

No. 254, A.]

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CHAPTER 600

AN ACT to create 20.730 (48) and 175.13 of the statutes, relating to the regulation of the solicitation and collection of contributions for charitable purposes and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.730 (48) of the statutes is created to read:

20.730 (48) LICENSING CHARITIES. All money received under s. 175.13 for the enforcement of that section.

SECTION 2. 175.13 of the statutes is created to read:

175.13 SOLICITATION AND COLLECTION OF FUNDS FOR CHARITABLE PURPOSES. (1) DEFINITIONS. As used in this section unless the context requires otherwise:

(a) "Charitable organization" includes any benevolent, philanthropic, patriotic or eleemosynary person or one purporting to be such.

(b) "Contribution" means the promise or grant of any money or property of any kind or value.

(c) "Professional fund raiser" includes any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose. A bona fide officer or employe of a charitable organization is not deemed a professional fund raiser.

(d) "Professional solicitor" includes any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes from persons in this state.

(e) "Department" means secretary of state.

(1m) VETERANS ORGANIZATIONS EXEMPT. This section does not apply to veterans organizations incorporated under ch. 188 or chartered under federal law.

(2) REGISTRATION OF CHARITABLE ORGANIZATIONS. (a) Every charitable organization, except as otherwise provided in sub. (3), which intends to solicit contributions from persons in this state by any means whatsoever shall, prior to any solicitation, file with the department upon forms prescribed by it, the following information:

1. The name under which the charitable organization intends to solicit contributions.

2. The names and address of officers, directors, trustees, and executive personnel.

3. The names and addresses of any professional fund raiser and professional solicitors who act or will act on behalf of the charitable organization, together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions or other remuneration to be paid to the professional fund raisers and professional solicitors.

4. The general purposes for which the charitable organization is organized.

5. The purposes for which the contributions to be solicited will be used.

6. The period of time during which the solicitation will be made.

7. Such other information as may be necessary or appropriate in the public interest or for the protection of contributors.

(b) The registration form, and any other documents prescribed by the department, shall be signed by the president or other authorized officer and the chief fiscal officer of the charitable organization.

(c) For filing such registration, the department shall receive a fee of \$5, to be paid at the time of registration.

(d) Such registration shall be effective either for a prescribed period, pursuant to reasonable regulation of the department, or on a continuing basis, without limitation as to time.

(3) EXEMPT PERSONS. The following persons shall not be required to register with the department:

(a) Corporations organized under the religious corporations law, and other religious agencies and organizations, and charities, agencies, and organizations operated, supervised or controlled by or in connection with a religious organization; and

(b) Educational institutions when solicitation of contributions is confined to its student body and their families, alumni, faculty and trustees.

(c) Fraternal, civic, benevolent, patriotic and social organizations when solicitation of contributions is confined to its membership or within the county in which the organization is located.

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

(e) Local community organizations or local fund-raising campaign managers affiliated with or acting for a state-wide parent charitable organization by contract or agreement need not register separately with the department. The single registration of the state-wide parent organization shall be considered all-inclusive of all its affiliated local community fund-raising organizations and individuals.

(4) REPORTS BY REGISTERED CHARITABLE ORGANIZATIONS. Every charitable organization required to register pursuant to sub. (2) which has received contributions during the preceding calendar year shall file a written report with the department upon forms prescribed by it, on or before March 31 of each year, which shall include a financial statement covering the preceding fiscal year of operation, verified by an independent public accountant clearly setting forth the gross income, expenses and net amount inuring to the benefit of the charitable organization. A charitable organization which maintains its books on other than a calendar year basis shall upon application to the department therefor be permitted to file its report within 90 days after the close of its fiscal year. Such report shall state the names of its professional fund raisers and professional solicitors used during the year, if any, and the amounts of compensation received by them. Such report when filed shall become a public record in the office of the department. The report of a state-wide parent charitable organization shall include the combined reports of all its local community fund-raising affiliates. This total state report shall be verified by a certified public accountant. Community reports of local affiliates or local managers to the parent organization need not be made separately to the department, but shall be made to the parent organization after being verified by an independent local audit.

(5) PROFESSIONAL FUND RAISERS; REGISTRATION AND BOND REQUIRED.

No person shall act as a professional fund raiser for a charitable organization required to register pursuant to sub. (2) until he has first registered with the department. Applications for such registration shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by an annual fee of \$50. 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 \$5,000, with one or more sureties whose liability in the aggregate as such sureties will at least equal such sum. The bond shall run to the secretary of state for the use of the state and to any person who may have a cause of action against the obligor of such bond for any malfeasance or misfeasance in the conduct of such solicitation. Registration when effected shall be for a period of one year, or a part thereof, expiring on August 31, and may be renewed upon the filing of the bond and fee prescribed herein for additional one-year periods.

(6) CONTRACTS TO BE RETAINED. All contracts entered into by such professional fund raisers and charitable organizations shall be in writing and true and correct copies thereof shall be kept on file in the offices of the charitable organization and the professional fund raiser for a period of 3 years from the date the solicitation of contributions provided for therein actually commences. Such contracts shall be available for inspection and examination by the secretary of state and other authorized agencies.

(7) PROFESSIONAL SOLICITOR; REGISTRATION REQUIRED. Every professional solicitor employed or retained by a professional fund raiser required to register pursuant to this subsection shall, before accepting employment by such professional fund raiser, register with the department. Application for such registration shall be in writing, under oath, in the form prescribed by the department, and shall be accompanied by a fee of \$10. Such registration when effected shall be for a period of one year, or a part thereof, expiring on August 31, and may be renewed upon payment of the fee prescribed by the subsection, for additional one-year periods.

(8) ENFORCEMENT BY ATTORNEY GENERAL. (a) An action for violation of this section may be prosecuted in any circuit court of this state by the attorney general in the name of the state and in any such action, the attorney general shall exercise all the powers and perform all duties which the district attorney would otherwise be authorized to exercise or to perform therein.

(b) Whenever the attorney general has reason to believe that any charitable organization, professional fund raiser or professional solicitor is operating in violation of this section, or 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 for obtaining money or property by means of any false pretense, representation or promise, in addition to any other action authorized by law, he may bring in any circuit court of this state an action in the name of the state against such charitable organization, professional fund raiser or professional solicitor, and any other person who has participated or is about to participate in such solicitation or collection by employing such device, scheme, artifice, false representation or promise, to enjoin such professional fund raiser or professional solicitor, or other person from continuing such solicitation or collection or engaging therein or doing any acts in furtherance thereof, or to cancel any registration statement previously filed with the department.

(9) DESIGNATION OF SECRETARY OF STATE AS AGENT FOR SERVICE OF PROCESS; SERVICE OF PROCESS. Any charitable organization, professional fund raiser or professional solicitor resident or having his or its principal place of business without the state or organized under and by virtue of the laws of another state, who or which shall solicit contributions from people

in this state, shall be deemed to have irrevocably appointed the secretary of state as his or its agent upon whom may be served any process directed to such charitable organization, professional fund raiser, professional solicitor or any partner, principal, officer or director thereof, in any action or proceeding brought by the attorney general under this section. Any such charitable organization, professional fund raiser or professional solicitor may file with the secretary of state a designation, in terms complying herewith, duly acknowledged, irrevocably appointing the secretary of state as his or its agent upon whom may be served any such process. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state a copy thereof at his office and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general to such charitable organization, professional fund raiser or professional solicitor by registered mail with return receipt requested, at his or its office as set forth in the registration form required to be filed in the department pursuant to subs. (2), (5) and (8), or in default of the filing of such form, at the last address known to the attorney general. Service of such process shall be complete 10 days after the receipt by the attorney general of a return receipt purporting to be signed by the addressee or a person qualified to receive his or its registered mail, in accordance with the rules and customs of the post-office department, or, if acceptance was refused by the addressee or his or its agent, 10 days after the return to the attorney general of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

(10) UNAUTHORIZED USE OF NAMES WHEN SOLICITING OR COLLECTING CONTRIBUTIONS. (a) No person who is required to register pursuant to this section shall use the name of any other person for the purpose of soliciting contributions from persons in this state, without the written consent of such other person.

(b) A person is deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure or correspondence of the charitable organization or his name is listed or referred to as one who has contributed to, sponsored or indorsed the charitable organization or its activities.

(c) Whoever violates this subsection shall be fined not exceeding \$250 or imprisoned not more than 6 months, or both.

Vetoed Sept. 21, 1961; Passed over veto Nov. 8, 1961.
