

2010 Multistate Guide to Regulation and Taxation of Nonprofits

STEVEN D. SIMPSON



CCH

a Wolters Kluwer business

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—From a *Declaration of Principles* jointly adopted by
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Preface

The 2010 edition of the *Multistate Guide to Regulation and Taxation of Nonprofits* has been significantly revised from prior editions.

The highlights of this 2010 edition include the following:

1. The state law portions of the book have been greatly expanded and developed.
2. The revised Form 990 that organizations will use for the 2008 and future years (returns filed in 2009 and thereafter) is included in Appendix C.
3. An important IRS revenue ruling for private foundations and their grantees is explained.

This book also includes:

1. A discussion of the enactment of new Code Section 4965, regarding the excise tax for engaging in prohibited tax shelter transactions by tax-exempt organizations, as enacted by the Tax Increase Prevention and Reconciliation Act of 2005;
2. Updates to the sections regarding the intermediate sanctions rules of Code Section 4958, the private foundation excise taxes, the excise business holding rules of Code Section 4943 that have now been extended to Section 509(a)(3) Supporting Organizations, and disclosure requirements;
3. A discussion regarding the distributions from private foundations to certain Section 509(a)(3) supporting organizations that do not qualify as qualifying distributions under Code Section 4942.
4. An expanded discussion of bingo, raffles and other types of gaming as fundraisers.

This book has six chapters. Chapters 1 and 2 concern the state laws regarding fundraising, charitable solicitations and certain gaming activities. Chapters 3 through 6 then set forth a discussion of the relevant federal tax laws applicable to the topic of the chapter, followed by a discussion of the applicable state laws, in both state-by-state summary and chart form. We hope this format proves helpful.

This book is a companion to my book entitled *Tax Compliance for Tax-Exempt Organizations*, also published by CCH. The 2009 edition of *Tax Compliance for Tax-Exempt Organizations* includes a detailed discussion of donor-advised funds. Therefore, in the *Multistate Guide*, we have included only a short discussion of such entities. We have omitted discussion of the income tax rules applicable to charitable contributions under Code Section 170 and of the tax exemption application process, as we have covered those two subjects in great detail in the other publication. (However, we have included as Appendix D in this book a copy of IRS Publication 557, *Tax-Exempt Status for your Organization*, as ready reference.) We encourage readers to purchase both books.

Although this book bears my name as the author, I am grateful for the kind assistance of others in the writing and production of the manuscript. I want to acknowledge the kind and generous assistance of my colleagues at CCH, primarily Rosemary DeStefano and Sue Frayman, who are responsible for the production of the book. I would also like to acknowledge the assistance of my assistant, Martha Livar, who bore the brunt of the word processing burden necessary to prepare the manuscript. I would also like to acknowledge the courtesy of my colleagues at my firm, Wyrick Robbins Yates and Ponton, LLP, who graciously permitted me the time to prepare the 2010 edition of this book.

As in prior editions, we have had to use editorial discretion, particularly in the state law discussion. Not everything can be included. However, we do ask that if readers have

any comments or suggestions on the manuscript, please do not hesitate to contact me at (919) 781-4000 or by email at ssimpson@wyrick.com to discuss the exercise of my editorial discretion in this book.

Finally, and certainly not least, I want to thank each and everyone of you, the readers, for your continuing support of our publishing efforts. Without you as an audience, this book would not survive. We do appreciate your courtesy in continuing to support our efforts in this respect.

Steven D. Simpson
Raleigh, North Carolina
August 2009

About the Author

STEVEN D. SIMPSON is of counsel with the law firm of Wyrick Robbins Yates & Ponton LLP in Raleigh, North Carolina. Mr. Simpson is a 1978 graduate of the Wake Forest University School of Law and was awarded a Master of Laws Degree in Taxation from Georgetown University Law Center in 1981. He has represented many organizations and individuals on a wide variety of tax, corporate, business, and estate planning matters and charitable gift planning issues. He has particular expertise in the representation of Section 501(c)(6) trade associations and 501(c)(3) charitable organizations and private foundations. Health care organizations have also been a particular focus of Mr. Simpson's practice. He has counseled many hospitals on a range of matters, including physician recruitment, incentive compensation, reimbursement, self-referral issues, medical staff relationships, corporate reorganization, and purchases and sales of hospital assets. Mr. Simpson has more than thirty years of experience in representing all types of tax-exempt organizations. He has written and lectured on many topics affecting tax-exempt organizations, including:

- Unrelated business income tax issues;
- Lobbying and political activities;
- Federal and state election laws;
- Charitable giving;
- Political action committees;
- Compensation and retirement plans;
- Excise taxes affecting public charities and private foundations;
- Private inurement, private benefit, and intermediate sanctions;
- Systems of affiliated tax-exempt organizations; and
- Tax and antitrust issues affecting trade associations.

Mr. Simpson is admitted to the bars of North Carolina, Florida, and the District of Columbia and is admitted to practice before the United States Supreme Court as well as numerous federal courts of appeal and district courts. He has been active in the American Bar Association's Exempt Organizations Committee, as well as in the North Carolina Bar Association's Health Law Section as a past member of the Executive Council. He is also a member of the American Society of Association Executives and the Association Executives of North Carolina, among several other professional organizations, and is listed in The Best Lawyers in America under tax law. He has received the A-V rating from Martindale-Hubbell and is listed in the Bar Register of Preeminent Lawyers.

Mr. Simpson is the author of *Tax Compliance for Tax-Exempt Organizations*, published by CCH; as well as *Tax-Exempt Organizations: Organizational and Operational Requirements*, Tax Management Portfolio No. 869; *Tax-Exempt Organizations: Reporting, Disclosure and Other Procedural Aspects*, Tax Management Portfolio No. 870-2d; and *Private Foundations: Taxable Expenditures*, Tax Management Portfolio No. 882, all published by Tax Management, Inc., a subsidiary of the Bureau of National Affairs.

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Regulation of Charitable Solicitations and Fundraising; Miscellaneous Regulatory Provisions

Overview

All 50 states and the District of Columbia regulate nonprofit organizations to some extent, often under consumer protection or trade and business statutes. Thirty-nine states and the District of Columbia have enacted some type of law governing charitable solicitation or requiring registration or licensing for tax-exempt organizations. Many of the states accept the Uniform Registration Statement (URS). This program is a project of the National Association of Attorneys General and the National Association of State Charities Officials to reduce the paperwork burden on organizations and helps reduce the burden on organizations engaged in nationwide solicitation programs. For further information, see the URS website at: http://www.multistatefiling.org/c_statement.htm. See also Appendix B, Standardized Registration for Nonprofit Organizations.

Bingo and raffles are considered to be fundraising activities herein.

State by State

Each state's charitable solicitation or licensing statute is set forth in below.

Alabama

Alabama has enacted a charitable solicitation statute, which is codified at Code of Alabama Sections 13A-9-70 *et seq.* These provisions are contained in the Alabama Criminal Code and the Attorney General's office administers the statute. Alabama accepts the Unified Registration Statement (URS) filing.

Alabama Code Section 13A-9-71(a) provides that every charitable organization, unless exempted, that is physically located in the State of Alabama which intends to solicit contributions within the State of Alabama must prior to any solicitation file a registration statement with the Alabama Attorney General with the following information:

1. The name of the entity;
2. Names and addresses of officers, directors and executive personnel;
3. The organization's address;
4. The place where and the date on which the organization was legally established, the form of organization and its tax-exempt status;
5. The purposes for which the organization is organized;
6. The date on which its fiscal year ends;
7. Whether the organization is authorized by any other governmental entity to solicit contributions and whether it has ever been enjoined by any court from soliciting; and
8. The names and addresses of any professional fund raisers and commercial co-venturers who are acting or have agreed to act on its behalf.

There are certain exemptions from the requirement that an organization obtain a charitable solicitation registration. These exemptions include the following:

1. Educational institutions and their affiliated fund-raising foundations;
2. Religious organizations;
3. Political organizations;
4. Fraternal, social, educational, alumni, health care foundation, historical and civil rights organizations;
5. Civic leagues and civic organizations that solicit only from within their own memberships;
6. Any charitable organization that does not actually receive contributions in excess of \$25,000 during its fiscal year, so long as all of its fund raising activities are carried out by volunteers; and
7. Veterans organizations provided that volunteers conduct the fund-raising activities.

[Ala. Code § 13A-9-71(f)]

A fee of \$25 must accompany the application for the license, with the check payable to the Alabama Office of the Attorney General.

The application for the charitable solicitation license must include the articles of incorporation and bylaws and the Internal Revenue Service (IRS) determination letter, if the organization has received one. The application must be signed by the president or other authorized officer and the chief financial officer. The signatures must be notarized.

The registration remains in effect unless it is either cancelled or withdrawn by the organization.

Although Alabama does not require the organization to be audited, it does require the organization to file an annual report. Alabama Code Section 13A-9-71(g) states that every registered charitable organization must, within 90 days of the close of its fiscal year ending after the date on which the charitable organization files its initial registration, file an

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annual written report. Each annual report must be sworn to under oath, be in the form prescribed by the Attorney General and include a financial statement covering the fiscal year. An organization may also meet this requirement by submitting a copy of the federal Form 990.

The application for the solicitation registration and renewals should be addressed to the following:

State of Alabama
Office of the Attorney General
Consumer Affairs Division
11 South Union Street
Montgomery, Alabama 36130-2103

For further information, see the Alabama Attorney General's website at <http://www.state.al.us/>.

Note that in Alabama, when a charitable organization is soliciting funds, a container (used to collect donated funds, for example) used by any person or charitable organization or an agent thereof, whether paid or volunteer, in a public place to solicit contributions by offering a product for sale or distribution for solicitation purposes must have a disclosure label. [Ala. Code § 13A-9-81] The disclosure label must be a printed or typed notice which is affixed to a container, in a conspicuous place and accessible to the public, that informs the public of the approximate annual percentage paid, if any, to any individual or organization to maintain, service or collect the contribution raised by the solicitation, the net percentage or sum annually paid for the most recent calendar year paid to the specific charitable purpose, and whether the maintenance, service or collection from the container is done by volunteers or paid personnel. [*Id.* at § 13A-9-80(4)] This provision presumably applies to any sidewalk solicitor, whether paid or unpaid. [*Id.*]

Alaska

Alaska has a charitable solicitation licensing statute, but does not accept the URS form for standardized reporting. Therefore, registration in Alaska requires a stand alone application. [Alaska Stat. §§ 45.68.010 *et seq.*]

Alaska Statutes Section 45.68.010(a) states that a charitable organization may not solicit contributions of money or other property in Alaska unless the organization is registered with the Department of Law. Furthermore, in Alaska, no person may solicit contributions of money or property for a charitable organization for compensation unless such person is registered with the Department of Law.

Alaska Statutes Section 45.68.050 states that during a solicitation for a charitable organization, no person may use a deceptive act or represent or imply that a contribution is for or on behalf of a person, or use an emblem, device or printed matter belonging to or associated with such person. Similarly, during a solicitation no person may use or exploit the fact of registration in Alaska to suggest or imply that registration constitutes an endorsement or approval by the State of Alaska.

Exemptions from the registration requirement in Alaska include the following:

1. All religious organizations; and
2. Certain small organizations receiving contributions of \$5,000 or less, or that does not receive contributions from more than 10 persons during the fiscal year, if in either situation all activities including solicitations are carried on by volunteers.

There are no fees in Alaska for filing for the license. The license is valid for one year and renewal registrations are required to be filed by September 1 of each year.

The application must include copies of any fund raiser or solicitor contracts, and federal Form 990, if available. Curiously, the IRS exemption letter is not required.

An audit is required for all licensees, regardless of the level of gross receipts.

In Alaska, the Attorney General's Office administers the charitable solicitation registration statute. Applications should be filed at the following address:

State of Alaska
Department of Law
Office of the Attorney General
1031 West Fourth Avenue
Suite 200
Anchorage, Alaska 99501-1994

For further information, see the Attorney General's website at <http://www.law.state.ak.us/consumer/pdf/charities>.

Arizona

Arizona has a charitable solicitation licensing statute, which can be found at Arizona Revised Statutes Sections 44-6551 *et seq.* Arizona does accept the URS standardized reporting form. Arizona Revised Statutes Section 44-6552A states that prior to soliciting its first contribution, whether through a contracted fund raiser or otherwise, and each September thereafter, a charitable organization must file a registration statement with the Arizona Secretary of State in such format as the Secretary of State may require. The application filed by any charitable organization is a public record under such provision.

Exemptions from the registration requirement in Arizona include the following:

1. Any charitable organization organized and operated within the State of Arizona exclusively for a proper charitable purpose with a governing board consisting solely of volunteers, if the solicitations are conducted under any of the following conditions:
 - a. By volunteers;
 - b. By paid employees; or
 - c. At meetings or assemblies of the membership or with individual members;
2. Tax-exempt hospitals and their affiliated fund-raising foundations;
3. Tax-exempt blood banks and their affiliated foundations; and
4. Schools, colleges and universities and their affiliated associations and fund-raising foundations.

[Ariz. Rev. Stat. § 44-6553]

There is no fee in Arizona for filing the registration statement. The license is valid for one year and renewals are due on or before January 31 of each year.

The application should be accompanied by copies of any contracts with fund raisers or solicitors and the federal Form 990, if available. There is no audit requirement in the State of Arizona.

The Secretary of State's office administers the charitable solicitation registration provisions. Applications should be filed at the following address:

State of Arizona
Secretary of State
Charitable Organizations

Regulation of Charitable Solicitations and Fundraising

1700 West Washington
7th Floor
Phoenix, Arizona 85007

For further information, see the Arizona Secretary of State's website at <http://www.azsos.gov/>.

Arkansas

Charitable Solicitations. Arkansas has a charitable solicitation registration statute, the "Arkansas Nonprofit Corporation Act," which can be found at Arkansas Code Annotated Sections 4-28-401 *et seq.* Arkansas accepts the URS standardized reporting filings.

Arkansas Code Annotated Section 4-28-402 states that no charitable organization, within or without of the state Arkansas, shall solicit contributions from persons located in the State of Arkansas by any means whatsoever until such organization has registered, provided certain information concerning the solicitation, and has filed the information with the Arkansas Attorney General. This information is a public record and available to the public. This information includes but is not limited to the name of the charitable organization, the address, the purpose for which contributions are to be solicited, the persons responsible for the distribution of the contributions, a description of the method of solicitation and, if paid solicitors are used, the basis of the arrangement between the organization and the paid solicitor.

Exemptions from the registration requirement in Arkansas include the following:

1. Certain organizations receiving less than \$25,000 per year with no paid personnel and no paid fund raisers;
2. Religious organizations;
3. Parent-Teacher organizations;
4. Accredited educational institutions;
5. Nonprofit hospitals;
6. Political organizations and political candidate committees; and
7. Instrumentalities of governments.

[Ark. Code § 4-28-404]

There is no fee for filing the application in Arkansas. The license is issued on a year-to-year basis, and a renewal is required on the anniversary of the initial registration. The application must include any contracts with fund raisers, the federal Form 990, if available, and the exemption letter received from the Internal Revenue Service.

On or before May 15 of each year, each charitable organization must file with the Attorney General a copy of all tax or information returns, including all schedules and amendments, submitted by the charitable organization to the IRS for the previous reporting year, except any schedules of contributors to the organization. Moreover, an audit by a certified public accounting (CPA) firm is required if the organization's gross revenue exceeds \$500,000 annually.

Although Arkansas accepts the URS standardized registration statement form, Arkansas requires one additional form captioned, *Irrevocable Consent for Service: Charitable Organization*.

Applications should be filed at the following address:

State of Arkansas
Office of Attorney General

Consumer Protection Division
323 Center Street
Suite 200
Little Rock, Arkansas 72201-2610

Bingos and Raffles. In 2009 the Arkansas legislature amended the Arkansas laws regarding charitable bingo and raffles. [2009 Ark. Acts 499, amending Ark. Code Ann. § 23-114-102 *et seq.*, eff. March 24, 2009]

Under the revised legislation, the term “authorized organization” means an organization eligible for a license to conduct bingo games and raffles that is a non-profit tax-exempt religious, educational, veterans, fraternal, civic or volunteer police organization, among others, that has been in existence for at least five years prior to conducting the game of bingo or the raffle. [Ark. Code § 23-114-102(1)(a)] In Arkansas the Director of the Department of Finance and Administration administers the laws regarding bingo and raffles. [*Id.* at § 23-114-201(a)] An organization must obtain a license from the Department prior to conducting the bingo game or raffle. [*Id.* at (b)] A temporary license is available where the total prize package to be given away has been donated and has a total value of less than \$5,000.00. [*Id.* at § 23-114-302(b)(3)] A bingo prize may not have a value of more than \$1,000 for a single game. For the total prizes of all games of bingo, an organization may not offer or award prizes with an aggregate value exceeding \$7,500. [*Id.* at § 23-114-408(a), (b)]

In Arkansas there is an excise tax of 3/10ths of 1% (.003) upon the sale of each bingo face card sold by a licensed distributor to a licensed authorized organization in Arkansas. [*Id.*] This is a reduction in the excise tax from the prior level of 10% of the gross receipts derived from the sale of bingo equipment.

The Department of Finance and Administration has authority to seek injunctions against violations of the statute in Arkansas. [*Id.* at § 23-114-704]

California

California has several complex state laws regarding charitable solicitation activities. In California, one should consult any applicable city or county regulations regarding charitable solicitations as well. Governing statutes include the California Government Code Sections 12580-12599.7, the “Uniform Supervision of Trustees for Charitable Purposes Act”; Business and Professions Code Sections 17510-17510.95, 22930. California accepts the URS filing procedure.

California Government Code Section 12581 applies to all charitable corporations, unincorporated associations, trustees and other legal entities holding property for charitable purposes, commercial fund raisers for charitable purposes, fund raising counsel for charitable purposes and commercial co-venturers.

California Business and Professions Code Section 17510.3(a) states that prior to any solicitation for charitable purposes, the solicitor shall exhibit to the prospective donor a card entitled “Solicitation for Charitable Purposes Card.” The card must set forth identifying information about the organization and, among other things, the total amount of the contributions that is estimated would be used for direct fund raising expenses.

A fee of \$25 is charged for the license and is due to be filed annually with California State Form RRF-1. The check is made payable to the “Office of the California Attorney General.” The registration is valid for one year. California Government Code Section 12586.1 states that in addition to the registration fee, a charitable organization may be assessed a late fee or

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additional fee of \$25 after the date on which the registration statement and financial reports were due to be filed if the charitable entity solicits contributions in California without first being registered or, if applicable, bonded.

Exemptions from the registration requirement in California include the following:

1. Governmental organizations;
2. Religious organizations;
3. Political committees;
4. Educational institution;
5. Hospitals; and
6. Licensed healthcare service plans.

[Cal. Gov't Code § 12583]

California accepts the URS filing procedure, and the due date for the filing the URS in California is within four and one half months after the close of the organization's fiscal period. No extensions are granted for filing the California State Form RRF-1.

The Attorney General's office administers the charitable solicitation licensing provisions.

The application for the registration must include the articles of incorporation, bylaws, federal Form 990 and the exemption letter received from the Internal Revenue Service.

Applications are filed at the following address:

State of California
Registry of Charitable Trusts
Office of Attorney General
Post Office Box 903447
Sacramento, California 94203-4470

A commercial fund raiser for charitable purposes may not solicit in California on behalf of a charitable organization unless the charitable organization is either registered or is exempt from registration with the Attorney General's registry. [Cal. Gov't Code § 12599(m)] Similar provisions apply to fund raising counsel to organizations. [Cal. Gov't Code § 12599.1]

Any contract between a charitable organization and a commercial fund raiser or fund raising counsel is voidable by the charitable organization unless the commercial fund raiser or the fund raising counsel is registered with the Attorney General's registry prior to the commencement of the solicitation. [Cal. Gov't Code § 12599.3(a)] The contract must set forth certain termination provisions and the charitable organization must have the right to cancel the contract without penalty for a period of 10 days after the execution of the contract. [Cal. Gov't Code § 12599(b), (c)]

The Attorney General of California has the authority to conduct "whatever investigation is necessary" and may obtain from public records, trustees or other sources any information which is needed to establish and maintain a register of charitable corporations, unincorporated associations and trustees (the Registry). [Cal. Gov't Code § 12584]

Every charitable corporation, unincorporated association and trustee, unless exempted, must file with the Attorney General a copy of the articles of incorporation or other governing instrument within 30 days after the entity or trustee initially received property. [Cal. Gov't Code § 12585] Periodic reports also must be filed with the Attorney General. The report must set forth information as to the nature of the assets held by the entity or the trustee for charitable purposes and the administration thereof. [Cal. Gov't Code § 12586]

Effective January 1, 2005, the law requires every charitable corporation, unincorporated association or trustee which is required to file a report with the Attorney General and which receives or accrues gross revenue of \$2 million or more in any fiscal year, exclusive of government grants and income from government contracts, to prepare annual financial statements using general accepted accounting principles that are audited by an independent CPA firm. This no doubt will increase the expense of paying for audit services. It is particularly burdensome for small charitable organizations. [Cal. Gov't Code § 12586(e)(1)]

If the entity is itself a corporation, it must also have an audit committee appointed by the Board of Directors. The audit committee may not include as a member any member of the staff of the entity, including the president or chief executive officer and the treasurer of the organization. If the corporation has a finance committee, it must be separate from the audit committee. Members of the audit committee may not receive any compensation from the entity in excess of the compensation received by members of the board of directors for such service on the board, if any. They may not have a material financial interest in any entity which does business with the corporation. [Cal. Gov't Code § 12586(e)(2)]

The board of directors of a charitable corporation or unincorporated association must review and approve the compensation, including employee benefits, of the president and treasurer of the organization, to assure that such compensation is "just and reasonable." This review and approval must occur initially upon the hiring of the president or treasurer and thereafter when the officer's contract is renewed or extended. [Cal. Gov't Code § 12586(g)]

A commercial fund raiser for charitable purposes must register with the Office of the Attorney General prior to conducting any solicitation for a charitable purpose. [Cal. Gov't Code Section 12599(b)] Periodic reports must be filed with the Attorney General's Registry of charitable trusts. [Cal. Gov't Code § 12599(c)] The content of the annual registration form filed with the Attorney General must include the following information, among other things:

1. Total revenue;
2. The fees and commissions charged by the commercial fund raiser for charitable purposes;
3. Salaries paid by the commercial fund raiser for charitable purposes; and
4. Fund raising expenses and distributions to the charitable organization or purpose.

[Cal. Gov't Code § 12599(d)]

Importantly, a commercial fund raiser for charitable purposes is considered to be a constructive trustee for charitable purposes as to all funds collected pursuant to a solicitation for charitable purposes. A commercial fund raiser for charitable purpose must account to the Attorney General's registry for all such funds. [Cal. Gov't Code § 12599(g)] This additional level of liability may also increase the cost of soliciting funds by charitable entities in California.

A charitable organization may engage in solicitation for charitable purposes that involves persons standing in a public road and soliciting contributions from passing motorists if the persons to be engaged in the solicitation are law enforcement personnel or firefighters and the charity has filed an application with the city or county with jurisdiction over the location where the solicitation is to occur. The application must be filed not later than ten business days prior to the date the solicitation is to begin, [Cal. Bus. & Prof. Code § 17510.25(a)] making this requirement a form of prior restraint on speech by prohibiting such fundraising activity unless and until the application has been filed. As a result, this provision is of doubtful constitutionality.

Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller must exhibit to the prospective donor or purchaser a card entitled, “solicitation or sale for charitable purposes card.” [*Id.* at § 17510.3] The information on the card must be presented in at least 10 point type and must include name and address of the combined campaign, as applicable, the manner in which the money collected will be utilized for charitable purposes, and the percentage of the total gift or purchase price which may be deducted as a charitable contribution. [*Id.*] Radio or television solicitations must include the same information. [*Id.* at 4] Thus, this provision requires the charity to provide the donor or purchaser with tax advice regarding the amount of the deductible contribution. [*Id.*]

A charity which is engaged in any solicitation or sales solicitations for charitable purposes which collected more than 50 percent of its annual income and more than \$1 million in charitable contributions from California donors, which also spent more than 25 percent of its annual income on “non-program activities”, must make a filing with the California Attorney General’s Registry of Charitable Trusts Office. This filing must include total revenues and contributions received by the charity, total salaries, the amount of fund-raising expenses and travel expenses, among other items. [*Id.* at 9]

For further information, see the California Attorney General’s website at <http://ag.ca.gov/charities/>.

Colorado

Colorado Revised Statutes Sections 6-16-101 *et seq.*, captioned “Colorado Charitable Solicitations Act,” governs the solicitation of charitable contributions. However, Colorado does not accept the URS standardized reporting form as yet.

Revised Statutes Section 6-16-104(1) provides that every charitable organization, unless exempted, that intends to solicit contributions in Colorado by any means or to have contributions solicited on its behalf by any person shall prior to engaging in any such activity file a registration statement with the Colorado Secretary of State upon a form prescribed by that office. The registration statement must identify the charitable organization, the names and addresses of its officers and directors and contain certain financial information, including federal Form 990, if available.

Exemptions from the requirement that the organization obtain a prior registration to solicit contributions in Colorado include the following:

1. Churches, their integrated auxiliaries and conventions or association of churches, the exclusively religious activities of any religious order, and tax-exempt religious organizations;
2. Political parties, candidates for federal or state elective office and political action committees and principal campaign committees required to file information with the Federal Election Commission or any state equivalent office;
3. Charitable organizations which do not receive gross revenue in excess of \$25,000 during any fiscal year, or which do not receive contributions for more than 10 persons during any fiscal year.

[Colo. Rev. Stat. § 6-16-104(6)]

The fee for the registration application is \$10 and the check should be made payable to the Colorado Secretary of State. In Colorado, the registration must be obtained prior to soliciting funds, so that the Colorado statute is a form of prior restraint on the organizations ability to communicate with prospective donors regarding issues of common interest.

The application should include copies of any contracts with fund raisers or solicitors and the exemption letter received from the Internal Revenue Service. There is no audit requirement in Colorado.

In Colorado, the Secretary of State's office administers the charitable solicitation registration act. The mailing address for applications is as follows:

State of Colorado
Office of the Secretary of State
Charitable Solicitations Program
1560 Broadway
Suite 200
Denver, Colorado 80202

For further information, see the Colorado Secretary of State's website at <http://www.sos.state.co.us>.

Note: In Colorado, the nonprofit organization must make all filings electronically through the referenced website.

Connecticut

Connecticut General Statutes Sections 21a-175 *et seq.*, the "Solicitation of Charitable Funds Act," govern charitable solicitation and licensing in Connecticut. Connecticut accepts the URS filing procedure. The registration statute is referred to as the "Solicitation of Charitable Funds Act" and is codified at Title 21a, Chapter 419D of the Connecticut General Statutes.

Connecticut General Statutes Section 21a-190(b) provides that every charitable organization, not otherwise exempted, must register with the Connecticut Department of Consumer Protection prior to conducting any solicitation or prior to having any solicitation conducted on its behalf by others.

Exemptions from the charitable solicitation registration requirement include the following:

1. Religious organizations;
2. Parent/Teacher associations and accredited educational organizations;
3. Tax-exempt hospitals;
4. Governmental units and instrumentalities;
5. Organizations soliciting solely for the benefit of organizations described in the above categories; and
6. Any organization normally receiving less than \$50,000 in contributions annually.

[Conn. Gen. Stat. § 21a-190d]

The charitable organization must apply for exemption from the registration requirement on Connecticut Form CPC-54.

A fee of \$20 must accompany the licensing application, with the check payable to the Connecticut Department of Consumer Protection. The licensing is valid for an indefinite period, but financial reports must be filed annually. These reports are due five months after the end of the fiscal year and a \$25 fee must accompany the financial report.

The nonprofit must apply for and obtain the license prior to soliciting any funds in the State of Connecticut. The application itself is all that is needed for Connecticut, since Connecticut does not require articles of incorporation, bylaws or Internal Revenue Service filings to be submitted with the application.