

## CHAPTER 48

## CHARITABLE FUND RAISING

## Authority

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

## Source and Effective Date

R.1999 d.339, effective September 9, 1999.  
See: 31 N.J.R. 1899(a), 31 N.J.R. 2892(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 48, Charitable Fund Raising, expires on September 9, 2004.

## 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Chapter 48 was repealed and new Chapter 48, Charitable Fund Raising was adopted as R.1994 d.494, effective September 19, 1994.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: Source and Effective Date.

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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

(a) Where words or terms used in this chapter have been defined in P.L. 1994, c.16, Section 3, the statutory definitions shall be deemed to apply unless defined differently within these regulations. 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.

“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.

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

“Division” means the Division of Consumer Affairs within the Department of Law and Public Safety.

“Event” means a planned happening, occurrence, activity or social occasion.

“Government grant” means:

1. Any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant;
2. Tax revenues levied for the organization’s benefit and either paid to or expended on its behalf;
3. The value of services or facilities furnished by a governmental unit to the organization without charge.

“Gross contributions” means the total amount of contributions received nationwide by a charitable organization, before any deductions for expenses of collection or overhead or for anyone’s services, such as the services provided by fund raising counsel or independent paid fund raisers.

“Gross receipts” means the total amount, without deductions, of cash or other assets received, including, but not limited to, all contributions.

“Professional fund raisers” means both independent paid fund raisers and fund raising counsel.

#### 13:48-1.4 Address for all matters related to registration

All matters related to registration should be communicated to:

Division of Consumer Affairs  
Regulated Business Section  
P.O. Box 45021  
Newark, N.J. 07101  
Tel.: (201) 504-6262  
FAX: (201) 648-2807

## SUBCHAPTER 2. FEES

### 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, which is required under the Act to file a short form registration statement and which received gross contributions of not more than \$10,000 during the most recently filed fiscal year of the organization, shall not be required to pay an annual registration fee. A late fee of \$25.00 shall be incurred by any organization that fails to submit the annual filing within 30 days of the annual filing deadline.

2. A charitable organization, which is required under the Act to file a short form registration statement and which received gross contributions in excess of \$10,000 during the most recently filed fiscal year of the organization, 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. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

3. A charitable organization, which is required under the Act to file a long form registration statement and which 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. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

4. A charitable organization, which is required under the Act to file a long form registration statement and which 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. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

5. A charitable organization, which is required under the Act to file a long form registration statement and which 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. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

6. A parent organization that registers local units in accordance with the Act shall pay its own fee and an additional fee of \$10.00 for each local unit.

7. All fund raising counsel and independent paid fund raisers shall pay an annual registration fee of \$250.00, payable upon initial registration and on July 1 of each renewal year thereafter. A partnership or corporation which offers either fund raising counsel or independent paid fund raiser services, or both types of services, shall pay a single annual registration fee, payable upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to pay the fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.

8. In addition to the fee paid by independent paid fund raisers, a solicitor shall pay a registration fee of \$15.00, payable upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to pay the fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.

9. The fee for filing a contract, defined for purposes of this subsection as any written agreement between a charitable organization and a fund raising counsel, independent paid fund raiser or commercial co-venturer, at least 10 days prior to commencement of any solicitation activity in the State set forth in that contract, shall be \$30.00.

10. The fee for filing a final report, required to be filed by the charitable organization under Section 12b of the Act at the conclusion of a charitable sales promotion conducted by a commercial co-venturer on behalf of a charitable organization, shall be \$10.00.

11. The fee for filing a financial report required to be filed by a fund raising counsel or independent paid fund raiser under Section 10g(3) of the Act for a solicitation campaign, shall be \$10.00.

12. The fee for filing a written commitment, required to be filed by a fund raising counsel or independent paid fund raiser under Section 15e(1) of the Act, confirming a charitable organization's acceptance of donated tickets to an event, shall be \$10.00.

13. The fee for filing a 10 day notice, required to be filed by Section 13d(1) of the Act by a law officers' organization to provide notice of any campaign involving multiple solicitations, shall be \$10.00.

14. The fees for photocopies of any public record maintained pursuant to the Act shall be in accordance with N.J.S.A. 47:1A-2, specifically:

First page to tenth page	\$0.75 per page
Eleventh page to 20th page	\$0.50 per page
All pages over 20	\$0.25 per page

(b) Where the fee imposed is based upon the gross contributions received during the most recently filed fiscal year, and a charitable organization failed to make a required filing which reports gross contributions, the fee shall be based upon the gross contributions received in the prior fiscal year.

(c) A late fee shall be deemed a primary, but not exclusive, remedy for any registration statement or other document which is not filed in a timely fashion. Any failure to file in a timely fashion is a violation of the Act and may be enforced accordingly.

(d) All fee payments shall be in the form of a check or money order made out to "The N.J. Division of Consumer Affairs", and sent to:

Division of Consumer Affairs  
 Regulated Business Section  
 P.O. Box 45021  
 Newark, NJ 07101

SUBCHAPTER 3. GENERAL REQUIREMENTS

**13:48-3.1 Extensions of time for annual filing of the renewal statement and financial report**

(a) The annual filing of the renewal statement and financial report shall be due no later than six months after the close of an organization's fiscal year unless the organization has been granted an extension of time as set forth below.

(b) For good cause shown, the Attorney General may extend the time for the annual filing of the renewal statement and financial report, for a period not to exceed 180 days, during which time the previous registration shall remain in effect. For purposes of this section and Section 6b of the Act, "good cause" shall include, but not be limited to, the following:

1. The Internal Revenue Service has granted an extension of time for filing the organization's tax return;
2. The chief financial officer of the charitable organization has been replaced for any reason within three months prior to the request for the extension; or
3. There is pending litigation alleging misconduct by the charitable organization which could be deemed a violation of this Act.

(c) The request for an extension shall be in writing, accompanied by the full payment of the fee due for the annual filing, and sent by registered mail (return receipt requested) to the Division of Consumer Affairs at the address set forth in N.J.A.C. 13:48-1.4. The request must be received by the Attorney General before the filing deadline. The request shall be signed by the chief executive officer of the charitable organization.

(d) If the charitable organization sought and received from the Internal Revenue Service an extension of time for filing the organization's tax return, the request shall include a photocopy of the approval granted by the Internal Revenue Service.

(e) If the chief financial officer of the charitable organization has been replaced for any reason within the three months prior to the request for extension, the chief executive officer shall certify to that fact before a request for extension can be granted.

(f) If there is pending litigation alleging misconduct by the charitable organization which could be deemed a viola-

tion of this Act, the request shall include the caption, docket number, and a statement regarding the nature of the litigation. The Attorney General may also require submission of any or all relevant financial records before a request for extension shall be granted. If documents are unavailable because they have been subpoenaed, the applicant shall have retained and be able to provide certified true copies of all documents. The applicant shall include in the request for an extension a certification that the originals are not in the applicant's possession, and shall also provide a true copy of the subpoena.

(g) Subsections (b) through (f) notwithstanding, no extension will be granted if:

1. The charitable organization is already delinquent in filing the previous year's report;

2. Fees or penalties, if any, have not been paid; or

3. The extension request does not contain full and accurate information.

(h) Acceptance of an application for extension will be acknowledged by regular mail within 10 business days of the date it was received by the Division, as evidenced by the date appearing on the return receipt. All denials will be sent to the applicant by certified mail, return receipt requested, within 10 business days.

#### Case Notes

Professional solicitor was entitled to preliminary injunction preventing enforcement. *Telco Communications, Inc. v. Barry*, D.N.J.1990, 731 F.Supp. 670.