

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

GENERAL INFORMATION ON THE
CONNECTICUT SOLICITATION OF CHARITABLE FUNDS ACT

This is a summary of some of the provisions of the Connecticut Solicitation of Charitable Funds Act ("the Act"). It is intended for organizations that are seeking information about whether they must register and what is required of them. A copy of the Act is enclosed. We urge you to read it for more specific information. Also enclosed are the forms you will need to register or to claim exemption from registration.

A. What Are The Act's Purposes?

The purposes of the Act are twofold. First, to provide a source of information for the public on the financial and programmatic activities of non-profit organizations that seek the public's support. Second, to better enable the state to detect and, if necessary, prosecute those who abuse the public's trust in philanthropic institutions.

B. Who Administers The Act?

The Connecticut Department of Consumer Protection ("DCP") is responsible for the administration of the Act and the Attorney General is empowered to initiate civil and criminal proceedings for violations of the Act. The DCP and the Attorney General maintain a joint unit to coordinate administrative and enforcement activities. The unit, called the Public Charities Unit, may be reached at:

Public Charities Unit
c/o Office of the Attorney General
P.O. Box 120, 55 Elm St., Hartford, CT 06141-0120
Telephone: (860) 808-5030
Fax: (860) 808-5347

C. Who is Covered?

The Act applies to charitable organizations that solicit funds or anything of value. Carefully read the definition of charitable organization in the next paragraph. Then read Part D on "What Constitutes Soliciting?". If your organization fits within the definition of charitable organization and it solicits, then it is covered by the Act. An organization that does not fit the definition, or an organization that fits the definition but does not solicit, is not subject to the Act.

The Act defines a charitable organization as "any person who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or eleemosynary purpose, or for the benefit of law enforcement officers, firefighters or other persons who protect the public safety." Person means "an individual, corporation, association, partnership, trust, foundation or any other entity however styled." Organizations that have been determined by the Internal Revenue Service to be exempt from federal taxation under sections 501(c)(3) (charitable, educational, religious, scientific testing) or 501(c)(4) (civic, social welfare) of the Internal Revenue Code are clearly subject to the Act, if they solicit (see Part D). Organizations that have not applied for or received federal tax exemption, or organizations that have received exemption under another category of section 501(c) are also subject to the Act if they engage in any activity that involves the solicitation of contributions (see Part D). Thus, for example, a social club that solicits contributions for a scholarship fund is covered. Also, police and firefighter labor unions and benevolent associations are specifically included within the scope of the Act.

D. What Constitutes Soliciting?

The Act defines solicit very broadly. In essence, it includes any request, however made, for any kind of support, financial or otherwise. This includes fund-raising by mail, telephone, in-person contact, posters, raffles and the sale of goods or services. For purposes of the Act, the extent of solicitation is largely irrelevant. Thus, an organization is covered even if it only solicits grants from corporations or foundations and does no "public" fund-raising. Anything received in response to a solicitation is a contribution. However, the statute specifically excludes from the definition of contribution "bona fide fees, dues or assessments paid by members, provided membership is not conferred solely as consideration for making a contribution in response to a solicitation."

E. Who Must Register? Who is Exempt?

Any organization that solicits contributions for charitable purposes must register with the DCP prior to the commencement of solicitation, unless the organization meets one of the criteria for exemption. Again, please refer to Part C and Part D for information about what constitutes a

charitable organization for purposes of the Act and what constitutes soliciting. Organizations entitled to claim an exemption from registration are:

1. Any duly organized religious corporation, religious institution or religious society;
2. Any parent-teacher association or educational institution, the curricula of which in whole or in part are registered or approved by any state or the United States either directly or by acceptance of accreditation by an accrediting body;
3. Any non-profit hospital licensed under the laws of Connecticut or another state;
4. Any governmental unit or instrumentality of any state or the United States;
5. Any person who solicits solely for the benefit of an organization described in (1) through (4) above; and
6. Any organization which normally receives less than fifty thousand dollars (\$50,000) in contributions annually, provided such organization does not compensate any person primarily to conduct solicitations.

The word contribution in number 6 of this list means any grant, promise or pledge of money, credit, property, financial assistance, or other thing of value received as a result of a fund raising activity. It includes the gross amount received (before deducting expenses) in connection with a special fund raising event. It does not include other kinds of revenue such as membership dues (see Part D) and fees received in exchange for providing a charitable service. "Normally" means for any two out of the last three consecutive years. If your organization has not been in existence that long, you may make a good faith estimate as to the amount of contributions that will be received each year.

An organization falling within one of the classes described above is not automatically exempt. Exemption must be claimed by filing Form CPC-54, Claim of Exemption From Registration (the pink form). There is no filing fee. Exemption need be claimed only once and does not have to be renewed, although the DCP may from time to time require an organization to verify its continued eligibility for exemption. There is no annual financial reporting requirement. However, if the circumstances of the organization change so that the exemption no longer applies, it is the duty of the organization to register at that time.

F. How Does An Organization Register?

Registration is made by filing Form CPC-63, Charitable Organization Registration Statement (the yellow form), together with a one-time \$20.00 filing fee. The registration is effective when the DCP receives the completed form and fee. As this is not a license, there is no evaluation of the organization necessitating a waiting period. The organization will receive from the DCP a Certificate of Registration and instructions for filing the first financial report.

G. What Are The Annual Financial Reporting Requirements?

A registered organization must file the following within five months after the close of each fiscal year:

{ Form CPC-60, Annual Report Face Sheet. (That form is not included in this package; see last paragraph of Part G for more information.)

{ A copy of an Internal Revenue Service Form 990, Form 990-EZ, or Form 990-PF, whichever is appropriate to the organization. Please note that even if the organization is not exempt from federal taxation and, therefore, does not file one of these forms with the IRS, it still must complete the form for state purposes.

{ If the organization's gross receipts exceeded \$ 200,000 (excluding grants or fees from government agencies and revenue from trusts held by a trustee (usually a bank) for the benefit of the organization), it must file an audit report of an independent public accountant. The auditor's opinion can relate to the IRS form or to a separate set of audited financial statements. It is very important to observe here the distinction between gross receipts and gross revenue for purposes of the audit threshold. Gross receipts includes the total income from an activity without deducting expenses related to the activity. For example, if \$50,000 worth of raffle tickets are sold and the prizes cost the organization \$30,000, the full \$50,000 is counted toward gross receipts, not just the \$20,000 the organization netted.

{ A \$25.00 filing fee.

{ If the report is filed and postmarked after its due date, an additional \$25.00 late filing penalty is due. An organization can request a three month extension beyond the five month due date in which to file the report. To avoid the late filing penalty, the request must be in writing and postmarked before the original due date of the return (five months after the end of its fiscal year). The Act permits only a three month extension, regardless of whether the IRS grants a longer extension.

If your organization registers, DCP will provide you with information about your first annual report. That information will identify your first reporting year, state when the report will be due and include the Annual Report Face Sheet and instructions. Each year after that, DCP will automatically mail the form and instructions to the organization during the month immediately following the close of its fiscal year.

The Act creates two classes of what are sometimes referred to as professional fund-raisers. A bona fide non-temporary salaried officer or employee of a non-profit does not fall within either class.

{ A Fund-Raising Counsel is one who plans, manages, or otherwise advises an organization with respect to a fund-raising effort but who does not directly solicit contributions and who does not hire someone else to do soliciting. The only filing requirement is that the Fund-Raising Counsel submit to the DCP a copy of the contract between it and the non-profit organization. The exception is in the unusual circumstance where the Fund-Raising Counsel has custody or control of contributions. In that event, the Fund-Raising Counsel must separately register and post a surety bond with the DCP.

{ A Paid Solicitor is one who is hired by the non-profit to solicit contributions on its behalf. Generally, the litmus test of whether someone is a Paid Solicitor is whether there is person-to-person or voice-to-voice contact between the solicitor and the prospective donor. Thus, a person or firm hired by the non-profit to make telephone solicitations would be a Paid Solicitor; whereas a firm hired by the non-profit to prepare a solicitation solely by mail would be considered a Fund-Raising Counsel.

{ The Act imposes particular requirements on Paid Solicitors and the non-profits that hire them. The Paid Solicitor must annually register and post a \$20,000 surety bond with the DCP. Also, the Paid Solicitor and the non-profit must jointly file a notice of intent to solicit prior to the start of each separate fund-raising campaign and must file a financial report at the conclusion of each campaign. This financial report is in addition to the annual report required of the registered organization discussed above. Reference should be made to the Act for the particulars on these and other related requirements.

I. What About Commercial Sales Promotions That Benefit a Non-Profit?

A possible source of funds for non-profits is the offer by a commercial enterprise to donate to the non-profit a portion of the revenue derived from the advertised sale of a product or service. The objective for the commercial enterprise is to increase product sales by being identified as supporting a charitable cause. For the non-profit, it is a source of revenue and perhaps a means of increasing its name recognition.

The Act refers to these joint ventures as charitable sales promotions. A business, which the Act refers to as a Commercial Co-venturer, that engages in a charitable sales promotion must have a contract with the non-profit and file a copy of it with the DCP prior to the start of the sale. The Act specifies certain provisions that must be in the contract. They are:

5

{ a description of the goods or services to be offered;

{ the geographic area in which the sale will occur and the time frame in which it will occur;

- { a provision for a final accounting by the Co-venturer to the non-profit;
- { the date and the manner in which the benefit is to be conferred on the non-profit; and
- { the manner in which the name of the non-profit is to be used in the promotion, including any representation to be made to the public as to the amount or per cent per unit of goods or services purchased or used that is to benefit the non-profit. In this regard, it is important to note that the Act requires this kind of benefit disclosure in all advertising relating to the sale.

INCORPORATION, TAX EXEMPTION AND GAMES OF CHANCE

Registering with the Dept. of Consumer Protection to solicit funds, or claiming an exemption from registration, is unrelated to incorporating as a nonprofit, obtaining tax exemption (state and

federal) and being licensed to conduct games of chance (raffle, Las Vegas nights, etc.). There are other state and federal agencies you need to contact for information about those matters.

Incorporating

Although you do not have to incorporate, there may be advantages in doing so. We urge you to seek professional advice. In Connecticut, organizations incorporate through the Secretary of the State, 30 Trinity Street, Hartford, CT 06106. www.sots.state.ct.us

Tax Exemption

If your organization wants to be exempt from federal income tax, the organization must apply to the Internal Revenue Service. Information about this can be obtained from the IRS by calling 1-800-829-FORM (3676) and ordering Publication 557, "Tax Exempt Status for Your Organization." or on the web www.irs.gov. Again, we urge you to seek professional advice.

State of Connecticut tax matters, including exemption from paying sales tax on products your charity purchases, are handled by the Connecticut Dept. of Revenue Services, 25 Sigourney Street, Hartford, CT 06106. www.drs.state.ct.us

Games of Chance

Connecticut law allows certain nonprofit organizations to conduct games of chance, such as raffles, Las Vegas Nights, bingo, etc. Permits are required. Inquiries should be directed to Division of Special Revenue, 555 Russell Road, Newington, CT 06111. www.state.ct.us/dosr