

CR93-97

**CERTIFICATE**

**STATE OF WISCONSIN**


**DEPARTMENT OF REGULATION AND LICENSING**

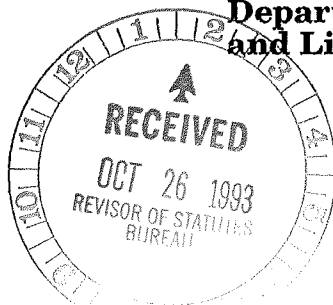
**TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:**

**I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department of Regulation and Licensing, do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 25th day of October, 1993.**

**I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.**

**IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at 1400 East Washington Avenue, Madison, Wisconsin this 25th day of October, 1993.**

  
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**Marlene A. Cummings**  
**Secretary**  
**Department of Regulation and Licensing**



1-1-94

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF REGULATION AND LICENSING
DEPARTMENT OF REGULATION	:	ADOPTING RULES
AND LICENSING	:	(CLEARINGHOUSE RULE 93-97)

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ORDER

An order of the Department of Regulation and Licensing to repeal and recreate chapter RL 5 relating to the registration of charitable organizations, professional fund-raisers and fund-raising counsel, and relating to annual reports submitted to the department by charitable organizations.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 440.42 (3) (am) and 440.455 (4), Stats.

Statutes interpreted: ss. 440.41 (6) and (7), 440.42 (3) and (4), 440.43, 440.44 and 440.455 (4), Stats.

In this proposed rule-making order the Department of Regulation and Licensing repeals chapter RL 5 because its provisions have been superseded by new definitions and requirements in 1991 Wisconsin Act 278, which became effective on December 1, 1992.

The new law, 1991 Wisconsin Act 278, requires the department to promulgate rules to specify criteria for granting an exemption from the annual financial report requirement and from solicitation disclosure requirements relating to those organizations which operate solely within one community and receive less than \$50,000 in contributions during a previous fiscal year. Therefore, chapter RL 5 is recreated to address these specific issues. It also addresses a number of other issues which need clarification.

These proposed rules define "community" and "operates," especially in order to address exemptions available to charitable organizations in ss. 440.42 (3) (am) and 440.455 (4), Stats. These proposed rules provide for claiming an exemption from the annual report requirement and the solicitation disclosure requirements by filing an affidavit which is similar to the affidavit required of those charitable organizations which claim exemption from the annual report requirement because they received less than \$5,000.00 contributions during their most recently-completed fiscal year. These proposed rules also define "charitable organizations," "group returns," "municipality" and "principal office."

The proposed rules prescribe the minimal information which must be contained in an affidavit which a charitable organization must file in order to obtain an exemption from filing a financial report or from providing certain disclosures when soliciting contributions. Such information is required for the department to evaluate whether the organization qualifies for the exemption and to correctly credit the proper organization for receipt of the affidavit.

The proposed rules also describe the criteria which a charitable organization must meet in order to be eligible for an exemption when it operates solely in one community and received less than \$50,000 during its most recently-completed fiscal year.

The proposed rules describe the procedures for registering as a charitable organization, professional fund-raiser or fund-raising counsel. These procedures focus on the application forms and the bond which is required in some cases.

The proposed rules also clarify issues relating to annual financial reports to be submitted to the department by charitable organizations. The proposed rules clarify who must file a financial report, the contents and standards of completion of financial reports, and the conditions for acceptance of group returns.

Finally, these proposed rules clarify when a private foundation is required to register.

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TEXT OF RULE

SECTION 1. Chapter RL 5 is repealed and recreated to read:

CHAPTER RL 5 (title)

CHARITABLE SOLICITATIONS

RL 5.01 AUTHORITY. This chapter is adopted pursuant to ss. 227.11 (2), 440.42 (3) (am) and 440.455 (4), Stats.

RL 5.02 DEFINITIONS. In this chapter:

(1) "Charitable organization" means any of the following:

(a) An organization that is described in section 501 (c) (3) of the internal revenue code and that is exempt from taxation under section 501 (a) of the internal revenue code.

(b) A person who is or purports to be established for a charitable purpose.

Note: A private foundation which solicits contributions in this state or has contributions solicited in this state on its behalf falls under this definition.

Note: An organization which is exempt from registration requirements under s. 440.42 (5), Stats., is exempt from the reporting requirement of this chapter.

(2) "Community" means the county in which a charitable organization's principal office is located.

(3) "Group return" means a financial report submitted by a central, parent or similar charitable organization for 2 or more charitable organizations which are affiliated with it.

(5) A statement that the organization qualifies for an exemption and the reason why the organization believes it qualifies for the exemption.

(6) The signature of 2 authorized officers, including the chief fiscal officer, of the charitable organization. The officers shall swear that the information in the affidavit is true.

Note: A copy of the affidavit form may be obtained from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

RL 5.05 EXEMPTION OF PROFESSIONAL FUND-RAISER FROM SOLICITATION DISCLOSURE REQUIREMENTS. If a registered charitable organization obtains an exemption from the solicitation disclosure requirements in s. 440.455 (1) and (2), Stats., a professional fund-raiser or an unpaid solicitor who solicits contributions on behalf of the registered charitable organization is also exempt from the solicitation disclosure requirements in s. 440.455 (1) and (2), Stats., when soliciting contributions on behalf of the registered charitable organization; however, a professional fund-raiser may not, under any circumstances, be exempted from the solicitation requirements in s. 440.455 (3), Stats.

RL 5.06 PROCEDURES FOR REGISTERING A CHARITABLE ORGANIZATION.  
(1) APPLICATION FOR REGISTRATION. An applicant for registration as a charitable organization shall submit to the department an application on a form prepared by the department, a registration statement that complies with s. 440.42 (2), Stats., and a \$15 registration fee. Pursuant to s. 440.42 (2) (m), Stats., the department may require information about a professional fund-raiser or fund-raising counsel whose services the charitable organization uses and information about whether any officers, directors, trustees or executive officers of the charitable organization have been convicted of a felony or a misdemeanor.

(2) REGISTRATION OF A PARENT OR CENTRAL CHARITABLE ORGANIZATION. A central, parent or similar charitable organization may file a single application for registration of the central, parent or similar charitable organization and all of its affiliated subunits, provided that the central, parent or similar charitable organization has complete and direct control over the solicitation activities of all subunits, receives all contributions for its use or future distribution to the subunits and is accountable for all receipts and disbursements relating to the solicited contributions.

Note: A copy of the application form may be obtained from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

RL 5.07 PROCEDURES FOR REGISTERING AS A PROFESSIONAL FUND-RAISER OR FUND-RAISING COUNSEL. (1) APPLICATION FOR REGISTRATION. An applicant for registration as a professional fund-raiser or fund-raising counsel shall file an application on a form prepared by the department and fee pursuant to ss. 440.43 or 440.44, Stats., as applicable.

(2) BOND. An applicant for registration as a professional fund-raiser or a fund-raising counsel shall file a bond pursuant to ss. 440.43 or 440.44, Stats., as applicable, on a form provided by the department or on a form acceptable to the department.

Note: A copy of the application form and 3 bond forms, each of which provides for a different level of coverage, may be obtained from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

RL 5.08 ANNUAL FINANCIAL REPORTS. (1) REGISTERED CHARITABLE ORGANIZATIONS. Only charitable organizations which are registered or are required to be registered with the department are required to file an annual report or an affidavit in lieu of an annual report with the department.

(2) CONTENTS OF ANNUAL REPORTS. The annual report form prepared by the department shall request the financial information required in s. 440.42 (3) (a) 1, 2 and 3, Stats., and shall include questions which bring current the information which a charitable organization provided to the department in an earlier registration pursuant to s. 440.42 (2) (a), Stats. The annual report form prepared by the department will require no other financial information.

(3) STANDARDS FOR COMPLETION OF ANNUAL REPORTS. An annual financial report submitted to the department pursuant to s. 440.42 (3), Stats., by a charitable organization which is registered or required to be registered shall be complete, accurate and truthful. It shall include all schedules and attachments required by the form prepared by the department pursuant to s. 440.42 (3) (a), Stats., or prepared by another person pursuant to s. 440.42 (4), Stats. A charitable organization which files with the department financial information which it has filed with another state or the federal government shall complete a supplemental form prepared by the department which requires additional information to comply with sub. (2).

Note: The annual report form and the supplemental form may be obtained upon request from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

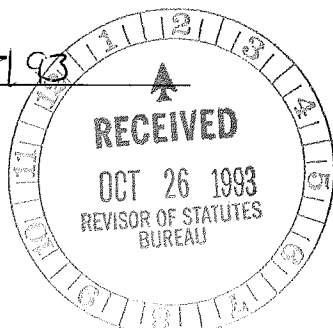
(4) GROUP FILING OF ANNUAL REPORT. Pursuant to s. 440.42 (4), Stats., the department may accept information properly filed with the federal government as a group return by a charitable organization which is registered or required to be registered, provided that the group return complies with subs. (2) and (3).

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_

10/25/93



Agency \_\_\_\_\_

*Marlene A. Cummings*  
Marlene A. Cummings, Secretary  
Department of Regulation  
and Licensing

**CORRESPONDENCE/MEMORANDUM**

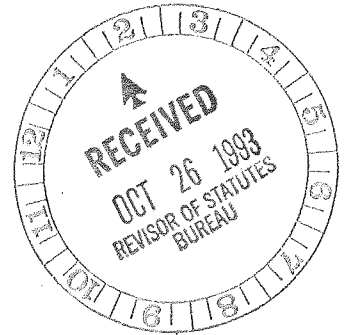
**STATE OF WISCONSIN**

**DATE:** October 26, 1993

**TO:** Gary Poulson  
Assistant Revisor of Statutes

**FROM:** Pamela Haack, Administrative Assistant  
Department of Regulation and Licensing

**SUBJECT:** Final Rulemaking Order



**Agency: DEPARTMENT OF REGULATION AND LICENSING**

**Clearinghouse Rule: 93-97**

Attached is a copy and a certified copy of a final order adopting rules.  
Would you please publish these rules in the code.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.