

MAINE STATE LEGISLATURE

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Date: 3/31/14

L.D. 1799
(Filing No. H-778)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1291, L.D. 1799, Bill, "An Act To Amend the Laws Governing Charitable Solicitations"

Amend the bill by striking out all of sections 1 to 7 and inserting the following:

Sec. 1. 9 MRSA §5002, as amended by PL 2013, c. 313, §1, is further amended to read:

§5002. Intent

It is the intent of the Legislature to require the licensure and financial reporting of charitable organizations; and professional solicitors ~~and professional fund-raising counsel~~ and the bonding of professional solicitors.

Sec. 2. 9 MRSA §5003, sub-§1, as amended by PL 2003, c. 541, §1, is further amended to read:

1. Charitable organization. "Charitable organization" means any person or entity, including any person or entity organized in a foreign state, that is or holds itself out to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable purpose and by any means, including, but not limited to, personal contact, telephone, mail, newspaper advertisement, television or radio. Status as a tax-exempt entity does not necessarily qualify that entity as a charitable organization. ~~A chapter, branch, area office or similar affiliate or any person soliciting contributions for any charitable purpose within the State for a charitable organization that has its principal place of business outside the State is considered a charitable organization for the purposes of this Act.~~ For purposes of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.

Sec. 3. 9 MRSA §5003, sub-§8, as amended by PL 2013, c. 313, §8, is further amended to read:

8. Principal officer. "Principal officer" means the president, chair, executive director or other officer or employee responsible for the daily operation of a charitable organization; or a professional solicitor ~~or professional fund-raising counsel.~~

COMMITTEE AMENDMENT

1 Amend the bill by striking out all of section 9 and inserting the following:

2 **'Sec. 9. 9 MRSA §5004, sub-§3, ¶G,** as amended by PL 2013, c. 313, §9, is
3 further amended to read:

4 G. The name, mailing address and license number of any professional solicitor ~~or~~
5 ~~professional fund-raising counsel~~ who acts or will act on behalf of the charitable
6 organization in connection with fund-raising campaigns for contributions from the
7 State's residents;

8 **Sec. 10. 9 MRSA §5004, sub-§3, ¶P,** as amended by PL 2013, c. 313, §9, is
9 repealed.'

10 Amend the bill by striking out all of sections 11 and 12 and inserting the following:

11 **'Sec. 11. 9 MRSA §5005-B, sub-§1, ¶B,** as amended by PL 2013, c. 313, §11, is
12 further amended to read:

13 B. The name, mailing address, telephone number and license number of each
14 professional solicitor ~~and professional fund-raising counsel~~ with which the charitable
15 organization contracted to solicit contributions in this State or to plan, manage, advise
16 or provide consultation services with respect to the solicitation of contributions in this
17 State;

18 **Sec. 12. 9 MRSA §5005-B, sub-§1, ¶F,** as amended by PL 2013, c. 313, §11, is
19 further amended to read:

20 F. The total dollar amount attributable to contributions raised in this State that was
21 retained by or paid to any professional solicitor ~~or professional fund-raising counsel~~
22 from each fund-raising campaign and for the year.

23 **Sec. 13. 9 MRSA §5005-B, sub-§§2 and 3,** as amended by PL 2013, c. 313,
24 §11, are further amended to read:

25 **2. Failure to file; discrepancies.** Failure to file the annual fund-raising activity
26 report required under this section or disagreement between the report filed by the
27 charitable organization and that submitted by the professional solicitor ~~or professional~~
28 ~~fund-raising counsel~~ with which the charitable organization has contracted may result in
29 disciplinary action as provided under Title 10, section 8003, subsection 5-A. To resolve a
30 disagreement between reports, the director may require the charitable organization to
31 submit an annual fund-raising activity report according to a fiscal year other than the
32 organization's fiscal year.

33 **3. Contracting with unlicensed professional solicitor prohibited.** A charitable
34 organization may not contract with an unlicensed professional solicitor ~~or professional~~
35 ~~fund-raising counsel~~. A violation of this subsection may result in disciplinary action as
36 provided under Title 10, section 8003, subsection 5-A.

37 **Sec. 14. 9 MRSA §5006, sub-§1, ¶A,** as amended by PL 2013, c. 313, §12, is
38 further amended to read:

39 A. Organizations that solicit primarily within their membership and do not contract
40 with a professional solicitor ~~or professional fund-raising counsel~~. For purposes of

1 this paragraph, the term "membership" does not include those persons who are
2 granted a membership upon making a contribution as a result of a solicitation;

3 **Sec. 15. 9 MRSA §5006, sub-§1, ¶D**, as amended by PL 2013, c. 313, §13, is
4 further amended to read:

5 D. Charitable organizations that do not intend to solicit and receive and do not
6 actually solicit or receive contributions from the public in excess of \$35,000 during a
7 calendar year or do not receive contributions from more than 35 persons during a
8 calendar year, if the charitable organizations do not contract with professional
9 solicitors ~~or professional fund-raising counsel~~ and if no part of the assets or income
10 inures to the benefit of or is paid to any officer or member. If a charitable
11 organization that does not intend to solicit or receive contributions from the public in
12 excess of \$35,000 or does not intend to receive contributions from more than 35
13 persons during a calendar year does actually solicit or receive contributions in excess
14 of that amount, whether or not all such contributions are received during a calendar
15 year, or actually receives contributions from more than 35 persons during a calendar
16 year, the charitable organization, within 30 days after the date contributions reach
17 \$35,000 or the number of contributors reaches 35, must be licensed with the director
18 as required by this Act;

19 **Sec. 16. 9 MRSA §5006, sub-§3**, as amended by PL 2013, c. 313, §14, is
20 repealed.'

21 Amend the bill in section 13 in §5008-A in subsection 5 in the last line (page 3, line
22 25 in L.D.) by inserting after the following: "for." the following: 'The bond remains in
23 place for 5 years after the licensee ceases activity in the State. Notwithstanding this
24 provision, the director may permit the bond to be eliminated prior to that date.'

25 Amend the bill in section 14 in §5008-B in subsection 1 in paragraph B in the first
26 line (page 4, line 9 in L.D.) by striking out the following: "; and telephone number and
27 license number" and inserting the following: ', telephone number and license number'

28 Amend the bill in section 14 in §5008-B by striking out all of subsection 3 (page 4,
29 lines 29 to 32 in L.D.) and inserting the following:

30 **'3. Contracting with unlicensed charitable organization.** A person may not
31 contract with an unlicensed charitable organization for the solicitation of funds from the
32 State's residents. A violation of this subsection may result in disciplinary action as
33 provided under Title 10, section 8003, subsection 5-A.'

34 Amend the bill in section 15 in §5009 in the 2nd paragraph in the first line (page 4,
35 line 39 in L.D.) by striking out the following: "~~charitable organization and the~~" and
36 inserting the following: 'charitable organization and the'

37 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
38 section number to read consecutively.

39 **SUMMARY**

40 This amendment removes provisions in the bill that propose to repeal licensure
41 requirements for charitable organizations. It repeals the requirement that charitable

1 organizations annually provide a determination letter from the United States Internal
2 Revenue Service. It clarifies the length of time that a professional solicitor's bond
3 remains in effect.

4 **FISCAL NOTE REQUIRED**

5 (See attached)



126th MAINE LEGISLATURE

LD 1799

LR 2712(02)

An Act To Amend the Laws Governing Charitable Solicitations

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-778)
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Minor savings - Other Special Revenue Funds
Minor revenue decrease - Other Special Revenue Funds

Fiscal Detail and Notes

Any savings or reduction in revenues for the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation are assumed to be minor. The revenue reduction can be absorbed within existing budgeted resources.