEW).]

C. Disclosure of, and the final disposition document pertaining to, any court action taken against the licensee by a licensing, registration or regulatory authority or law enforcement agency in any jurisdiction that resulted in a restraining order, injunction, civil judgment, criminal conviction, consent judgment, consent agreement, agreement to pay restitution or investigative costs or any other type of negotiated disposition since the date of the most recent application submitted by the charitable organization; [PL 2013, c. 313, §9 (NEW).]

D. Any changes to the information contained in the licensee's application for initial licensure or the most recent renewal application; and [PL 2013, c. 313, §9 (NEW).]

E. Other information as the director may require. [PL 2013, c. 313, §9 (NEW).]
[PL 2013, c. 313, §9 (NEW).]

6. Late renewal. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 5015-A.
[PL 2013, c. 313, §9 (NEW).]

7. Change of information. As an ongoing condition of licensure, a charitable organization shall notify the director of any material change to the information contained in the organization's application for initial or renewal licensure, including any additional disciplinary or court action taken against the organization, within 10 days of the change.

[PL 2013, c. 313, §9 (NEW).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1977, c. 654, §2 (AMD). PL 1979, c. 678, §§3-5 (AMD). PL 1981, c. 456, §§A24,A25 (AMD). PL 1989, c. 55, §1 (AMD). PL 1991, c. 77, §1 (AMD). PL 1991, c. 714, §1 (AMD). PL 1999, c. 386, §§A9-12 (AMD). PL 2001, c. 323, §§1-3 (AMD). PL 2003, c. 541, §§5-8 (AMD). PL 2005, c. 497, §§6-8 (AMD). PL 2007, c. 402, Pt. A, §3 (AMD). PL 2009, c. 112, Pt. A, §1 (AMD). PL 2011, c. 286, Pt. A, §§3-6 (AMD). PL 2013, c. 313, §9 (AMD). PL 2013, c. 539, §§5, 6 (AMD).

§5005. Financial reports; fees

(REPEALED)

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1977, c. 654, §3 (AMD). PL 1977, c. 696, §§360-362 (AMD). PL 1979, c. 678, §§6,7 (AMD). PL 1981, c. 456, §§A26-A29 (AMD). PL 1989, c. 55, §2 (AMD). PL 1991, c. 77, §2 (AMD). PL 1991, c. 714, §2 (AMD). PL 1999, c. 221, §2 (AMD). PL 1999, c. 386, §A13 (AMD). PL 2001, c. 323, §4 (AMD). PL 2003, c. 541, §9 (RP).

§5005-A. Records

1. Books and records. A charitable organization shall maintain accurate and complete books and records of all fund-raising campaigns and shall keep those books and records available for inspection by or production to the Attorney General or the director for 3 years after the conclusion of each fund-raising campaign.
[PL 2013, c. 313, §10 (NEW).]

2. Audited financial statement. A charitable organization shall produce upon request of the Attorney General or the director, in conjunction with an application for initial or renewal licensure or at any other time:

A. An audited financial statement of the charitable organization's most recent audited fiscal year if one has been prepared in order to comply with the requirements of another jurisdiction or otherwise exists; or [PL 2013, c. 313, §10 (NEW).]

B. If an audited financial statement under paragraph A does not exist, a balance sheet identifying assets and liabilities and an income statement identifying revenues and expenditures. [PL 2013, c. 313, §10 (NEW).]

[PL 2013, c. 313, §10 (NEW).]

3. Tax returns. A charitable organization shall produce upon request of the Attorney General or the director, in conjunction with an application for initial or renewal licensure or at any other time, its 3 most recent federal Internal Revenue Service Form 990 and Schedule A, federal Internal Revenue Service Form 990-EZ or federal Internal Revenue Service Form 990-N, as required by the federal Internal Revenue Service.
[PL 2013, c. 313, §10 (NEW).]

SECTION HISTORY

PL 1999, c. 386, §A14 (NEW). PL 2013, c. 313, §10 (RPR).

§5005-B. Annual fund-raising activity reports to be filed by charitable organizations

1. Content of report. A charitable organization shall submit to the director an annual fund-raising activity report that reflects data from the organization's preceding fiscal year, on a form prescribed by the director, as part of its application for license renewal. The report must state, at a minimum, the following:

A. The name, mailing address, telephone number and license number of the charitable organization making the report; [PL 2013, c. 313, §11 (AMD).]

B. The name, mailing address, telephone number and license number of each professional solicitor with which the charitable organization contracted to solicit contributions in this State or to plan, manage, advise or provide consultation services with respect to the solicitation of contributions in this State; [PL 2013, c. 539, §7 (AMD).]

C. [PL 2013, c. 313, §11 (RP).]

D. The total dollar amount of contributions raised in this State during each fund-raising campaign and for the year; [PL 2013, c. 313, §11 (AMD).]

E. The total dollar amount of contributions raised in this State that was actually received and retained by the charitable organization from each fund-raising campaign and for the year; and [PL 2013, c. 313, §11 (AMD).]

F. The total dollar amount attributable to contributions raised in this State that was retained by or paid to any professional solicitor from each fund-raising campaign and for the year. [PL 2013, c. 539, §8 (AMD).]

G. [PL 2013, c. 313, §11 (RP).]

H. [PL 2013, c. 313, §11 (RP).]

[PL 2013, c. 539, §§7, 8 (AMD).]

2. Failure to file; discrepancies. Failure to file the annual fund-raising activity report required under this section or disagreement between the report filed by the charitable organization and that submitted by the professional solicitor with which the charitable organization has contracted may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A. To resolve a disagreement between reports, the director may require the charitable organization to submit an annual fund-raising activity report according to a fiscal year other than the organization's fiscal year.
[PL 2013, c. 539, §9 (AMD).]

3. Contracting with unlicensed professional solicitor prohibited. A charitable organization may not contract with an unlicensed professional solicitor. A violation of this subsection may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A.
[PL 2013, c. 539, §9 (AMD).]

4. Application subsequent to lapse of licensure.
[PL 2013, c. 313, §11 (RP).]

SECTION HISTORY

PL 2003, c. 541, §10 (NEW). PL 2007, c. 402, Pt. A, §4 (AMD). PL 2011, c. 286, Pt. A, §7 (AMD). PL 2013, c. 313, §11 (AMD). PL 2013, c. 539, §§7-9 (AMD).

§5006. Exemptions from license requirements

1. Exemption. The following charitable organizations, persons and institutions are exempt from the license requirements of section 5004:

A. Organizations that solicit primarily within their membership and do not contract with a professional solicitor. For purposes of this paragraph, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation; [PL 2013, c. 539, §10 (AMD).]

B. [PL 1983, c. 277, §3 (RP).]

C. Persons soliciting contributions for the relief of any individual specified by name at the time of the solicitation, when all of the contributions collected, without any deductions whatsoever, are

turned over to the named beneficiary for that individual's use; [PL 1999, c. 386, Pt. A, §15 (AMD).]

D. Charitable organizations that do not intend to solicit and receive and do not actually solicit or receive contributions from the public in excess of $35,000 during a calendar year or do not receive contributions from more than 35 persons during a calendar year, if the charitable organizations do not contract with professional solicitors and if no part of the assets or income inures to the benefit of or is paid to any officer or member. If a charitable organization that does not intend to solicit or receive contributions from the public in excess of $35,000 or does not intend to receive contributions from more than 35 persons during a calendar year does actually solicit or receive contributions in excess of that amount, whether or not all such contributions are received during a calendar year, or actually receives contributions from more than 35 persons during a calendar year, the charitable organization, within 30 days after the date contributions reach $35,000 or the number of contributors reaches 35, must be licensed with the director as required by this Act; [PL 2013, c. 539, §11 (AMD).]

E. Educational institutions, the curriculums of which in whole or in part are registered or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and organizations operated by the student bodies of such institutions; [PL 2013, c. 60, §2 (AMD).]

F. Hospitals that are nonprofit and charitable; and [PL 2013, c. 60, §3 (AMD).]

G. Free clinics. [PL 2013, c. 60, §4 (NEW).]

[PL 2013, c. 539, §§10, 11 (AMD).]

2. Exemption statement.

[PL 1989, c. 55, §3 (RP).]

3. Procedures for claiming exemption from licensure.

[PL 2013, c. 539, §12 (RP).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1977, c. 654, §§4-7 (AMD). PL 1977, c. 696, §363 (AMD). PL 1981, c. 456, §A30 (AMD). PL 1983, c. 277, §3 (AMD). PL 1989, c. 55, §3 (AMD). PL 1989, c. 700, §A35 (AMD). PL 1999, c. 386, §A15 (AMD). PL 2001, c. 323, §5 (AMD). PL 2007, c. 402, Pt. A, §5 (AMD). PL 2011, c. 286, Pt. B, §5 (REV). PL 2013, c. 60, §§2-4 (AMD). PL 2013, c. 313, §§12-14 (AMD). PL 2013, c. 539, §§10-12 (AMD).

§5007. Out-of-state organization

(REPEALED)

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1981, c. 456, §A31 (AMD). PL 1999, c. 656, §1 (AMD). PL 2003, c. 541, §11 (AMD). PL 2013, c. 313, §15 (RP).

§5008. Licensure, license renewal, record retention and reporting by professional solicitors, professional fund-raising counsel and commercial co-venturers

(REPEALED)

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1979, c. 678, §§8-10 (AMD). PL 1981, c. 31 (AMD). PL 1981, c. 456, §§A32-A34 (AMD). PL 1983, c. 553, §46 (AMD). PL 1991, c. 714, §3 (AMD). PL 1999, c. 146, §2 (AMD). PL 1999, c. 386, §A16 (AMD). PL 1999, c. 656, §2 (AMD). PL 1999, c. 790, §A9 (AMD). PL 2001, c. 323, §§6,7 (AMD). PL 2003, c. 541, §12 (AMD). PL 2005, c. 497,

§§9-12 (AMD). PL 2007, c. 402, Pt. A, §6 (AMD). PL 2011, c. 286, Pt. A, §8 (AMD). PL 2013, c. 313, §16 (RP).

§5008-A. Licensure, license renewal and records kept by professional solicitors

1. Initial licensure. A person or entity may not act as a professional solicitor before that person or entity has received a license from the director. A professional solicitor shall apply for initial licensure by filing a license application with the director, paying the application and license fees as set under section 5015-A and submitting the bond required by subsection 5.
[PL 2013, c. 539, §13 (AMD).]

2. Content of application for initial licensure. A license application must be sworn to or affirmed by the principal officer of the professional solicitor on a form prescribed by the director and must contain the following information:

A. The name, mailing address and license number of each charitable organization on whose behalf the professional solicitor acts or will act in connection with fund-raising campaigns for contributions from the State's residents; [PL 2013, c. 539, §13 (AMD).]

B. A list of all jurisdictions in which the professional solicitor is authorized to solicit contributions; [PL 2013, c. 539, §13 (AMD).]

C. Disclosure of, and the final disposition document pertaining to, any disciplinary action taken against the applicant by a licensing, registration or regulatory authority in any jurisdiction; [PL 2013, c. 313, §17 (NEW).]

D. Disclosure of, and the final disposition document pertaining to, any court action taken against the applicant by a licensing, registration or regulatory authority or law enforcement agency in any jurisdiction that resulted in a restraining order, injunction, civil judgment, criminal conviction, consent judgment, consent agreement, agreement to pay restitution or investigative costs or any other type of negotiated disposition; and [PL 2013, c. 313, §17 (NEW).]

E. Other information as the director may require. [PL 2013, c. 313, §17 (NEW).]
[PL 2013, c. 539, §13 (AMD).]

3. Renewal of licensure as a professional solicitor. A license issued by the director to a professional solicitor expires on November 30th annually or such other time as the director may designate. A professional solicitor shall apply for renewal by filing a renewal application with the director prior to the expiration date, paying the license fee as set under section 5015-A and submitting the bond required by subsection 5.
[PL 2013, c. 539, §13 (AMD).]

4. Content of renewal application. A renewal application pursuant to subsection 3 must contain the following information:

A. The annual fund-raising activity report required by section 5008-B; [PL 2013, c. 313, §17 (NEW).]

B. Disclosure of, and the final disposition document pertaining to, any disciplinary action taken against the licensee by a licensing, registration or regulatory authority in any jurisdiction since the date of the most recent application submitted by the professional solicitor; [PL 2013, c. 539, §13 (AMD).]

C. Disclosure of, and the final disposition document pertaining to, any court action taken against the licensee by a licensing, registration or regulatory authority or law enforcement agency in any jurisdiction that resulted in a restraining order, injunction, civil judgment, criminal conviction, consent judgment, consent agreement, agreement to pay restitution or investigative costs or any other type of negotiated disposition since the date of the most recent application submitted by the professional solicitor; [PL 2013, c. 539, §13 (AMD).]

D. Any changes to the information contained in the licensee's application for initial licensure or the most recent renewal application; and [PL 2013, c. 313, §17 (NEW).]

E. Other information as the director may require. [PL 2013, c. 313, §17 (NEW).]
[PL 2013, c. 539, §13 (AMD).]

5. Bonding of professional solicitors. An applicant for initial or renewal licensure as a professional solicitor shall submit with the application a bond approved by the director in which the professional solicitor is the principal obligor and the State the obligee, in the sum of $25,000, with one or more responsible sureties whose liability in the aggregate at least equals that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State that occurs during the term of the license applied for. The bond remains in place for 5 years after the licensee ceases activity in the State. Notwithstanding this provision, the director may permit the bond to be eliminated prior to that date.
[PL 2013, c. 539, §13 (AMD).]

6. Late renewal. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 5015-A.
[PL 2013, c. 313, §17 (NEW).]

7. Change of information. As an ongoing condition of licensure, a professional solicitor must notify the director of a change to the information contained in the licensee's application for initial or renewal licensure, including any additional disciplinary or court action taken against the licensee, within 10 days of the change.
[PL 2013, c. 539, §13 (AMD).]

8. Records. A professional solicitor shall maintain accurate and complete books and records of fund-raising activities and telephone solicitation scripts and shall keep those books and records available for inspection by or production to the Attorney General or the director for a period of 3 years after the conclusion of each specific instance in which that person or entity acts as a professional solicitor.
[PL 2013, c. 539, §13 (AMD).]

SECTION HISTORY

PL 2013, c. 313, §17 (NEW). PL 2013, c. 539, §13 (AMD).

§5008-B. Annual fund-raising activity reports to be filed by professional solicitors

1. Content of report. A professional solicitor licensed pursuant to section 5008-A shall submit to the director an annual fund-raising activity report that reflects data from the licensee's preceding fiscal year, on a form prescribed by the director, as part of its application for license renewal. The report must state, at a minimum, the following:

A. The name, mailing address, telephone number and license number of the licensee making the report; [PL 2013, c. 313, §17 (NEW).]

B. The name, mailing address, telephone number and license number of each charitable organization with which the licensee contracted to solicit contributions in this State; [PL 2013, c. 539, §14 (AMD).]

C. The total dollar amount of contributions raised in this State during each fund-raising campaign and for the year; [PL 2013, c. 313, §17 (NEW).]

D. The total dollar amount of contributions raised in this State that was actually received and retained by the charitable organization from each fund-raising campaign and for the year; and [PL 2013, c. 313, §17 (NEW).]

E. The total dollar amount attributable to contributions raised in this State that was retained by or paid to the licensee from each fund-raising campaign and for the year. [PL 2013, c. 313, §17 (NEW).]

[PL 2013, c. 539, §14 (AMD).]

2. Failure to file; discrepancies. Failure to file the annual fund-raising activity report required under this section or filing a report that contains discrepancies between that report and the report submitted by the charitable organization with which the professional solicitor has contracted may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A. To resolve a disagreement between reports, the director may require the professional solicitor to submit an annual fund-raising activity report according to a fiscal year other than the professional solicitor's fiscal year. [PL 2013, c. 539, §14 (AMD).]

3. Contracting with unlicensed charitable organization. A person may not contract with an unlicensed charitable organization for the solicitation of funds from the State's residents. A violation of this subsection may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A.

[PL 2013, c. 313, §17 (NEW).]

SECTION HISTORY

PL 2013, c. 313, §17 (NEW). PL 2013, c. 539, §14 (AMD).

§5009. Retention of contracts

All contracts entered into between a professional solicitor and a charitable organization must be in writing. [PL 2013, c. 539, §15 (AMD).]

Contracts must be kept on file in the offices of the charitable organization and the professional solicitor during the term of the contract and for 3 years after the date of solicitation of contributions provided for in the contract and must be made available for inspection by or production to the Attorney General or the director during that time. [PL 2013, c. 539, §15 (AMD).]

1. Contracts to be filed.

[PL 2013, c. 313, §18 (RP).]

2. Contracts to be retained by office.

[PL 2007, c. 402, Pt. A, §8 (RP).]

3. Exemption.

[PL 2013, c. 313, §18 (RP).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1981, c. 456, §A35 (AMD). PL 1999, c. 386, §A17 (RPR). PL 1999, c. 656, §3 (AMD). PL 2003, c. 541, §13 (AMD). PL 2007, c. 402, Pt. A, §§7, 8 (AMD). PL 2013, c. 313, §18 (RPR). PL 2013, c. 539, §15 (AMD).

§5010. Annual report by commissioner

(REPEALED)

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1981, c. 456, §A36 (AMD). PL 2003, c. 204, §A1 (AMD). PL 2013, c. 313, §19 (RP).

§5011. Public information

All information required to be filed under this chapter is a public record and must be available to the public at the office of the director or in any manner the director may prescribe. [PL 2013, c. 313, §20 (AMD).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1981, c. 456, §A37 (AMD). PL 2003, c. 541, §14 (AMD). PL 2013, c. 313, §20 (AMD).

§5011-A. Professional solicitor disclosure

A professional solicitor or person who a professional solicitor employs or engages, directly or indirectly, to solicit contributions may not: [PL 2003, c. 541, §15 (NEW).]

1. Misrepresentation of relationship. Misrepresent, directly or indirectly, that person's relationship to a charitable organization;
[PL 2003, c. 541, §15 (NEW).]

2. Misrepresentation of fact. Misrepresent, directly or indirectly, to a contributor or potential contributor any fact relating to the solicitation, including, but not limited to, the percentage of the contribution that will be paid over to the charitable organization or the purpose for which the contribution will be used;
[PL 2003, c. 541, §15 (NEW).]

3. Use of contributions. Represent, directly or indirectly, that any part of the contributions received will be given or donated to any charitable organization unless the organization has previously consented in writing to the use of its name; or
[PL 2003, c. 541, §15 (NEW).]

4. Disclosure of information. Solicit a contribution from any person in this State without clearly and conspicuously disclosing to the person, prior to the time the person makes or authorizes payment of a donation:

A. The name and address of the professional solicitor; [PL 2003, c. 541, §15 (NEW).]

B. That the solicitor is being paid by the charitable organization on whose behalf the solicitation is being made; and [PL 2003, c. 541, §15 (NEW).]

C. How the potential contributor may obtain information from the State on the respective percentages of contributions that will be paid to the charitable organization and to the paid fund-raiser. [PL 2003, c. 541, §15 (NEW).]

[PL 2003, c. 541, §15 (NEW).]

SECTION HISTORY

PL 2003, c. 541, §15 (NEW). PL 2013, c. 313, §21 (AMD).

§5012. Charitable solicitation disclosure

It is a violation of this chapter for any person or entity to solicit contributions from a prospective donor without fully disclosing to the prospective donor, at the time of solicitation but prior to the request for contributions, the name and physical address of the charitable organization for which the solicitation is being conducted. [PL 2013, c. 313, §22 (RPR).]

1. Solicitation of contributions.
[PL 2013, c. 313, §22 (RP).]

2. Solicitation by a professional charitable fund raiser.
[PL 2013, c. 313, §22 (RP).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1979, c. 678, §11 (AMD). PL 1989, c. 55, §4 (RPR). PL 1999, c. 221, §3 (AMD). PL 1999, c. 386, §A18 (AMD). PL 1999, c. 656, §4 (AMD). PL 2003, c. 541, §16 (AMD). PL 2013, c. 313, §22 (RPR). PL 2018, c. 10001, §3-4 (AMD).

§5012-A. Commercial co-venturer disclosure

(REPEALED)

SECTION HISTORY

PL 1999, c. 221, §4 (NEW). PL 2003, c. 541, §17 (AMD). PL 2011, c. 286, Pt. A, §9 (AMD). PL 2013, c. 313, §23 (RP).

§5013. Unauthorized use of names

1. Use of name; written consent. A person or entity may not, for the purpose of soliciting contributions from persons or entities in this State, use the name of any other person or entity in a misleading manner. This prohibition includes, but is not limited to, the publication of endorsements purported to have been made by public or private individuals who have not, in fact, provided written authorization for the use of their names for this purpose.
[PL 2011, c. 286, Pt. A, §10 (AMD).]

2. Publication. Nothing contained in this section shall prevent the publication of names of contributors without their written consents in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.
[PL 1977, c. 488, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 2011, c. 286, Pt. A, §10 (AMD).

§5014. Violation as unfair trade practice

A violation of this chapter constitutes a violation of Title 5, chapter 10. [RR 2025, c. 2, Pt. A, §28 (COR).]

An intentional violation of this chapter is a Class D crime. [RR 2025, c. 2, Pt. A, §28 (COR).]

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). RR 2025, c. 2, Pt. A, §28 (COR).

§5015. Fees

(REPEALED)

SECTION HISTORY

PL 1977, c. 488, §1 (NEW). PL 1977, c. 654, §8 (RP).

§5015-A. Fees

The director may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed $200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 313, §24 (AMD).]

SECTION HISTORY

PL 2001, c. 323, §8 (NEW). PL 2013, c. 313, §24 (AMD).

§5016. Disposition of fees

(REPEALED)

SECTION HISTORY

PL 1981, c. 456, §A38 (NEW). PL 1983, c. 553, §46 (AMD). RR 1993, c. 1, §19 (COR). PL 1999, c. 386, §A19 (AMD). PL 2007, c. 402, Pt. A, §9 (RP).

§5017. Denial or refusal to renew license; disciplinary action

The director or the director's designee may deny the license application, refuse to renew the license or suspend or revoke the license of a person or an entity that has been, or whose principals, officers, directors, employees or fundraisers have been, convicted of, found guilty of, pled guilty or nolo contendere to or have been incarcerated by any federal or state court for any felony or for any misdemeanor involving dishonesty, including, but not limited to, fraud, theft, larceny, embezzlement or any crime arising from the conduct of a solicitation for a charitable organization. [PL 2013, c. 313, §25 (AMD).]

The director or the director's designee may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized under Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [PL 2013, c. 313, §25 (AMD).]

SECTION HISTORY

PL 2003, c. 541, §18 (NEW). PL 2005, c. 497, §13 (AMD). PL 2007, c. 402, Pt. A, §10 (RPR). PL 2007, c. 695, Pt. A, §10 (AMD). PL 2011, c. 286, Pt. A, §11 (AMD). PL 2013, c. 313, §25 (AMD).

§5018. Rulemaking

The director shall propose, revise, adopt and enforce rules necessary to carry out this chapter. Rules adopted pursuant to this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 313, §26 (AMD).]

SECTION HISTORY

PL 2003, c. 541, §18 (NEW). PL 2013, c. 313, §26 (AMD).

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