

CHAPTER 48

CHARITABLE FUND RAISING

Authority

N.J.S.A. 45:17A-18 et seq., specifically 45:17A-21b

Source and Effective Date

R.2005 d.70, effective January 21, 2005.
See: 36 N.J.R. 4370(a), 37 N.J.R. 618(a).

Chapter Expiration Date

Chapter 48, Charitable Fund Raising, expires on January 21, 2010.

Chapter Historical Note

Chapter 48, Charitable Fund Raising, was adopted as R.1979 d.311, effective August 13, 1979. See: 11 N.J.R. 257(a), 11 N.J.R. 466(a). Pursuant to Executive Order No. 66(1978), Chapter 48 expired on August 13, 1984. New fund raising rules were adopted as R.1985 d.698 effective January 21, 1986. See: 17 N.J.R. 1244(a), 18 N.J.R. 205(b).

Pursuant to Executive Order No. 66(1978), Chapter 48 was readopted as R.1991 d.64, effective January 17, 1991. See: 22 N.J.R. 3108(b), 23 N.J.R. 608(b).

Chapter 48 was repealed and new Chapter 48, Charitable Fund Raising was adopted as R.1994 d.494, effective September 19, 1994. See: 26 N.J.R. 2746(a), 26 N.J.R. 3882(a).

Pursuant to Executive Order No. 66(1978), Chapter 48, Charitable Fund Raising, was readopted as R.1999 d.339, effective September 9, 1999. See: 31 N.J.R. 1899(a), 31 N.J.R. 2892(a).

Subchapters 4 through 15 were adopted as new rules by R.1999 d.385, effective November 15, 1999. See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Chapter 48, Charitable Fund Raising, was readopted as R.2005 d.70, effective January 21, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:48-1.1 Director

(a) The Director of the Division of Consumer Affairs shall be the person charged with the administration and enforcement of the Charitable Registration and Investigation Act, P.L. 1994, c.16.

Case Notes

The Charities Registration and Investigation Section of the Division of Consumer Affairs is entrusted with the administration and enforcement of the Charitable Fund Raising Act of 1971. *Degnan v. Nordmark & Hood Presentations, Inc.*, 177 N.J.Super. 186, 425 A.2d 1091 (App.Div.1981) appeal dismissed 87 N.J. 427, 434 A.2d 1098.

13:48-1.2 Applicability

(a) These rules shall govern the registration and charitable fund raising activities of charitable organizations, federated fund raising organizations, professional fund raisers, solicitors, and commercial co-venturers, pursuant to the Charitable Registration and Investigation Act of 1994.

(b) These rules shall apply to any person engaging within this State in any of the activities regulated by the Act, including persons whose principal place of business is located outside this State.

(c) Upon initial request by a potential registrant, or as the result of independent information received by the Attorney General, a determination form, to determine the applicability of the Act, will be supplied. There is no fee for this form, which may be requested by telephone, facsimile, or letter sent to the address set forth in N.J.A.C. 13:48-1.4.

Case Notes

Contract whereby defendants agreed to put on a circus for a registered charity for costs plus 50 percent of profits fell within the statutory proscription in that it involved use of an unrequested professional fundraiser and provided for compensation beyond amount permitted by statute; Appellate Division of Superior Court has exclusive review of administrative decisions. *Degnan v. Nordmark & Hood Presentations, Inc.*, 177 N.J.Super. 186, 425 A.2d 1091 (App.Div.1981) appeal dismissed 87 N.J. 427, 434 A.2d 1098.

13:48-1.3 Definitions

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

“Act” means the Charitable Registration and Investigation Act of 1994, P.L. 1994, c.16.

“Address” means the principal street address where a person or organization is most reasonably likely to receive actual notice of a mailing.

“Attorney General” means the Attorney General of the State of New Jersey or, as applicable, the Attorney General’s designee, the Director of the Division of Consumer Affairs.

“Caging agent” means the person, firm or company responsible for retrieving responses to solicitations from a return post office box, depositing any monies received and reporting the amount of contributions and non-contributions from the responses.

“Campaign” means an operation or plan organized to solicit a contribution to further a charitable organization’s stated or implied purpose.

“Certified public accountant” includes an individual licensed by the New Jersey Board of Accountancy to practice as a certified public accountant or its equivalent in another jurisdiction; an individual licensed as a public accountant by the New Jersey Board of Accountancy to practice as a public accountant or its equivalent in another jurisdiction; or an individual licensed to practice as a registered municipal accountant by the New Jersey Board of Accountancy.

“Charitable organization” means:

1. Any person determined by the Federal Internal Revenue Service to be a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or
2. Any person who is, or holds himself or herself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

“Charitable purpose” means:

1. Any purpose described in section 501(c)(3), of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or
2. Any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.