

# 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)



# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

---

Legislative Document

No. 1767

S.P. 684

In Senate, December 30, 2005

### **An Act To Clarify the Charitable Solicitations Act**

---

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 28, 2005. Referred to the Committee on Business, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HOBBS of York.  
Cosponsored by Representative SMITH of Monmouth and  
Senators: MAYO of Sagadahoc, SULLIVAN of York, Representatives: PELLETIER-  
SIMPSON of Auburn, RECTOR of Thomaston.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 9 MRSA §5002**, as amended by PL 1999, c. 386, Pt. A,  
5 §1, is further amended to read:

6 **§5002. Intent**

7 It is the intent of the Legislature to require the  
8 registration and financial reporting of charitable organizations,  
9 professional solicitors, professional fund-raising counsel and  
10 commercial co-venturers and the registration--and bonding of  
11 professional fund-raising--counsel solicitors and commercial  
12 co-venturers and the registration-of-professional-solicitors.

13 **Sec. 2. 9 MRSA §5003, sub-§3**, as amended by PL 2003, c. 541,  
14 §2, is further amended to read:

15 **3. Commercial co-venturer.** "Commercial co-venturer" means  
16 any person who, for profit, is regularly and primarily engaged in  
17 trade or commerce in this State, other than in connection with  
18 the raising of funds for charitable organizations or purposes,  
19 and who conducts a sale, performance, event or collection and  
20 sale of donated goods that is advertised in conjunction with the  
21 name of any charitable organization. Any such person who will  
22 benefit in good will only may not be considered a commercial  
23 co-venturer if the collection and distribution of the proceeds of  
24 the sale, performance or event, or the collection and sale of  
25 donated goods, are supervised and controlled by the benefiting  
26 charitable organization. Any such person whose annual  
27 contributions to charitable organizations do not exceed \$10,000  
28 is exempt from the registration requirement under section 5002.

29 **Sec. 3. 9 MRSA §5003, sub-§4, ¶A**, as enacted by PL 1977, c.  
30 488, §1, is amended to read:

31 A. Payments by members of an organization for membership  
32 fees, dues, fines or assessments, or for services rendered  
33 to individual members, if membership in the organization  
34 confers a bona fide right, privilege, professional standing,  
35 honor or other direct benefits, other than the right to  
36 vote, elect officers or hold offices; or

37 **Sec. 4. 9 MRSA §5003, sub-§4, ¶B**, as enacted by PL 1977, c.  
38 488, §1, is amended to read:

39 B. Money or property received from any governmental  
40 authority; or

41 **Sec. 5. 9 MRSA §5003, sub-§4, ¶C** is enacted to read:

2           C. Money or property received from a foundation established  
3           for charitable or educational purposes.

4           **Sec. 6. 9 MRSA §5004, sub-§1, ¶A**, as enacted by PL 1999, c.  
5 386, Pt. A, §8, is amended to read:

6           A. Unless exempt pursuant to section 5006, a charitable  
7 organization, that intends to solicit, accept or obtain  
8 contributions in this State or to have contributions  
9 solicited, accepted or obtained on its behalf within this  
10 State shall file a registration statement with the office at  
11 least 30 days before ~~solicitation~~ soliciting, accepting or  
12 obtaining contributions in each year in which the  
13 organization is engaged in ~~solicitation~~ activities  
14 soliciting, accepting or obtaining contributions. The  
15 charitable organization shall identify any affiliate  
16 organizations or chapters on its registration statement.

17           **Sec. 7. 9 MRSA §5004, sub-§1, ¶C**, as enacted by PL 1999, c.  
18 386, Pt. A, §8, is amended to read:

19           C. Before approval of its statement by the office in  
20 accordance with section 5008, a charitable organization that  
21 is required to file an initial registration statement or  
22 annual renewal statement may not solicit, accept or obtain  
23 contributions or have contributions solicited, accepted or  
24 obtained on its behalf by any other person, charitable  
25 organization, commercial co-venturer or professional  
26 solicitor, or participate in charitable sales promotion.

27           **Sec. 8. 9 MRSA §5004, sub-§4, ¶D**, as repealed and replaced by  
28 PL 2003, c. 541, §8, is amended to read:

29           D. The complete packet for renewal of registration  
30 application must include all the requirements identified in  
31 subsection 3 as well as the following:

- 32           (1) An audited financial statement, including federal  
33 Internal Revenue Service 990 and Schedule A forms or a  
34 990 EZ form. Failure to file an audited financial  
35 statement of the organization's most recent audited  
36 fiscal year may be grounds for disciplinary action as  
37 provided under Title 10, section 8003, subsection 5.  
38 The office shall adopt rules governing the content of  
39 the audited financial statement. Rules adopted  
40 pursuant to this subparagraph are routine technical  
41 rules pursuant to Title 5, chapter 375, subchapter 2-A;  
42 and

2 (2) The nonrefundable fee for renewal of registration  
3 plus---the---required---filing---fee---for---charitable  
4 organizations--receiving--more--than--\$30,000--in--gross  
contributions.

6 **Sec. 9. 9 MRSA §5008, sub-§1**, as amended by PL 2003, c. 541,  
7 §12, is further amended to read:

8  
9 **1. Registration.** A person or entity may not act as a  
10 professional solicitor, a professional fund-raising counsel or a  
11 commercial co-venturer before that person or entity has  
12 registered with the office. Applications for registration or  
13 reregistration must be in writing, under oath, in the form  
14 prescribed by the office and accompanied by an application fee  
15 and a registration fee. The application fee is nonrefundable.  
16 The applicant, except for applicants that are registering as  
17 professional fund-raising counsel, shall, at the time of making  
18 application for registration or reregistration, file with and  
19 have approved by the office a bond, in which the applicant must  
20 be the principal obligor and the State the obligee, in the sum of  
21 \$25,000, with one or more responsible sureties whose liability in  
22 the aggregate as such sureties at least equals that sum. The  
23 bond runs to any person or entity who may have a cause of action  
24 against the principal obligor of the bond for any malfeasance or  
25 misfeasance in the conduct of charitable solicitation in this  
26 State. Registration is for a period of one year.

28 **Sec. 10. 9 MRSA §5008, sub-§1-A, ¶C**, as enacted by PL 1999, c.  
29 386, Pt. A, §16, is amended to read:

- 30 C. The complete application packet must include:
- 31
- 32 (1) All forms required in this section;
- 33
- 34 (2) A Except for professional fund-raising counsel, a  
35 bond approved by the department in the sum of \$25,000  
36 with one or more responsible sureties whose liability  
37 in the aggregate as such sureties at least equals that  
38 sum. The bond must expire on the stated date of  
39 expiration and be kept on file in the office for 3  
40 years; and
- 41
- 42 (3) A \$200 renewal of registration fee.

44 **Sec. 11. 9 MRSA §5008, sub-§1-A, ¶G** is enacted to read:

46 G. A professional fund-raising counsel who is applying for  
47 a renewal of registration must submit:

- 48 (1) A renewal of registration fee; and

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42

(2) A completed renewal application.

**Sec. 12. 9 MRSA §5017**, as enacted by PL 2003, c. 541, §18, is amended to read:

**§5017. Denial or refusal to renew registration**

The commissioner may deny or refuse to renew a registration under this chapter for fraud, misrepresentation or deception on an application or for violation of any provision of statute or rule adopted under this chapter.

**SUMMARY**

This bill:

1. Eliminates the requirement that professional fund-raising counsel carry a \$25,000 surety bond;
2. Eliminates the requirement that businesses donating less than \$10,000 annually to charitable organizations become registered as commercial co-venturers. This will apply the same exemption limit to commercial co-venturers as currently applies to charitable organizations;
3. Amends the definition of "contribution" by adding an exception for money or property received from an organization. This will produce the effect of exempting from the registration requirement individuals who contract with charitable organizations to provide grant-writing services for the purpose of obtaining money or property from organizations;
4. Corrects an inconsistency between the definition of "charitable organization" and the description of entities subject to the registration requirements applicable to charitable organizations; and
5. Deletes a reference to the financial report filing fee, which no longer is charged to charitable organizations receiving more than \$30,000 annually in gross contributions.