ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 2963

STATE OF NEW JERSEY

210th LEGISLATURE

ADOPTED JUNE 12, 2003

Sponsored by:
Senator PAUL SARLO
District 36 (Bergen, Essex and Passaic)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

Co-Sponsored by:
Assemblymen Arnone, S.Kean, Gusciora, Hackett, Merkt, Senators B.Smith, Singer and Coniglio

SYNOPSIS

Revises "Charitable Registration and Investigation Act."

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.

(Sponsorship Updated As Of: 12/12/2003)

AN ACT concerning charitable registration and amending and supplementing P.L.1994, c.16.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1994, c.16 (C.45:17A-20) is amended to read as follows:

3. As used in this act:

"Attorney General" means the Attorney General of the State of New Jersey or his designee.

"Charitable organization" means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c) (3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c) (3); or (2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

"Charitable purpose" means: (1) any purpose described in section 501(c) (3), of the Internal Revenue Code of 1986, 26U.S.C. §501(c) (3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit a charitable organization or purpose.

"Commercial co-venturer" means any person<u>, including, but not limited to, any assignee, subcontractor, independent contractor or successor in interest,</u> who, for profit or other consideration is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization, and who advertises that the purchase or use of his goods, services, entertainment or any other thing of value will benefit a charitable organization <u>or charitable purpose</u>.

"Contribution" means the conveyance, promise or pledge of money, credit, property, financial assistance or other thing of any kind

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

or value in response to a solicitation. It does not include any of the following: bona fide fees, dues or assessments paid by members provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation; moneys received pursuant to a governmental grant or contract; or, personal services rendered by a volunteer.

"Federated fundraising organization" means a federation of independent charitable organizations which have voluntarily joined together for purposes of raising and distributing money.

"Fund raising counsel" means any person, including, but not limited to, any assignee, subcontractor, independent contractor or successor in interest, who is retained by a charitable organization for a fixed fee or rate to plan, manage, advise, consult or prepare material for or with respect to the solicitation in this State of contributions for a charitable organization, but who does not solicit contributions or employ, procure or engage any compensated person to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a fund raising counsel. No attorney, accountant or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of the professional service or advice rendered, to be a fund raising counsel.

"Independent paid fund raiser" means any person, including, but not limited to, any assignee, subcontractor, independent contractor or successor in interest, who for compensation performs for or on behalf of a charitable organization any service in connection with which contributions are **[**,**]** or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be an independent paid fund raiser. No attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of that advice, to be an independent paid fund raiser.

"Local unit" means a charitable organization that is affiliated with a parent organization under terms specified in the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or by-laws.

"Membership" means a relationship which entitles a person to the privileges, professional standing, honors or other direct benefit of the organization and either the right to vote or elect officers, or hold office in the organization. Membership shall not include any relationship granted solely upon making a contribution as a result of a solicitation.

"Parent organization" means a charitable organization which charters or affiliates local units under terms specified in the charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws.

"Person" means an individual, corporation, association, partnership, trust, foundation or any other entity, however established within or without this State.

"Registrant" means any person who has filed a registration statement with the Attorney General required by this act.

"Registration statement" means an initial registration, renewal, financial report, or any other document or report required pursuant to section 6, 7, 8, 10 or 11 of this act to be filed with the Attorney General.

"Secretary of State" means the Secretary of State of the State of New Jersey.

"Solicitation" or "solicit" means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value which will be used for a charitable purpose or benefit a charitable organization. Solicitation shall include, but not be limited to, the following methods of requesting or securing money, credit, property, financial assistance or other thing of value:

(1) Any oral or written request;

(2) The making of any announcement in the press, over the radio or television, by telephone, through the mail or any other media concerning an appeal or campaign by or for any charitable organization or purpose;

(3) The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain a contribution;

(4) The offer of, attempt to sell, or sale of any advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with which any appeal is made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale, or where any statement is made that the whole or any part of the proceeds from the sale will be used for any charitable purpose or benefit any charitable organization;

(5) The use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value in connection with which any appeal is made for any charitable organization or purpose.

A solicitation shall take place whether or not the person making the solicitation receives any contribution, except that a charitable organization's use of its own name in any communication shall not

alone be sufficient to constitute a solicitation.

"Solicitor" means any individual who attempts to solicit or solicits contributions **[**,**]** for compensation**[**, and who is subject to the control of an independent paid fund raiser. The term "control" means the direct management, direction and supervision of performance of a solicitor's activities in connection with the solicitation of contributions by the independent paid fund raiser**]**. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a solicitor.

(cf: P.L.1994, c.16, s.3)

2. Section 5 of P.L.1994, c.16 (C.45:17A-22) is amended to read as follows:

5. If the Attorney General determines that the registration or contract requirements established by this act are not satisfied, the Attorney General shall notify the filing party or registrant within 10 business days of receipt of the registration or contract. If notification is not sent within 10 business days: (1) a registration statement is accepted; or (2) performance may begin on a contract. Within 10 business days after receipt of a notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, commercial co-venturer or solicitor, as appropriate, may satisfy the requirements or request a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Acceptance of a registration or performance of a contract pursuant to this section shall not foreclose the Attorney General from denying an application, enforcing the registration or contract requirements established by P.L.1994, c.16 (C.45:17A-18 et seq.) and the rules adopted pursuant thereto, or taking other appropriate action **[**based on information that may be subsequently uncovered**]**.

(cf: P.L.1994, c.16, s.5)

3. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to read as follows:

7. a. Every charitable organization operating or soliciting within this State, except for those provided for in section 8 of this act or exempt pursuant to section 9 of this act, shall file a long form registration statement with the Attorney General.

b. The long form shall contain the following:

(1) The name of the organization and any other name or names under which it intends to solicit contributions and the purposes for which it was organized;

(2) The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an

administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

(a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; **[**and**]**

(b) "each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization ; and

(c) a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency.

(3) A copy of the most recent Internal Revenue Service Form 990 and Schedule A (990) for every registrant if the organization filed these forms;

(4) A clear description of the specific programs and charitable purpose for which contributions will be used and a statement whether such programs are planned or are in existence;

(5) **[**Whether**]** A statement disclosing pertinent information concerning whether any of the organization's officers, directors, trustees or principal salaried executive staff employees as defined in subparagraph (b) of paragraph (2) of subsection b. of this section **[**are**]**:

(a) Are related by blood, marriage or adoption to each other or to any officers, agents or employees of any fund raising counsel or independent paid fund raiser under contract to the organization, or are related by blood, marriage or adoption to any chief executive employee, any other employee of the organization with a direct financial interest in the transaction, or any partner, proprietor, director, officer, trustee, or to any shareholder of the organization with more than a two percent interest of any supplier or vendor providing goods or services to the organization and, if so, the name and business and home address and telephone number of each related party; or

(b) Have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser under contract to the organization or any supplier or vendor providing goods or services to the organization and, if so, the name and business address and telephone number of each interested party.

(6) The amount of any grant or financial assistance from any agency of government in its preceding fiscal year; **[**and**]**

(7) A statement setting forth the place where and the date when the organization was legally established and the form of the organization;

(8) The principal street address and telephone number of the organization and the address and telephone number of each office in this State. If the organization does not maintain an office in this State, the name and address of the individual having custody of its financial records pertaining to operations or solicitations in this State shall be disclosed;

(9) The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;

(10) The date when the organization's fiscal year ends;

(11) A statement whether:

(a) The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

(b) The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;

(c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and

(d) The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer;

(12) Whether the organization intends to solicit contributions from the general public; and

(13) Any other information as may be prescribed by rules adopted by the Attorney General. In prescribing the requirements of the long form, the Attorney General shall permit a charitable organization to incorporate by reference any information reported by the organization on its Service Form 990 and Schedule A (990).

c. With initial registration only, every charitable organization required to file a long form registration shall also file **[**the following; provided,**]** a copy of the organization’s charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and a statement setting forth the organization’s tax exempt status with copies of federal or state tax exemption determination or exemption ruling letters; provided that any changes in the accuracy of this information shall be reported to the Attorney General pursuant to subsection e. of section 14 of this act **[**:

(1) A copy of the organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws;

(2) A statement setting forth the place where and the date when the organization and its tax exempt status was legally established, the form of its organization, with copies of federal or state tax exemption determination or exemption ruling letters;

(3) The principal street address and telephone number of the organization and the address and telephone number of each office in this State. If the organization does not maintain an office in this State, the name and address of the individual having custody of its financial records in this State shall be disclosed;

(4) The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;

(5) The date when the organization's fiscal year ends;

(6) A statement whether:

(a) The organization is authorized by any other state to solicit contributions, and, if so, a listing of the states in which authorization has been obtained;

(b) The organization or any of its present officers, directors, executive personnel or trustees are or have ever been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;

(c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and

(d) The organization has voluntarily entered into an assurance or voluntary discontinuance or agreement with any jurisdiction or federal agency or officer; and

(7) Whether the organization intends to solicit contributions from the general public**]**.

d. (1) Every charitable organization required to file a long form registration shall file an annual financial report with the Attorney General. The annual financial report shall include: a balance sheet; a statement of support revenue, expenses and changes in fund balance; a statement of functional expenses at least divided into program, management, general, and fund raising; and such other information as the Attorney General shall by rule require.

(2) The annual financial report of every charitable organization which received more than **[**$100,000**]** $150,000 in gross revenue during its most recently completed fiscal year shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing

an opinion thereon.

The annual financial reports of all organizations receiving more than $25,000 but less than **[**$100,000**]** $150,000 shall be certified by the organization's president or other authorized officer of the organization's governing board and at the request of the Attorney General, the organization shall submit an audited financial statement prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant.

(3) The Attorney General may accept a copy of a current financial report previously prepared by a charitable organization for another state agency or officer in compliance with the laws of that state, provided that the report filed with the other state agency or officer shall be substantially similar in content to the report required by this subsection.

(4) An independent member agency of a federated fund raising organization shall independently comply with the provisions of this subsection.

e. In order to register its qualified local units pursuant to subsection **[**c.**]** d. of section 9 of this act, a parent organization registered pursuant to this section shall include with its initial registration and annual renewal statement a separate statement that provides the following:

(1) The name, principal street address, and phone number of all local units within this State that it is registering;

(2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year; and

(3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection **[**c.**]** d. of section 9 of this act.

(cf: P.L.1994, c.16, s.7)

4. Section 8 of P.L.1994, c.16 (C.45:17A-25) is amended to read as follows:

8. a. The following charitable organizations shall be required to file a short form registration on forms prescribed by the Attorney General:

(1) Charitable organizations or organizations engaging in a charitable fund raising campaign which do not receive gross contributions in excess of $25,000 during a fiscal year, if all of their functions including fund raising activities are carried on by volunteers, members, officers or persons who are not compensated for soliciting contributions; except that, if the gross contributions, whether or not

all is received by any charitable organization during any fiscal year, are in excess of $25,000 it shall, within 30 days after the date on which it shall have received the contributions, register with and report to the Attorney General as required by section 7 of this act;

(2) Fraternal, patriotic, social or alumni organizations, historical societies, and similar organizations organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, when solicitation of contributions is confined to their membership and solicitation is performed by members of that organization;

(3) 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;

(4) Any local post, camp, chapter or similarly designated element, or a county unit of that element, of a bona fide veterans' organization which issues charters to the local elements throughout this State, or to any veterans' organization chartered under federal law or to any service foundation of such an organization recognized in its bylaws.

b. The short form shall contain the following:

(1) Name and address of the organization;

(2) **[**Whether the organization has engaged an**]** The name of any independent paid fund raiser, fund raising counsel or commercial co-venturer the charitable organization has engaged;

(3) The purpose for which the charitable organization is organized;

(4) The purposes for which the funds are raised;

(5) The tax status of the charitable organization;

(6) The reason the organization is eligible to file a short form registration;

(7) A copy of the organization's most recent Internal Revenue Service Form 990 and Schedule (A) 990 if the organization filed these forms;

(8) The name, business address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

(a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

(b) "each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

(c) a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer,

director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency.

(9) A statement whether:

(a) The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

(b) The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;

(c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and

(d) The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer; and

(10) Any other information as may be prescribed by rules adopted by the Attorney General.

c. In order to register its qualified local units pursuant to subsection **[**c.**]** d. of section 9 of this act, a parent organization registered pursuant to this section shall include with its initial registration, a copy of the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and shall include with its initial registration and annual renewal statement a separate statement that provides the following:

(1) The name, principal street address, and phone number of all local units within this State that it is registering;

(2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year;

(3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection **[**c.**]** d. of section 9 of this act.

d. Nothing in subsection c. of this section shall be construed to require a parent organization to register any or all of its local units.

(cf: P.L.1994, c.16, s.8)

5. Section 9 of P.L.1994, c.16 (C.45:17A-26) is amended to read as follows:

9. a. The registration requirements of this act shall not apply to any religious corporation, trust, foundation, association or organization incorporated under the provisions of Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes or established for religious purposes. Any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more charitable purposes, which is affiliated with, operated by, or supervised or controlled by a corporation, trust, foundation, association, or organization incorporated or established for religious purposes, or any other religious agency or organization shall also be exempt.

b. The registration requirements of this act shall not apply to any educational institution, the curriculums of which in whole or in part are registered or approved by the State Department of Education or the **[**State Department of**]** New Jersey Commission on Higher Education, either directly or by acceptance of accreditation by an accredited body recognized by these departments; an educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families; or a library registered by the State Department of Education, provided that the annual financial report of that institution or library shall be filed with the State Department of Education where it shall be open for public inspection.

c. The registration requirements of P.L.1994, c.16 (C.45:17A-18 et seq.) shall not apply to any charitable organization or organizations engaging in a charitable fund raising campaign which do not receive gross contributions in excess of $10,000 during a fiscal year, if all of its functions, including fund raising activities, are carried on by volunteers, members, officers or persons who are not compensated for soliciting contributions, except that if the gross contributions, whether or not all is received by any charitable organization during any fiscal year, are in excess of $10,000 the charitable organization shall, within 30 days after the date on which it shall have received the contributions, register with and report to the Attorney General as required by section 7 of P.L.1994, c.16 (C. 45:17A-24);

d. A charitable organization that meets all of the following requirements shall be considered registered as required by this act:

(1) The charitable organization is a local unit of a parent organization which is registered pursuant to this act;

(2) The parent organization has provided all information concerning the local unit required by subsection e. of section 7 or subsection c. of section 8 of this act;

(3) All solicitations made by the local unit are made by members of the local unit or volunteers;

(4) The local unit does not employ a fund raising counsel or independent paid fund raiser or utilize paid staff in preparation of materials or records concerning or related to the solicitations; and

(5) (a) The local unit does not receive gross contributions in excess of $25,000 during the fiscal year; or

(b) The local unit is an organization that limits membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State.

[d.**]** e. Nothing in subsection **[**c.**]** d. of this section shall be construed to require a parent organization to register any or all of its local units.

(cf: P.L.1994, c.16, s.9)

6. Section 10 of P.L.1994, c.16 (C.45:17A-27) is amended to read as follows:

10. a. It shall be unlawful for any person to act as a fund raising counsel or independent paid fund raiser unless registered annually with the Attorney General. Registration statements shall be on forms prescribed by the Attorney General. A registration statement shall be signed and sworn to by the principal officer of the fundraising counsel or independent paid fund raiser and shall contain information as prescribed by rules adopted by the Attorney General.

b. The registration statements shall be accompanied by a fee prescribed pursuant to the provisions of this act, except that a fund raising counsel or independent paid fund raiser which is a partnership or corporation which registers shall pay a single fee. Each registration shall expire on June 30.

c. The Attorney General shall examine the initial registration statement and supporting documents filed by a fund raising counsel or independent paid fund raiser pursuant to section 5 of this act.

d. The relationship between a charitable organization and a fund raising counsel or independent paid fund raiser shall be set forth in a written contract. The relationship between a fund raising counsel or independent paid fund raiser and any other fund raising counsel or independent paid fund raiser shall be set forth in a written contract. The fund raising counsel or independent paid fund raiser shall file a copy of **[**the contract**]** all such contracts with the Attorney General at least 10 business days prior to the performance by the fund raising counsel or independent paid fund raiser of any service within this State. It shall be unlawful for any solicitation pursuant to **[**the**]** any contract to begin before the Attorney General has reviewed the contract pursuant to section 5 of this act. **[**The contract**]** All such contracts shall be signed by two authorized officials of the charitable organization, one of whom must be a member of the organization's governing body, and the authorized contracting officer for the fund raising counsel or independent paid fund raiser. Performance of any

contract filed for review shall not foreclose the Attorney General from enforcing the contract requirements established by P.L.1994, c.16 (C.45:17A-18 et seq.) and the rules adopted pursuant thereto or taking other appropriate action. For the purposes of this subsection, the term "relationship" shall include, but not be limited to, any contract, agreement, assignment or arrangement or any other obligation relating to the solicitation of contributions.

e. **[**The contract**]** All contracts for a fund raising counsel or independent paid fund raiser either of whom at any time has or intends to have custody, control, possession or access to a charitable organization's **[**money**]** solicited contributions, shall contain the following:

(1) A statement of the respective obligations of the **[**professional fund raiser**]** fund raising counsel, the independent paid fund raiser, and the charitable organization;

(2) A clear statement of the fees or rate which will be paid to the fund raising counsel or independent paid fund raiser;

(3) The projected commencement and termination dates of the solicitation campaign;

(4) A statement as to whether the fund raising counsel or independent paid fund raiser will have custody, control or access to contributions;

(5) A statement as to the guaranteed minimum percentage of the gross receipts from contributions which will be remitted to the charitable organization, if any, or if the solicitation involves the sale of goods, services or tickets to a fund raising event, the percentage of the purchase price which will be remitted to the charitable organization, if any. Any stated percentage shall exclude any amount which the charitable organization is to pay as fund raising costs;

(6) A statement of the percentage of the gross revenue from which the fund raising counsel or independent paid fund raiser will be compensated. If the compensation of the fund raising counsel or independent paid fund raiser is not contingent upon the number of contributions or the amount of revenue received, its compensation shall be expressed as a reasonable estimate of the percentage of the gross revenue, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the fund raising counsel or independent paid fund raiser regarding the solicitation to be conducted by the independent paid fund raiser;

(7) The bank and branch where all moneys will be deposited **[**and**]**, each account number and, for each account, all authorized signatories for withdrawals; and

(8) Any other information as may be prescribed by the Attorney General.

f. A fund raising counsel or independent paid fund raiser, either of

whom at any time has or intends to have custody, control, possession or access to a charitable organization's **[**money**]** solicited contributions, shall, if requested by the Attorney General, make available the following information:

(1) Each location and telephone number from which the solicitation is conducted;

(2) The name, home address and telephone number of each person responsible for directing and supervising the conduct of the campaign and whether the person has been adjudged liable in an administrative or civil action or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purpose of this paragraph **[**, a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; and**]**:

(a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; and

(b) a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the person responsible for directing and supervising the conduct of the campaign engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization’s registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency; and

(3) A statement of the charitable purpose for which the solicitation campaign is being conducted.

g. If either a fund raising counsel or independent paid fund raiser at any time has or intends to have custody, control, possession or access to a charitable organization's **[**money**]** solicited contributions, that fund raising counsel or independent paid fund raiser shall:

(1) At the time of making application for registration, file with the Attorney General a bond in which it shall be the principal obligor, which shall for the initial application be in the sum of $20,000 and thereafter shall be an amount prescribed by a rule adopted by the Attorney General pursuant to subsection f. of section 4 of this act. The bond shall provide for one or more sureties whose liability in the aggregate shall at least equal that sum. The fund raising counsel or independent paid fund raiser shall maintain the bond in effect during the entire period of registration. The bond shall be payable to the Attorney General for the benefit of any person who may have a cause of action against the principal obligor of the bond for any violation of this act or for the purpose of satisfying any assessment against the principal obligor of the bond for any such violation;

(2) Deposit each contribution collected by the fund raising counsel

or independent paid fund raiser, in its entirety and within five days of its receipt, in an account at a bank or other federally insured financial institution. The account shall be in the name of the charitable organization with whom the fund raising counsel or independent paid fund raiser has contracted and the charitable organization shall have sole benefit and control of the account and all withdrawals;

(3) Within 40 days after a solicitation campaign has been completed, or in the case of a campaign lasting more than 12 months, within 40 days of the end of the charitable organization's fiscal year, file with the Attorney General a financial report for the campaign on such forms as the Attorney General may prescribe. Those forms shall include, but not be limited to, gross revenues, an itemization of all expenses incurred and the bank and branch where all moneys are deposited. This report shall be signed and sworn to by two authorized officials, one from the charitable organization and one from the fund raising counsel or independent paid fund raiser**[**.**]** ; and

(4) Maintain a copy of each advertisement, publication, solicitation or other material used as part of the charitable sales promotion to directly or indirectly induce a contribution.

(cf: P.L.1994, c.16, s.10)

7. Section 11 of P.L.1994, c.16 (C.45:17A-28) is amended to read as follows:

11. a. It shall be unlawful for any person to act as a solicitor of an independent paid fund raiser required to register pursuant to this act unless **[**the solicitor registers annually.**]** , prior to that person acting as a solicitor of the independent paid fund raiser, the independent paid fund raiser files registration information including the name, street address, telephone number, and any other information as may be prescribed by the Attorney General, of any such solicitor and files such registration information for that solicitor annually thereafter. Registration statements shall be on forms prescribed by the Attorney General and accompanied by a prescribed fee. The Attorney General shall review the statement pursuant to section 5 of this act and prescribe the fees pursuant to subsection f. of section 4 of this act.

b. It shall be unlawful for any independent paid fund raiser to engage a solicitor to solicit charitable contributions unless the independent paid fund raiser files the solicitor's registration information with the Attorney General pursuant to this section.

(cf: P.L.1994, c.16, s.11)

8. Section 12 of P.L.1994, c.16 (C.45:17A-29) is amended to read as follows:

12. a. Every charitable organization which permits a charitable sales promotion to be conducted on its behalf shall obtain a written contract from the commercial co-venturer and shall file a copy of the

agreement with the Attorney General at least 10 business days prior to the initiation of that charitable sales promotion. All parties to the contract shall be subject to the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.) and any rules adopted pursuant thereto. Every contract shall contain a provision clearly and conspicuously stating that the parties are subject to this act and any rules adopted pursuant thereto.

b. A charitable organization shall file in writing on forms prescribed by the Attorney General the following information at the conclusion of the charitable sales promotion:

(1) **[**As reported to the charitable organization,**]** A certification from an officer or principal of the commercial co-venturer attesting to the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture undertaken;

(2) The amount of money or other contribution remitted to the organization covering each event or portion of an extended charitable sales promotion; **[**and**]**

(3) A copy of each advertisement, publication, solicitation or other material used as part of the charitable sales promotion to directly or indirectly induce a contribution; and

(4) Any other information as may be required by rules adopted by the Attorney General.

c. All filings pursuant to this section shall be accompanied by a fee prescribed pursuant to the provisions of this act.

d. The commercial co-venturer shall disclose in each advertisement for the charitable sales promotion the dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose. If the actual dollar amount or percent cannot reasonably be determined prior to the final date of the charitable sales promotion, the commercial co-venturer shall disclose an estimated dollar amount or percent. Any such estimate shall be reasonable and shall be based upon all of the relevant facts known to the commercial co-venturer and the charitable organization regarding the charitable sales promotion.

(cf: P.L.1994, c.16, s.12)

9. Section 13 of P.L.1994, c.16 (C.45:17A-30) is amended to read as follows:

13. a. Prior to soliciting a contribution, either orally or by written request, except for any in-person solicitation, any independent paid fund raiser, commercial co-venturer, solicitor, or charitable organization shall clearly and conspicuously disclose any information as prescribed by the rules adopted by the Attorney General.

b. In the case of any solicitation campaign conducted orally, whether by telephone or otherwise, except for any in-person

solicitation, a written confirmation or receipt or written reminder shall, upon request of the contributor, be sent and shall include a clear and conspicuous disclosure of any information as prescribed by the rules adopted by the Attorney General.

c. Except as otherwise provided in section 14 of this act, registration statements, reports, notices, contracts or agreements between charitable organizations and fund raising counsels or independent paid fund raisers and commercial co-venturers and all other documents and information required to be filed under this act with the Attorney General are public records and shall be open to the general public at such time and under such conditions as the Attorney General may prescribe.

d. In addition to all other requirements imposed by this act, a charitable organization that limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership shall:

(1) At least 10 days prior to initiating any solicitation campaign involving multiple solicitations, give written notice describing the nature, purpose and the proposed dates and location of the solicitations to the Attorney General and the county prosecutor of any county in which the solicitations will be made, unless the organization limits its membership to persons who are or were employed by the State, or is a parent organization with local units in more than one county, in which case notice shall be given to the Attorney General who shall notify the appropriate county prosecutors;

(2) Upon request, make any records required by this act available for inspection or provide an audited financial statement of financial records concerning the organization's fund raising activities to the Attorney General.

e. In addition to all other requirements imposed by P.L.1994, c.16 (C.45:17A-18 et seq.), any charitable organization that is or holds itself out to be soliciting contributions through the use of any name, symbol or statement which implies or that would lead a reasonable person to believe that the charitable organization is in any way affiliated with, related to, recognized by, or organized for the benefit of emergency service employees, officers statutorily authorized to enforce the criminal laws of this State or a governmental agency shall disclose to the potential contributor the nature of the affiliation, relationship, recognition or organization, if any, or shall expressly state that no affiliation, relationship, recognition or organization exists between the charitable organization and emergency service employees, officers statutorily authorized to enforce the criminal laws of this State or governmental agency, as the case may be.

(cf: P.L.1994, c.16, s.13)

10. Section 15 of P.L.1994, c.16 (C.45:17A-32) is amended to read as follows:

15. a. Any statement, whether oral or written, made by a charitable organization, or on behalf of a charitable organization by persons including, but not limited to commercial co-venturers, fund raising counsels, independent paid fund raisers or solicitors shall be truthful.

b. A charitable organization shall establish and exercise control over fund raising activities conducted for its benefit, including approval of all written contracts and agreements, and shall assure that fund raising activities are conducted without coercion.

c. The following acts and practices are declared unlawful as applied to the planning, conduct, or execution of any solicitation or charitable sales promotion:

(1) To misrepresent the purpose or nature of the charitable institution or the purpose or beneficiary of a solicitation; to solicit contributions for a purpose other than the charitable purpose expressed in the statement of the charitable organization or expend contributions in a manner inconsistent with that purpose, or to fail to disclose any material fact. A misrepresentation may be accomplished by words of conduct;

(2) To violate or fail to comply with any of the applicable provisions of this act or the rules adopted under authority of this act;

(3) To violate or fail to comply with any of the applicable provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.) or the regulations adopted pursuant to that act;

(4) To utilize a name, symbol or statement so closely related or similar to that used by another charitable organization and registered by that organization with the United States Patent and Trademark Office or registered pursuant to R.S.56:2-1 et seq. that its use would tend to confuse or mislead a solicited person or to solicit contributions in a manner or through representations that falsely imply or are likely to create the mistaken belief that the contributions are solicited by or on behalf of another charitable organization;

(5) To utilize or exploit registration so as to lead any person to believe that registration constitutes or implies an endorsement or approval by the State;

(6) To distribute <u>any form of</u> honorary membership or <u>badges, shields,</u> courtesy cards or cards of a similar nature identifying the organization in connection with or in any manner related to the solicitation of funds or contributions for or on behalf of the organization in the case of any charitable organization that limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership;

(7) To utilize information, statements or communications that, although literally true, are presented in a manner that has the capacity to mislead the average consumer; **[**and**]**

(8) To utilize a name, symbol or statement so closely related or similar to that used by any organization that is affiliated with, related to, recognized by or organized for the benefit of emergency service employees, officers statutorily authorized to enforce the criminal laws of this State, or a governmental agency in such a way that its use would tend to confuse or mislead a solicited person or to create the erroneous belief that the contributions are solicited by or on behalf of an organization affiliated with, related to, recognized by or organized for the benefit of emergency service employees, officers statutorily authorized to enforce the criminal laws of this State, or a governmental agency;

(9) To utilize a name, symbol or statement that misrepresents the geographic origin or location of a charitable organization or its intended beneficiaries; and

(10) To engage in other unlawful acts and practices as may be determined by rules adopted by the Attorney General.

d. It shall be unlawful for any charitable organization, fund raising counsel, independent paid fund raiser or commercial co-venturer to enter into any contract with any person who is required to have registered and failed to do so.

e. It shall be unlawful for any person to represent that tickets to events will be donated by another, unless the following requirements have been met:

(1) The fund raising counsel or independent paid fund raiser shall obtain commitments, in writing and notarized, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept and for which they are able to provide transportation; copies of such written commitments shall be filed with the Attorney General;

(2) The independent paid fund raiser has taken measures to prevent solicitation of contributions for donated tickets in excess of the number of ticket commitments received from charitable organizations; and

(3) The number of tickets sold will not be greater than the number of seats available at the facility for each event or performance.

(cf: P.L.1998, c.123, s.1)

11. Section 16 of P.L.1994, c.16 (C.45:17A-33) is amended to read as follows:

16. a. For purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General or his designee shall constitute the agency head and have the final decision making power.

b. After notice and an opportunity for a hearing, the Attorney General may revoke, or suspend any registration upon a finding that the registrant or any officer, director, trustee or principal salaried executive staff employee of a registrant or any other person subject to the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.):

(1) Has filed a registration statement containing false or misleading facts or omitting material facts;

(2) Has violated or failed to comply with any of the provisions of this act or the rules adopted under authority of this act;

(3) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(4) Has been convicted of any criminal offense committed in connection with the performance of activities regulated under this act or any criminal offense involving untruthfulness or dishonesty or any criminal offense relating adversely to the registrant's fitness to perform activities regulated by this act. For the purposes of this paragraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;

(5) Has had the authority to engage in charitable activities denied, revoked or suspended by New Jersey or any other state or jurisdiction;

(6) Has been adjudged liable in an administrative or civil proceeding including, but not limited to, any finding of unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in penalties, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency;

(7) Has engaged in other forms of misconduct as may be determined by rules adopted by the Attorney General.

c. Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in, any act or practice declared unlawful by this act, or when the Attorney General determines it to be in the public interest to inquire whether a violation may exist, the Attorney General may:

(1) Require any person to file, on a form to be prescribed by the Attorney General, a statement or report in writing under oath, or otherwise, concerning any relevant and material information in connection with an act or practice subject to this act;

(2) Examine under oath any person in connection with any act or practice subject to this act;

(3) Inspect any location from which the activity regulated by this act is conducted;

(4) Examine any goods, ware or items used in the rendering of any of the services contained in this act;

(5) Require an audited financial statement of the financial records of the organization or person registered, exempted or required to be

registered under this act, prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereof;

(6) Examine any book, document, account, computer data, literature, publication or paper maintained by or for any organization or person registered, exempted or required to be registered under this act, in the course of engaging in the activities regulated by this act;

(7) Apply to Superior Court for an order to impound any record, book, document, account, computer data, literature, publication, paper, goods, ware, or item used or maintained by any organization or person registered, exempted or required to be registered under this act in the regular course of engaging in the activities regulated by this act or rules adopted under this act;

(8) In order to accomplish the objectives of this act, or the rules adopted under this act, hold investigative hearings as necessary and issue subpoenas to compel the attendance of any person or the production of books, records, computer data, literature, publication or papers at any investigative hearing or inquiry.

d. Any person who engages in any conduct or an act in violation of any provision of this act and who has not previously violated this act shall, in addition to any other relief authorized by this or any other law, be liable for a civil penalty of not more than **[**$7,500**]** $10,000 for the first violation of this act.

For a second violation of this act, or if a person is found liable for more than one violation of this act within a single proceeding, the liability for the second violation shall not exceed a civil penalty in the amount of **[**$15,000**]** $20,000.

For a third violation of this act, or if a person is found liable for more than two violations of this act within a single proceeding, the liability for a third or any succeeding violation shall not exceed a civil penalty in the amount of **[**$15,000**]** $20,000 for each additional violation.

In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action for the collection or enforcement of civil penalties for the violation of any provision of this act. The action may be brought in a summary manner, pursuant to **[**"the penalty enforcement law," N.J.S. 2A:58-1 et seq.**]** the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the Rules Governing the Courts of the State of New Jersey governing actions for the collection of civil penalties, in the Municipal or Special Civil Part of the Law Division of the Superior Court in the municipality or county where the offense occurred. Process in the action may be by summons or warrant. If the defendant in the action fails to answer the action, the court shall, upon finding that an unlawful act or practice has been committed by the defendant, issue a

warrant for the defendant's arrest in order to bring the person before the court to satisfy the civil penalties imposed.

In an action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. An action alleging the unregistered practice of the activities regulated by this act may be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to this act, the Attorney General or the court may order the payment of attorney's fees and costs for the use of the State.

e. Whenever it shall appear to the Attorney General that a violation of this act has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. In the proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter any orders necessary to prevent the performance of an unlawful practice in the future and to remedy fully any past unlawful activity.

f. Upon the failure of any person to comply within 10 days after service of any order of the Attorney General directing payment of penalties, attorney's fees, costs or restoration of moneys or property as authorized by this act, the Attorney General may issue a certificate to the Clerk of the Superior Court that the person is indebted to the State for the payment. A copy of the certificate shall be served upon the person against whom the order was entered. The clerk shall immediately enter upon the record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which each payment was directed, the amount of each payment, a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court and the Attorney General shall have all rights and remedies of a judgment creditor, in addition to exercising any other available remedies.

g. If a person fails or refuses to file any statement or report, or fails or refuses to grant access to premises from which activities regulated by this act are conducted in any lawfully conducted investigative matter, or fails to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

(1) Adjudging that person in contempt of court and assessing civil penalties in accordance with the amounts prescribed by this act;

(2) Enjoining the conduct of any practice in violation of this act; or

(3) Granting other relief as required.

h. If a person who refuses to testify or produce any computer data, book, paper, or document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, or convict him of a crime, is directed to testify or to produce the computer data, book, paper, or document by the Attorney General, he shall comply with the direction.

A person who is entitled by law to and does assert a privilege, and who complies with the direction of the Attorney General, shall not thereafter be prosecuted or subject to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving the testimony or from any civil or administrative action arising from the testimony.

i. In addition or as an alternative to revocation or suspension of a registration, the Attorney General may, after affording an opportunity to be heard and finding a violation of this act:

(1) Assess civil penalties in accordance with this act;

(2) Direct that any person cease and desist from any act or practice in violation of this act or take necessary affirmative corrective action with regard to any unlawful act or practice; **[**or**]**

(3) Order any person to restore to any person aggrieved by an unlawful act or practice any money or property, real or personal, acquired by means of any unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those moneys received by the registrant or his agent or any other person violating this act;

(4) Order the payment of attorney's fees and costs for the use of the State; or

(5) Authorize the release of sums from any bond maintained pursuant to this act in satisfaction of assessments.

j. Whenever a person engages in any act or practice in violation of this act the Attorney General may, after notice and opportunity to be heard and upon a finding that the act or practice has occurred, enter an order:

(1) Directing the person to cease and desist from that unlawful act or practice;

(2) Assessing civil penalties in accordance with this act;

(3) Directing that person restore to any person aggrieved by the unlawful act or practice any money or property, real or personal, acquired by means of the unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those moneys received by the registrant, agent or any other person violating this act; **[**or**]**

(4) Directing payment of attorney's fees and costs for the use of

the State ; or

(5) Authorizing the release of sums from any bond maintained pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) in satisfaction of assessments.

k. When it shall appear to the Attorney General that a person against whom an order pursuant to this section has been entered has violated the order, the Attorney General may initiate a summary proceeding in the Superior Court for enforcement of the order. Any person found to have violated such an order shall be ordered to comply with the prior administrative order and may be ordered to pay civil penalties in the amount of not more than $25,000 for each violation of the order. If a person fails to pay a civil penalty assessed by the court for violation of an order, the court assessing the unpaid penalty is authorized, upon application of the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

l. In any administrative proceeding on a complaint alleging a violation of this act, the Attorney General may issue subpoenas to compel the attendance of witnesses or the production of computer data, books, records, or documents at the hearing on the complaint as provided by this act.

m. In addition to any other action or remedy available under this act, a charitable organization aggrieved by a violation of paragraph (4) or (8) of subsection c. of section 15 of this act may initiate a civil action or assert a counterclaim in any court of competent jurisdiction against the violator. Upon establishing the violation, the charitable organization shall recover treble its damages or treble the violator's profits, whichever is greater. In all actions under this subsection the court shall award reasonable attorney's fees, filing fees and reasonable costs of suit.

n. Notwithstanding any other provision of this section to the contrary, a parent organization may be held accountable for actions related to information filed on behalf of a local unit only if the parent organization has filed information knowing that the information is false or misleading or knowing that material facts are omitted.

o. Notwithstanding any other provision of this section to the contrary, any local unit that has provided to its parent organization timely, truthful and complete information and otherwise conducted itself in compliance with the provisions of this act, shall not be held accountable for the misconduct of a parent organization, including, but not limited to, the failure of the parent organization to file timely reports on behalf of the local unit.

(cf: P.L.1994, c.16, s.16)

12. Section 21 of P.L.1994, c.16 (C.45:17A-38) is amended to read as follows:

21. Any printed solicitation, written confirmation, receipt or written reminder of a contribution issued by a charitable organization, independent paid fund raiser or solicitor concerning a solicitation or contribution on behalf of a charitable organization that is registered pursuant to this act shall contain the following statement which shall be conspicuously printed:
"INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION AND THE PERCENTAGE OF YOUR CONTRIBUTION THAT WILL BE DEDICATED TO THE CHARITABLE PURPOSE MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING 000-000-0000 AND IS AVAILABLE ON THE INTERNET AT www.xxxxxxxxxx.xxx. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT."
(cf: P.L.1994, c.16, s.21)

13. (New section) A person soliciting contributions shall not be permitted to use technology that blocks caller identification telephone systems used by any person in the State.

14. This act shall take effect on the 180th day following enactment.

STATEMENT

This bill makes various changes to the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.). These changes are intended to provide enhanced disclosure requirements and prohibitions against misleading prospective donors, enhance the Attorney General's enforcement authority under the act, ease statutory compliance for smaller volunteer organizations, raise penalties and provide for the recovery of costs and attorney's fees in administrative proceedings under the act.

More specifically, the bill:

- Expressly includes within the scope of the law all sub-contractors, independent contractors and assignees of independent paid fund raisers and fund raising counsel;
- Clarifies that adjudgments of civil liability include any and all findings of liability regardless of form or the context of the finding;
- Requires annual disclosure of organizational information such as the organization's address, custodian of financial records, and any limitations of fund raising activities in other jurisdictions;
- Increases the threshold amounts a charitable organization must raise before it is required to register under the Charitable

Registration and Investigation Act or file an audited financial statement;

- Provides that all relationships between fund raising counsel and independent paid fund raisers must be in writing, signed by the charitable organization, and are subject to review by the Attorney General;
- Shifts the responsibility for registration of the solicitors to the independent paid fund raiser, and prohibits a fund raiser from using a solicitor who has not been registered;
- Strengthens the State’s ability to enforce promises made by commercial co-venturers by requiring them to certify the amount of funds raised during a charitable sales promotion and to make certain disclosures regarding the advertising of their promotions;
- Requires a charitable organization to disclose any relationship with a government agency or emergency services personnel;
- Includes as a violation of the law any misrepresentation regarding the geographic location of a charitable organization or the intended beneficiaries of a solicitation, or any misrepresentation regarding the relationship between a charitable organization and a government agency or emergency services personnel;
- Permits an action against any entity required to be registered pursuant to the Charitable Registration and Investigation Act based upon proof of criminal convictions or findings of violations of charity and solicitation laws in other jurisdictions committed by the registrant, or its officers, directors or principal employees;
- Increases amounts recoverable so that penalties are consistent with penalties under the consumer fraud act and ensures that costs and attorney's fees are recoverable in administrative proceedings; and
- Prohibits independent paid fund raisers from using caller ID blocking technology.