

NEW JERSEY REGISTER
VOLUME 38, ISSUE 24
ISSUE DATE: DECEMBER 18, 2006
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
Charities Registration Unit
Initial and Renewal Registration

Adopted Amendments: N.J.A.C. 13:48-1.3, 2.1, 3.1, 3.3, 3.4, 4.1, 5.1, 5.3 and 11.2

Proposed: June 19, 2006 at 38 N.J.R. 2632(a).

Adopted: October 4, 2006 by Stephen B. Nolan, Acting Director, Division of Consumer Affairs.

Filed: November 16, 2006 as R.2006 d.432, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: P.L. 2005, c. 283 and N.J.S.A. 45:17-21b.

Effective Date: December 18, 2006.

Expiration Date: January 21, 2010.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*):

13:48-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Gross revenue" means the total amount of revenue, without deductions, of cash or other assets received including, but not limited to, all contributions, government grants, program service revenue, membership dues, performance fees, interest and dividends, pledges, rents, and other support. "Gross revenue" does not include items purchased by other entities for the use of the charitable organization where ownership of the item is retained by the original purchaser. For the purpose of determining if an audit is required, "gross revenue" does not include one-time bequests, fund raising campaigns for capital property in a single fiscal year or the value of services performed by volunteers and does include pledges when and to the extent recognized under the basis of accounting used by the organization.

13:48-2.1 Fee schedule

(a) The fees charged by the Division of Consumer Affairs for registration of charitable organizations (which shall be read to include, for the purposes of this subchapter, federated fund raising organizations), fund raising counsel, independent paid fund raisers, and solicitors, and for filing of contracts and other documents, shall be the following:

1. A charitable organization, that is exempt from the registration requirements of the Act and pursuant to N.J.A.C. 13:48-3.3(a)7 may nevertheless register by filing a short form registration statement and paying an annual registration fee of \$ 30.00. A late fee of \$ 25.00 shall be incurred by any organization that elects to file a registration statement but fails to submit the complete annual registration filing within 30 days of the annual filing deadline.

2. A charitable organization that is required under the Act to file a short form registration statement shall pay an annual registration fee of \$ 30.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$ 25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

3. A charitable organization that is required under the Act to file a long form registration statement and that received gross contributions of not more than \$ 100,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$ 60.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$ 25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

4. A charitable organization that is required under the Act to file a long form registration statement and that received gross contributions of more than \$ 100,000 but not more than \$ 500,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$ 150.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$ 25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

5. A charitable organization that is required under the Act to file a long form registration statement and that received gross contributions of more than \$ 500,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$ 250.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$ 25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

6.-14. (No change.)

(b)-(d) (No change.)

13:48-3.1 Registration; registration number

(a)-(f) (No change.)

(g) Each registration number issued by the Attorney General remains the property of the State of New Jersey. If the registration of a charitable organization, fund raising counsel, independent paid fund raiser or solicitor lapses for failure to renew or is suspended or revoked, the former registrant shall immediately cease and desist from using the registration number.

13:48-3.3 Organizations exempt from registration

(a) The registration requirements of these rules shall not apply to:

1.-4. (No change.)

5. A library registered with the Secretary of State, provided that the annual financial report of that library shall be filed with the Secretary of State, where it shall be open for public inspection;

6. A local unit registered by a parent organization in accordance with N.J.A.C. 13:48-6; or

7. A charitable organization engaged in charitable fund raising that did not receive gross contributions in excess of \$ 10,000 during its most recent fiscal year, if all of its functions, including fund raising activities, are carried on by persons who are not compensated for soliciting contributions. But a charitable organization not otherwise required to register under this paragraph that receives gross contributions in excess of \$ 10,000 during a fiscal year whether or not the money is actually received during that fiscal year shall register with the Attorney General as required by N.J.A.C. 13:48-3.1 within 30 days after the date on which gross contributions exceed \$ 10,000. A charitable organization that is exempt from the requirement to register pursuant to this paragraph may nevertheless elect to register by filing a short form registration statement.

(b) (No change.)

13:48-3.4 Extension of time for annual filing of the renewal statement and financial report

(a)-(g) (No change.)

(h) A charitable organization that is not required to file a registration statement, but elects to do so under N.J.A.C. 13:48-3.3(a)7, shall not be granted an extension of the time to file.

13:48-4.1 Short form registration

(a) Prior to operating or commencing solicitation activities in this State, the following charitable organizations, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3, or those required to file a long form registration pursuant to N.J.A.C. 13:48-5, shall file a short form registration statement with the Attorney General:

1. Charitable organizations or organizations engaging in a charitable fund raising campaign that receive gross contributions of at least \$ 10,000, but not in excess of \$ 25,000 during a fiscal year, if all of their fund raising activities are performed by volunteers, members, officers or persons who are not compensated for soliciting contributions. However, if gross contributions should exceed \$ 25,000, whether or not the money is actually received by the charitable organization within the fiscal year, the organization shall, within 30 days of reaching that figure, notify the Division in writing that the organization will file a long form at the end of the next fiscal year, as required by N.J.A.C. 13:48-5;

2.-4. (No change.)

(b) Information required for the initial and renewal short form registration statement shall include the following:

1. The name and street address of the organization;

2. The name of any independent paid fund raiser, fund raising counsel or commercial co-venturer the organization engaged during the most recent fiscal year;

3.-8. (No change.)

9. A statement whether the organization has ever been denied registration or had its registration revoked in this or any other jurisdiction along with a list of those jurisdictions;

10. The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

i. A plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

ii. "Each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

iii. A judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency;

11. A statement whether:

i. The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

- ii. The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets together with a listing of all such jurisdictions;
- iii. The organization's registration has been denied, suspended or revoked by any jurisdiction, together with a listing of those jurisdictions and the reasons for that denial, suspension or revocation; and
- iv. The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer together with an identification of the jurisdiction of federal agency or officer;

12. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (b)10 and 11 above; and

13. (No change in text.)

(c)-(f) (No change.)

13:48-5.1 Long form registration

(a) Prior to operating or commencing solicitation activities in this State a charitable organization, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3 or those qualified to file a short form pursuant to N.J.A.C. 13:48-4, shall file a long form registration statement with the Attorney General.

(b) Information required for the initial and renewal long form registration statement shall include the following:

1.-2. (No change.)

3. The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee;

4. A statement whether any officer, director, trustee or principal salaried executive staff employee has been adjudged liable in an administrative or civil action involving theft, fraud, or deceptive business practices, or convicted in a criminal action, involving theft, fraud, or deceptive business practices. For purposes of this paragraph:

i. A plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

ii. "Each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

iii. A judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency;

5.-6. (No change.)

7. A statement disclosing whether, and giving pertinent information about, any of the organization's above listed officers, directors, trustees, or principal salaried executive staff employees who:

i. Are related by blood, marriage or adoption to each other or to any officers, agents, or employees of any fund raising counsel or independent paid fund raiser under contract to the organization; are related by blood, marriage or adoption

to any chief executive employee; to any other employee of the organization with a direct financial interest in the transaction; to any partner, proprietor, director, officer, or trustee of the organization; or to any shareholder of the organization with more than a two percent interest in any supplier or vendor providing goods or services to the organization and, if so, the name and business and home address and telephone number of each related party; or

ii. Have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser under contract to the organization or any supplier or vendor providing goods or services to the organization and, if so, the name and business address and telephone number of each interested party;

8. The amount of any grant or financial assistance from any agency of government in its preceding fiscal year;

9. A statement setting forth the place where and the date when the organization was legally established and the form of the organization;

10. The principal street address and telephone number of the organization and the street address and telephone number of each office in this State, unless the organization does not maintain an office in this State, in which case the name and street address of the individual having custody of its financial records pertaining to operations or solicitations in this State shall be disclosed;

11. The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;

12. The date when the organization's fiscal year ends;

13. A statement whether:

i. The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

ii. The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets together with a listing of all such jurisdictions;

iii. The organization's registration has been denied, suspended or revoked by any jurisdiction, together with a listing of those jurisdictions and the reasons for that denial, suspension or revocation; and

iv. The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer with an identification of the jurisdiction or federal agency or officer;

14. Whether the organization intends to solicit contributions from the general public;

15. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (b)4 and 13ii, iii and iv above; and

16. (No change in text.)

(c) (No change.)

(d) Upon initial registration only, every charitable organization required to file a long form registration shall include the following additional information which shall not be required upon renewal:

1. (No change.)

2. A statement setting forth the organization's tax exempt status along with copies of Federal or State tax exemption determination or exemption ruling letters;

3. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (b)4 and 13i, ii and iii above; and

4. (No change in text.)

(e)-(f) (No change.)

13:48-5.3 Financial reports; audits

(a)-(b) (No change)

(c) The annual financial report of every charitable organization which received more than \$ 250,000 in gross revenue during its most recently completed fiscal year shall be accompanied by a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting principles consisting of the modified cash basis or regulatory basis which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed by the jurisdiction in which he or she practices and any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization.

(d) The annual financial reports of all charitable organizations which receive more than \$ 25,000 but less than \$ 250,000, shall be certified by the organization's president or other authorized officer of the organization's governing board. If the Attorney General requests an audit, the organization shall be notified in writing. In response, the organization shall, within 120 days of the Attorney General's notification, submit a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting principles consisting of the modified cash basis or regulatory basis which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed by the jurisdiction in which he or she practices and any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization.

(e)-(g) (No change.)

13:48-11.2 Disclosures to the public; solicitations; receipts and confirmations; notice

(a)-(c) (No change.)

(d) Every printed solicitation, written confirmation, receipt or written reminder shall include the following statement which shall be conspicuously printed:

INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION *AND THE PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE CHARITY DURING THE LAST REPORTING PERIOD THAT WERE DEDICATED TO THE CHARITABLE PURPOSE* MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING 973-504-6215 *AND IS AVAILABLE ON THE INTERNET AT <http://www.state.nj.us/lps/ca/charfrm.htm> *. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.