



Securities and Charities Division
Office of the Georgia Secretary of State
2 Martin Luther King Jr. Drive SE
Suite 317 West Tower - Atlanta, GA 30334
charities@sos.ga.gov

**GEORGIA CHARITABLE SOLICITATIONS ACT OF 1988, AS AMENDED
PAID SOLICITOR & SOLICITOR AGENT INFORMATION RELEASE**

The Georgia Charitable Solicitations Act of 1988, as amended, regulates the solicitation and collection of charitable contributions in Georgia. Unless exempted by provisions of this Act, organizations and individuals that solicit contributions from the public for charitable purposes are required to register with the Secretary of State, and to disclose financial statements and other facts relating to the organization. The Act allows the Secretary of State to take action against those persons and firms who violate its provisions.

PAID SOLICITOR - A paid solicitor is a person other than a commercial coventurer who, for compensation, performs for a charitable organization any service in connection with which contributions are, or will be, solicited within or from this state. A paid solicitor shall also include any fund raising counsel who at any time has custody of contributions from a solicitation. A bona fide salaried officer, employee, or volunteer of a charitable organization is not considered to be a paid solicitor. [O.C.G.A 43-17-2(12)]

SOLICITOR AGENT - is any person, other than a charitable organization, paid solicitor, or commercial coventurer, who or which solicits charitable contributions for compensation. A solicitor agent shall register with the Secretary of State prior to engaging in any solicitation. [O.C.G.A 43-17-2(16)]

FUND-RAISING COUNSEL - A fund-raising counsel is any person other than a paid solicitor required to register under this chapter, who plans, advises, consults, or prepares material for a solicitation of charitable contributions within, into, or from this state and who does not either:

- (A) Solicit such contributions or employ, procure, engage, direct, or supervise any compensated person to solicit such contributions; or
- (B) Have custody or control of contributions. A natural person who is a volunteer, employee, or salaried officer of a charitable organization is not a fundraising counsel with respect to the charitable organization of which he or she is a volunteer, individual, or officer. An attorney, accountant, investment counselor, or banker who, solely incidental to his or her profession, renders professional services to a charitable organization, paid solicitor, or fundraising counsel or advises a person to make a charitable contribution is not a fundraising counsel as a result of such advice. [O.C.G.A. 43-17-2(9)]

A fundraising counsel who at any time has custody of contributions from a solicitation for a charitable purpose must be registered as a paid solicitor and comply with the provisions of this Code section. [O.C.G.A 43-17-3(b)]

PAID SOLICITOR FILING PROCEDURES - A paid solicitor must be registered in Georgia before soliciting funds in or from Georgia on behalf of a charitable organization.

1. **INITIAL REGISTRATION PAID SOLICITOR** - Complete and file form S100 and all attachments. The initial registration fee is \$250.00. The initial registration expires on December 31 of each year and may be renewed for additional one-year periods by filing Form S101, a renewal fee of \$100.00 and if applicable, a current bond and financial statement. [O.C.G.A. 43-17-3]
2. **BOND REQUIREMENTS** - Paid solicitors which have physical possession or legal control over any contributions that it collects must attach to the paid solicitor application a \$10,000.00 surety bond payable to the State of Georgia. In lieu of a surety bond, the Secretary of State will accept a certificate of deposit or letter of credit evidencing a deposit with a financial institution in the amount of \$10,000.00 payable to the applicant and assigned to the Secretary of State. Such Deposits shall be held for the benefit of all persons to whom the applicant is liable for damages for a period of two years after the applicant's registration has expired or been revoked. The deposit shall be held at the expense of the applicant and shall not be released except upon application to and the written order of the Secretary of State. [O.C.G.A. 43-17-4]
3. **FINANCIAL STATEMENTS** - If the paid solicitor will have physical possession or legal control over any contributions collected by it in or from this state on behalf of any charitable organization, the applicant shall attach to the application for registration as a paid solicitor a financial statement for the fiscal year of the applicant which ended within one year prior to the date of filing unless the fiscal year of the applicant has ended within 90 days prior to the date of filing, in which case the financial statement may be dated as of the end of the fiscal year preceding such last fiscal year. Such financial statement shall be prepared in accordance with generally accepted accounting principles. [O.C.G.A. 43-17-3(c)(3)]

INITIAL REGISTRATION SOLICITOR AGENT - Complete and file form SA-1. The initial registration fee is \$50.00. The initial registration expires on December 31 of each year and may be renewed for additional one-year periods. The renewal fee is \$50.00. [O.C.G.A. 43-17-3.1]

POINT OF SOLICITATION DISCLOSURE. Every charitable organization, paid solicitor, or solicitor agent required to be registered under this Code section, at the time of any solicitation that occurs in or from this state, shall include the following disclosures: (1) The name and location of the paid solicitor and solicitor agent, if any; (2) The name and location of the charitable organization for which the solicitation is being made; (3) That the following information will be sent upon request: (A) A full and fair description of the charitable program for which the solicitation campaign is being carried out and, if different, a full and fair description of the programs and activities of the charitable organization on whose behalf the solicitation is being carried out; and (B) A financial statement or summary which shall be consistent with the financial statement required to be filed with the Secretary of State pursuant to Code Section 43-17-5; and (4) If made by a solicitor agent or paid solicitor, that the solicitation is being made by a paid solicitor on behalf of the charitable organization and not by a volunteer and inform the person being solicited that the contract disclosing the financial arrangements between the paid solicitor and the charity is on file with and available from the Secretary of State. [O.C.G.A. 43-17-8]

RECORDS - The paid solicitor is required to maintain for three years records of each solicitation campaign. These records must be available to the Secretary of State for inspection. [O.C.G.A. 43-17-3(i)]

SOLICITATION NOTICE - Prior to the commencement of each solicitation campaign, the paid solicitor must file with the Secretary of State a solicitation notice (Form S200) and a \$15.00 filing fee. Along with a copy of the contract which states the respective obligations of the paid solicitor and charitable organization and states the amount of compensation that the paid solicitor will receive. [O.C.G.A. 43-17-3(e)(1)]

FINANCIAL DISCLOSURE - Within 90 days after a solicitation campaign ends and on the anniversary of the beginning of a campaign that lasts more than a year, the paid solicitor must file, with the charitable organization and the Secretary of State, an accounting of all contributions collected and expenses paid. The accounting will be made on forms provided by the Secretary of State (Form S300) and shall be retained by the charitable organization for three years. [O.C.G.A. 43-17-3(g)]

COLLECTIONS AND DEPOSITS - Each monetary contribution received by the paid solicitor shall, in its entirety and within three (3) business days of receipt, be deposited in an account at a federally insured financial institution. The account shall be in the name of the charitable organization with whom the paid solicitor has contracted, and the charitable organization shall have sole control of all withdrawals from the account. [O.C.G.A. 43-17-3(h)]

VIOLATIONS - Any paid solicitor who willfully violates the Act may have penalties assessed to the paid solicitor by the Secretary of State in the amount of \$2,500.00 for a single violation or up to \$25,000.00 for multiple violations. Any person who willfully defrauds, misappropriates, converts, illegally withholds or fails to account for any charitable contributions solicited by, or on behalf of any charitable organization shall be guilty of a felony. Upon conviction the paid solicitor shall be punished by a fine of not more than \$5,000.00 or imprisonment for not less than one nor more than five years, or both. [O.C.G.A. 43-17-13 and O.C.G.A. 43-17-23]