
Amendments to Michigan the Charitable Organizations and Solicitations Act

By Deanna M. Deldin / Feb 14, 2011

On December 22, 2010, former Governor Granholm approved amendments to The Charitable Organizations and Solicitations Act, 1975 PA 169, MCL § 400.271 et seq (the "Act"), which will go into effect March 30, 2011. The Act regulates charitable organizations, professional fund raisers and other persons soliciting or accepting contributions on behalf of charitable organizations. A charitable organization is defined in the Act as a benevolent, educational, philanthropic, human, patriotic, or eleemosynary organization of persons that solicits or obtains contributions solicited from the public for charitable purposes.

The current Act requires charitable organizations to file an application for a license with the Michigan attorney general if it solicits or intends to solicit or receives or intends to receive contributions from the public, subject to certain exemptions. Although not a significant change, the revised Act requires a charitable organization to "register with", rather than obtain a license from, the attorney general, and clarifies that registration should occur prior to solicitation.

The most notable change to the Act is an increase in the threshold amount of contributions received by a charitable organizations which triggers registration. Under the current Act, a charitable organization that does not intend to solicit and does not actually receive contributions in excess of \$8,000 during any 12-month period, and whose fundraising activities are conducted by volunteers, is exempt from licensing/registration. As amended, the Act increases the threshold to \$25,000.

Other changes include:

1. Authorizing the attorney general to suspend or revoke the license of a professional fundraiser or the registration of a charitable organization for violations of the Act.
2. Expressly prohibiting a number of activities involving misrepresentations, false representations and improper use of contributions.
3. Increasing the fine for a misdemeanor from \$500 to \$5,000.
4. Making certain violations of the Act a felony and subject to punishment of imprisonment up to five years, a maximum fine of \$20,000, or both, for each violation.
5. Authorizing the attorney general to bring a civil action for damages or equitable relief for violations of the Act. In addition, a court may impose a civil fine payable to the State of Michigan in an amount up to \$10,000 for each violation.
6. Authorizing county prosecutors to prosecute persons in violation of the Act in the same manner as the attorney general.
7. Authorizing the attorney general to issue a cease-and-desist order for a violation of the Act and to require an assurance of discontinuance of the violation. Such assurance may include payment for the costs of investigation, restitution to an aggrieved person, or payment to another person.

For further information regarding the Charitable Organizations and Solicitations Act, including any exemptions which may apply, you may contact Deanna M. Deldin (ddeldin@clarkhill.com | 313-967-4074) or any of the attorneys in Clark Hill's Tax Exempt Organizations law group.