

# HOUSE BILL No. 5064

August 1, 1991, Introduced by Rep. Profit and referred to the Committee on Public Utilities.

A bill to regulate telephone solicitation; to provide for registration and disclosure statements; to prescribe the powers and duties of certain state officials and agencies; to prohibit certain activities; and to prescribe penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "telephone solicitation act".

3       Sec. 2. As used in this act:

4       (a) "Contribution" means the promise, grant, or payment of  
5 money or property of any kind or value, including promises to  
6 pay. Contribution does not include payments by members of an  
7 organization for membership fees, dues, fines, assessments, or  
8 for services rendered to individual members, if membership in the  
9 organization confers a bona fide right, privilege, professional

1 standing, honor, or other direct benefit, other than the right to  
2 vote, elect officers, or hold office.

3 (b) "Person" means an individual, association, partnership,  
4 corporation, governmental entity, or any other legal entity.

5 (c) "Soliciting material" means printed and electronically  
6 transmitted material, including, but not limited to, labels,  
7 posters, mailings, television scripts and broadcasts, radio  
8 scripts and broadcasts, or recordings used in soliciting funds  
9 from the public.

10 (d) "Sponsor" means a person who is or holds himself or her-  
11 self out to be soliciting contributions by the use of any name or  
12 campaign that implies that the person is in any way affiliated  
13 with, or organized for the benefit of, another person. Sponsor  
14 includes a chapter, branch, or affiliate of a sponsor that has  
15 its principal place of business outside this state, if the chap-  
16 ter, branch, or affiliate solicits or holds itself out to be  
17 soliciting contributions in this state.

18 Sec. 3. (1) A sponsor shall not solicit contributions in  
19 this state without first receiving a certificate of registration  
20 from the attorney general. A sponsor shall apply for a certifi-  
21 cate of registration in writing, under oath, and on a form pre-  
22 scribed by the attorney general. The registration application  
23 shall contain all of the following information:

24 (a) The name of the sponsor and the purpose for which it is  
25 organized.

26 (b) The principal address of the sponsor and the address of  
27 any offices in this state.

1 (c) The names and addresses of any chapters, branches, or  
2 affiliates in this state.

3 (d) The location and date when the sponsor was legally  
4 established, the form of its organization, and a reference to any  
5 determination of its tax exempt status under the United States  
6 internal revenue code.

7 (e) The names and addresses of the officers, directors,  
8 trustees, and the principal executive staff officer.

9 (f) The names and addresses of the persons having custody of  
10 its books and records.

11 (g) The names and addresses of the persons who will be  
12 making the direct solicitation to the public.

13 (h) A statement as to whether the sponsor intends to solicit  
14 contributions from the public directly or to have contributions  
15 solicited on its behalf by others. If the contributions are to  
16 be solicited by others, the sponsor shall provide their names and  
17 addresses.

18 (i) A statement as to whether the sponsor is authorized by  
19 any other governmental authority to solicit contributions and  
20 whether the sponsor is or has ever been enjoined by any court  
21 from soliciting contributions.

22 (j) The specific purpose for which the contributions to be  
23 solicited shall be used and a complete breakdown by percentage of  
24 how all of the contributions will be spent by the sponsor.

25 (k) The name or names under which the sponsor intends to  
26 solicit contributions.

1        (l) The names of the individuals or officers of the sponsor  
2 who will have final responsibility for the custody of the  
3 contributions.

4        (m) The names of the individuals or officers of the sponsor  
5 responsible for the final distribution of the contributions.

6        (n) Other information considered necessary or relevant by  
7 the attorney general.

8        (2) Each chapter, branch, or affiliate of a sponsor shall  
9 apply separately for a certificate of registration.

10       (3) Each sponsor shall pay a registration fee of \$25.00 to  
11 the attorney general. If the parent sponsor has previously reg-  
12 istered, each chapter, branch, or affiliate of the sponsor shall  
13 pay a registration fee of \$10.00.

14       (4) Upon receipt of a completed application in proper form  
15 and the registration fee, the attorney general shall issue a cer-  
16 tificate of registration within 30 days.

17       (5) A certificate of registration issued under this section  
18 shall expire 1 year after the date of issuance.

19       (6) Certificates of registration issued under this section  
20 may be renewed for additional 1-year periods upon written appli-  
21 cation and payment of a renewal fee of \$25.00 to the attorney  
22 general not less than 45 days before the expiration of the cer-  
23 tificate of registration. The information required in the  
24 renewal form shall not exceed the information required in the  
25 initial registration form.

1       Sec. 4. Upon request of the attorney general, a sponsor  
2 shall supply copies of all soliciting materials to the attorney  
3 general.

4       Sec. 5. Registration applications and documents required to  
5 be filed with the attorney general under this act shall be open  
6 to public inspection as provided by the freedom of information  
7 act, Act No. 442 of the Public Acts of 1976, being sections  
8 15.231 to 15.246 of the Michigan Compiled Laws.

9       Sec. 6. A sponsor shall notify the attorney general within  
10 15 days of any change in the information required to be furnished  
11 under this act.

12       Sec. 7. An application for registration under this act  
13 shall not be accepted from a sponsor located in another state or  
14 country without the sponsor first designating a resident agent in  
15 this state for the acceptance of service of process.

16       Sec. 8. (1) The registration requirements under this act do  
17 not apply to either of the following:

18       (a) A sponsor soliciting contributions for the relief of any  
19 individual specified by name at the time of the solicitation, if  
20 all of the contributions collected, without any deductions, are  
21 turned over to the named beneficiary or promptly dedicated to the  
22 use of the named beneficiary.

23       (b) A sponsor that does not receive contributions in excess  
24 of \$1,000.00 during its fiscal year, if all of its functions,  
25 including fund-raising activities, are carried on by persons who  
26 are unpaid for their services and if no part of the assets or

1 income of the sponsor inures to the personal benefit of or is  
2 paid to any officer or member of the sponsor.

3 (2) A person exempt from the registration requirements under  
4 subsection (1) shall maintain records as are necessary to prove  
5 that the person qualifies for an exemption. Upon demand, the  
6 records shall be made available to the attorney general for  
7 inspection. Any person that is no longer exempt under subsection  
8 (1) shall register with the attorney general within 15 days after  
9 not being exempt and pay the appropriate fees.

10 Sec. 9. A person shall not, in connection with the solici-  
11 tation of contributions, misrepresent, mislead, or make false  
12 statements to another person.

13 Sec. 10. (1) Each sponsor shall prepare a disclosure state-  
14 ment to be given with all printed material and read when con-  
15 tacted by telephone to each person from whom a contribution is  
16 solicited. The disclosure statement shall contain all of the  
17 following information:

18 (a) The name and purpose of the sponsor.

19 (b) The specific purpose for which the contributions are to  
20 be used.

21 (c) The percentage of the contribution that will actually be  
22 used for the stated purpose for which the contribution was solici-  
23 ited and a complete breakdown by percentage on how the remaining  
24 contributions shall be spent.

25 (d) That the solicited person is under no legal obligation  
26 to contribute.

1       (2) The disclosure statement shall be submitted to and  
2 approved by the attorney general. A sponsor or a person acting  
3 on behalf of the sponsor shall not solicit contributions until  
4 the disclosure statement has been approved.

5       Sec. 11. (1) A person who does any of the following is  
6 guilty of a misdemeanor punishable by a fine of not more than  
7 \$1,000.00, or imprisonment for not more than 6 months, or both:

8       (a) Violates a provision of this act.

9       (b) Solicits funds under a certificate of registration  
10 issued under this act and diverts the funds to purposes other  
11 than that for which the funds were contributed or solicited.

12       (2) A person who is guilty of a second or subsequent offense  
13 under this section is guilty of a misdemeanor punishable by a  
14 fine of not more than \$5,000.00, or imprisonment for not more  
15 than 1 year, or both.

16       (3) This section does not limit or restrict prosecution  
17 under any other appropriate statute of this state.