

3797

2013-2014 Regular Sessions

I N S E N A T E

February 15, 2013

Introduced by Sens. RANZENHOFER, DeFRANCISCO, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to solicitation used by or on behalf of any charitable organization

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 2 and 3 of section 174-b of the executive law,
2 subdivision 2 as amended by chapter 490 of the laws of 2010, subdivision
3 3 as amended by chapter 43 of the laws of 2002, are amended and a new
4 subdivision 6 is added to read as follows:
5 2. Any solicitation used by or on behalf of any charitable organiza-
6 tion shall [provide] INCLUDE:
7 (A) a clear description of the programs and activities for which it
8 has requested and has expended or will expend contributions or shall
9 include therein a statement that, upon request, a person may obtain from
10 the organization such a description; AND
11 (B) A STATEMENT SETTING FORTH THE PERCENTAGE OF SUCH CHARITABLE ORGAN-
12 IZATION'S FUNDS ALLOCATED TO ADMINISTRATIVE EXPENSES DURING THE PAST TWO
13 FISCAL YEARS OF THE ORGANIZATION. FOR PURPOSES OF THIS SUBDIVISION,
14 "ADMINISTRATIVE EXPENSE" SHALL MEAN ANY DIRECT CONTRIBUTION OR PORTION
15 THEREOF THAT DOES NOT GO DIRECTLY TO THE PUBLIC OR INDIVIDUAL PERSONS A
16 CHARITABLE ORGANIZATION SERVES OR ASSISTS.
17 If the solicitation is by an institution subject to article five-A of
18 the not-for-profit corporation law, and is for an endowment fund, the
19 solicitation must include a statement that, unless otherwise restricted
20 by the gift instrument pursuant to paragraph (b) of section five hundred
21 fifty-three of the not-for-profit corporation law, the institution may
22 expend so much of an endowment fund as it deems prudent after consider-
23 ing the factors set forth in paragraph (a) of section five hundred
24 fifty-three of the not-for-profit corporation law.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 3. In addition to any other disclosure required by law, any solici-
2 tion by any means by a professional fund raiser or professional solici-
3 tor on behalf of a charitable organization required to be registered
4 pursuant to this article shall clearly and unambiguously disclose:

5 (a) the name of the professional fund raiser as on file with the
6 attorney general and that the solicitation is being conducted by a
7 professional fund raiser;

8 (b) the name of the individual professional solicitor as on file with
9 the attorney general and that the individual is receiving compensation
10 for conducting the solicitation; AND

11 (c) A STATEMENT SETTING FORTH THE PERCENTAGE OF FUNDS RAISED BY THE
12 PROFESSIONAL FUND RAISER OR PROFESSIONAL SOLICITOR THAT WAS FORWARDED TO
13 THE CHARITABLE ORGANIZATIONS ON BEHALF OF WHICH IT SOLICITED DURING THE
14 PAST TWO FISCAL YEARS.

15 6. AN ACTION FOR A VIOLATION OF SUBDIVISION TWO OR THREE OF THIS
16 SECTION MAY BE PROSECUTED BY THE ATTORNEY GENERAL, OR HIS OR HER DEPUTY,
17 IN THE NAME OF THE PEOPLE OF THE STATE, AND IN ANY SUCH ACTION, THE
18 ATTORNEY GENERAL OR HIS OR HER DEPUTY, SHALL EXERCISE ALL THE POWERS AND
19 PERFORM ALL DUTIES WHICH THE DISTRICT ATTORNEY WOULD OTHERWISE BE
20 AUTHORIZED TO EXERCISE OR TO PERFORM THEREIN PURSUANT TO SECTION ONE
21 HUNDRED SEVENTY-FIVE OF THIS ARTICLE. ANY CHARITABLE ORGANIZATION,
22 PROFESSIONAL FUND RAISER OR PROFESSIONAL SOLICITOR FOUND TO BE IN
23 VIOLATION OF SUBDIVISION TWO OR THREE OF THIS SECTION SHALL BE FINED ONE
24 THOUSAND DOLLARS FOR THE FIRST VIOLATION AND SUCH ORGANIZATION'S REGIS-
25 TRATION PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO, ONE HUNDRED SEVEN-
26 TY-THREE OR ONE HUNDRED SEVENTY-THREE-B OF THIS ARTICLE, MAY BE REVOKED.
27 ANY CHARITABLE ORGANIZATION, PROFESSIONAL FUND RAISER OR PROFESSIONAL
28 SOLICITOR FOUND TO HAVE BEEN IN VIOLATION OF SUBDIVISION TWO OR THREE OF
29 THIS SECTION IN THREE OR MORE SEPARATE OCCURRENCES, SHALL BE FINED TEN
30 THOUSAND DOLLARS AND SUCH ORGANIZATION'S REGISTRATION PURSUANT TO
31 SECTION ONE HUNDRED SEVENTY-TWO, ONE HUNDRED SEVENTY-THREE OR ONE
32 HUNDRED SEVENTY-THREE-B OF THIS ARTICLE SHALL BE REVOKED. THE CONSUMER
33 PROTECTION DIVISION SHALL, WHENEVER POSSIBLE, ASSIST THE ATTORNEY GENER-
34 AL IN ANY INVESTIGATION OF A CHARITABLE ORGANIZATION PURSUANT TO THIS
35 SUBDIVISION.

36 S 2. This act shall take effect on the ninetieth day after it shall
37 have become law and shall apply to all solicitation used by or on behalf
38 of any charitable organization on and after such effective date.