

written statement signed and sworn under penalty of perjury setting forth why you do not owe the amount claimed in the complaint to be due. The sworn statement must be filed **IN ADDITION TO** your written answer to the complaint.

Payment of the sworn statement must be submitted to the clerk of the superior court within seven days after you have been served with this summons or, if the summons has not yet been filed, within seven days after service of written notice that the lawsuit has been filed.

This complaint:

- () is filed with the superior court;
- () is not filed. The plaintiff must notify you in writing when it is filed.

IMPORTANT

If you intend to contest this action, you must also file a written answer as indicated above on this summons.

Passed the Senate April 24, 1983.

Passed the House April 24, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.

CHAPTER 265

[Substitute Senate Bill No. 3642]

CHARITABLE ORGANIZATIONS AND SOLICITATIONS—REGISTRATION AND DISCLOSURE—EXEMPTIONS

AN ACT Relating to charitable solicitations; amending section 2, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 80, chapter 158, Laws of 1979 and RCW 19.09.020; amending section 3, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 222, Laws of 1977 ex. sess. and RCW 19.09.030; amending section 10, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 227, Laws of 1982 and RCW 19.09.100; amending section 21, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 10, chapter 227, Laws of 1982 and RCW 19.09.210; amending section 14, chapter 222, Laws of 1977 ex. sess. as amended by section 12, chapter 227, Laws of 1982 and RCW 19.09.275; amending section 34, chapter 13, Laws of 1973 1st ex. sess. as amended by section 13, chapter 227, Laws of 1982 and RCW 19.09.340; amending section 5, chapter 13, Laws of 1973 1st ex. sess. and RCW 19.09.050; amending section 19, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 227, Laws of 1982 and RCW 19.09.190; adding new sections to chapter 19.09 RCW; making appropriations; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 80, chapter 158, Laws of 1979 and RCW 19.09.020 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one whose conduct is subject to direct control by such organization and who

does not act in the manner of an independent contractor in his relation with the organization.

(2) "Charitable organization" means: (a) Any benevolent, philanthropic, patriotic, eleemosynary, education, social, recreation, fraternal organization, or any other person having or purporting to have a charitable nature; and (b) which solicits or solicits and collects contributions for any charitable purpose. "Charitable" shall have its common law meaning unless the context in which it is used clearly requires a narrower or a broader meaning.

(3) "Contribution" means the donation, promise or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights less the reasonable purchase price to the charitable organization of any such tangible merchandise, rights, or services resold by the organization, and not merely that portion of the purchase price to be applied to a charitable purpose.

(4) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(5) "Cost of solicitation" means and includes all costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation for a direct gift or conducting a sale or benefit affair; cost of solicitation shall not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund raising activities.

~~(6) ("Director" means the director of licensing.~~

~~(7))~~ "Direct gift" shall mean and include an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a charitable or religious purpose and for which the donor receives no consideration or thing of value in return.

~~((8))~~ (7) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

~~((9))~~ (8) "Parent organization" means that part of a charitable organization which coordinates, supervises, or exercises control over policy, fund raising, or expenditures, or assists or advises one or more chapters, branches, or affiliates of such organization in the state of Washington.

~~((10))~~ (9) "Person" means an individual, organization, group, association, partnership, corporation, or any combination thereof.

~~((+1))~~ (10) "Professional fund raiser" means any person who, for compensation or other consideration, plans, conducts, manages, or advises concerning any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or charitable purpose, 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 purposes, or the business of planning, conducting, managing, or carrying on any drive or campaign in this state for such solicitations: PROVIDED, That the following persons shall not be deemed professional fund raisers: (a) Any bona fide officer or employee of a charitable organization which maintains a permanent establishment in the state of Washington; whose salary or other compensation is not computed on funds raised or to be raised; (b) a clergyman of a religious corporation exempt under the provisions of RCW 19.09.030.

~~((+2))~~ (11) A "professional solicitor" means any person other than a professional fund raiser who is employed or retained for compensation by any person or charitable organization to solicit contributions for charitable purposes from persons in this state, but shall not include any bona fide officer or employee of a registered charitable organization.

~~((+3))~~ (12) "Sale and benefit affair" shall mean and include, but not be limited to, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater, or variety show which the public is requested to patronize or attend or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith: PROVIDED, That bingo activities, raffles, and amusement games conducted pursuant to the provisions of chapter 9.46 RCW and applicable rules of the Washington state gambling commission are specifically excluded and shall not be deemed a solicitation within the provisions of this chapter.

(13) "Secretary" means the secretary of state.

(14) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

- (a) Any appeal is made for any charitable purpose; or
- (b) The name of any charitable organization is used as an inducement for consummating the sale; or
- (c) Any statement is made which implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

Sec. 2. Section 3, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 222, Laws of 1977 ex. sess. and RCW 19.09.030 are each amended to read as follows:

~~((Except as otherwise specifically provided in other sections of this chapter,))~~ The registration and disclosure requirements of this chapter, except the requirements of RCW 19.09.210, shall not apply to the following:

(1) Solicitations by religious corporations duly organized and operated in good faith as religious organizations which are entitled to receive a declaration of current tax exempt status from the government of the United States and their duly organized branches or chapters, if the solicitations by such organization are conducted among the members thereof by other members or officers thereof, voluntarily or if the solicitations are in the form of collections or contributions at the regular or special religious assemblies, meetings, or services of any such organization or if the solicitations by such organization are for evangelical, missionary, or religious purposes. An exempt religious corporation shall also be exempt from the requirements of RCW 19.09.210.

(2) Any charitable organizations when the solicitation of contributions is confined to the membership of the organization and when the solicitation is managed and conducted solely by officers and members of such organizations who are unpaid for such services.

(3) Persons requesting any contributions for the relief of named individuals:

(a) When the solicitation is managed and conducted solely by persons who are unpaid for such services and;

(b) When the contributions collected do not exceed ~~((the))~~ ten thousand dollars in any twelve month period; and

(c) When all of the contributions collected, without any deductions whatsoever except for the actual cost of a banquet, dance, or similar social gathering, are turned over to the named beneficiary or beneficiaries.

(4) Charitable organizations which do not intend to solicit and receive, and do not actually raise or receive, contributions from the public in excess of ten thousand dollars during a calendar year, if all their functions, including all fund raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member.

(5) Charitable organizations which do not intend to solicit and receive, and do not actually raise or receive, contributions from more than ten persons during a calendar year, if all their functions, including all fund raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member.

(6) Solicitations by government subdivisions which solicit funds for governmental purposes, if such funds are subject to control, examination, or review by governmental agents or agencies.

(7) Solicitations by volunteer hospital organizations affiliated with non-profit hospitals whose budgets are subject to review by the Washington state hospital commission according to chapter 70.39 RCW when: At least eighty percent of the net proceeds of such solicitations are used solely to improve or maintain tax exempt health care services or facilities of such institutions; the solicitation is carried on solely by persons who are unpaid for their services and no part of the volunteer organizations' assets or income inures to the benefit of, or is paid to any officer or member; and no professional fund raiser or solicitor is employed or retained for compensation in connection with such solicitations. Sales by gift shops operated by such hospital organizations do not constitute solicitations under this section.

NEW SECTION. Sec. 3. There is added to chapter 19.09 RCW a new section to read as follows:

Any person or charitable organization which ceases to be exempt under RCW 19.09.030 shall register with the secretary as required by this chapter within thirty days after the loss of the exemption.

NEW SECTION. Sec. 4. There is added to chapter 19.09 RCW a new section to read as follows:

(1) All charitable organizations, as defined in RCW 19.09.020, unless exempt under RCW 19.09.030, shall register with the secretary.

(2) Failure to register as required by this chapter is a violation of this chapter.

(3) Information provided to the secretary pursuant to this chapter shall be a public record.

(4) Registration shall not be considered or be represented as an endorsement by the secretary or the state of Washington.

NEW SECTION. Sec. 5. There is added to chapter 19.09 RCW a new section to read as follows:

An application for registration as a charitable organization shall contain the following:

(1) The name of the charitable organization;

(2) The name under which the organization will solicit contributions;

(3) The name, address, and telephone number of the president and treasurer, or comparable officers, of the organization;

(4) The purpose of the solicitations;

(5) A solicitation history of the organization including:

(a) The number of solicitation campaigns over the past three years;

(b) The total amount of money applied to the costs of the solicitations over the past three years;

(c) The total amount of money dispersed for charitable purposes over the past three years;

(d) The number of solicitation campaigns reported under subsection (5)(a) of this section for which the organization used a professional fund raiser; and

(6) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in section 7 of this act.

The requirements of subsections (5)(b) and (c) of this section may be satisfied by the submission of an independent certified audit.

The application shall be submitted with a fifteen-dollar filing fee and shall be signed by the president, treasurer, or comparable officer of the organization. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

NEW SECTION. Sec. 6. There is added to chapter 19.09 RCW a new section to read as follows:

If any chapter, branch, affiliate, or area division of a charitable organization is supervised and controlled by a superior or parent organization which is incorporated, qualified to do business, or is doing business within this state, such chapter, branch, affiliate, or area division shall not be required to register under section 4 of this act if the superior or parent organization files an application, on behalf of its subsidiary, in addition to or as a part of its own application. If an application has been filed by a superior or parent organization, on behalf of the subsidiary organization, the superior or parent organization need not include the financial statement information as part of its financial report for any chapter, branch, or affiliate which solicits and collects less than five hundred dollars during its fiscal year, providing all such fund raising is done by persons who are unpaid for such services. For those chapters, branches, or affiliates which solicit, collect, or expend between five hundred dollars and five thousand dollars during their fiscal year, the superior or parent organization shall report such financial information either separately or in consolidated form. For those chapters, branches, or affiliates which solicit, collect, or expend in excess of five thousand dollars during their fiscal year, the superior or parent organization shall set forth such financial information separately, in addition to including such information in consolidated form.

NEW SECTION. Sec. 7. There is added to chapter 19.09 RCW a new section to read as follows:

When a person or an organization registered under this chapter, or its president, treasurer, or comparable officers, cannot be found after reasonably diligent effort, the secretary of state shall be an agent of such person or organization upon whom process may be served. Service on the secretary shall be made by delivering to the secretary or the secretary's designee duplicate copies of such process, and a twenty-five dollar filing fee. Thereupon, the secretary shall immediately cause one of the copies thereof to be

forwarded to the registrant at the most current address shown in the secretary's files. Any service so had on the secretary shall be returnable in not less than thirty days.

Any fee under this section shall be taxable as costs in the action.

The secretary shall maintain a record of all process served on the secretary under this section, and shall record the date of service and the secretary's action with reference thereto.

Nothing in this section limits or affects the right to serve process required or permitted to be served on a registrant in any other manner now or hereafter permitted by law.

NEW SECTION. Sec. 8. There is added to chapter 19.09 RCW a new section to read as follows:

(1) Registration under this chapter shall be effective for two years.

(2) Persons and charitable organizations required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in section 5 (1) through (4) of this act.

(3) The secretary may notify persons and charitable organizations registered under this chapter of the need to reregister upon the expiration of their current registration. The notification shall be by mail, sent at least sixty days prior to the expiration of their current registration.

Sec. 9. Section 10, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 227, Laws of 1982 and RCW 19.09.100 are each amended to read as follows:

The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) ~~((The cost of solicitation (including payments to professional fund raisers and professional solicitors and internal fund raising and solicitation salaries and expenses) during any calendar year shall not exceed twenty percent of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund raising activities or campaigns. The term "internal fund raising and solicitation salaries and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund raising expense. As provided in RCW 19.09.020(5), the cost of solicitation shall not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund-raising activities. The amount of such expenditure by the organization shall be deducted from the gross amount collected, or from the organization's support received directly from the public, prior to computing the percentage limitation. In the event special facts or circumstances are presented showing that expenses higher than twenty percent were not or will not be unreasonable, and the organization is primarily engaged in research, advocacy, or public education and uses its own paid staff to carry out these~~

~~functions, the director shall allow such higher expense and issue an order so stating. Such an order shall be reviewed annually by the director. When such an order is issued, the cost of solicitation shall be disclosed by the organization to each person being solicited at the time of each solicitation. To further the purposes of this chapter, the director shall from time to time apprise the public of the names of those organizations for which such an order has been issued. The director may require submission of any information necessary in making a determination whether to issue such an order. Compliance with this subsection is required prior to commencing solicitations))~~ Each person or organization soliciting charitable contributions shall disclose verbally or in writing to each person or organization solicited;

(a) The name of the individual making the solicitation;

(b) The name of the charitable organization;

(c) The purpose of the solicitation, and the name of the organization that will receive the funds contributed; and

(d) Upon request, the estimated percentage of the money collected which will be applied to the cost of the solicitation or to the charitable purpose;

(2) A charitable organization shall comply with all local governmental regulations which apply to soliciting for or on behalf of charitable organizations;

(3) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure; and

(4) Solicitations shall not be conducted by a charitable organization that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years and has been subject to any permanent injunction or administrative order or judgment, under the provisions of RCW 19.86.080 or 19.86.090, involving a violation or violations of the provisions of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

Failure to comply with subsections (1) through (4) of this section is a violation of this chapter.

Sec. 10. Section 21, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 10, chapter 227, Laws of 1982 and RCW 19.09.210 are each amended to read as follows:

Upon the request of the attorney general or the county prosecutor, a charitable organization shall submit a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required (~~((either by general rule or by specific written request of the director))~~).

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to professional fund raisers and solicitors.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any.

Sec. 11. Section 14, chapter 222, Laws of 1977 ex. sess. as amended by section 12, chapter 227, Laws of 1982 and RCW 19.09.275 are each amended to read as follows:

Any person who wilfully and knowingly violates any provisions of this chapter or who shall wilfully and knowingly give false or incorrect information to the (~~((director))~~) secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, shall be deemed guilty of a misdemeanor (~~((and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than one hundred dollars and not more than two hundred and fifty dollars or be imprisoned in the county jail for not more than forty-five days, or both, and for the second and any subsequent offense, to pay a fine of not less than two hundred and fifty dollars and not more than five hundred dollars or be imprisoned in the county jail for not more than ninety days, or both))~~) as provided in chapter 9A.20 RCW.

Sec. 12. Section 34, chapter 13, Laws of 1973 1st ex. sess. as amended by section 13, chapter 227, Laws of 1982 and RCW 19.09.340 are each amended to read as follows:

(1) The commission by any person of an act or practice prohibited by this chapter is hereby declared to be an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of application of the Consumer Protection Act, chapter 19.86 RCW.

(2) The (~~((director))~~) secretary may refer such evidence, as may be available (~~((to him))~~), concerning violations of this chapter to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose. In addition to any other action they might commence, the attorney general or the county prosecuting attorney may bring an action in the name of the state, with or without such reference, against any person to restrain and prevent the doing of any act or practice prohibited by this chapter: PROVIDED, That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they

may appear in the aforementioned chapters, shall apply against all persons subject to this chapter.

Sec. 13. Section 5, chapter 13, Laws of 1973 1st ex. sess. and RCW 19.09.050 are each amended to read as follows:

A professional fund raiser is not exempted from any provisions of this chapter ~~((society))~~ by ~~((reason of his))~~ acting for an organization exempted under the provisions of RCW 19.09.030.

NEW SECTION. Sec. 14. There is added to chapter 19.09 RCW a new section to read as follows:

(1) All professional fund raisers, as defined in RCW 19.09.020, shall register with the secretary.

(2) Failure to register as required by this chapter is a violation of this chapter.

(3) Information provided to the secretary pursuant to this chapter shall be a public record.

(4) Registration shall not be considered or be represented as an endorsement by the secretary or the state of Washington.

NEW SECTION. Sec. 15. There is added to chapter 19.09 RCW a new section to read as follows:

An application for registration as a professional fund raiser shall contain the following:

(1) The name, address, and telephone number of the professional fund raiser;

(2) A solicitation history of the professional fund raiser for the past three years including:

(a) Number of solicitation campaigns;

(b) Names of charitable organizations for whom fund raising has been performed; and

(c) A list of the states in which fund raising has been performed; and

(3) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in section 7 of this act.

The application shall be submitted with a fifteen-dollar filing fee and shall be signed by the professional fund raiser. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

Sec. 16. Section 19, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 227, Laws of 1982 and RCW 19.09.190 are each amended to read as follows:

Every person employed or retained as a professional fund raiser ~~((or professional solicitor))~~ by or for a charitable organization shall execute a surety bond as principal in the amount of five thousand dollars with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The bond shall be filed with the secretary. The bond

shall run to the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation.

NEW SECTION. Sec. 17. There is added to chapter 19.09 RCW a new section to read as follows:

The secretary may establish, by rule, standard forms and procedures for the efficient administration of this chapter. The secretary may issue such publications, reports, or information from the records as may be useful to the solicited public and charitable organizations. To defray the costs of any such publication, the secretary is authorized to charge a reasonable fee to cover the costs of preparing, printing, and distributing such publications.

NEW SECTION. Sec. 18. There is added to chapter 19.09 RCW a new section to read as follows:

All fees and other moneys received by the secretary of state under this chapter shall be transmitted to the state treasurer for deposit in the state general fund.

NEW SECTION. Sec. 19. (1) Effective September 1, 1983, there is appropriated to the secretary of state from the general fund for the biennium ending June 30, 1985, the sum of thirty-three thousand five hundred eighty-three dollars, or so much thereof as may be necessary, to establish and implement the registration program required by this act.

(2) Effective January 1, 1984, there is appropriated to the secretary of state from the general fund for the biennium ending June 30, 1985, the sum of eighteen thousand four hundred seventy-eight dollars, or so much thereof as may be necessary, to carry out the purposes of this act. However, moneys expended under this subsection shall not exceed the amount of moneys deposited in the general fund under section 18 of this act, minus the amount of moneys expended under subsection (1) of this section.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. With the exception of section 19 of this act, this act shall take effect January 1, 1984.

Passed the Senate April 23, 1983.

Passed the House April 16, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.