

Practice Update

Enhancements to Florida's Solicitation of Funds Law Now Effective

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Charities Now Have Tighter Regulations

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In response to the *Tampa Bay Times* investigative story, "America's Worst Charities," Florida's Commissioner of Agriculture Adam Putnam worked with the Florida Legislature to enact material enhancements to Florida's Solicitation of Funds statutes (Chapter 496 – HB 629). Any charity that is subject to registration with the Department of Agriculture and Consumer Services (the Department) is impacted and will need to review and implement the new requirements that became effective July 1, 2014.

Among the changes are the following:

- The standard disclosure requirement, which is a statutory requirement that applies to all charities registered with the Department, must now include the Department's website.
- If the solicitation is on the internet, each page may include the disclosure, and the disclosure must include the charity's phone number or address.
- No officer, trustee, or director who has been convicted of a felony may solicit funds. We note that this is not a pleasant question to ask, but a necessary one.

- Each charity that is registered with the Department must adopt a Conflict of Interest Policy, and each officer, director, or trustee must certify compliance with the Conflict of Interest Policy each year. The certification must be submitted with the annual registration. The Department has stated informally that there is no single form of policy and that the model IRS Conflict Policy will satisfy the requirement. The Department will address this in instructions currently being prepared.
- The professional solicitor rules have been greatly enhanced.
- There are “collection receptacle” (donation drop box) disclosure requirements, for those who collect donations.
- A disaster relief charity that has registered with the Department for four or fewer years and raises more than \$50,000 must comply with substantial additional reporting requirements.
- There are new financial reporting requirements for charities who receive contributions of more \$500,000. For charities with contributions less than \$500,000, there is no apparent change.

While these are only the high points of the enhancements, each charity that raises funds in Florida must review the new statutory requirements closely or risk being in violation of them. Every charity that registers with the Department is potentially impacted by the amendments and should seek proper legal advice to determine the most appropriate method to come into compliance.

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