

SHB 1777 - S COMM AMD

By Committee on Consumer Protection & Housing

ADOPTED 04/06/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.09.010 and 1986 c 230 s 1 are each amended to read
4 as follows:

5 The purpose of this chapter is to:

6 (1) Provide citizens of the state of Washington with information
7 relating to persons and organizations who solicit funds from the public
8 for public charitable purposes in order to prevent ~~((+1))~~ (a)
9 deceptive and dishonest practices in the conduct of soliciting funds
10 for or in the name of charity; and ~~((+2))~~ (b) improper use of
11 contributions intended for charitable purposes;

12 (2) Improve the transparency and accountability of organizations
13 that solicit funds from the public for charitable purposes; and

14 (3) Develop and operate educational programs or partnerships for
15 charitable organizations, board members, and the general public that
16 help build public confidence and trust in organizations that solicit
17 funds from the public for charitable purposes.

18 "Sec. 2. RCW 19.09.020 and 2002 c 74 s 1 are each amended to read
19 as follows:

20 When used in this chapter, unless the context otherwise requires:

21 (1) A "bona fide officer or employee" of a charitable organization
22 is one (a) whose conduct is subject to direct control by such
23 organization; (b) who does not act in the manner of an independent
24 contractor in his or her relation with the organization; and (c) whose
25 compensation is not computed on funds raised or to be raised.

26 (2) "Charitable organization" means any entity that solicits or
27 collects contributions from the general public where the contribution
28 is or is purported to be used to support a charitable ~~((activity))~~
29 purpose, but does not include any commercial fund raiser ~~((or))~~.

1 commercial fund-raising entity, commercial coventurer, or any fund-
2 raising counsel, as defined in this section. (~~("Charitable" (a) is not~~
3 ~~limited to its common law meaning unless the context clearly requires~~
4 ~~a narrower meaning; (b) does not include religious or political~~
5 ~~activities; and (c) includes, but is not limited to, educational,~~
6 ~~recreational, social, patriotic, legal defense, benevolent, and health~~
7 ~~causes-)) Churches and their integrated auxiliaries are not charitable
8 organizations, but are subject to RCW 19.09.100 (12), (15), and (18).~~

9 (3) "Charitable purpose" means any religious, charitable,
10 scientific, testing for public safety, literary, or educational purpose
11 or any other purpose that is beneficial to the community, including
12 environmental, humanitarian, patriotic, or civic purposes, the support
13 of national or international amateur sports competition, the prevention
14 of cruelty to children or animals, the advancement of social welfare,
15 or the benefit of law enforcement personnel, firefighters, and other
16 persons who protect public safety. The term "charitable" is used in
17 its generally accepted legal sense and includes relief of the poor, the
18 distressed, or the underprivileged; advancement of religion;
19 advancement of education or science; erecting or maintaining public
20 buildings, monuments, or works; lessening the burdens of government;
21 lessening neighborhood tensions; eliminating prejudice and
22 discrimination; defending human and civil rights secured by law; and
23 combating community deterioration and juvenile delinquency.

24 (4) "Commercial coventurer" means any individual or corporation,
25 partnership, sole proprietorship, limited liability company, limited
26 partnership, limited liability partnership, or any other legal entity,
27 that:

28 (a) Is regularly and primarily engaged in making sales of goods or
29 services for profit directly to the general public;

30 (b) Is not otherwise regularly or primarily engaged in making
31 charitable solicitations in this state or otherwise raising funds in
32 this state for one or more charitable organizations;

33 (c) Represents to prospective purchasers that, if they purchase a
34 good or service from the commercial coventurer, a portion of the sales
35 price or a sum of money or some other specified thing of value will be
36 donated to a named charitable organization; and

37 (d) Does not ask purchasers to make checks or other instruments

1 payable to a named charitable organization or any entity other than the
2 commercial coventurer itself under its regular commercial name.

3 (5) "Commercial fund raiser" or "commercial fund-raising entity"
4 means any entity that for compensation or other consideration within
5 this state directly or indirectly solicits or receives contributions
6 for or on behalf of any charitable organization or charitable purpose,
7 or that is engaged in the business of or is held out to persons in this
8 state as independently engaged in the business of soliciting or
9 receiving contributions for such purposes. However, a commercial
10 coventurer, fund-raising counsel, or consultant is not a commercial
11 fund raiser or commercial fund-raising entity.

12 (6) "Compensation" means salaries, wages, fees, commissions, or any
13 other remuneration or valuable consideration.

14 ~~((+4))~~ (7) "Contribution" means the payment, donation, promise, or
15 grant, for consideration or otherwise, of any money or property of any
16 kind or value which contribution is wholly or partly induced by a
17 solicitation. Reference to dollar amounts of "contributions" or
18 "solicitations" in this chapter means in the case of payments or
19 promises to pay for merchandise or rights of any description, the value
20 of the total amount paid or promised to be paid for such merchandise or
21 rights ~~((less the reasonable purchase price to the charitable~~
22 organization of any such tangible merchandise, rights, or services
23 resold by the organization, and not merely that portion of the purchase
24 price to be applied to a charitable purpose)).

25 ~~((+5))~~ (8) "Cost of solicitation" means and includes all direct
26 and indirect costs, expenditures, debts, obligations, salaries, wages,
27 commissions, fees, or other money or thing of value paid or incurred in
28 making a solicitation. ~~((Cost of solicitation does not include the~~
29 reasonable purchase price to the charitable organization of any
30 tangible goods or services resold by the organization as a part of its
31 fund raising activities.

32 ~~(+6))~~ (9) "Entity" means an individual, organization, group,
33 association, partnership, corporation, agency or unit of state
34 government, or any combination thereof.

35 ~~((+7))~~ "General public" or "public" means any individual located in
36 Washington state without a membership or other official relationship
37 with a charitable organization before a solicitation by the charitable
38 organization.

1 ~~(8) "Commercial fund raiser" or "commercial fund raising entity"~~
2 ~~means any entity that for compensation or other consideration within~~
3 ~~this state directly or indirectly solicits or receives contributions~~
4 ~~for or on behalf of any charitable organization or charitable purpose,~~
5 ~~or that is engaged in the business of or is held out to persons in this~~
6 ~~state as independently engaged in the business of soliciting or~~
7 ~~receiving contributions for such purposes. However, the following~~
8 ~~shall not be deemed a commercial fund raiser or "commercial fund-~~
9 ~~raising entity": (a) Any entity that provides fund raising advice or~~
10 ~~consultation to a charitable organization within this state but neither~~
11 ~~directly nor indirectly solicits or receives any contribution for or on~~
12 ~~behalf of any such charitable organization; and (b) a bona fide officer~~
13 ~~or other employee of a charitable organization.~~

14 (9)) (10) "Fund-raising counsel" or "consultant" means any entity
15 or individual who is retained by a charitable organization, for a fixed
16 fee or rate, that is not computed on a percentage of funds raised, or
17 to be raised, under a written agreement only to plan, advise, consult,
18 or prepare materials for a solicitation of contributions in this state,
19 but who does not manage, conduct, or carry on a fund-raising campaign
20 and who does not solicit contributions or employ, procure, or engage
21 any compensated person to solicit contributions, and who does not at
22 any time have custody or control of contributions. A volunteer,
23 employee, or salaried officer of a charitable organization maintaining
24 a permanent establishment or office in this state is not a fund-raising
25 counsel. An attorney, investment counselor, or banker who advises an
26 individual, corporation, or association to make a charitable
27 contribution is not a fund-raising counsel as a result of the advice.

28 (11) "General public" or "public" means any individual located in
29 Washington state without a membership or other official relationship
30 with a charitable organization before a solicitation by the charitable
31 organization.

32 (12) "Membership" means that for the payment of fees, dues,
33 assessments, etc., an organization provides services and confers a bona
34 fide right, privilege, professional standing, honor, or other direct
35 benefit, in addition to the right to vote, elect officers, or hold
36 office. The term "membership" does not include those persons who are
37 granted a membership upon making a contribution as the result of
38 solicitation.

1 ~~((10))~~ (13) "Other employee" of a charitable organization means
2 any person (a) whose conduct is subject to direct control by such
3 organization; (b) who does not act in the manner of any independent
4 contractor in his or her relation with the organization; and (c) who is
5 not engaged in the business of or held out to persons in this state as
6 independently engaged in the business of soliciting contributions for
7 charitable purposes or religious ~~((purposes))~~ activities.

8 ~~((11))~~ "Parent organization" means ~~that part of a charitable~~
9 ~~organization that coordinates, supervises, or exercises control over~~
10 ~~policy, fund raising, or expenditures, or assists or advises one or~~
11 ~~more related foundations, supporting organizations, chapters, branches,~~
12 ~~or affiliates of such organization in the state of Washington.~~

13 ~~(12))~~ (14) "Political ~~((activities))~~ organization" means those
14 organizations whose activities are subject to chapter 42.17 RCW or the
15 Federal Elections Campaign Act of 1971, as amended.

16 ~~((13))~~ "Religious activities" means ~~those religious, evangelical,~~
17 ~~or missionary activities under the direction of a religious~~
18 ~~organization duly organized and operating in good faith that are~~
19 ~~entitled to receive a declaration of current tax exempt status for~~
20 ~~religious purposes from the United States government and the duly~~
21 ~~organized branches or chapters of those organizations.~~

22 ~~(14))~~ (15) "Religious organization" means those entities that are
23 not churches or integrated auxiliaries and includes nondenominational
24 ministries, interdenominational and ecumenical organizations, mission
25 organizations, speakers' organizations, faith-based social agencies,
26 and other entities whose principal purpose is the study, practice, or
27 advancement of religion.

28 (16) "Secretary" means the secretary of state.

29 ~~((15))~~ (17) "Signed" means hand-written, or, if the secretary
30 adopts rules facilitating electronic filing that pertain to this
31 chapter, in the manner prescribed by those rules.

32 ~~((16))~~ (18)(a) "Solicitation" means any oral or written request
33 for a contribution, including the solicitor's offer or attempt to sell
34 any property, rights, services, or other thing in connection with
35 which:

36 ~~((a))~~ (i) Any appeal is made for any charitable purpose; ~~((or~~
37 ~~(b))~~ (ii) The name of any charitable organization is used as an
38 inducement for consummating the sale; or

1 (~~(e)~~) (iii) Any statement is made that implies that the whole or
2 any part of the proceeds from the sale will be applied toward any
3 charitable purpose or donated to any charitable organization.

4 **(b)** The solicitation shall be deemed completed when made, whether
5 or not the person making it receives any contribution or makes any
6 sale.

7 **(c)** "Solicitation" does not include bingo activities, raffles, and
8 amusement games conducted under chapter 9.46 RCW and applicable rules
9 of the Washington state gambling commission (~~(are specifically excluded~~
10 ~~and shall not be deemed a solicitation under this chapter)~~).

11 **Sec. 3.** RCW 19.09.075 and 2002 c 74 s 2 are each amended to read
12 as follows:

13 An application for registration as a charitable organization shall
14 be submitted in the form prescribed by rule by the secretary,
15 containing, but not limited to, the following:

16 (1) The name, address, and telephone number of the charitable
17 organization;

18 (2) The name(s) under which the organization will solicit
19 contributions;

20 (3) The name, address, and telephone number of the officers of or
21 persons accepting responsibility for the organization;

22 (4) The names of the three officers or employees receiving the
23 greatest amount of compensation from the organization;

24 (5) The purpose of the organization;

25 (6)(a) Whether the organization is exempt from federal income tax;
26 and if so the organization shall attach to its application a copy of
27 the letter by which the internal revenue service granted such status;
28 and

29 (b) The name and address of the entity that prepares, reviews, or
30 audits the financial statement of the organization;

31 (7) A solicitation report of the organization for the preceding
32 accounting year including:

33 (a) The (~~number and~~) types of solicitations conducted;

34 (b) The total dollar value of (~~support~~) contributions received
35 from solicitations and from all other sources received on behalf of the
36 charitable purpose of the charitable organization;

1 (c) The total amount of money applied to charitable purposes, fund
2 raising costs, and other expenses; and

3 (d) The name, address, and telephone number of any commercial fund
4 raiser used by the organization;

5 (8) An irrevocable appointment of the secretary to receive service
6 of process in noncriminal proceedings as provided in RCW 19.09.305; and

7 (9) The total revenue of the preceding fiscal year.

8 The solicitation report required to be submitted under subsection
9 (7) of this section shall be in the form prescribed by rule by the
10 secretary, or as agreed to by the secretary and a charitable
11 organization (~~or a group of charitable organizations. A consolidated
12 application for registration may, at the option of the charitable
13 organization, be submitted by a parent organization for itself and any
14 or all of its related foundations, supporting organizations, chapters,
15 branches, or affiliates in the state of Washington.~~

16 ~~The application shall be signed by~~). The president, treasurer, or
17 comparable officer of the organization must sign and date the
18 application. The application shall be submitted with a nonrefundable
19 filing fee which shall be in an amount to be established by the
20 secretary by rule. In determining the amount of this application fee,
21 the secretary may consider factors such as the entity's annual budget
22 and its federal income tax status. If the secretary determines that
23 the application is complete, the application shall be filed and the
24 applicant deemed registered.

25 (~~The secretary shall notify the director of veterans' affairs upon
26 receipt of an application for registration as a charitable organization
27 from an entity that purports to raise funds to benefit veterans of the
28 United States military services. The director of veterans' affairs may
29 advise the secretary and the attorney general of any information,
30 reports, or complaints regarding such an organization.~~)

31 **Sec. 4.** RCW 19.09.076 and 1994 c 287 s 1 are each amended to read
32 as follows:

33 (1) The application requirements of RCW 19.09.075 do not apply to
34 (~~the following~~):

35 (~~(1)~~) (a) Any charitable organization raising less than an amount
36 as set by rule adopted by the secretary in any accounting year when all
37 the activities of the organization, including all fund raising

1 activities, are carried on by persons who are unpaid for their services
2 and no part of the charitable organization's assets or income inures to
3 the benefit of or is paid to any officer or member of the organization;

4 ~~((2) Any charitable organization located outside of the state of
5 Washington if the organization files the following with the secretary:~~

6 ~~(a) The registration documents required under the charitable
7 solicitation laws of the state in which the charitable organization is
8 located;~~

9 ~~(b) The registration required under the charitable solicitation
10 laws of the state of California and the state of New York; and~~

11 ~~(c) Such federal income tax forms as may be required by rule of the
12 secretary.))~~

13 (b) Political organizations; or

14 (c) Appeals for funds on behalf of a specific individual named in
15 the solicitation, but only if all of the proceeds of the solicitation
16 are given to or expended for the direct benefit of that individual.

17 (2) All entities soliciting (~~charitable donations~~) contributions
18 for charitable purposes shall comply with the requirements of RCW
19 19.09.100.

20 **Sec. 5.** RCW 19.09.079 and 1993 c 471 s 5 are each amended to read
21 as follows:

22 An application for registration as a commercial fund raiser shall
23 be submitted in the form prescribed by the secretary, containing, but
24 not limited to, the following:

25 (1) The name, address, and telephone number of the commercial fund-
26 raising entity;

27 (2) The name(s), address(es), and telephone number(s) of the
28 owner(s) and principal officer(s) of the commercial fund-raising
29 entity;

30 (3) The name, address, and telephone number of the individual
31 responsible for the activities of the commercial fund-raising entity in
32 Washington;

33 ~~(4) ((A list of states and Canadian provinces in which fund raising
34 has been performed;~~

35 ~~(5))~~) The names of the three officers or employees receiving the
36 greatest amount of compensation from the commercial fund-raising
37 entity;

1 (~~(+6)~~) (5) The name and address of the entity that prepares,
2 reviews, or audits the financial statement of the organization;

3 (~~(+7)~~) (6) A solicitation report of the commercial fund-raising
4 entity for the preceding accounting year, including:

5 (a) The (~~number and~~) types of fund raising services conducted;

6 (b) The names of charitable organizations required to register
7 under RCW 19.09.065 for whom fund raising services have been performed;

8 (c) The total value of contributions received on behalf of
9 charitable organizations required to register under RCW 19.09.065 by
10 the commercial fund raiser, affiliate of the commercial fund raiser, or
11 any entity retained by the commercial fund raiser; and

12 (d) The amount of money disbursed to charitable organizations for
13 charitable purposes, net of fund raising costs paid by the charitable
14 organization as stipulated in any agreement between charitable
15 organizations and the commercial fund raiser;

16 (~~(+8)~~) (7) The name, address, and telephone number of any
17 commercial fund raiser that was retained in the conduct of providing
18 fund raising services; and

19 (~~(+9)~~) (8) An irrevocable appointment of the secretary to receive
20 service of process in noncriminal proceedings as provided in RCW
21 19.09.305.

22 The application shall be signed by an officer or owner of the
23 commercial fund raiser and shall be submitted with a nonrefundable fee
24 in an amount to be established by rule of the secretary. If the
25 secretary determines that the application is complete, the application
26 shall be filed and the applicant deemed registered.

27 **Sec. 6.** RCW 19.09.085 and 1993 c 471 s 6 are each amended to read
28 as follows:

29 (1) Registration under this chapter shall be effective for one year
30 or longer, as established by the secretary.

31 (2) Reregistration required under RCW 19.09.075 or 19.09.079 shall
32 be submitted to the secretary no later than the date established by the
33 secretary by rule.

34 (3) Entities required to register under this chapter shall file a
35 notice of change of information within thirty days of any change in the
36 information contained in RCW 19.09.075 (1) through (~~(+6)~~) (9) or
37 19.09.079 (1) through (~~(+6)~~) (7).

1 (4) The secretary shall notify entities registered under this
2 chapter of the need to reregister upon the expiration of their current
3 registration. The notification shall be by mail, sent at least sixty
4 days prior to the expiration of their current registration. Failure to
5 register shall not be excused by a failure of the secretary to mail the
6 notice or by an entity's failure to receive the notice.

7 **Sec. 7.** RCW 19.09.097 and 1993 c 471 s 7 are each amended to read
8 as follows:

9 (1) No charitable organization may contract with a commercial fund
10 raiser for any fund raising service or activity unless its contract
11 requires that both parties comply with the law and permits officers of
12 the charity reasonable access to: (a) The fund raisers' financial
13 records relating to that charitable organization; ~~((and))~~ (b) the fund
14 raisers' operations including without limitation the right to be
15 present during any telephone solicitation; and (c) the names of all of
16 the fund raisers' employees or staff who are conducting fund raising or
17 charitable solicitations on behalf of the charitable organization. In
18 addition, the contract shall specify the amount of raised funds that
19 the charitable organization will receive or the method of computing
20 that amount, the amount of compensation of the commercial fund raiser
21 or the method of computing that amount, and whether the compensation is
22 fixed or contingent.

23 (2) Before a charitable organization may contract with a commercial
24 fund raiser for any fund raising service or activity, the charitable
25 organization and commercial fund raiser shall complete and file a
26 registration form with the secretary. The registration shall be filed
27 by the charitable organization ~~((with the secretary,))~~ in the form
28 prescribed by the secretary ~~((, within five working days of the~~
29 ~~execution of the contract containing,)).~~ The registration shall
30 contain, but not be limited to, the following information:

- 31 (a) The name and registration number of the commercial fund raiser;
32 (b) The name of the surety or sureties issuing the bond required by
33 RCW 19.09.190, the aggregate amount of such bond or bonds, the bond
34 number(s), original effective date(s), and termination date(s);
35 (c) The name and registration number of the charitable
36 organization;

1 (d) The name of the representative of the commercial fund raiser
2 who will be responsible for the conduct of the fund raising;

3 (e) The type(s) of service(s) to be provided by the commercial fund
4 raiser;

5 (f) The dates such service(s) will begin and end;

6 (g) The terms of the agreement between the charitable organization
7 and commercial fund raiser relating to:

8 (i) Amount or percentages of amounts to inure to the charitable
9 organization;

10 (ii) Limitations placed on the maximum amount to be raised by the
11 fund raiser, if the amount to inure to the charitable organization is
12 not stated as a percentage of the amount raised;

13 (iii) Costs of fund raising that will be the responsibility of the
14 charitable organization, regardless of whether paid as a direct
15 expense, deducted from the amounts disbursed, or otherwise; and

16 (iv) The manner in which contributions received directly by the
17 charitable organization, not the result of services provided by the
18 commercial fund raiser, will be identified and used in computing the
19 fee owed to the commercial fund raiser; and

20 (h) The names of any entity to which more than ten percent of the
21 total anticipated fund raising cost is to be paid, and whether any
22 principal officer or owner of the commercial fund raiser or relative by
23 blood or marriage thereof is an owner or officer of any such entity.

24 (3) A correct copy of the contract shall be filed with the
25 secretary before the commencement of any campaign.

26 (4) The registration form shall be submitted with a nonrefundable
27 filing fee in an amount to be established by rule of the secretary and
28 shall be signed by an owner or principal officer of the commercial fund
29 raiser and the president, treasurer, or comparable officer of the
30 charitable organization.

31 **Sec. 8.** RCW 19.09.100 and 1994 c 287 s 2 are each amended to read
32 as follows:

33 The following conditions apply to solicitations as defined by RCW
34 19.09.020:

35 (1) A charitable organization, whether or not required to register
36 pursuant to this chapter, that directly solicits contributions from the

1 public in this state shall make the following clear and conspicuous
2 disclosures at the point of solicitation:

3 (a) The name of the individual making the solicitation;

4 (b) The identity of the charitable organization and the city of the
5 principal place of business of the charitable organization;

6 (c) If requested by the solicitee, the published number in the
7 office of the secretary for the donor to obtain additional financial
8 disclosure information on file with the secretary.

9 (2) A commercial fund raiser shall clearly and conspicuously
10 disclose at the point of solicitation:

11 (a) The name of the individual making the solicitation;

12 (b) The name of the entity for which the fund raiser is an agent or
13 employee and the name and city of the charitable organization for which
14 the solicitation is being conducted; and

15 (c) If requested by the solicitee, the published number in the
16 office of the secretary for the donor to obtain additional financial
17 disclosure information on file with the secretary. The disclosure must
18 be made during an oral solicitation of a contribution, and at the same
19 time at which a written request for a contribution is made.

20 (3) A person or organization soliciting charitable contributions by
21 telephone shall make the disclosures required under subsection (1) or
22 (2) of this section in the course of the solicitation but prior to
23 asking for a commitment for a contribution from the solicitee, and in
24 writing to any solicitee that makes a pledge within five working days
25 of making the pledge. If the person or organization sends any
26 materials to the person or organization solicited before the receipt of
27 any contribution, those materials shall include the disclosures
28 required in subsection (1) or (2) of this section, whichever is
29 applicable.

30 (4) In the case of a solicitation by advertisement or mass
31 distribution, including posters, leaflets, automatic dialing machines,
32 publication, and audio or video broadcasts, it shall be clearly and
33 conspicuously disclosed in the body of the solicitation material that:

34 (a) The solicitation is conducted by a named commercial fund
35 raiser, if it is;

36 (b) The notice of solicitation required by the charitable
37 solicitation act is on file with the secretary's office; and

1 (c) The potential donor can obtain additional financial disclosure
2 information at a published number in the office of the secretary.

3 (5) A container or vending machine displaying a solicitation must
4 also display in a clear and conspicuous manner the name of the
5 charitable organization for which funds are solicited, the name,
6 business address, and telephone number of the individual and any
7 commercial fund raiser responsible for collecting funds placed in the
8 containers or vending machines, and the following statement: "This
9 charity is currently registered with the secretary's office under the
10 charitable solicitation act, registration number"

11 (6) A commercial fund raiser shall not represent that tickets to
12 any fund raising event will be donated for use by another person unless
13 all the following requirements are met:

14 (a) The commercial fund raiser prior to conducting a solicitation
15 has written commitments from persons stating that they will accept
16 donated tickets and specifying the number of tickets they will accept;

17 (b) The written commitments are kept on file by the commercial fund
18 raiser for three years and are made available to the secretary,
19 attorney general, or county prosecutor on demand;

20 (c) The contributions solicited for donated tickets may not be more
21 than the amount representing the number of ticket commitments received
22 from persons and kept on file under (a) of this subsection; and

23 (d) Not later than seven calendar days prior to the date of the
24 event for which ticket donations are solicited, the commercial fund
25 raiser shall give all donated tickets to the persons who made the
26 written commitments to accept them.

27 (7) Each person or organization soliciting charitable contributions
28 shall not represent orally or in writing that:

29 (a) The charitable contribution is tax deductible unless the
30 charitable organization for which charitable contributions are being
31 solicited or to which tickets for fund raising events or other services
32 or goods will be donated, has applied for and received from the
33 internal revenue service a letter of determination granting tax
34 deductible status to the charitable organization;

35 (b) The person soliciting the charitable contribution is a
36 volunteer or words of similar meaning or effect that create the
37 impression that the person soliciting is not a paid solicitor unless
38 such person is unpaid for his or her services;

1 (c) The person soliciting the charitable contribution is a member,
2 staffer, helper, or employee of the charitable organization or words of
3 similar meaning or effect that create the impression that the person
4 soliciting is not a paid solicitor if the person soliciting is
5 employed, contracted, or paid by a commercial fund raiser.

6 (8) If the charitable organization is associated with, or has a
7 name that is similar to, any unit of government each person or
8 organization soliciting contributions shall disclose to each person
9 solicited whether the charitable organization is or is not part of any
10 unit of government and the true nature of its relationship to the unit
11 of government. This subsection does not apply to a foundation or other
12 charitable organization that is organized, operated, or controlled by
13 or in connection with a registered public charity, including any
14 governmental agency or unit, from which it derives its name.

15 (9) No person may, in conducting any solicitation, use the name
16 "police," "sheriff," "firefighter," "firemen," or a similar name unless
17 properly authorized by a bona fide police, sheriff, or firefighter
18 organization or police, sheriff, or fire department. A proper
19 authorization shall be in writing and signed by two authorized
20 officials of the organization or department and shall be filed with the
21 secretary.

22 (10) A person may not, in conducting any solicitation, use the name
23 of a federally chartered or nationally recognized military veterans'
24 service organization as determined by the United States veterans'
25 administration unless authorized in writing by the highest ranking
26 official of that organization in this state.

27 (11) A charitable organization shall comply with all local
28 governmental regulations that apply to soliciting for or on behalf of
29 charitable organizations.

30 (12) (~~The advertising material and the general promotional plan~~
31 ~~for a solicitation shall not be false, misleading, or deceptive, and~~
32 ~~shall afford full and fair disclosure~~)) An entity soliciting
33 contributions for a charitable purpose shall not include in any
34 solicitation, or in any advertising material for a solicitation, or in
35 any promotional plan for a solicitation, any statement that is false,
36 misleading, or deceptive. All solicitations, advertising material, and
37 promotional plans must fully and fairly disclose the identity of the
38 entity on whose behalf the solicitation is made.

1 (13) Solicitations shall not be conducted by a charitable
2 organization or commercial fund raiser that has, or if a corporation,
3 its officers, directors, or principals have, been convicted of a crime
4 involving solicitations for or on behalf of a charitable organization
5 in this state, the United States, or any other state or foreign country
6 within the past ten years or has been subject to any permanent
7 injunction or administrative order or judgment under RCW 19.86.080 or
8 19.86.090, involving a violation or violations of RCW 19.86.020, within
9 the past ten years, or of restraining a false or misleading promotional
10 plan involving solicitations for charitable organizations.

11 (14) No charitable organization or commercial fund raiser subject
12 to this chapter may use or exploit the fact of registration under this
13 chapter so as to lead the public to believe that registration
14 constitutes an endorsement or approval by the state, but the use of the
15 following is not deemed prohibited: "Currently registered with the
16 Washington state secretary of state as required by law. Registration
17 number"

18 (15) No entity may engage in any solicitation for contributions for
19 or on behalf of any charitable organization or commercial fund raiser
20 unless the charitable organization or commercial fund raiser is
21 currently registered with the secretary.

22 (16) No ~~((entity))~~ charitable organization or commercial fundraiser
23 may engage in any solicitation for contributions unless it complies
24 with all provisions of this chapter.

25 (17)~~((a))~~ No entity may place a telephone call to a donor or
26 potential donor for the purpose of charitable solicitation ~~((that will~~
27 ~~be received by the solicitee))~~ before eight o'clock a.m. or after nine
28 o'clock p.m. pacific time.

29 ~~((b))~~ (18) No entity may, ~~((while placing a telephone call))~~ when
30 contacting a donor or potential donor for the purpose of charitable
31 solicitation, engage in any conduct the natural consequence of which is
32 to harass, intimidate, or torment any person in connection with the
33 ~~((telephone call))~~ contact.

34 ~~((18))~~ (19) Failure to comply with subsections (1) through
35 ~~((17))~~ (18) of this section is a violation of this chapter.

36 **Sec. 9.** RCW 19.09.210 and 1993 c 471 s 12 are each amended to read
37 as follows:

1 Upon the request of the attorney general or the county prosecutor,
2 a charitable organization or commercial fund raiser shall submit a
3 financial statement containing, but not limited to, the following
4 information:

5 (1) The gross amount of the contributions pledged and the gross
6 amount collected.

7 (2) The amount thereof, given or to be given to charitable purposes
8 represented together with details as to the manner of distribution as
9 may be required.

10 (3) The aggregate amount paid and to be paid for the expenses of
11 such solicitation.

12 (4) The amounts paid to and to be paid to commercial fund raisers
13 or charitable organizations.

14 (5) Copies of any annual or periodic reports furnished by the
15 charitable organization(~~(7)~~) of its activities during or for the same
16 fiscal period(~~(, to its parent organization, subsidiaries, or~~
17 ~~affiliates, if any)~~).

18 **Sec. 10.** RCW 19.09.440 and 1993 c 471 s 42 are each amended to
19 read as follows:

20 (1) Annually, the secretary of state shall publish a report
21 indicating:

22 (a) For each charitable organization registered under RCW
23 (~~(19.09.065)~~) 19.09.075 the percentage relationship between (i) the
24 total amount of money applied to charitable purposes; and (ii) the
25 dollar value of (~~(support received from solicitations and received from~~
26 ~~all other sources on behalf of the charitable purpose of the~~
27 ~~organization)~~) total expenditures, including the total amount of money
28 applied to charitable purposes, fund raising costs, and administrative
29 expenses;

30 (b) For each commercial fund raiser registered under RCW
31 (~~(19.09.065)~~) 19.09.079 the percentage relationship between (i) the
32 amount of money disbursed to charitable organizations for charitable
33 purposes; and (ii) the total value of contributions received on behalf
34 of charitable organizations by the commercial fund raiser; and

35 (c) Such other information as the secretary of state deems
36 appropriate.

1 (2) The secretary of state may use the latest information obtained
2 pursuant to RCW 19.09.075, 19.09.079, or otherwise under chapter 19.09
3 RCW to prepare the report.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 19.09 RCW
5 to read as follows:

6 Charitable organizations must ensure that their boards, or a
7 committee thereof, have reviewed and accepted any financial report that
8 the organization may be required to file with the office of the
9 secretary. Charitable organizations must also ensure that the
10 financial information included in the filing fairly represents, in all
11 material respects, the financial condition and results of operations of
12 the organization as of, and for, the periods presented to the secretary
13 for filing. If the financial information submitted to the secretary is
14 incorrect in any material way, the charitable organization may be
15 subject to penalties as provided under RCW 19.09.279.

16 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.09 RCW
17 to read as follows:

18 The secretary may, in conjunction with the attorney general,
19 develop and operate an education program for charitable organizations,
20 their board members, and the general public. To the extent
21 practicable, the secretary shall consult with the nonprofit and
22 charitable sector and the charitable advisory council created in
23 section 16 of this act to develop curriculum and other materials
24 intended to educate charitable organizations, their board members, and
25 the general public.

26 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.09 RCW
27 to read as follows:

28 (1) To provide for a charitable organization education program as
29 authorized in section 12 of this act, the secretary may establish fees
30 on registrations for entities filing with the secretary as
31 organizations pursuant to this chapter.

32 (2) The fees authorized in this section are in addition to the
33 existing fees established by the secretary in rule for organizations
34 required to register under this chapter.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.09 RCW
2 to read as follows:

3 The charitable organization education account is created in state
4 treasury. All receipts from the fees authorized in section 13(1) of
5 this act must be deposited into the account. Moneys in the account may
6 be spent only after appropriation. Expenditures from the account may
7 be used only for the charitable organization education program
8 authorized in section 12 of this act.

9 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.09 RCW
10 to read as follows:

11 The secretary is authorized to adopt rules, in accordance with
12 chapter 34.05 RCW, that establish a set of tiered independent financial
13 reporting requirements for charitable organizations required to
14 register with the secretary pursuant to this chapter. Rules adopted
15 under this section shall include, but not be limited to, substantially
16 the following:

17 (1) An initial filing requirement for all charitable organizations
18 as currently required in this chapter;

19 (2) A financial reporting requirement for charitable organizations
20 that have more than one million dollars in annual gross revenue
21 averaged over the last three fiscal years. The secretary may require
22 charitable organizations that meet this threshold to have the federal
23 financial reporting forms the organization normally files to be
24 completed or reviewed by a third party who normally prepares or reviews
25 the forms in the ordinary course of their business. These forms must
26 be submitted to the secretary; and

27 (3) A financial reporting requirement for charitable organizations
28 with more than three million dollars in annual gross revenue averaged
29 over the last three fiscal years. The secretary may require charitable
30 organizations that meet this threshold to submit to the secretary
31 audited financial statements prepared by an independent certified
32 public accountant.

33 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.09 RCW
34 to read as follows:

35 (1) The secretary is authorized to create a charitable advisory

1 council to consist of at least eleven, but not more than twenty-one,
2 members. Members of a charitable advisory council shall:

3 (a) Be appointed by the secretary, with all members serving at the
4 pleasure of the secretary and all terms expiring no later than the term
5 of the appointing secretary;

6 (b) Represent a broad range of charities by size, purpose,
7 geographic region of the state, and general expertise in the management
8 and leadership of charitable organizations; and

9 (c) Annually vote to elect one of its members to serve as
10 chairperson.

11 (2) The secretary shall not compensate members of the charitable
12 advisory council but may provide reimbursement to members for expenses
13 that are incurred in the conduct of their official duties.

14 (3) The charitable advisory council shall advise the secretary in
15 determining training and educational needs of charitable organizations
16 and model policies related to governance and administration of
17 charitable organizations in accordance with fiduciary principles,
18 assist the secretary in identifying emerging issues and trends
19 affecting charitable organizations, and advise the secretary on other
20 related issues at the request of the secretary.

21 NEW SECTION. **Sec. 17.** A new section is added to chapter 19.09 RCW
22 to read as follows:

23 (1) The secretary may enter into reciprocal agreements with the
24 appropriate authority of any other state for the purpose of exchanging
25 information with respect to charitable organizations and commercial
26 fund raisers.

27 (2) Pursuant to such agreements the secretary may:

28 (a) Accept information filed by a charitable organization or
29 commercial fund raisers with the appropriate authority of another state
30 in lieu of the information required to be filed in accordance with this
31 chapter, if the information is substantially similar to the information
32 required under this chapter; and

33 (b) Grant exemptions from the requirements for the filing of annual
34 registration statements with the office to charitable organizations
35 organized under the laws of another state having their principal place
36 of business outside this state whose funds are derived principally from
37 sources outside this state and that have been exempted from the filing

1 of registration statements by the statute under whose laws they are
2 organized if such a state has a statute similar in substance to this
3 chapter.

4 (3) The secretary may adopt rules relating to reciprocal agreements
5 consistent with this section.

6 NEW SECTION. **Sec. 18.** RCW 19.09.095 (Subsidiary organizations--
7 Requirement to register--Exemptions) and 1986 c 230 s 9 & 1983 c 265 s
8 6 are each repealed."

SHB 1777 - S COMM AMD

By Committee on Consumer Protection & Housing

ADOPTED 04/06/2007

9 On page 1, line 2 of the title, after "public;" strike the
10 remainder of the title and insert "amending RCW 19.09.010, 19.09.020,
11 19.09.075, 19.09.076, 19.09.079, 19.09.085, 19.09.097, 19.09.100,
12 19.09.210, and 19.09.440; adding new sections to chapter 19.09 RCW;
13 prescribing penalties; and repealing RCW 19.09.095."

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