

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(New title)
New Draft of: H. P. 1659, L. D. 1768
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 2001

H. P. 1953

House of Representatives, March 13, 1980

Reported by Mr. Howe from the Committee on Business Legislation and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk of the House

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Amend the Charitable Solicitations Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 9 MRSA § 5003, sub-§§ 5-B, 5-C and 5-D are enacted to read:

5-B. Fund raising. "Fund raising" means a solicitation to the public for funds, except those solicitations which are made as an integral part of the presentation of program services.

5-C. Hospital. "Hospital" means an institution which is engaged primarily in providing inpatient medical and psychiatric diagnostic and therapeutic services in the care and treatment of injured, disabled, sick or mentally ill persons who are under the supervision of a physician.

5-D. Management. "Management" means the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related management functions.

Sec. 2. 9 MRSA § 5003, sub-§ 10-A is enacted to read:

10-A. Program services. "Program services" means those activities directly related to the state charitable purposes of the charitable organization. "Program services" does not mean activities related to fund raising or management.

Sec. 3. 9 MRSA § 5004, sub-§ 3, ¶G, as enacted by PL 1977, c. 488, § 1, is amended to read:

G. The name and address of any professional fund-raising counsel, professional solicitor or commercial co-venturer who acts or will act on behalf of the charitable organization **and terms of remuneration of the counsel, solicitor or co-venturer**;

Sec. 4. 9 MRSA § 5004, sub-§ 3, ¶I, as enacted by PL 1977, c. 488, § 1, is amended to read:

I. The ~~general~~ purpose or purposes for which the contributions to be solicited shall be used;

Sec. 4-A. 9 MRSA § 5004, sub-§ 3, ¶J, as enacted by PL 1977, c. 488, § 1, is amended to read:

J. The estimated percentage of each dollar contributed which will be expended for ~~charitable purposes~~ **program services, fund raising and management**;

Sec. 5. 9 MRSA § 5004, sub-§ 3, ¶N, as enacted by PL 1977, c. 488, § 1, is repealed and the following enacted in its place:

N. **The total amount of money received as contributions during the organization's preceding fiscal year and the dates of the fiscal year; and**

Sec. 6. 9 MRSA § 5005, sub-§ 3, ¶B, as amended by PL 1977, c. 696, § 362, is further amended to read:

B. A copy of a financial statement covering, in a consolidated report, complete information as to the preceding year's fund-raising activities showing the balance sheet, changes in fund balances, kind and amount of funds raised, fund-raising expenses, allocation or disbursement of funds raised and notes to the audit and opinion if an audit, opinion or statement has been prepared as to the fairness of the presentation by the accountant; **or**

Sec. 7. 9 MRSA § 5005, sub-§ 3, ¶C is enacted to read:

C. **In lieu of a financial statement, the Secretary of State may accept a copy of the return filed with the United States Internal Revenue Service by organizations exempt from income tax under the United States Internal Revenue Code and shall require by regulation such other information and documentation as the Secretary of State may deem appropriate to describe how funds were spent or raised to substantiate the figures in the return, including an accountant's statement, and to prove that the return submitted to the Secretary of State was in fact filed with the United States Internal Revenue Service.**

Sec. 8. 9 MRSA § 5008, sub-§ 1, first sentence, as enacted by PL 1977, c. 488, § 1, is amended to read:

No person shall act as a professional fund ~~raiser~~ **raising counsel**, professional solicitor or a commercial co-venturer before he has registered with the Secretary of State.

Sec. 9. 9 MRSA § 5008, sub-§ 1, as enacted by PL 1977, c. 488, § 1, is amended by adding the following new sentence at the end:

The registration fee required by this chapter shall be waived for an auctioneer who is licensed by the Department of Business Regulation and who has paid the license fee required by Title 32, section 273 and who has otherwise complied with the requirements of that chapter.

Sec. 10. 9 MRSA § 5008, sub-§ 3 is enacted to read:

3. Annual reports. A professional fund-raising counsel, professional solicitor or commercial co-venturer shall file an annual report which states the names and addresses of all charitable organizations for whom any solicitation was conducted, the total amount raised and the amount paid to the charitable organization on a form with such verification as the Secretary of State shall prescribe by regulation.

Sec. 11. 9 MRSA § 5012, as enacted by PL 1977, c. 488, § 1, is amended to read:

§ 5012. Charitable solicitation disclosure

It shall be a violation of this chapter for a professional fund-raising counsel, professional solicitor, commercial co-venturer or any other person to solicit contributions from a prospective donor in this State without fully disclosing to the prospective donor at the time of solicitation the estimated percentage of each dollar contributed which will be expended for ~~charitable purposes~~ **program services, fund raising and management when less than 70% of the amount ~~donated~~ **contributed** will be ~~so~~ expended for **program services**. **In addition, any person required to register under section 5008, or any of his agents, who solicits contributions shall disclose to the prospective donor at the time of the solicitation the percentage of the gross contribution which will constitute his compensation and all fund-raising expenses connected with that particular contract.****

STATEMENT OF FACT

The purposes of this new draft are to:

1. Define certain ambiguous terms, particularly "fund raising" and "program services," to make clear that the cost of presenting program services is not considered a fund-raising cost even though a fee may be charged for the services;
2. Require professional fund-raising counsel and solicitors and commercial co-venturers to disclose the terms of their compensation;
3. Permit the Secretary of State to accept United States Internal Revenue Service form 990 in substitute for a separate financial statement from each charitable organization;
4. Require disclosure of the estimated percentage of contributions to be spent

for program services, fund raising and management if less than 70% will be spent for program services; and

5. Make minor, technical corrections.