

# Public Act 05-101

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## CONNECTICUT SOLICITATION OF CHARITABLE FUNDS ACT

**Sec. 21a-175. (Formerly Sec. 19-323k). Short title: Solicitation of Charitable Funds Act.** This chapter shall be known and may be cited as the "Solicitation of Charitable Funds Act".

**Secs. 21a-176 to 21a-190. (Formerly Secs. 19-323l to 19-323z). Solicitation of charitable funds.** Sections 21a-176 to 21a-190, inclusive, are repealed.

**Sec. 21a-190a. Solicitation of charitable funds: Definitions.** As used in sections 21a-190a to 21a-190l, inclusive:

(1) "Charitable organization" means 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.

(2) "Person" means an individual, corporation, limited liability company, association, partnership, trust, foundation or any other entity however styled.

(3) "Solicit" and "solicitation" mean any request directly or indirectly for money, credit, property, financial assistance or other thing of any kind or value on the plea or representation that such money, credit, property, financial assistance or other thing of any kind or value is to be used for a charitable purpose or benefit a charitable organization. "Solicit" and "solicitation" shall include, but shall not be limited to, the following methods of requesting or securing such money, credit, property, financial assistance or other thing of value: (A) Any oral or written request; (B) any announcement to the press, over the radio or television or by telephone or telegraph concerning an appeal or campaign by or for any charitable organization or purpose; (C) the distribution, circulation, posting or publishing of any handbill, written advertisement or

other publication; (D) the sale of, offer or attempt to sell, any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with an appeal made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale is to be used for any charitable purpose or benefit any charitable organization. A solicitation shall be deemed to have taken place whether or not the person making the same receives any contribution.

(4) "Charitable purpose" means any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or eleemosynary objective.

(5) "Contribution" means the grant, promise or pledge of money, credit, property, financial assistance or other thing of any kind or value in response to a solicitation. "Contribution" shall not include 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.

(6) "Fund-raising counsel" means a person who for compensation plans, manages, advises or consults with respect to the solicitation in this state of contributions by a charitable organization, but who does not solicit contributions and who does not directly or indirectly employ, procure or engage any person compensated to solicit contributions. A bona fide nontemporary salaried officer or employee of a charitable organization shall not be deemed to be a fund-raising counsel.

(7) "Paid solicitor" means a person who for compensation, other than any nonmonetary gift of nominal value awarded to a volunteer solicitor as an incentive or token of appreciation, performs for a charitable organization any service in connection with which contributions are solicited by such person or by any person he directly or indirectly employs, procures or engages to solicit for such compensation. A bona fide nontemporary salaried officer or employee of a charitable organization shall not be deemed to be a paid solicitor.

(8) "Commercial coventurer" means a person who for profit is regularly and primarily engaged in trade or commerce in this state other than in connection with the raising of funds for charitable organizations or purposes and who conducts a charitable sales promotion.

(9) "Charitable sales promotion" means 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 are to benefit a charitable organization or purpose.

(10) "Department" means the Department of Consumer Protection.

(11) "Commissioner" means the Commissioner of Consumer Protection.

(12) "Membership" means that which entitles a person to the privileges, professional standing, honors or other direct benefit of the organization and the rights to vote, elect officers and hold office in the organization.

(13) "Parent organization" means that part of a charitable organization which supervises and exercises control over the solicitation and expenditure activities of one or more chapters, branches or affiliates.

(14) "Gross revenue" means income of any kind from all sources, including all amounts received as the result of any solicitation by a paid solicitor.

**Sec. 21a-190b. Registration of charitable organizations prior to solicitation. Fee.** (a) Every charitable organization not exempted by section 21a-190d shall annually register with the department prior to conducting any solicitation or prior to having any solicitation conducted on its behalf by others.

Application for registration shall be made on forms prescribed by the department and shall include payment of a fee of fifty dollars. Such application shall include:

(1) A registration statement, (2) an annual financial report for such organization for the preceeding fiscal year that is prepared in accordance with the provisions of subsection (a) of section 21a-190c, and (3) an audited financial statement as required by subsection (b) of said section 21a-190c. Two authorized officers of the organization shall sign the registration statement and shall certify that the statements therein are true and correct to the best of their knowledge.

A chapter, branch or affiliate in this state of a registered parent organization shall not be required to register provided the parent organization files a consolidated annual registration for itself and its chapter, branch or affiliate. Each charitable organization shall annually renew its registration not later than five months after the end of such organization's fiscal year.

(b) In the event the department determines that the application for registration does not contain the documents required in subsection (a) of this section or is

not in accordance with the regulations adopted by the commissioner pursuant to this chapter, the department shall notify the charitable organization, in writing, of such noncompliance not later than ten days after the department's receipt of such application for registration. An application for registration shall be deemed to be approved if the charitable organization is not notified of noncompliance by the department not later than ten days after the department's receipt of the application for registration. Any such charitable organization may request a hearing on its noncompliant status not later than seven days after receipt of such noncompliance notice. Such hearing shall be held not later than seven days after the department's receipt of such request and a determination as to the organization's compliance status shall be rendered no later than three days after such hearing.

(c) In addition to the application fee required pursuant to subsection (a) of this section, a charitable organization shall pay a late fee of twenty-five dollars for each month, or part thereof, that such application for registration is late, except that such late fee shall not include any month during which an extension of time was granted pursuant to subsection (d) of this section.

(d) The commissioner may, upon written request and for good cause shown, grant an extension of time, not to exceed one hundred eighty days, for the filing of a charitable organization's annual financial report. Any previous registration shall remain in effect during any such extension period.

(e) In the event that a charitable organization fails to register in accordance with the provisions of this section, such organization shall include in its application for registration an annual financial report for each of the previous years in which such organization was required to file an application for registration or an annual financial report.

(f) Any charitable organization registered in accordance with this section on September 30, 2005, shall be deemed to be registered pursuant to this section until the last day of the fifth month after the close of the fiscal year in effect on September 30, 2005.

**Sec. 21a-190c. Annual financial reports. Fiscal records.**

(a) Every charitable organization required to register pursuant to section 21a-190b shall annually file with the department, as part of such organization's application for registration, a financial report for its most recently completed fiscal year, which report shall include a financial statement and such other information as the commissioner may require and shall be signed by two authorized officers of the organization, one of whom shall be the chief fiscal officer of the organization. The information contained in such report shall be available to the public. Such officers shall certify that such report is true and correct to the best of their knowledge. The commissioner shall prescribe the form of the report and may prescribe standards for its completion. The commissioner may accept,

under such conditions as said commissioner may prescribe, a copy or duplicate original of financial statements, reports or returns filed by the charitable organization with the Internal Revenue Service or another state having requirements similar to the provisions of sections 21a-190a to 21a-190l, inclusive.

(b) A charitable organization with gross revenue in excess of two hundred thousand dollars in the year covered by the report shall include with its financial statement an audit report of a certified public accountant. For purposes of this section, gross revenue shall not include grants or fees from government agencies or the revenue derived from funds held in trust for the benefit of the organization.

(c) Every charitable organization required to file an annual report and every charitable organization subject to the provisions of subdivision (6) of section 21a-190d shall keep true fiscal records which shall be available to the department for inspection upon request. Such organization shall retain such records for no less than three years after the end of the fiscal year to which they relate.

**Sec. 21a-190d. Charitable organizations exempted from registration and financial disclosure requirements.** The following charitable organizations shall not be subject to the provisions of sections 21a-190b and 21a-190c, provided each such organization shall submit such information as the department may require to substantiate an exemption under this section:

- (1) Any duly organized religious corporation, institution or 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 nonprofit hospital licensed in accordance with the provisions of section 19a-630 or any similar provision of the laws of any other state;
- (4) Any governmental unit or instrumentality of any state or the United States;
- (5) Any person who solicits solely for the benefit of organizations described in subdivisions (1) to (4), inclusive, of this section; and

(6) Any charitable organization which normally receives less than fifty thousand dollars in contributions annually, provided such organization does not compensate any person primarily to conduct solicitations.

**Sec. 21a-190e. Fund-raising counsel. Filing of contracts. Registration of fund-raising counsel. Fees. Bond. Accounting for funds received.** (a) Each contract between a charitable organization and a fund-raising counsel shall be in writing and shall be filed by the fund-raising counsel with the department at least fifteen days prior to the performance by the fund-raising counsel of any material services pursuant to such contract. The contract shall contain such information as will enable the department to identify the services the fund-raising counsel is to provide and the manner of his compensation.

(b) A fund-raising counsel who at any time has custody or control of contributions from a solicitation shall register with the department. Applications for registration or renewal of a registration as a fund-raising counsel shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by a fee in the amount of one hundred twenty dollars. Each application shall contain such information as the department shall require. Each registration shall be valid for one year and may be renewed for additional one-year periods. An applicant for registration or for a renewal of registration as a fund-raising counsel shall, at the time of making such application, file with and have approved by the department a bond, in which the applicant shall be the principal obligor in the sum of twenty thousand dollars, with one or more responsible sureties whose liability in the aggregate as such sureties shall be no less than such sum. The fund-raising counsel shall maintain the bond in effect as long as the registration is in effect. The bond shall run to the state and to any person who may have a cause of action against the principal obligor of the bond for any liabilities resulting from the obligor's conduct of any activities subject to sections 21a-190a to 21a-190l, inclusive, or arising out of a violation of said sections or any regulation adopted pursuant to said sections. Any such fund-raising counsel shall account to the charitable organization with which he has contracted for all income received and expenses paid no later than ninety days after a solicitation campaign has been completed, and in the case of a solicitation campaign lasting more than one year, on the anniversary of the commencement of such campaign. Such accounting shall be in writing, shall be retained by the charitable organization for three years and shall be available to the department upon request.

**Sec. 21a-190f. Paid solicitors. Registration. Fees. Bond. Filing of contracts. Solicitation notice. Contract requirements. Disclosures at point of solicitation. Prohibited practices. Records. Deposit of funds.** (a) No person shall act as a paid solicitor unless such person has first registered with the department. Applications for registration and for the renewal of a registration shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by a fee in the amount of five hundred dollars. The application shall contain such information as the department shall require. Each registration shall be valid for one year and may be renewed for additional one-year periods.

(b) An applicant for registration or for a renewal of registration as a paid solicitor shall, at the time of making such application, file with and have approved by the department a bond, in which the applicant shall be the principal obligor in the sum of twenty thousand dollars, with one or more responsible sureties whose liability in the aggregate as such sureties shall be no less than such sum. The paid solicitor shall maintain the bond in effect as long as the registration is in effect. The bond shall run to the state and to any person who may have a cause of action against the principal obligor of the bond for any liabilities resulting from the obligor's conduct of any activities subject to sections 21a-190a to 21a-190l, inclusive, *as amended by this act*, or arising out of a violation of said sections or any regulation adopted pursuant to said sections.

(c) No less than twenty days prior to the commencement of each solicitation campaign, a paid solicitor shall file with the department a copy of the contract described in subsection (d) of this section and shall file a completed solicitation notice on forms prescribed by the department. A solicitation notice shall be in writing and under oath, and shall include a description of the solicitation event or campaign, the location and telephone number from which the solicitation is to be conducted, the names and residence addresses of all employees, agents or other persons however styled who are to solicit during such campaign and the account number and location of all bank accounts where receipts from such campaign are to be deposited. Copies of campaign solicitation literature, including the text of any solicitation to be made orally, shall be attached to the solicitation notice. The charitable organization on whose behalf the paid solicitor is acting shall certify that the solicitation notice and accompanying material are true and complete. Prior to the commencement of such solicitation campaign, the commissioner shall publicize such solicitation through the issuance of a press release and the posting on the department's web site of information describing the terms of the contract between the paid solicitor and the charitable organization, the dates of such solicitation campaign and the percentage of the raised funds to be retained by the paid solicitor. The commissioner may publicize such solicitation through any additional means the commissioner deems appropriate.

(d) A contract between a paid solicitor and a charitable organization shall be in writing, shall clearly state the respective obligations of the paid solicitor and the charitable organization and shall state the minimum amount that the charitable organization shall receive as a result of the solicitation campaign, which minimum amount shall be stated as a percentage of the gross revenue. Such minimum amount shall not include any amount that the charitable organization is to pay as expenses of the solicitation campaign.

(e) A paid solicitor shall, prior to orally requesting a contribution, and at the same time at which a written request for a contribution is made, clearly and conspicuously disclose at the point of solicitation such solicitor's name as on file with the department, the fact that such solicitor is a paid solicitor and the percentage of the gross revenue which the charitable organization shall receive as identified in subsection (d) of this section.

(f) A paid solicitor shall, in the case of a solicitation campaign conducted orally, whether by telephone or otherwise, send a written confirmation to each person who has pledged to contribute, no more than five days after such person has been solicited, which confirmation shall include a clear and conspicuous disclosure of the information required by subsection (e) of this section.

(g) A paid solicitor shall not represent that any part of the contributions received will be given or donated to any charitable organization unless such organization has consented in writing to the use of its name, prior to the solicitation. Such written consent, if given, shall be signed by two authorized officers, directors or trustees of the charitable organization.

(h) No paid solicitor may represent that tickets to an event are to be donated for use by another, unless the paid solicitor has first obtained a commitment, in writing, from a charitable organization stating that it will accept donated tickets and specifying the number of tickets which it is willing to accept and provided no more contributions for donated tickets shall be solicited than the number of ticket commitments received from the charitable organization.

(i) A paid solicitor shall require any person such solicitor directly or indirectly employs, procures or engages to solicit to comply with the provisions of subsections (e) to (h), inclusive, of this section.

(j) A paid solicitor shall file a financial report for the campaign with the department no more than ninety days after a solicitation campaign has been completed, and on the anniversary of the commencement of any solicitation campaign which lasts more than one year. The financial report shall include gross revenue and an itemization of all expenditures incurred. The report shall be completed on a form prescribed by the department. An authorized official of

the paid solicitor and two authorized officials of the charitable organization shall sign such report and they shall certify, under oath, that such report is true and complete to the best of their knowledge. The information contained in such report shall be available to the public.

(k) A paid solicitor shall maintain during each solicitation campaign and for not less than three years after the completion of each such campaign the following records, which shall be available to the department for inspection upon request: (1) The name and address of each contributor and the date and amount of the contribution, provided the department shall not disclose this information except to the extent necessary for investigative or law enforcement purposes; (2) the name and residence of each employee, agent or other person involved in the solicitation; and (3) records of all income received and expenses incurred in the course of the solicitation campaign.

(l) If a paid solicitor sells tickets to an event and represents that tickets will be donated for use by another, the paid solicitor shall maintain, for not less than three years after the completion of such event, the following records, which shall be available to the department for inspection upon request: (1) The name and address of contributors donating tickets and the number of tickets donated by each contributor; and (2) the name and address of all organizations receiving donated tickets for use by others, including the number of tickets received by each organization.

(m) All funds collected by the paid solicitor shall be deposited in a bank account. The bank account shall be in the name of the charitable organization with whom the paid solicitor has contracted and the charitable organization shall have sole or joint control of the account.

(n) Any material change in any information filed with the department pursuant to this section shall be reported in writing by the paid solicitor to the department not more than seven days after such change occurs.

(o) No person may act as a paid solicitor if such person, any officer or director thereof, any person with a controlling interest therein, or any person the paid solicitor employs, engages or procures to solicit for compensation, has been convicted by a court of any state or the United States of any felony, or of any misdemeanor involving dishonesty or arising from the conduct of a solicitation for a charitable organization or purpose. Any denial, suspension or revocation of the registration of a paid solicitor based on a violation of this subsection shall be made in accordance with the provisions of section 46a-80.

**Sec. 21a-190g. Commercial coventurers. Filing of contracts. Terms.**

**Accounting. Disclosures required in advertising.** (a) Every charitable organization which agrees to permit a charitable sales promotion to be conducted in its behalf, shall obtain a written agreement from the commercial coventurer and file a copy of such agreement with the department not less than ten days prior to the commencement of the charitable sales promotion within this state. An authorized representative of the charitable organization and the commercial coventurer shall sign such agreement and the terms of such agreement shall include the following: (1) The goods or services to be offered to the public; (2) the geographic area where, and the starting and final date when, such offering is to be made; (3) the manner in which the name of the charitable organization is to be used, 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 charitable organization; (4) a provision for a final accounting on a per unit basis to be given by the commercial coventurer to the charitable organization and the date when it is to be made; and (5) the date when and the manner in which the benefit is to be conferred on the charitable organization.

(b) A commercial coventurer shall keep the final accounting for each charitable sales promotion for three years after the final accounting date and such accounting shall be available to the department upon request.

(c) A commercial coventurer shall disclose in each advertisement for a charitable sales promotion the amount per unit of goods or services purchased or used that is to benefit the charitable organization or purpose. Such amount may be expressed as a dollar amount or as a percentage of the value of the goods or services purchased or used.

**Sec. 21a-190h. Prohibited acts.** It shall be a violation of sections 21a-190a to 21a-190l, inclusive, for: (1) Any person to misrepresent the purpose or beneficiary of a solicitation; (2) any person to misrepresent the purpose or nature of a charitable organization; (3) any charitable organization or any person engaged in the affairs of a charitable organization to engage in any financial transaction which is not related to the accomplishment of its charitable purpose, or which jeopardizes or interferes with the ability of the charitable organization to accomplish such organization's charitable purpose; (4) any charitable organization to expend an unreasonable amount of money for solicitation or management; (5) any person to use or exploit the fact of registration so as to lead the public to believe that such registration constitutes an endorsement or approval by the state; (6) any person to misrepresent that any other person sponsors or endorses a solicitation; (7) any person to use the name of a charitable organization, or to display any emblem, device or printed matter belonging to or associated with a charitable organization without the express

written permission of the charitable organization; (8) any charitable organization to use the name which is the same as or confusingly similar to the name of another charitable organization unless the latter organization shall consent in writing to its use; (9) any charitable organization to represent itself as being associated with another charitable organization without the express written acknowledgment and endorsement of such other charitable organization; (10) any person to make any false or misleading statement on any document required by sections 21a-190a to 21a-190l, inclusive; (11) any person to fail to comply with the requirements of sections 21a-190b to 21a-190g, inclusive; (12) any charitable organization to use the services of an unregistered fund-raising counsel or paid solicitor; (13) any fund-raising counsel or paid solicitor to perform any services on behalf of an unregistered charitable organization; or (14) any person to appropriate any property of a charitable organization for private use.

**Sec. 21a-190i. Investigations. Subpoenas. Court orders.** (a) The department, on its own motion or on complaint of any person, may conduct an investigation to determine whether any person has violated or is about to violate any provision of sections 21a-190a to 21a-190l, inclusive.

(b) The commissioner or his authorized representative may subpoena documentary material relating to any matter under investigation, issue subpoenas to any person involved in or who may have knowledge of any matter under investigation, administer an oath or affirmation to any person and conduct hearings on any matter under investigation.

(c) If any person fails to obey any subpoena issued by the commissioner or his authorized representative pursuant to this section, the commissioner may, after notice, apply to the superior court for the judicial district of Hartford, which court, after a hearing thereon, may issue an order requiring such person to obey such subpoena or any part thereof, together with such other relief as may be appropriate. Any disobedience of any order entered under this section by any court shall be punished as a contempt thereof.

**Sec. 21a-190j. Time limit for compliance.** Section 21a-190j is repealed, effective October 1, 2002.

**Sec. 21a-190k. Regulations.** The commissioner may adopt regulations in accordance with the provisions of chapter 54 in order to carry out the

provisions of sections 21a-190a to 21a-190l, inclusive.

**Sec. 21a-190l. Denial, suspension, revocation of registration.**

**Court-ordered relief. Penalties.** (a) The commissioner may deny, suspend or revoke the registration of any charitable organization, fund-raising counsel or paid solicitor which has violated any provision of sections 21a-190a to 21a-190l, inclusive. The commissioner may accept a written assurance of compliance when said commissioner determines that a violation of said sections is not material and that the public interest would not be served by a denial, suspension or revocation of such registration.

(b) The Attorney General, at the request of the commissioner, may apply to the Superior Court for, and the court may grant, a temporary injunction or a permanent injunction to restrain violations of sections 21a-190a to 21a-190l, inclusive, the appointment of a receiver, an order of restitution, an accounting and such other relief as may be appropriate to ensure the due application of charitable funds. Proceedings thereon shall be brought in the name of the state.

(c) Any person who knowingly violates any provision of sections 21a-190a to 21a-190l, inclusive, shall be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(d) In any action brought under subsection (b) of section 21a-190l, if the court finds that a person has willfully engaged in conduct prohibited by section 21a-190h, the Attorney General, upon petition to the court, may recover, on behalf of the state, a civil penalty of not more than two thousand five hundred dollars for each violation. For purposes of this subsection, a willful violation occurs when the party committing the violation knew or should have known that such conduct was prohibited by section 21a-190h.