

CHAPTER 14. ATTORNEY GENERAL REVISED STATUTES OF 1846

CHAPTER 12

Chapter 12. Of Certain State Officers.³

THE ATTORNEY GENERAL.

14.28 Representation of state; designation of solicitor general.

Sec. 28. The attorney general shall prosecute and defend all actions in the supreme court, in which the state shall be interested, or a party; he may, in his discretion, designate one of the assistant attorneys general to be known as the solicitor general, who, under his direction, shall have charge of such causes in the supreme court and shall perform such other duties as may be assigned to him; and the attorney general shall also, when requested by the governor, or either branch of the legislature, and may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

History: R.S. 1846, Ch. 12;—CL 1857, 180;—CL 1871, 255;—How. 286;—CL 1897, 104;—CL 1915, 132;—Am. 1921, Act 394, Eff. Aug. 18, 1921;—CL 1929, 176;—Am. 1939, Act 144, Imd. Eff. May 26, 1939;—CL 1948, 14.28.

14.29 Suits involving state departments.

Sec. 29. It shall be the duty of the attorney general, at the request of the governor, the secretary of state, the treasurer or the auditor general, to prosecute and defend all suits relating to matters connected with their departments.

History: R.S. 1846, Ch. 12;—CL 1857, 181;—CL 1871, 256;—How. 287;—CL 1897, 105;—CL 1915, 133;—CL 1929, 177;—CL 1948, 14.29.

14.30 Supervision of prosecutors; report to legislature.

Sec. 30. The attorney general shall supervise the work of, consult and advise the prosecuting attorneys, in all matters pertaining to the duties of their offices; and he shall make and submit to the legislature, at the commencement of its session, a report of all official business done by him during the 2 years preceding, specifying the suits to which he has attended, the number of persons prosecuted, the crimes for which, and the counties where such prosecutions were had, the results thereof, and the punishments awarded.

History: R.S. 1846, Ch. 12;—CL 1857, 182;—CL 1871, 257;—How. 288;—CL 1897, 106;—CL 1915, 134;—Am. 1921, Act 394, Eff. Aug. 18, 1921;—CL 1929, 178;—CL 1948, 14.30.

14.31 Annual report to legislature; abstract of prosecutor's reports.

Sec. 31. The attorney general shall include in his annual report, an abstract of the annual reports of the several prosecuting attorneys.

History: R.S. 1846, Ch. 12;—CL 1857, 183;—CL 1871, 258;—How. 289;—CL 1897, 107;—CL 1915, 135;—CL 1929, 179;—CL 1948, 14.31.

14.32 Opinions for state officials; failure of prosecutors to file annual reports.

Sec. 32. It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer, and also to notify the county treasurer of the proper county, of the neglect or refusal of any prosecuting attorney to make the annual report to the attorney general required of him by law.

History: R.S. 1846, Ch. 12;—CL 1857, 184;—CL 1871, 259;—How. 290;—CL 1897, 108;—CL 1915, 136;—CL 1929, 180;—CL 1948, 14.32.

14.33 Moneys received payable to state treasury; deposit of proceeds to restricted fund; "proceeds" defined.

Sec. 33. (1) All moneys received by the attorney general, for debts due, or penalties forfeited to the people of this state, shall be paid by him or her, immediately after receipt, into the state treasury.

(2) Except as otherwise provided in this section, any proceeds from a lawsuit settlement entered into by a state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government or an individual acting on behalf of the executive branch of state government as the result of an action instituted on behalf of the state against a private individual or business

or any other private organization shall be deposited into a restricted fund to be used as provided by law. In case of a conflict between this section and another state or federal law that requires allocation to a specific fund or account or for a specific purpose or purposes, that other state statute or federal law shall prevail.

(3) As used in this section, "proceeds" means a cash settlement. Proceeds does not include real property or stocks, bonds, or other evidences of indebtedness unless these items are to be converted into cash as part of the settlement or payments to be made to a specifically designated party as a result of the settlement of a contractual dispute between the state and a party or parties to a contract with the state.

History: R.S. 1846, Ch. 12;—CL 1857, 185;—CL 1871, 260;—How. 291;—CL 1897, 109;—CL 1915, 137;—CL 1929, 181;—CL 1948, 14.33;—Am. 1996, Act 563, Eff. Mar. 31, 1997.

14.34 Record of participation in actions; delivery to successor.

Sec. 34. The attorney general shall keep, in proper books to be provided for that purpose at the expense of the state, a register of all actions or demands prosecuted or defended by him in behalf of the people of this state, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

History: R.S. 1846, Ch. 12;—CL 1857, 186;—CL 1871, 261;—How. 292;—CL 1897, 110;—CL 1915, 138;—CL 1929, 182;—CL 1948, 14.34.

14.35 Salary; assistants; service on commissions.

Sec. 35. The attorney general shall receive such annual salary as shall be provided by law, and his actual necessary expenses. In addition to a deputy provided by law, the attorney general may appoint such assistant attorneys general as he may deem necessary, and who when appointed to such office shall take and subscribe the constitutional oath of office. Any such assistant attorney general may, when designated thereto by his principal, serve in the place of the attorney general as a member of the public debt commission created by Act No. 13, Public Acts of 1932, Extra Session, and on any other board or commission of which the attorney general is now or may hereafter be an ex officio member, appear for the state in any suit or action before any court or administrative body, or before any grand jury, with the same powers and duties and in like cases as the attorney general, but shall at all times be subject to the orders and directions of the attorney general. Such assistants shall hold office at the pleasure of the attorney general.

History: R.S. 1846, Ch. 12;—Am. 1847, Act 105, Imd. Eff. Mar. 17, 1847;—CL 1857, 187;—CL 1871, 262;—How. 293;—CL 1897, 111;—CL 1915, 139;—Am. 1921, Act 394, Eff. Aug. 18, 1921;—CL 1929, 183;—Am. 1939, Act 248, Imd. Eff. June 15, 1939;—CL 1948, 14.35;—Am. 1948, 2nd Ex. Sess., Act 2, Imd. Eff. Dec. 9, 1948.

Compiler's note: Act 13 of 1932, 1st Ex. Sess., referred to in this section, was repealed by Act 202 of 1943.

DEPUTY ATTORNEY GENERAL
Act 153 of 1917

AN ACT to authorize the appointment of a deputy attorney general, to define the powers and duties thereof, to provide an appropriation to pay the salary of the attorney general and the deputy, clerks, and assistants in such department, and to repeal Act 72 of the Public Acts of 1897, entitled "An act authorizing the appointment of a deputy attorney general," being section 140 of the Compiled Laws of 1915; and Act No. 87 of the Public Acts of 1891, entitled "An act to provide for the appropriation of money to pay the salary of the attorney general, clerks and certain expenses in such department, and to provide the manner and condition of payment and to repeal all acts and parts of acts contravening the provisions of this act," being section 143 of the Compiled Laws of 1915; and all other acts and parts of acts contravening the provisions of this act.

History: 1917, Act 153, Imd. Eff. May 1, 1917.

The People of the State of Michigan enact:

14.41 Deputy attorney general; appointment, duties.

Sec. 1. The attorney general may appoint a deputy for whose acts he shall be responsible and may revoke such appointment at pleasure. Such deputy shall take the constitutional oath of office and shall perform such duties in the attorney general's department as may be assigned to him. During the sickness, absence or other disability of the attorney general, such deputy may execute and perform all of the duties of said office. He may also serve in place of the attorney general as a member of the Michigan securities commission, created by Act 46 of the Public Acts of 1915, and other boards and commissions of which the attorney general now is or may hereafter be an ex-officio member.

History: 1917, Act 153, Imd. Eff. May 1, 1917;—CL 1929, 184;—CL 1948, 14.41.

Compiler's note: Act 46 of 1915, referred to in this section, was repealed by Act 220 of 1923, being former MCL 451.101 et seq., which was in turn repealed by Act 265 of 1964, being MCL 451.501 et seq.

Former law: See Act 72 of 1897, being CL 1915, § 140.

14.42 Department appropriation.

Sec. 2. There is hereby appropriated out of any moneys in the general fund of the state treasury and not otherwise appropriated the following sums annually for the payment of salaries and expenses in the attorney general's department: For the salary of the attorney general such sum as is designated by the Constitution of the state; for the salaries of the deputy attorney general and the assistants and clerks in said department, which salaries shall be fixed by the attorney general, the sum of 27,500 dollars to be paid in accordance with the accounting laws of the state; for the necessary expenses of the attorney general and to pay extra help and expenses, if any are necessary, such further sum as the board of state auditors may allow.

History: 1917, Act 153, Imd. Eff. May 1, 1917;—CL 1929, 185;—CL 1948, 14.42.

Former law: See section 1 of Act 87 of 1891, being CL 1915, § 143.

INTERVENTION OF ATTORNEY GENERAL
Act 232 of 1919

AN ACT to supplement the laws of the state relating to the powers and duties of the attorney general and the institution and prosecution of actions thereby on behalf of the state, to authorize intervention in pending litigation on behalf of the people in certain cases, and to permit the bringing of any suit at law in which the state is a party plaintiff in the circuit court of Ingham county.

History: 1919, Act 232, Eff. Aug. 14, 1919.

The People of the State of Michigan enact:

14.101 Intervention; authorization.

Sec. 1. The attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced in any court of the state whenever such intervention is necessary in order to protect any right or interest of the state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for a re-hearing or to take any other action or step whatsoever that is had or possessed by any of the parties to such litigation.

History: 1919, Act 232, Eff. Aug. 14, 1919;—CL 1929, 187;—CL 1948, 14.101.

14.102 Intervention; venue of actions at law, service of process.

Sec. 2. Any action at law brought by the attorney general in the name of the state or of the people of the state, for the use and benefit thereof, may be begun in the circuit court in and for the county of Ingham, and may be prosecuted to final judgment and satisfaction thereof, with like effect as though the cause of action arose in such county. In any such case process issued out of and under the seal of said court may be served anywhere within the state of Michigan.

History: 1919, Act 232, Eff. Aug. 14, 1919;—CL 1929, 188;—CL 1948, 14.102.

EXPENSES IN CASES FOR STATE
Act 153 of 1897

AN ACT to provide for the payment of expenses in matters in which the state is a party or interested.

History: 1897, Act 153, Imd. Eff. May 21, 1897.

The People of the State of Michigan enact:

14.111 Appearance of attorney general in cases for state; expenses; authorization.

Sec. 1. In all cases in which the state is a party or interested, in which the attorney general participates, whenever it becomes necessary to subpoena witnesses or to defray other necessary expenses of that litigation, the attorney general is hereby authorized to pay the amount that he or she considers necessary out of funds appropriated.

History: 1897, Act 153, Imd. Eff. May 21, 1897;—CL 1897, 11300;—CL 1915, 14612;—CL 1929, 189;—CL 1948, 14.111;—Am. 2002, Act 384, Imd. Eff. May 30, 2002.

Compiler's note: This section and MCL 14.112 were expressly excepted from the repeal of Ch. 312, CL 1897, by Act 314 of 1915.

14.112 Repealed. 2002, Act 384, Imd. Eff. May 30, 2002.

Compiler's note: The repealed section pertained to preparation of statement by attorney general.

COLLECTION DEPARTMENT

Act 375 of 1927

AN ACT to provide for the collection of past due moneys and accounts belonging to the state of Michigan; to create a department therefor; to prescribe the duties of state officers, departments, commissions and institutions in relation thereto; and to make appropriations for defraying the expenses thereof.

History: 1927, Act 375, Imd. Eff. June 2, 1927.

The People of the State of Michigan enact:

14.131 Collection department; creation, control by attorney general.

Sec. 1. There is hereby created a collection department under the supervision and control of the attorney general for the purpose of collecting all past due moneys and accounts which are owing to the state of Michigan or any department, commission or institution thereof.

History: 1927, Act 375, Imd. Eff. June 2, 1927;—CL 1929, 191;—CL 1948, 14.131.

14.132 Employees; bond.

Sec. 2. The attorney general shall designate and appoint 1 or more assistant attorneys general and such clerks, stenographers and employees as may be necessary to carry out the provisions of this act. Such assistant attorneys general shall give a bond to the state of Michigan in the penal sum of 30,000 dollars each, to be filed with the secretary of state, conditioned to fully account for and pay over all moneys collected under the terms of this act. The said collection department shall be under the direction and control of the attorney general, subject to the general supervision of the state administrative board.

History: 1927, Act 375, Imd. Eff. June 2, 1927;—CL 1929, 192;—CL 1948, 14.132.

14.133 Forwarding of accounts; records; reports.

Sec. 3. Each state officer, department, institution, or commission from time to time shall forward to the department of treasury statements of all delinquent and past due money, specific taxes, and accounts owing or belonging to this state, or any department, commission, or institution of this state, together with any information as may be necessary to enable the department of treasury to carry out the purposes of this act. The department of treasury shall keep an accurate record and account of all those statements; shall enforce payment and collection of those amounts; shall keep an accurate account of all money collected; shall report monthly all collections made to the department, commission, or institution to which that indebtedness has been incurred; and shall pay over monthly to the state treasurer all money collected unless otherwise provided by law.

History: 1927, Act 375, Imd. Eff. June 2, 1927;—CL 1929, 193;—CL 1948, 14.133;—Am. 2002, Act 367, Imd. Eff. May 24, 2002.

14.134 Action by attorney general; settlement and compromise of claims and accounts.

Sec. 4. For the purpose of carrying out this act, the attorney general may bring actions and the collection department may settle and compromise claims and accounts and receive and issue receipts for collections and payments subject to the supervisory control of the state administrative board. A claim or account in the amount of more than \$750.00 shall not be compromised or settled at a greater discount than 15%, without the approval of the state administrative board.

History: 1927, Act 375, Imd. Eff. June 2, 1927;—CL 1929, 194;—CL 1948, 14.134;—Am. 1983, Act 233, Imd. Eff. Dec. 1, 1983.

EXAMINATION OF TOWNSHIP OR SCHOOL DISTRICT RECORDS

Act 52 of 1929

AN ACT to authorize the attorney general to institute an investigation, examination and/or audit of the books, records and accounts of any township or school district or any public officer thereof, and to provide penalties for the violation of this act.

History: 1929, Act 52, Eff. Aug. 28, 1929.

The People of the State of Michigan enact:

14.141 Investigation of books of township or school district or public officer thereof; procedure; duty of auditor general.

Sec. 1. Whenever in the opinion of the attorney general it shall appear that public interest requires an investigation, examination and/or audit of the books, records and accounts of any township or school district or any public officer thereof he may institute the same as provided herein. Such investigation, examination and/or audit shall not be ordered unless the same shall be requested in writing signed by at least 25 per cent of the registered electors of the township or school district setting forth specifically and in detail the reason therefor. Upon receipt of such request the attorney general may proceed and for that purpose may request the assistance of the auditor general or any of his clerks or assistants in the accounting division and may also call upon the prosecuting attorney of the county wherein such investigation, examination and/or audit is sought to be made for such help as he may deem necessary. It shall be the duty of the auditor general, his clerks or assistants and the prosecuting attorney to comply with such request. Fifty per centum of the expenses of the auditor general's department with respect to such investigation, examination, and/or audit shall be a charge against the township or school district, and shall be paid from the general fund of the school district or the contingent fund of the township.

History: 1929, Act 52, Eff. Aug. 28, 1929;—CL 1929, 195;—Am. 1939, Act 20, Imd. Eff. Mar. 23, 1939;—CL 1948, 14.141.

14.142 Investigation of books; production of records; witnesses; orders and subpoenas.

Sec. 2. Upon demand of the attorney general, the auditor general or any person designated by him for the purpose of this act or of the prosecuting attorney as provided in section 1, it shall be the duty of any and all officers of the township or school district wherein such investigation, examination and/or audit is sought to be made to produce, for inspection and examination, the books of account and papers of their respective offices, and to truthfully answer all questions relating thereto. In connection with such examination, the attorney general, auditor general, or any person designated by him to make such investigation, examination and/or audit, or the prosecuting attorney, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by any person charged with the duty of making the investigation, examination and/or audit herein provided, in pursuance of the authority in them vested by provision of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

History: 1929, Act 52, Eff. Aug. 28, 1929;—CL 1929, 196;—CL 1948, 14.142.

14.143 Investigation of books; filing of report; criminal and civil proceedings; cause for removal of attorney general.

Sec. 3. A report shall be made in triplicate of the examination made in accordance with the provisions of this act. The report shall be signed and verified by the person making the investigation, examination and/or audit. One copy thereof shall be filed with the auditor general, 1 copy with the attorney general, and 1 copy with the county clerk of the county in which the investigation, examination and/or audit is made. If any such investigation, examination and/or audit discloses malfeasance, misfeasance, nonfeasance or gross neglect of duty on the part of any officer or officers of the political unit being examined, for which a criminal penalty is provided by law, the attorney general or upon his direction the prosecuting attorney of the county wherein such examination is had shall, within 60 days after receipt of such report, institute criminal proceedings against such officer or officers. It shall also be the duty of the attorney general or the prosecuting attorney, as the case may be, to institute civil action in any court of competent jurisdiction for the recovery of any public moneys disclosed by any such investigation, examination and/or audit to have been illegally expended, or collected and not accounted for; also for the recovery of any public money or property disclosed to have been converted and misappropriated. Refusal or neglect to comply with the requirements of this section on the part of the attorney general or on the part of the prosecuting attorney shall be sufficient cause for his removal from

office by the governor.

History: 1929, Act 52, Eff. Aug. 28, 1929;—CL 1929, 197;—CL 1948, 14.143.

14.144 Giving or offering to examiner or other employee money, gift, emolument, or thing of value; purposes; misdemeanor; penalty.

Sec. 4. Any person who shall give or offer to any examiner, accountant, clerk, or other employee of the auditor general, any money, gift, emolument, or thing of value for the purpose of influencing the action of the examiner or other employee in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any such public account, or for the purpose of influencing the action of the examiner or other employee, in framing, changing, withholding or delaying any report of any examination of any public account shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 nor less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

History: 1929, Act 52, Eff. Aug. 28, 1929;—CL 1929, 198;—CL 1948, 14.144;—Am. 1985, Act 57, Imd. Eff. June 14, 1985.

14.145 Receiving or soliciting money, gift, emolument, or anything of value; purposes; misdemeanor; penalty.

Sec. 5. Any person appointed by the auditor general to make the examination provided for under this act, or any officer, clerk, or other employee of the auditor general, who shall receive or solicit any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any public account, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 and not less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

History: 1929, Act 52, Eff. Aug. 28, 1929;—CL 1929, 199;—CL 1948, 14.145;—Am. 1985, Act 57, Imd. Eff. June 14, 1985.

REPORTS FROM PROSECUTING ATTORNEYS

Act 53 of 1849

14.151 Repealed. 1962, Act 81, Eff. Mar. 28, 1963.

FOREIGN AGENCIES

Act 270 of 1947

14.201-14.207 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

SUPERVISION OF TRUSTEES FOR CHARITABLE PURPOSES ACT

Act 101 of 1961

AN ACT to implement the state supervision and enforcement of charitable trusts; and to authorize the attorney general to establish and maintain a register of such charitable trusts, to protect the interests of the people of the state therein, to adopt and promulgate rules and regulations necessary to carry out the purposes of the act, and to take appropriate action to protect and carry out the purposes of the charitable trusts.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

The People of the State of Michigan enact:

14.251 Charitable trusts; supervision; application of act.

Sec. 1. It is hereby declared to be the policy of the state that the people of the state are interested in the administration, operation and disposition of the assets of all charitable trusts in the state; and that the attorney general shall represent the people of the state in all courts of the state in respect to such charitable trusts. This act applies to all trusts and trustees holding property for charitable purposes over which the state or the attorney general has enforcement or supervisory powers.

History: 1961, Act 101, Eff. Sept. 8, 1961.

14.252 Definitions.

Sec. 2. (a) "Trustee" means any individual, group of individuals, association, foundation, trustee corporation, corporation, or other legal entity holding property for any charitable purpose.

(b) "Charitable trust" means the relationship where a trustee holds property for a charitable purpose.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.253 Governmental and corporate exclusions; exceptions; registration and reporting requirements for irrevocable trusts; testamentary or inter vivos trusts not deemed as charitable.

Sec. 3. (a) This act does not apply to the United States, any state, territory or possession of the United States, the district of Columbia, the commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to an officer of a religious organization who holds property for religious purposes, or to a charitable corporation organized and operated primarily as an educational institution, including amateur theater, band and orchestra corporations, a religious organization or hospital. This exemption does not apply to a governmental subdivision of this state, except state supported colleges or universities, as to property held for charitable purposes other than or more limited or specific than its general public or corporate purposes. This act shall not apply to any nonprofit charitable corporation organized under the laws of this state whose operating funds are derived, in whole or in part, from community funds or united foundation sources but this act shall apply to such a charitable corporation as to funds or properties received by it as trustee of an inter vivos trust of a continuing nature.

(b) The registration and periodic reporting requirements of this act shall not apply to any trust in which the interests of the charitable remainder beneficiaries are remote. For the purpose of this act the interests of charitable remainder beneficiaries of a trust shall be considered remote if under the maximum exercise of discretion by the trustee in favor of the charitable remainder beneficiaries of such trusts, the value of their interests in the aggregate assets, computed actuarially at 5% or less of the value of the property subject to the trust, such determination shall be made at the time of the creation of an irrevocable trust, or at the time a revocable trust becomes irrevocable, or at the death of the testator in case of a testamentary trust. When a remote charitable interest vests in present possession or enjoyment, registration and periodic reports shall be required for the first time under this act.

(c) Unless the governing instrument provides otherwise, a trust, whether testamentary or inter vivos, shall not be deemed a charitable trust only for the purposes of registration, accounting and notice, in the case where the individual or individuals are the sole income beneficiaries of the trust and a charitable organization or organizations (none of which or the selection of which are under the dominion or control of the grantor, testator, executor or trustee, or any members of his family) are remaindermen, until the remainder interest of at least one charitable organization vests in enjoyment. This provision shall not apply in the case of a disputed last will and testament.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966;—Am. 1967, Act 295, Eff. Nov. 2, 1967.

14.254 Attorney general; jurisdiction and control; parties represented; powers and duties;

probate of will; notice; procedures; register of trusts and trustees.

Sec. 4. (a) The attorney general shall have jurisdiction and control and shall represent the people of the state and the uncertain or indefinite beneficiaries in all charitable trusts in this state, and may enforce such trusts by proper proceedings in the courts of this state.

(b) The attorney general is a necessary party to all court proceedings (1) to terminate a charitable trust or to liquidate or distribute its assets, or (2) to modify or depart from the objects or purposes of a charitable trust as the same are set forth in the instrument governing the trust, including any proceeding for the application of the doctrine of cy pres, or (3) to construe the provisions of an instrument with respect to a charitable trust. A judgment rendered in such proceedings without service of process and pleadings upon the attorney general, shall be voidable, unenforceable, and be set aside at the option of the attorney general upon his motion seeking such relief. The attorney general shall intervene in any proceedings affecting a charitable trust subject to this act, when requested to do so by the court having jurisdiction of the proceedings, and may intervene in any proceedings affecting a charitable trust when he determines that the public interest should be protected in such proceedings. With respect to such proceedings, no compromise, settlement agreement, contract or judgment agreed to by any or all parties having or claiming to have an interest in any charitable trust shall be valid unless the attorney general was made a party to such proceedings and joined in the compromise, settlement agreement, contract or judgment, or unless the attorney general, in writing, waives his right to participate therein. The attorney general is expressly authorized to enter into such compromise, settlement agreement, contract or judgment as in his opinion may be in the best interests of the people of the state and the uncertain or indefinite beneficiaries.

(c) Whenever a petition is filed for probate of a last will and testament containing any residuary bequest or devise to a trustee, as hereinbefore defined, or if such will creates or purports to create a charitable trust, the petitioner shall serve notice upon the attorney general, charitable trust division, of the pendency of the proceedings, and the probate judge shall make available and shall forward to the attorney general a copy of the petition for probate of will and a copy of the instruments filed for admission to probate. The notice and documents shall be served by certified mail, return receipt requested, not less than 14 days before the hearing date. The judge of probate shall not pass upon the petition in the absence of filing of proof of mailing. Upon entering his appearance, the attorney general shall become a necessary party in interest in the estate proceedings, either in the probate court or by way of appeal.

(d) The attorney general shall establish and maintain a register of charitable trusts and trustees subject to this act and of the particular trust or other relationship under which they hold property for charitable purposes and shall conduct whatever investigation is necessary, and shall obtain from public records, all courts of record, court officers, taxing authorities, trustees, and other sources, whatever information, copies of instruments, reports and records needed for the establishment and maintenance of the register and files. The attorney general shall be authorized to require the necessary information and documents, necessary to discharge the requirements of this act, and to require true or certified copies thereof to be furnished him, and all public officials shall provide same, without payment of any fee or charge whatsoever.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.255 Filing of trust instrument and inventory of assets; time.

Sec. 5. Every trustee subject to this act who has received property for charitable purposes shall register and file with the attorney general, within 2 months after receiving possession or control of such property, a copy of the instrument providing for his title, powers or duties, an inventory of the assets of the charitable trust. If any part of the assets, income or principal of a presently existing charitable trust is authorized or required to be applied to a charitable purpose at the time this act takes effect, the filing shall be made within 3 months thereafter. If an amendment to this act first creates a duty to file, then the trustee shall register and make such filing within 3 months after the effective date of the amendment.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.256 Audit report; trustee's report; distribution of assets; hearing; notice to attorney general; approval; rules; reports; suspension; trustee's account; first report.

Sec. 6. (a) Every trustee which solicits money from the public, directly or indirectly, shall within 6 months after the close of its fiscal year file a copy of its certified audit report of its fiscal year, which audit report shall contain a balance sheet, a statement of receipts and disbursements, and a list of assets including securities held, or in lieu thereof a sworn statement by the trustee by its duly authorized representative setting forth the above information. Except as otherwise provided, every other trustee subject to this act shall, in addition to filing copies of the instruments previously required, file with the attorney general periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the

administration thereof by the trustee, in accordance with rules and regulations of the attorney general. Whenever any trustee shall file any petition for disposition or distribution of the assets of the trust or render any account with any probate or circuit court of this state, the trustee shall mail to the attorney general by certified mail a true copy of such petition or account, together with notice of the date of hearing thereof, and file proof of such mailing thereof with the court. The notice of hearing and true copy of the account or petition shall be mailed not less than 16 days before the hearing date. The attorney general upon receipt thereof shall examine the petition or account and may indicate his approval or disapproval thereof to the court, and may appear in said court to contest any and all parts thereof, and the judge of said court shall not pass upon the petition or account in the absence of the proof of mailing.

(b) The attorney general shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify charitable trusts as to purpose, nature of assets, duration of the charitable trust, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts. The attorney general may suspend the filing of reports as to a particular charitable trust for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general and after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the charitable trust, if the account substantially complies with the rules and regulations of the attorney general, may be filed as a report required by this section.

(d) The first report for a charitable trust, unless the filing thereof is suspended as herein provided, shall be filed not later than 1 year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a charitable trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within 6 months after the effective date of the act. If any amendment to this act first creates a duty to file, then the first report, unless the filing thereof is suspended, shall be filed within 6 months after the effective date of the amendment.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1962, Act 6, Eff. Mar. 28, 1963;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

Administrative rules: R 14.11 et seq. of the Michigan Administrative Code.

14.257 Rules and regulations by attorney general.

Sec. 7. The attorney general may make additional rules and regulations necessary for the administration of this act.

History: 1961, Act 101, Eff. Sept. 8, 1961.

Administrative rules: R 14.11 et seq. of the Michigan Administrative Code.

14.258 Investigation of transactions.

Sec. 8. The attorney general may investigate transactions and relationships of trustees subject to this act for the purpose of determining whether the property held for charitable purposes is properly administered. He may require any agent, trustee, fiduciary, beneficiary, institution, association or corporation, or other person to appear, at a named time and place, in the county designated by the attorney general, where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title and evidence of assets, liabilities, receipts or disbursements in the possession or control of the person ordered to appear.

History: 1961, Act 101, Eff. Sept. 8, 1961.

14.259 Order for appearance; enforcement.

Sec. 9. When the attorney general requires the attendance of any person, as provided in section 8, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least 14 days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena and, upon application of the attorney general, obedience to the order may be enforced by the probate or circuit court having jurisdiction of the charitable trust in the county where the trust may be in existence or administered or the person receiving such notice resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for

cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend or postpone all or any part of its provisions.

History: 1961, Act 101, Eff. Sept. 8, 1961.

14.260 Register, copies of instruments and reports; public inspection.

Sec. 10. Subject to reasonable rules and regulations adopted by the attorney general, the register, copies of instruments and the reports filed with the attorney general shall be opened to public inspection.

History: 1961, Act 101, Eff. Sept. 8, 1961.

Administrative rules: R 14.11 et seq. of the Michigan Administrative Code.

14.261 Enforcement to ensure compliance with act; proper accounting; jurisdiction of courts.

Sec. 11. The attorney general may institute appropriate proceedings to secure compliance with this act and to secure the proper accounting for the assets and administration of any charitable trust. The powers and duties of the attorney general provided in this act are in addition to his existing powers and duties. Nothing in this act shall impair or restrict the jurisdiction of any court with respect to any of the matters covered by it.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.262 Application of act irrespective of contents of instrument.

Sec. 12. This act shall apply regardless of any contrary provisions of any instrument.

History: 1961, Act 101, Eff. Sept. 8, 1961.

14.263 Custodians of public records; copies of instruments.

Sec. 13. The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts, and any custodian of records of any department, agency or political subdivision of this state shall furnish free of charge such copies of papers, records and files of his office relating to the subject of this act as the attorney general requires.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.264 Applications for exemption from taxation; filing of list with attorney general.

Sec. 14. Every officer, agency, board or commission of this state or political subdivision of this state or agencies thereof receiving applications for exemption from taxation of any charitable trust shall annually file with the attorney general a list of all applications received during the year.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.265 Purpose and construction of act.

Sec. 15. This act, in all of its provisions, in the interests of society and in conformity with public policy is intended to protect the rights and interest of the people of the state and the uncertain and indefinite beneficiaries of all charitable trusts, and shall be so construed as to effectuate its general purposes.

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

14.266 Short title.

Sec. 16. This act shall be known and may be cited as the "supervision of trustees for charitable purposes act".

History: 1961, Act 101, Eff. Sept. 8, 1961;—Am. 1965, Act 353, Eff. Mar. 31, 1966.

CHARITABLE TRUSTEES POWERS ACT

Act 78 of 1971

AN ACT to prescribe and regulate the functions of charitable trusts and trustees; and to prescribe the functions of the attorney general in relation thereto.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

The People of the State of Michigan enact:

14.271 Short title.

Sec. 1. This act shall be known and may be cited as the "charitable trustees powers act".

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.272 Definitions.

Sec. 2. As used in this act:

(a) "IRC" means the internal revenue code of 1954 as in effect on January 1, 1970.

(b) "Private foundation trust" means a trust, including a trust described in section 4947(a)(1) of the IRC, as defined in section 509(a) of the IRC.

(c) "Public charitable organization" means an organization described in section 509(a)(1), (2) or (3) of the IRC and exempt from tax under section 501(a) of the IRC.

(d) "Split interest trust" means a trust for individual and charitable beneficiaries that is subject to section 4947(a)(2) of the IRC.

(e) "Trust" means an express trust created by a trust instrument, including a will.

(f) "Trustee" means the trustee or person possessing a power referred to in this act.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.273 Applicability of act.

Sec. 3. The provisions of this act that are applicable to a split interest trust, a private foundation trust, public charitable organization or any other trust, apply to such entities, whether created before or after the effective date of this act.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.274 Trustee of private foundation or split interest trust; duties, and powers generally.

Sec. 4. Except as provided in section 7, a trustee of a private foundation trust or a split interest trust has the duties and powers conferred upon him by this act.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.275 Tax exemption, deduction, or credit; distributions; prohibited conduct.

Sec. 5. (1) In the exercise of his powers including the powers granted by this act, a trustee has a duty to act with due regard to his obligation as a fiduciary, including a duty not to exercise any power in such a way as to deprive the trust of an otherwise available tax exemption, deduction or credit for tax purposes or deprive a donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a donor, trust or other person. "Tax" includes, but is not limited to, any federal, state or local excise, income, gift, estate or inheritance tax.

(2) A trustee of a private foundation trust, except as provided in section 7, shall make distributions at such time and in such manner as not to subject the trust to tax under section 4942 of the IRC.

(3) A trustee of a private foundation trust or a split interest trust, to the extent that the split interest trust is subject to the provisions of section 4947(a)(2) of the IRC, in the exercise of his powers, except as provided in sections 6 and 7, shall not:

(a) Engage in any act of self-dealing as defined in section 4941(d) of the IRC.

(b) Retain any excess business holdings as defined in section 4943(c) of the IRC.

(c) Make any investments in such manner as to subject the foundation to tax under section 4944 of the IRC.

(d) Make any taxable expenditures as defined in section 4945(d) of the IRC.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.276 Split interest trust; applicability of section 14.275(3)(b) and (c).

Sec. 6. Subdivisions (b) and (c) of subsection (3) of section 5 do not apply to a split interest trust if:

(a) All the income interest, and none of the remainder interest, of the trust is devoted solely to 1 or more of

the purposes described in section 170(c)(2)(B) of the IRC and all amounts in the trust for which a deduction was allowed under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2) or 2522 of the IRC have an aggregate fair market value not more than 60% of the aggregate fair market value of all amounts in the trust.

(b) A deduction was allowed under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2) or 2522 of the IRC for amounts payable under the terms of the trust to every remainder beneficiary but not to any income beneficiary.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.277 Distributions; trust investment more restrictive than or inconsistent with this act; notice to attorney general.

Sec. 7. If a trustee determines that the governing instrument contains provisions, in case of a power to make distributions, which are more restrictive than subsection (2) of section 5, or if the trust contains other powers which specifically direct acts by the trustee that are inconsistent with subsection (3) of section 5, the trustee shall notify the attorney general within 6 months following the effective date of this act, or when the trust becomes subject to this act, whichever last occurs and failure to notify the attorney general within 6 months renders the trust subject to this act. Sections 5 and 6 do not apply to a trust with respect to which notice has been given, unless the trust is amended to comply with this act.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.278 Amendment of trust instrument.

Sec. 8. (1) In the case of a trust which is solely for named public charitable organizations and as to which the trustee does not possess any discretion with regard to the distribution of income or principal among 2 or more organizations, the trustee, with the consent of the named public charitable organizations, may amend the governing instrument to comply with subsection (2) of section 5.

(2) If a charitable trust is not subject to subsection (1) of section 8, the trustee with the consent of the attorney general may amend the governing instrument to comply with subsection (2) of section 5.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.279 Trustee; relief from restrictions of trust instrument.

Sec. 9. This act does not affect the power of a court of competent jurisdiction for cause shown, upon petition of the trustee, attorney general or affected beneficiary and upon appropriate notice to the affected parties and the attorney general, to relieve a trustee from any restriction on his powers and duties that is placed upon him by the governing instrument to comply with the rules applicable to private foundations, to terminate the trust or to convert to a public charitable organization.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.280 Trustee; release of power to select charitable donee.

Sec. 10. (1) Unless the creating instrument expressly provides otherwise, the trustee of a trust, all of the unexpired interests in which are devoted to 1 or more charitable purposes, may release a power to select a charitable donee.

(2) The release of a power to select a charitable donee may apply to all or any part of the property subject to the power and may reduce or limit the public charitable organizations or classes of public charitable organizations in whose favor the power is exercisable.

(3) A release is effected by a duly acknowledged written instrument signed by the trustee and delivered as provided in subsection (1) of section 11.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.281 Delivery of release; effect of specifying public charitable organization as beneficiary.

Sec. 11. (1) Delivery of a release is accomplished as follows:

(a) If the release is accomplished by specifying public charitable organizations as beneficiaries of the trust, by delivery of a copy of the release to each designated public charitable organization.

(b) If the release is accomplished by reducing the class of permissible public charitable organizations, by delivery of a copy of the release to the attorney general.

(2) If a release is accomplished by specifying a public charitable organization as beneficiary of the trust, the trust thereafter shall be operated exclusively for the benefit of and supervised by the specified public charitable organization until such time as the specified public charitable organization ceases to exist or ceases to be an exempt public charitable organization.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.282 Public charitable trust; supervision by specified public charitable organization.

Sec. 12. A trustee of a trust for the benefit of a public charitable organization, with the consent of such organization, may come under subsection (2) of section 11 by filing an election, accompanied by the consent, with the attorney general. Thereafter, the trust is subject to subsection (2) of section 11 and section 13.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.283 Filing copy of trust instrument and report with specified public charitable organization.

Sec. 13. The trustee of a trust subject to supervision by a specified public charitable organization, as provided in subsection (2) of section 11, shall file with each specified public charitable organization, (a) a true copy of the governing instrument together with a written report, under oath, setting forth complete information as to the nature of the assets and liabilities with the delivery of the release pursuant to subsection (1) of section 11 or the filing of the election under section 12; (b) an annual report, within 4 1/2 months following the close of each year, setting forth a complete statement of receipts, disbursements, assets together with cost and market value of each asset, and liabilities; and (c) such other information as the public charitable organization deems necessary to compel proper administration of the trust.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.284 Effect of delivery of release and acceptance thereof; supervisory authority of public charitable organization.

Sec. 14. (1) The trustee, by delivery of the release or execution of the election, and each specified public charitable organization, by accepting delivery of the release as provided in subsection (1) of section 11 or by consenting to the election in section 12, agree that the public charitable organization, (a) shall compel the proper administration of the trust; (b) may inspect the books, records, memoranda, papers, documents of title and evidence of assets, liabilities, receipts or disbursements in possession or control of the trustee or other person having custody of the books and records; and (c) may require such other information as the public charitable organization deems necessary to compel proper administration of the trust.

(2) The supervisory authority granted a public charitable organization is in addition to the supervisory authority of the attorney general over charitable trusts under common law and the statutes of this state.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.285 Termination or dissolution of private foundation trust; consent of attorney general.

Sec. 15. (1) The attorney general may consent to termination or dissolution of a private foundation trust without the necessity of court proceedings if the trust does all of the following:

- (a) Gives notice to the attorney general of its intended termination or dissolution.
- (b) Makes provision for retention of all its books and records with some suitable person.
- (c) Provides the attorney general, at his request, all papers, documents, reports, statements or other information he deems necessary to consent to the termination or dissolution.
- (d) Distributes its assets in a manner that avoids taxation under the internal revenue code.

(2) If the attorney general does not consent in accordance with subsection (1), the trust shall be terminated only with consent of a court of competent jurisdiction in an action to which the attorney general is an indispensable party.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.286 Action to enforce act.

Sec. 16. The attorney general may bring an action in the circuit court for the county where the charitable trust is located or in the circuit court for Ingham county to do any of the following:

- (a) Require the trustee of a charitable trust subject to this act to comply with this act.
- (b) Enjoin a violation of this act.
- (c) Surcharge the trustee of a trust subject to this act who acts or fails to act in violation of the applicable provisions of sections 5 and 6.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

14.287 Interpretation of act.

Sec. 17. This act shall be interpreted to effectuate the intent of this state to preserve, foster and encourage gifts to or for the benefit of public charitable organizations.

History: 1971, Act 78, Imd. Eff. July 31, 1971.

PUBLIC SAFETY SOLICITATION ACT
Act 298 of 1992

An act to regulate the solicitation of contributions by persons affiliated with or organized for the benefit of public safety organizations; to provide for registration and disclosure statements; to prescribe the powers and duties of certain state agencies and officials; to prohibit certain activities; and to prescribe remedies and penalties.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

The People of the State of Michigan enact:

14.301 Short title.

Sec. 1. This act shall be known and may be cited as the "public safety solicitation act".

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.302 Definitions.

Sec. 2. As used in this act:

(a) "Contribution" means the promise, grant, or payment of money or property of any kind or value, including promises to pay made to an organization or professional fund-raiser. Contribution does not include money or property received from a governmental entity or a foundation restricted as to use. Contribution does not include funds collected by an organization exclusively from the members of the organization or payments clearly stated as not being and are not deductible as a charitable contribution for federal income tax purposes by members of an organization for bona fide membership fees, dues, fines, assessments, or for services rendered to individual members, if membership in the organization confers a right, or other direct benefit, other than only membership status.

(b) "Person" means an individual, organization, group, association, partnership, corporation, trust, professional fund-raiser, or any combination of those entities.

(c) "Professional fund-raiser" means a person who for compensation or other consideration plans, conducts, manages, or carries on, either directly or through paid individual solicitors, a drive or campaign of soliciting contributions for or on behalf of a public safety organization or person. An officer or employee of a public safety organization is not a professional fund-raiser unless his or her compensation or salary is based in whole or in part on the amount of funds raised through solicitations.

(d) Except for an organization that was created for the purpose of electing a candidate to public office and has complied with the requirements of the Michigan campaign finance act, Act No. 388 of the Public Acts of 1976, being sections 169.201 to 169.282 of the Michigan Compiled Laws, "public safety organization" or "organization" means any group, organization, association, union, or conference of current or former law enforcement officers, fire fighters, correctional officers, employees thereof or any other entity that represents itself to be affiliated or associated with such organizations that meet both of the following:

(i) The voting membership is comprised of at least 75% of individuals who are currently or formerly law enforcement officers, fire fighters, or correctional officers.

(ii) The voting membership consists of at least 25% of all of the individuals the organization claims to represent.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.303 Soliciting contributions; registration of organization with attorney general; form; contents; reporting category distributions; registration fee; effective date, expiration, and renewal of registration.

Sec. 3. (1) Except as provided in section 4, a person shall not solicit contributions within this state, or receive funds solicited within this state on its behalf, unless the person is an organization and has first registered with the attorney general. An organization shall register in writing on a form prescribed by the attorney general. The registration form shall contain all of the following:

(a) The name of the organization and the name or names under which it will solicit or receive contributions.

(b) The principal address of the organization and the address of all other offices of the organization in this state. If the organization does not maintain a principal office in this state, the registration form shall contain the name and address of the person having custody of its financial records.

(c) The location and date when the organization was legally established, the form of its organization, and a reference to any determination of its tax exempt status under the federal internal revenue code.

(d) The names and business addresses of the officers, directors, trustees, the principal executive officer, and, if applicable, the resident agent.

(e) The specific areas for which the contributions to be solicited or received will be used. The areas of expenditure shall be broken down into 1 or more of the following categories:

(i) Administrative.

(ii) Political purposes and campaign contributions.

(iii) Membership services.

(iv) Charitable contributions.

(v) Education and training.

(f) If the organization is existing on the effective date of this act or files a renewal registration pursuant to subsection (6), it shall include a financial statement for the preceding fiscal year that provides the percentage range as required by subsection (2) of the total distributions by the categories as required by subdivision (e).

(g) The fiscal year of the organization.

(h) A copy of any written consent required under section 9(3).

(2) The category distributions of an organization shall be reported by 1 of the following percentage ranges:

(a) 0-10%.

(b) 11-25%.

(c) 26-50%.

(d) 51-75%.

(e) 76-100%.

(3) The registration form shall be accompanied by a registration fee of \$25.00. The revenue collected under this subsection shall be deposited in the state treasury and credited to the general fund.

(4) The registration shall be effective immediately upon receipt by the attorney general of the completed registration form and the registration fee.

(5) A registration filed under this section shall expire 6 months after the closing date of the organization's fiscal year.

(6) A registration filed under this section may be renewed for an additional 1-year period by filing a renewal registration in the form prescribed by the attorney general and payment of a renewal fee of \$25.00 before the expiration of the existing registration. The information required in the renewal form shall not exceed the information required by this section.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.304 Soliciting contributions by professional fund-raiser; registration with attorney general; form; contents; surety bond; registration fee; effective date, expiration, and renewal of registration; maintaining list of individuals making solicitations.

Sec. 4. (1) A professional fund-raiser shall not solicit contributions within this state on behalf of an organization or public safety official without first registering with the attorney general. The registration shall be in writing on a form prescribed by the attorney general and contain the same information as required under section 3(1)(a) to (d).

(2) The registration form shall include the legal name and address of each individual who will for compensation be making or supervising the making of solicitation for contributions.

(3) The registration shall be accompanied by a surety bond. The bond shall be in a form satisfactory to the attorney general. The professional fund-raiser is the obligor on the surety bond of which the surety company is the surety. The company shall be qualified in this state to write bonds required by this act. The surety bond shall run to the attorney general for the benefit of the people of the state of Michigan for the use of, and may be sued on by, the state or any person who may have a cause of action under this act against the obligor of the bond under this act. The surety bond shall require the obligor to faithfully conform to and abide by the provisions of this act.

(4) For a professional fund-raiser existing on the effective date of this act the principal sum of the initial surety bond and for a professional fund-raiser not existing on the effective date of this act the principal sum of the surety bond for the first year shall be in the amount of \$25,000.00.

(5) The registration form shall be accompanied by a registration fee of \$200.00. The revenue collected under this subsection shall be deposited in the state treasury and credited to the general fund.

(6) The registration shall be effective immediately upon receipt by the attorney general of the completed registration form, surety bond, and registration fee.

(7) The registration filed under this section shall expire 6 months after the closing date of the public fund-raiser's fiscal year.

(8) A registration filed under this section may be renewed for an additional 1-year period by filing a

renewal registration in the form prescribed by the attorney general, a renewal surety bond, and payment of a renewal fee of \$200.00 before the expiration of the existing registration. The information required in the renewal form shall not exceed the information required in the initial registration form. The principal sum of the surety bond for a renewed registration shall be in the following amount based on the total contributions the professional fund-raiser collected during the preceding fiscal year:

- (a) Contributions of \$100,000.00 or less - \$25,000.00.
- (b) Contributions between \$100,000.00 and \$200,000.00 - \$50,000.00.
- (c) Contributions between \$200,000.00 and \$300,000.00 - \$75,000.00.
- (d) Contributions in excess of \$300,000.00 - \$100,000.00.

(9) A professional fund-raiser shall maintain a list of the address and legal name of each individual who has made a solicitation within 1 year, is currently soliciting, or will be making solicitations on behalf of the professional fund-raiser.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.305 Notice of change of information.

Sec. 5. An organization or professional fund-raiser shall notify the attorney general within 15 days of any change in the information required to be furnished for registration under this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.306 Public inspection of registration forms and documents; exemption.

Sec. 6. (1) Except as provided in subsection (2), registration forms and documents required to be filed with the attorney general under this act shall be open to public inspection as provided by the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) The addresses required to be provided under section 4(2) and 4(9) and as otherwise provided in section 18(6) shall be exempt from the provisions of Act No. 442 of the Public Acts of 1976.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.307 Registration of out-of-state organization or professional fund-raiser; designation of resident agent required.

Sec. 7. The attorney general shall not accept a registration under this act from an organization or professional fund-raiser located in another state or country without the organization or professional fund-raiser first designating a resident agent in this state for the acceptance of service of process.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.308 Service of process.

Sec. 8. (1) An organization or professional fund-raiser which does not maintain an office within this state shall be subject to service of process by service upon its resident agent, or, if there is no resident agent, by service upon the person who has custody of the financial records as designated on the registration form.

(2) If service cannot be made as provided in subsection (1), then service may be made as provided by law or court rule.

(3) After service is effected by either subsection (1) or (2), a copy of the process shall be mailed to the last known address of the organization or professional fund-raiser.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.309 Use of name, symbol, or statement.

Sec. 9. (1) Except as provided by subsection (2), an organization or professional fund-raiser shall not use for the purpose of soliciting contributions a name, symbol, or statement so closely related or similar to that used by another organization that it would tend to confuse or mislead the public.

(2) Subsection (1) does not apply to an organization or professional fund-raiser with a name, symbol, or statement existing on the effective date of this act.

(3) An organization or professional fund-raiser shall not use for the purpose of soliciting contributions the name of another person not affiliated with the organization without first obtaining the written consent of the person.

(4) A person whose name, symbol, or statement is used in violation of this section may bring an action in the circuit court of the county in which the violation occurs for \$25,000.00 or actual damages, whichever is greater, plus reasonable attorney fees.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.310 Diversion of solicited funds.

Sec. 10. An organization or professional fund-raiser shall not divert solicited funds to a purpose or purposes other than that for which the funds were contributed or solicited.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.311 Misrepresenting, misleading, making false statements, using other than legal name, or taking advantage of inability to protect interests; recording telephone communications; identification as public safety officer or member of organization; making face-to-face solicitations.

Sec. 11. (1) An organization or professional fund-raiser shall not, in connection with the solicitation or reception of contributions for or on behalf of an organization or public safety person, misrepresent to, mislead, make false statements to, or use a name other than the solicitor's legal name to another person by any manner that would lead a reasonable person to believe any of the following:

(a) That if the person makes a contribution, he or she will receive special benefits or treatment from a public safety organization or that failure to make a contribution will result in unfavorable treatment from a public safety organization.

(b) That contributions are tax deductible unless they so qualify under the internal revenue code.

(c) That the person is under an obligation to make a contribution.

(d) That failure to make a contribution will adversely affect the person's credit rating.

(e) That the solicitor is located in a geographic area that is different than the geographic area in which the solicitor is actually located.

(f) That the solicitor has a sponsorship, approval, status, affiliation, or connection with an organization or purpose which the solicitor does not actually have.

(g) That the person has previously approved or agreed to make a contribution, when in fact the person has not given such approval or agreement.

(h) That the contributions are for a purpose that is different than the actual purpose for which the contributions will be used.

(2) An organization or professional fund-raiser shall not knowingly take advantage of the inability of the person being solicited to reasonably protect his or her interests by reason of disability, illiteracy, or inability to understand the terms and conditions of an agreement to contribute.

(3) An organization or professional fund-raiser shall make a voice recording of all telephone communications that solicit contributions and shall make the recording available to the attorney general upon a request as a result of an investigation or complaint. Each solicitor shall be notified that a recording is being made of all telephone communications. Unless notified by the attorney general that the recordings are part of an investigation or complaint, the recording shall be kept for 60 days by the organization or professional fund-raiser.

(4) If asked by the person being solicited, the organization or professional fund-raiser shall inform the person whether the solicitor is or is not a sworn public safety officer or a member of the organization soliciting the funds.

(5) Except as otherwise provided by this act, an individual who makes a face-to-face solicitation for contributions shall be a member of the organization on whose behalf the contribution is sought and shall not wear a public safety uniform or other clothing similar to a public safety uniform. Except for a pledge or promise to contribute, an individual who makes a solicitation under this subsection, or an agent of the organization on whose behalf the solicitation was made, shall not collect or receive any face-to-face contribution as a result of the solicitation.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.312 Disclosure statement; providing percentage ranges upon request.

Sec. 12. (1) Each organization or professional fund-raiser shall prepare a disclosure statement to be given with all printed material and read when contact is made by telephone, to each person from whom a contribution is solicited. The disclosure statement shall contain all of the following information:

(a) The name and purpose of the organization.

(b) Whether the solicitor is a separate organization acting on behalf of a public safety organization.

(c) The specific purpose or purposes, including any political purposes and campaign contributions, for which the contributions are to be used.

(d) That the categories and percentages of distributions of contributions are available upon request as provided in subsection (2).

(2) Upon written or verbal request of the individual being solicited, the solicitor shall provide the percentage ranges for each category as described in section 3.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.313 Information printed on written request for payment.

Sec. 13. Each organization or professional fund-raiser shall print the following information conspicuously on all invoices, pledge cards, or other written requests for payment:

- (a) The name and purpose of the organization.
- (b) Whether the solicitor is a separate organization acting on behalf of a public safety organization.
- (c) The specific purpose or purposes for which the contributions are to be used.
- (d) That the solicitor is registered with the attorney general and that information concerning the solicitor may be obtained by calling the toll-free telephone number established pursuant to section 15. The solicitor shall provide the person being solicited the toll-free telephone number.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.314 Exemptions.

Sec. 14. An organization or person is exempt from the requirements of this act if the solicitations of the organization or person meet either of the following:

- (a) All of the following:
 - (i) The purpose of the solicitation is to aid a specifically named spouse and children of a public safety officer who died or was injured in the line of duty and not less than 75% of the contributions go for this purpose.
 - (ii) The organization's membership has officers from the same employer as the slain or injured officer whose family would benefit from the contributions and the solicitations are only conducted within the jurisdiction of the public safety employer.
 - (iii) The organization has received written approval, on a form approved by the attorney general, from the person or persons on whose behalf the contributions are being sought.
- (b) All of the following:
 - (i) The solicitation is on behalf of a charitable organization that is not the organization to which the person making the solicitation is a member.
 - (ii) The person making the solicitation is not compensated by the organization for which the solicitation was made.
 - (iii) The solicitation is conducted in a place accessible by the general public.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.315 Toll-free telephone number; establishment; purpose.

Sec. 15. The attorney general shall establish a toll-free telephone number which may be called to obtain information concerning or to file a complaint against a solicitor of contributions under this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.316 Authority of attorney general to bring action in court; notice; opportunity to cease and desist; forwarding notice of violation and information; civil penalty.

Sec. 16. (1) If the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful pursuant to this act, and upon notice given in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the person by temporary or permanent injunction from engaging in the method, act, or practice. The action may be brought in the circuit court of the county where the person is established or solicits contributions or, if the person is not established in this state, in the circuit court of Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of this act the court may assess the person a civil penalty of not more than \$5,000.00.

(2) Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section the attorney general shall notify the person of his or her intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the attorney general in person, by counsel, or by other representative as to the proposed action before the proposed filing date. The notice may be given the person by mail, postage prepaid, to his or her usual place of business or, if the person does not have a usual place of business, to his or her last known address, or to the resident agent.

(3) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or

of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this act, or of an assurance under section 17, shall immediately forward written notice of the violation together with any information he or she may have to the attorney general.

(4) In addition to any other penalties provided by this act, a person who knowingly violates the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than \$500.00 for each violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.317 Assurance of discontinuance of method, act, or practice; filing; enforcement; modification.

Sec. 17. (1) If the attorney general has authority to institute an action or proceeding pursuant to section 16, he or she may accept an assurance of discontinuance of a method, act, or practice which is alleged to be unlawful under this act from the person who is alleged to have engaged, is engaging, or is about to engage in the method, act, or practice. Except as provided in subsection (2), the assurance shall not constitute an admission of guilt nor be introduced in any other proceeding. The assurance may include a stipulation for 1 or more of the following:

- (a) The voluntary payment by the person for the costs of investigation.
- (b) An amount to be held in escrow pending the outcome of an action.
- (c) An amount for restitution to an aggrieved person.

(2) An assurance of discontinuance shall be in writing and filed with the court. The clerk of the court shall maintain a record of the filings. Unless rescinded by the parties or voided by a court for good cause, the assurance may be enforced in the court by the parties to the assurance. The assurance may be modified by the parties or by the court for good cause.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.318 Subpoena to appear before attorney general; producing documentary material; service and contents of notice; extending reporting date; modifying or setting aside notice and subpoena; confidentiality of records.

Sec. 18. (1) Upon the ex parte application of the attorney general to the circuit court in the county where the person is established or solicits contributions or, if the person is not established in this state, in Ingham county, the circuit court, upon finding probable cause to believe a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act, may issue the subpoena compelling a person to appear before the attorney general and under oath answer questions relating to the alleged violation of this act. A person served with a subpoena may be accompanied by counsel when he or she appears before the attorney general. The subpoena may compel a person to produce the books, records, papers, documents, or things relating to the alleged violation of this act. During the examination of documentary material under the subpoena, the court may require a person having knowledge of the documentary material or the matters contained in the documentary material to attend and give testimony under oath or acknowledgment with respect to the documentary material.

(2) The subpoena shall include the notice of the time, place, and cause of the taking of testimony, examination, or attendance and shall allow not less than 10 days before the date of the taking of testimony, examination, or attendance, unless for good cause shown the court shortens the period of time.

(3) Service of the notice shall be in the manner provided and subject to the provisions that apply to service of process upon a defendant in a civil action commenced in the circuit court.

(4) The notice shall include all of the following:

(a) A statement of the time and place for the taking of testimony or the examination and the name and address of the person to be examined. If the name is not known, the notice shall give a general description sufficient to identify the person or the particular class or group to which the person belongs.

(b) A reference to this section and the general subject matter under investigation.

(c) A description of the documentary material to be produced with reasonable specificity so as to indicate fairly the material demanded.

(d) A return date within which the documentary material shall be produced.

(e) Identification of the members of the attorney general's staff to whom the documentary material shall be made available for inspection and copying.

(5) At any time before the date specified in the notice, upon motion for good cause shown, the court may extend the reporting date or modify or set aside the notice and subpoena.

(6) The documentary material or other information obtained by the attorney general pursuant to an investigation under this section shall be confidential records of the office of the attorney general and shall not be available for public inspection or copying or divulged to any person except as provided in this section. The attorney general may disclose documentary material or other information as follows:

- (a) To other law enforcement officials.
- (b) In connection with an enforcement action brought pursuant to this act.
- (c) Upon order of the court, to a party in a private action brought pursuant to this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.319 Compliance with terms of notice; prohibited conduct; civil penalty; order to enforce compliance; enjoining person from soliciting contributions.

Sec. 19. (1) A person upon whom a notice is served pursuant to section 18 shall comply with the terms of the notice unless otherwise provided by order of the court.

(2) A person who does any of the following shall be assessed a civil penalty of not more than \$5,000.00:

- (a) Knowingly without good cause fails to appear when served with a notice.
- (b) Knowingly avoids, evades, or prevents compliance, in whole or in part, with an investigation, including the removal from any place, concealment, destruction, mutilation, alteration, or falsification of documentary material in the possession, custody, or control of a person subject to the notice.
- (c) Knowingly conceals relevant information.

(3) The attorney general may file a petition in the circuit court of the county in which the person is established or solicits contributions or, if the person is not established in this state, in the circuit court of Ingham county for an order to enforce compliance with a subpoena or this section. A violation of a final order entered pursuant to this section may be punished as civil contempt.

(4) Upon the petition of the attorney general, the circuit court may enjoin a person from soliciting contributions in this state if the person persistently and knowingly evades or prevents compliance with an injunction issued pursuant to this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.320 Class action.

Sec. 20. (1) The attorney general may bring a class action on behalf of persons residing in or injured in this state for the actual damages caused by any method, act, or practice that is unlawful under this act.

(2) The court after a hearing may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his or her assets to the detriment of members of the class.

(3) If at any stage of the proceedings the court requires that notice be sent to the class, the attorney general may petition the court to require the defendant to bear the cost of the notice. In determining whether to impose the cost on the defendant or the state, the court shall consider the probability that the attorney general will succeed on the merits of the action.

(4) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages and attorneys' fees.

(5) An action shall not be brought by the attorney general under this section more than 6 years after the occurrence of the method, act, or practice which is the subject of the action.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.321 Actions to obtain declaratory judgment or injunctions; action to recover actual damages; class action; appointing receiver or ordering sequestration of assets; cost of notice; limitation on damages resulting from bona fide error; statute of limitations; asserting defense or counterclaim.

Sec. 21. (1) Whether or not he or she seeks damages or has an adequate remedy at law, a person may bring an action to do either or both of the following:

- (a) Obtain a declaratory judgment that a method, act, or practice is unlawful under this act.
- (b) Enjoin in accordance with the principles of equity a person who is engaging or is about to engage in a method, act, or practice which is unlawful under this act.

(2) Except in a class action, a person who suffers loss as a result of a violation of this act may bring an action to recover actual damages or \$250.00, whichever is greater, together with reasonable attorneys' fees.

(3) A person who suffers loss as a result of a violation of this act may bring a class action on behalf of persons residing or injured in this state for the actual damages caused by any method, act, or practice that is

unlawful under this act.

(4) The court after a hearing may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of his or her assets to the detriment of members of the class.

(5) If at any stage of proceedings brought under subsection (3) the court requires that notice be sent to the class, a person may petition the court to require the defendant to bear the cost of notice. In determining whether to impose the cost on the defendant or the plaintiff, the court shall consider the probability that the person will succeed on the merits of his or her action.

(6) If the defendant shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual damages.

(7) An action under this section shall not be brought more than 6 years after the occurrence of the method, act, or practice which is the subject of the action. When a person commences an action against another person, the defendant may assert, as a defense or counterclaim, any claim under this act arising out of the transaction on which the action is brought.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.322 Commencement of action; mailing copy of complaint, judgment, decree, or order; proof of violation of permanent injunction.

Sec. 22. (1) Upon commencement of an action brought pursuant to section 21 or section 25, the clerk of the court shall mail a copy of the complaint to the attorney general, and upon entry of a judgment or decree in the action, the clerk of the court shall mail a copy of the judgment, decree, or order to the attorney general.

(2) In a subsequent action by the attorney general brought pursuant to section 20 proof of a violation of a permanent injunction issued pursuant to section 16 is conclusive evidence that the defendant engaged in a method, act, or practice which is unlawful under this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.323 Filing fees not required; conditions.

Sec. 23. If the attorney general or prosecuting attorney commences an action or files a voluntary assurance pursuant to this act, filing fees shall not be required to be paid.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.324 Law enforcement officer; aid and assistance in investigation.

Sec. 24. A law enforcement officer in the state, if requested by the attorney general or a prosecuting attorney, shall aid and assist in an investigation of an alleged or actual violation of this act.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.325 Prosecuting attorney; powers and authority.

Sec. 25. A prosecuting attorney may conduct an investigation pursuant to this act and may institute and prosecute an action under this act in the same manner as the attorney general.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.326 Attorney general or local prosecutors; powers or duties not limited or restricted by act.

Sec. 26. This act does not limit or restrict the exercise of powers or the performance of the duties of the attorney general or local prosecutors which they are otherwise authorized to exercise or perform under any other provisions of law, including seeking injunctive relief to stop prohibited activity.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.

14.327 Conditional effective date.

Sec. 27. This act shall not take effect unless Senate Bill No. 1140 of the 86th Legislature is enacted into law.

History: 1992, Act 298, Imd. Eff. Dec. 18, 1992.