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City Charter

Phila. Home Rule Charter
Section 10-105

Section 10-105 Gratuities.

No officer or employee of the City and no officer or employee whose ~~at~~ salary or other compensation is paid out of the City Treasurer shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work.

Provided, however, that the head of any department, board or commission of the City or other agency receiving appropriations from the City Treasurer may permit an employee to receive a reward publicly offered and paid, for the accomplishment of a particular task.

AN ACT

(Act #337 of 1963, As Amended
By Act #246 of 1972.)

Relating to Charitable organizations; requiring the registration of such organizations; and regulating the solicitation of money and property by or on behalf of charitable organizations as amended in 1972.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of August 9, 1963 (P.L.628), known as the "Solicitation of Charitable Funds Act," is amended by adding a section to read:

Section 1.1. Legislative Intent. — *It is the intention of the Legislature that this shall not be a mere registry statute but an act intended not only to require proper registration of charitable organizations, professional fund-raisers and professional solicitors but also to regulate the soliciting of money and property by or on behalf of charitable organizations, professional fund-raisers, professional solicitors and to require proper accounting for the use and distribution of said funds.*

Section 2. Definitions. — As used in this act:

(1) "Charitable organization" means a person which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, religious or eleemosynary organization or any person which solicits or obtains contributions solicited from the public for charitable purposes after the effective date of this act. A chapter, branch, area, office or similar affiliate or any person soliciting contributions within the Commonwealth of Pennsylvania for a charitable organization which has its principal place of business outside the Commonwealth shall be a charitable organization for the purposes of this act. This definition shall not be deemed to include duly constituted religious organizations or any group affiliated with and forming an integral part of said organization no part of the net income of which inures to the direct benefit of any individual and which have received a declaration of current tax exempt status from the government of the United States: Provided, That no such affiliated group shall be required to obtain such declaration if the parent or principal or organization shall have obtained same.

(2) "Contributions" means the promise or grant of any money or property of any kind or value.

(3) "Department" means the Department of State.

(4) "Federated fund raising organization" means a federation of independent charitable organizations which have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

(5) "Parent organization" is that part of a charitable organization which coordinates, supervises or exercises control over policy, fund-raising, and expenditures, or assists or advises one or more chapters, branches or affiliates in the Commonwealth.

(6) "Person" means any individual, organization, trust, foundation, group, association, partnership, corporation, society, or any combination of them.

(a.1) No charitable organization shall incur solicitation and fund-raising expenses (including not only payments to professional solicitors, but also payments to professional fund-raisers, and internal fund-raising and solicitation salaries and expenses) in excess of thirty-five per cent of total moneys, pledges or other property raised or received by reason of any solicitation, gift and/or fund-raising activities or campaigns. As used in this subsection, the term "internal fund-raising and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as are fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund-raising expense. In the event special facts or circumstances are presented showing expenses higher than thirty-five per cent, the commission has the discretion to allow such higher funds and may impose such conditions as the commission or the Secretary of the Commonwealth shall deem necessary for such exemption.

(b) For purposes of this section, the total moneys, funds, pledges or other property raised or received shall not include the actual cost to the charitable organization or professional solicitor of goods sold or service provided to the public in connection with the soliciting of contributions.

(c) Every contract or written agreement between professional fund-raising counsel and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded.

(d) Every contract or a written statement of the nature of the arrangement to prevail in the absence of a contract between a professional solicitor and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded. If the contract or arrangement with a professional solicitor does not provide for compensation on a percentage basis, the commission shall examine the contract to ascertain whether the compensation to be paid in such circumstances is likely to exceed fifteen per cent of the total moneys, pledges or other property raised or received as a result of the contract or arrangement; if the reasonable probabilities are that the compensation will exceed fifteen per cent of the total moneys, pledges or other property, the secretary shall disapprove the contract or arrangement within ten days after its filing. No registered charitable organization or professional solicitor shall carry out or execute a disapproved contract, or receive or perform services, or receive or make payments pursuant to a disapproved contract. Any party to a disapproved contract shall, upon written request made within thirty days of disapproval, be given a hearing before the commission within thirty days after such request is filed.

Section 7. Limitation on Activities of Charitable Organizations. — No charitable organizations subject to this act shall solicit funds from the public except for charitable purposes or expended funds raised for charitable purposes for non-charitable purposes.

ministration and enforcement of this act.

The 1963 Act provided for the following repeals: (a) The act of May 13, 1925 (P.L. 644), entitled "An act relating to and regulating the solicitation of moneys and property for charitable, religious, benevolent, humane and patriotic purposes," and all acts amendatory thereof, are repealed.

(b) All other acts and parts of acts are repealed insofar as inconsistent herewith.

The 1963 Act was approved on August 9, 1963.

The amendment was approved on October 26, 1972.

2-E

10 § 160—1 CHARITIES AND WELFARE

Ch. 4

SOLICITATION OF CHARITABLE FUNDS ACT

Cross References

Statement of solicitors, filing, see section 1479 of Title 71, State Government.

§ 160—1. Short title

This act shall be known and may be cited as the "Solicitation of Charitable Funds Act". 1963, Aug. 9, P.L. 628, § 1.

Library references: Charities 42; Licenses 11(1); C.J.S. Charities § 53 et seq.; C.J.S. Licenses § 26 et seq.; P.L.E. Charities § 30; P.L.E. Licenses § 8.

Historical Note

Effective date, see § 160—17 of this title.

Prior Law:

Act 1919, June 20, P.L. 505, §§ 1-14, as amended.

Act 1925, May 13, P.L. 644, §§ 1-11, as amended.

Section 14 of act 1919, June 20, P.L. 505, was amended 1923, June 28, P.L. 895, § 1, to read as follows: "This act shall not apply to any fraternal organization incorporated under the laws of the Commonwealth, nor to any religious organization, or any college, school, or university, located within the Commonwealth, nor to any labor union

or municipality or municipal subdivision or community organization of the Commonwealth, nor to any charitable institution or agency required by the provisions of existing law to file reports with the Department of Public Welfare or with any other department or offices of the Commonwealth." The amendatory section was not expressly repealed, but is evidently supplied.

Title of Act:

An Act relating to charitable organizations; requiring the registration of such organizations; and regulating the solicitation of money and property by or on behalf of charitable organizations. 1963, Aug. 9, P.L. 628.

§ 160—2. Definitions

As used in this act:

(1) "Charitable organization" means a person which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, religious or eleemosynary organization or any person which solicits or obtains contributions solicited from the public for charitable purposes after the effective date of this act. A chapter, branch, area, office or similar affiliate or any person soliciting contributions within the Commonwealth of Pennsylvania for a charitable organization which has its principal place of business outside the Commonwealth shall be a charitable organization for the purposes of this act. This definition shall not be deemed to include duly constituted religious organizations or any group affiliated with and forming an integral part of said organization no part of the net income of which inures to the direct benefit of any individual and which have received a declaration of current tax exempt status from the government of the United States: Provided, That no such affiliated

Ch. 4

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10 § 81

CHARITIES AND WELFARE

Note 26

Pa. 243, 1969, certiorari denied 90 S.Ct. 2253, 399 U.S. 920, 26 L.Ed.2d 786.

27. Sale

Fact that profit might result from sale of cemetery markers and monuments by religious charitable trust which operated cemeteries did not detract from charitable nature of trust. *Gingrich v. Blue Ridge Memorial Gardens & Marlon Corp.*, 282 A.2d 315, 444 Pa. 420, 1971.

Entity which operates and maintains a cemetery, whether it be a corporate body or a religious charitable trust, has incidental and implied power to engage in sale of markers and monuments to lot owners on a voluntary basis. *Id.*

Religious charitable trust which operated cemeteries had authority to sell markers and monuments to lot owners on voluntary basis incident to exercise of its trust power. *Id.*

Nonprofit tax exempt corporate operator of cemetery had authority to sell and erect markers and monuments pursuant to corporate charter which stated that one of the purposes for which operator had been formed was "to sell, erect and maintain markers of any character or material." *Id.*

Members of Greek Orthodox community had no judicial remedy against removal of parish and sale of church edifice where parish voted and council

approved in accordance with canons and by-laws vesting control over property in two-thirds majority. *Cosfol v. Varvoutis*, 213 A.2d 331, 419 Pa. 28, 1965.

Members of religious community, which was formed when 1855 statute, vesting control in lay members, was in effect, had no vested rights which were taken away by the 1935 amendment of this section or by action of community in selling church property. *Id.*

28. Actions

In determining whether local Catholic church in its beginning was united with Rome, for purpose of determining property rights, several proceedings concerning charter, including proceeding on petition for name change, were to be considered together. *St. John Chrysostom Greek Catholic Church of Pittsburgh v. Elko*, 259 A.2d 419, 436 Pa. 243, 1969, certiorari denied 90 S.Ct. 2258, 399 U.S. 920, 26 L.Ed.2d 786.

It is of the essence of religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organization itself provides. *Maryland & Va. Eldership of Churches of God v. Martin*, 13 Adams L.J. 184, 1972.

§ 81a. Equity jurisdiction

2. Construction and application

When legislature placed jurisdiction of disputes that involved church property in courts of equity, it intended that all principles of equity, including laches, would be applicable in such disputes except when application of principles would destroy the effect of the rule of law that governed ownership of church property. *Gabster v. Mesaros*, 220 A.2d 639, 422 Pa. 116, 1966.

§§ 91, 92. Repealed. 1966, Jan. 18, P.L. (1965) 1406, § 26

CHAPTER 4.—SOLICITATION OF FUNDS

Sec. 160—1.1 Legislative intent [New].

§ 160—1.1 Legislative intent

It is the intention of the Legislature that this shall not be a mere registry statute but an act intended not only to require proper registration of charitable organizations, professional fund-raisers and professional solicitors but also to regulate the soliciting of money and property by or on behalf of charitable organizations, professional fund-raisers, professional solicitors and to require proper accounting for the use and distribution of said funds.

Library references

- Licenses § 11(1) et seq.
C.J.S. Licenses § 26 et seq.
P.L.E. Licenses § 8.

§ 160—2. Definitions

As used in this act:

(8) "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of a charitable organization, whether such solicitation is performed personally or through their agents, servants or employees or through agents, servants or employees specially employed by, or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person, or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in

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Water Softeners and Conditioners; Sales and Use Tax Ruling No. 210.

Notice is hereby given that the Department of Revenue under the authority contained in § 270(a) of the Tax Reform Code of 1971, Article II, Tax for Education, Act of 1971 (No. 2), (72 P. S. § 7270(a)), proposes Ruling No. 210 with respect to the Pennsylvania sales and use tax, as set forth in Annex A to this notice.

Interested persons are invited to submit all comments, suggestions, or objections regarding the proposed ruling to the Honorable Vincent X. Yakowicz, Deputy Secretary of Revenue for Taxation, Room 207 Finance Building, Harrisburg, Pennsylvania, within 30 days after the date of publication of this notice in the *Pennsylvania Bulletin*.

ROBERT P. KANE,
Secretary of Revenue

Annex A

Ruling No. 210. Water Softeners and Conditioners.

1. *Introduction:* This ruling supercedes Ruling No. 83—"Water Filters or Softeners—Rental of", issued September 10, 1965, and is effective as of the date of issue.

2. *Scope:* All water softeners and conditioners are considered tangible personal property, irrespective of the manner in which they are attached to a water system. Accordingly, the sale at retail of water softening or conditioning equipment, or any parts thereof are subject to sales tax based on the total purchase price, including any charges for delivery or installation.

Charges for the rental of any style water softener or conditioner are also subject to sales tax based on the total rental price, including any delivery or installation charges.

The servicing or repair of water softeners or conditioners is the maintenance of tangible personal property, and any charge therefore is subject to tax.

[Pa. B. Doc. No. 73-849. Filed April 20, 1973, 9:00 a.m.]

DEPARTMENT OF STATE

Solicitation of Charitable Funds.

Notice is hereby given that the Secretary of State, under authority contained in the Act of August 9, 1963, P. L. 628 (No. 337), and the Act of October 26, 1972 (No. 246), (10 P. L. 160-1 et seq.), proposes to adopt the regulations set forth in full in Annex A to this notice.

The purpose of the regulations is to implement the aforesaid Acts which

provide for the registration of soliciting charities and the regulation of such solicitations by providing for limitations on the amount of expenditures for solicitation and fund-raising activities, by the charging of fees for such registration, and by providing for examination by the Secretary of the Commonwealth of applications to solicit funds.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed regulations to Ms. Carol Cochran, Director, Commission on Charitable Organizations Department of State, Room 301, North Office Building, Harrisburg, Pa., 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

C. DeLORES TUCKER,
Secretary of the Commonwealth

Annex A

Regulation No. 3. No charitable organization shall incur solicitation and fund-raising expenses in excess of 35 percent of total moneys, pledges and/or other property raised or received by reason of any solicitation.

Regulation No. 4. Fee Schedule for Commission on Charitable Organizations:

A. Charitable Organizations

1. Any charitable organization which does not engage a professional solicitor or professional fund-raising counsel, spends less than seven percent of the gross contributions received for administration purposes*, and submits a proper registration to the department shall pay an annual fee of \$10.

2. Every other charitable organization which submits a proper registration and solicits and receives gross contributions from the public of \$25,000. or less during the immediate preceding fiscal year, shall pay an annual fee of \$25.

3. Every other charitable organization which submits a proper registration and solicits and receives gross contributions from the public in excess of \$25,000. during the immediate preceding fiscal year, shall pay an annual fee of \$100.

B. Professional Fund-Raisers and Solicitors

1. The application for registration by Professional Fund-Raising Counsel or Professional Solicitor shall be accompanied by an annual fee of \$100.

Regulation No. 5. All charitable organizations soliciting funds in Pennsylvania shall file a registration statement with the Department of State,

* Administration purposes shall include all those functional expenditures which are not expended for charitable purposes and all fund-raising costs.

Commonwealth of Pennsylvania, or shall apply for an exemption in accordance with § 3 and § 4 of the Act of August 9, 1963, (No. 337) as amended.

The Commission on Charitable Organizations shall determine which organizations are exempt.

Regulation No. 6. All charitable organizations or Professional Fund-Raising Counsel or Professional Solicitors which have a principal place of business outside the Commonwealth of Pennsylvania and which solicit contributions in Pennsylvania, shall be subject to the provisions of this Act. Appeals for contributions by means of broadcasting, television or through the use of the mail or telephone shall constitute a solicitation.

Regulation No. 7. Professional Fund-Raising Counsel and Professional Solicitors are limited to a fee of 15 percent of the gross amount collected on behalf of any charitable organization. This limitation is imposed on Professional Fund-Raising Counsel and Professional Solicitors without consideration of whether the charity for which they raise funds are exempt or not exempt. The contract between Professional Fund-Raising Counsel or Professional Solicitor and charity shall state that their fee will not exceed 15 percent of the funds raised plus necessary expenditures. Where a flat fee is stated, the contract shall contain a certification to the effect that the fee does not exceed 15 percent of the funds expected to be raised. At the end of a Fund-Raisers period there shall be filed with the Department of State a statement showing the fee charge and the amount of money collected. In the alternative, a Fund-Raiser or Solicitor may file a composite statement at the end of the year setting forth each contract entered into, the fee charges and the gross amount raised.

[Pa. B. Doc. No. 73-816. Filed April 20, 1973, 9:00 a.m.]

GAME COMMISSION

Seasons and Bag Limits (Season 1973-1974).

Notice is hereby given that the Game Commission under the powers and authority vested in it, in accordance with the provisions of Articles I, IV, V, VI, and VII, Act of June 3, 1937, P. L. 1225 (34 P. S. § 1311, Articles I, IV, V, VI, and VII), entitled "An Act concerning game and other wild birds and wild animals; and amending, revising, consolidating and changing the law relating thereto," as amended, will at its meeting in June 1973:

(a) Fix open seasons, shooting hours, trapping hours, daily or season bag limits, or possession limits, for hunting, taking, killing or trapping

RULES AND REGULATIONS

(D) This order shall take effect 15 days following publication in the *Pennsylvania Bulletin*.

By the Environmental Quality Board.

MAURICE K. GODDARD,
Chairman

[Pa. B. Doc. No. 73-1399. Filed June 29, 1973,
9:00 a.m.]

[25 PA. CODE CH. 211]

Black Powder

June 21, 1973

Before Members: Dr. Maurice K. Goddard, Chairman; Dr. J. Finton Speller; Jack Kinstlinger; Ralph Abele; Glenn Bowers; George Bloom; Sen. Edwin Holl; Rep. Bernard O'Brien; Rep. W. William Wilt; John Elliott; John Hourigan; Leonard Green; Russell Haller and Anita Rosenau.

The Department of Environmental Resources, Environmental Quality Board, by this order amends § 211.71 (Storage of Propellants) of Chapter 211 (Storage and Handling of Propellants) of the rules and regulations of the Department of Environmental Resources.

Notice of proposed rulemaking was published in 3 Pa. B. 186, January 27, 1973. Said notice invited the submission of written comments. Comments received from interested citizens were considered in establishing these regulations. The amended rule and regulation is adopted as proposed.

The Environmental Quality Board finds:

(1) That public notice of intention to adopt the amendment to the rules and regulations adopted herein was duly given pursuant to 1 Pa. § 7.1 (relating to notice of proposed rule making required) by publication in 3 Pa. B. 186.

(2) That the amendments, revisions and additions to the rules and regulations adopted herein are necessary and appropriate.

The Environmental Quality Board, acting pursuant to the authority contained in § 1901-A of the Administrative Code of April 9, 1929, P. L. 177 (71 P. S. § 510-20), orders:

(A) The rules and regulations of the Department of Environmental Resources are amended by adding to § 211.71 of Chapter 211 (Storage and Handling of Propellants) as set forth in full in 3 Pa. B. 186, January 27, 1973.

(B) This order and 3 Pa. B. 186, January 27, 1973 shall be submitted to the Department of Justice for approval as to legality as required by law.

(C) This order and 3 Pa. B. 186, January 27, 1973, shall be certified to and deposited with the Legislative Reference Bureau as required by law.

(D) This order shall take effect 15 days following publication in the *Pennsylvania Bulletin*.

By the Environmental Quality Board.

MAURICE K. GODDARD,
Chairman

[Pa. B. Doc. No. 73-1400. Filed June 29, 1973,
9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

DEPARTMENT OF STATE

COMMISSION ON CHARITABLE ORGANIZATIONS

Solicitation of Charitable Funds

June 12, 1973

Before Commissioners Martin, Cohen, Richard J. Orloski, Sandy Leopold, Ron Pettine, Jane Bunting, Ronald Pedrick, and Ben Bernstein.

The Department of State, Commission on Charitable Organizations, by this order, adopts administrative regulations providing for the implementation of the Solicitation of Charitable Funds Act of August 9, 1963, P. L. 628 (No. 337), as amended by the Act of October 26, 1972 (No. 246), (10 P. S. § 160-1 *et seq.*).

By Act No. 246 of 1972, the Legislature amended the Solicitation of Charitable Funds Act (10 P. S. § 160-1 *et seq.*) and provided for maximum amounts of fund-raising monies which could be used in fund raising and administrative costs. In order to implement the Solicitation of Charitable Funds Act, as amended, the Commission on Charitable Organizations decided to adopt administrative regulations pursuant to the Act in order to provide specific guidelines to soliciting charities and in order to protect the public interest in the expenditure of charitable funds.

Notice of proposed rule making was published in 3 Pa. B. 732, April 21, 1973. In response to the notice, the Commission received comments from Community Services of Pennsylvania and the National Foundation of the March of Dimes. Community Services of Pennsylvania strongly recommended that the Commission hold a public hearing prior to promulgation of such regulations. In view of the fact that there is no legal requirement for such a hearing, the Commission respectfully declined the opportunity to take oral testimony on this matter. Comments received by the National Foundation of the March of Dimes indicated that the 15 percent limits imposed upon professional solicitors is not applicable to professional fund

raising counsels. The Commission agreed with this comment and deleted references to the 15 percent limitation to professional fund raising counsels as originally proposed in Regulation No. 7.

The regulations hereby amended are adopted pursuant to the authority contained in the Act of August 9, 1963, P. L. 628 (No. 337), as amended by the Act of October 26, 1972 (No. 246), (10 P. S. §§ 160-1, 160-2, 160-3, 160-6, 160-8 and 160-14.)

The Commission on Charitable Organizations finds:

(1) That public notice of intention to adopt the administrative regulations adopted by this order has been duly given pursuant to §§ 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) That the adoption of the regulations of the Commission on Charitable Organizations in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

The Commission on Charitable Organizations, acting pursuant to the authorizing statutes, orders:

(A) The rules of the Commission on Charitable Organizations are amended by adopting the Regulations as set forth in 3 Pa. B. 732, as modified by Annex A to this order.

(B) The Secretary of the Commonwealth, Chairman of the Commission on Charitable Organizations, shall submit this order, Annex A hereto, and 3 Pa. B. 732 to the Department of Justice for approval as to legality as required by law.

(C) The Secretary of the Commonwealth, Chairman of the Commission on Charitable Organizations, shall duly certify this order, Annex A hereto and 3 Pa. B. 732, and deposit the same with the Legislative Reference Bureau as required by law.

(D) The order shall take effect immediately.

By the Commission on Charitable Organizations.

C. DeLORES TUCKER,
Secretary of the Commonwealth
and Chairman of the Commission
on Charitable Organizations.

Annex A

Solicitation of Charitable Funds

Regulation No. 7. Professional Solicitors are limited to a fee of 15 percent of the gross amount collected on behalf of any charitable organization. This limitation is imposed on Professional Solicitors without consideration of