

**HOUSE BILL NO. 590****IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE****Introduced: 4/30/92****Referred: Labor & Commerce, Judiciary****A BILL****FOR AN ACT ENTITLED****1 "An Act relating to the solicitation of funds for charitable organizations."****2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:****3 \* Section 1. AS 45 is amended by adding a new chapter to read:****4 CHAPTER 63. SOLICITATION OF FUNDS FOR CHARITABLE ORGANIZATIONS.****5 ARTICLE 1. CHARITABLE ORGANIZATIONS.****6 Sec. 45.63.010. REGISTRATION. (a) A charitable organization may not solicit contributions,  
7 or have contributions solicited on its behalf, in the state unless the charitable organization registers with  
8 the Department of Commerce and Economic Development.****9 (b) To register under this section, a charitable organization shall****10 (1) submit to the department an application for registration on a form provided  
11 by the department;****12 (2) submit a registration statement that complies with AS 45.63.030; and****13 (3) pay the registration fee established by the department.****14 (c) The department shall issue a certificate of registration to a charitable organization that**

1 registers under (b) of this section.

2 (d) A certificate of registration issued under this section expires on September 1 of each  
3 year. To renew a certificate a charitable organization shall

4 (1) submit a renewal application to the department on a form provided by the  
5 department on or before the date specified by the department;

6 (2) submit a registration statement that complies with AS 45.63.030; and

7 (3) pay the renewal fee established by the department.

8 Sec. 45.63.020. EXEMPTIONS FROM REGISTRATION. (a) Registration under  
9 AS 45.63.010 is not required for

10 (1) a person who is exempt from filing a federal annual information return under  
11 26 U.S.C. 6033(a)(2)(A)(i) - (iii) and (C)(i);

12 (2) a candidate for national, state, or local office, and a political party or other  
13 committee or group, if the party, candidate, committee, or group is required to file financial  
14 information with the Alaska Public Offices Commission under AS 15.13 or with the Federal  
15 Election Commission under 2 U.S.C. 431 - 456 (Federal Election Campaign Act);

16 (3) a charitable organization that does not intend to raise or receive contributions,  
17 excluding government grants, in excess of \$5,000 during a fiscal year, or that does not intend to  
18 receive contributions from more than 10 persons during a fiscal year, if all of the organization's  
19 functions, including solicitation, are performed by persons who are not paid for their services and  
20 if no part of the organization's assets or income inures to the benefit of, or is paid to, an officer  
21 or member of the organization.

22 (b) Notwithstanding (a)(3) of this section, if an organization raises or receives more than  
23 \$5,000 in contributions during a fiscal year and receives contributions from more than 10 persons  
24 during the same fiscal year, the organization shall, within 30 days after the later occurrence,  
25 register with the department under this chapter.

26 Sec. 45.63.030. CONTENTS OF REGISTRATION STATEMENT. (a) A registration  
27 statement required under AS 45.63.010 shall be signed and sworn to under penalty of perjury by  
28 two authorized officers of the charitable organization, including the chief fiscal officer. The  
29 registration statement must contain the following information:

30 (1) the name of the charitable organization and the purpose for which it is  
31 organized;

1 (2) the address and telephone number of the charitable organization and the  
2 address and telephone number of the organization's offices in the state, or, if the organization  
3 does not maintain an office, the name, address, and telephone number of the person who has  
4 custody of the organization's financial records;

5 (3) the names and addresses of the officers, directors, trustees, and principal  
6 salaried employees of the charitable organization;

7 (4) if required by AS 45.63.050, an annual financial statement;

8 (5) if required by AS 45.63.050, an audited financial statement;

9 (6) whether the charitable organization is authorized by another governmental  
10 authority to solicit contributions;

11 (7) whether the charitable organization has ever had its authority to solicit denied,  
12 suspended, revoked, or enjoined by a court or other governmental authority;

13 (8) the charitable purpose for which the contributions to be solicited are to be  
14 used;

15 (9) the name or names under which the charitable organization intends to solicit  
16 contributions

17 (10) the names of the persons in the charitable organization who will have final  
18 responsibility for the custody of the contributions;

19 (11) the names of the persons in the charitable organization who are responsible  
20 for the final distribution of the contributions; and

21 (12) other information that the department requires.

22 (b) The registration statement filed under AS 45.63.010(b) must be accompanied by

23 (1) a copy of the charitable organization's charter, articles of organization,  
24 agreement of association, instrument of trust, constitution, or other organizational instrument and  
25 bylaws;

26 (2) the place where and the date when the charitable organization was legally  
27 established, the form of its organization, and its tax exempt status; and

28 (3) a copy of the charitable organization's federal and state tax exemption  
29 determination letters if the organization is exempt from taxation.

30 Sec. 45.63.040. INFORMATION REQUIRED AFTER REGISTRATION. A charitable  
31 organization that is required to file a registration statement under AS 45.63.010 shall file with

1 the department

2 (1) within 30 days after receipt of the letter, a copy of a federal or state tax  
3 exemption determination letter received after the initial registration; and

4 (2) within 30 days after adoption of the amendment, a copy of an amendment to  
5 the charitable organization's organizational instrument.

6 Sec. 45.63.050. ANNUAL FINANCIAL REPORT AND AUDIT REQUIREMENT. (a)

7 Unless the organization is subject to (b) of this section, a charitable organization that is required  
8 to register under AS 45.63.010 and that receives contributions of more than \$5,000 during a fiscal  
9 year shall file with its registration statement for the following fiscal year, or with its initial  
10 registration statement if the fiscal year when it received over \$5,000 immediately preceded its  
11 initial registration statement, an annual financial report for the fiscal year during which it  
12 received over \$5,000. The department shall establish the form of the report and standards for  
13 the completion of the report. The report must include

14 (1) a balance sheet;

15 (2) a statement of support, revenue, expenses, and changes in fund balance;

16 (3) a statement of functional expenses broken down at least into the categories  
17 of management, program services, and fund-raising; and

18 (4) other financial information that the department requires.

19 (b) A charitable organization that is required to register under AS 45.63.010 and that  
20 receives contributions of over \$100,000 during a fiscal year, or another dollar amount established  
21 by the department by regulation, shall file with its registration statement for the following fiscal  
22 year, or with its initial registration statement if the fiscal year when it received over \$100,000  
23 or other established dollar amount immediately preceded its initial registration statement, an  
24 audited financial statement for the fiscal year during which it received contributions of more than  
25 \$100,000 or other established dollar amount. The statement shall be prepared in accordance with  
26 generally accepted accounting principles and examined by an independent certified public  
27 accountant for the purpose of expressing the accountant's opinion.

28 Sec. 45.63.060. SUBSTITUTED INFORMATION. Under the conditions established by  
29 the department, the department may accept in place of information required by this chapter a  
30 copy or duplicate original of a financial statement, report, or return filed by the organization with  
31 the Internal Revenue Service or with another state having requirements similar to this chapter.



1           **Sec. 45.63.120. BOND.** (a) The bond required under AS 45.63.100 must meet the  
2 following criteria:

3                   (1) the fund-raising counsel must be the principal obligor in the sum of \$20,000  
4 with one or more responsible sureties whose liability in the aggregate as sureties will at least  
5 equal the same sum;

6                   (2) the bond, which may be in the form of a rider to a larger blanket liability  
7 bond, must run to the benefit of the state and of a person who may have a cause of action against  
8 the fund-raising counsel for liabilities arising from the fund-raising counsel's

9                           (A) conduct of activities that are subject to this chapter; or

10                           (B) violation of this chapter.

11                   (b) The fund-raising counsel shall maintain the bond in effect as long as the registration  
12 is in effect.

13           **Sec. 45.63.130. CONTRACT REQUIRED.** Before a fund-raising counsel may perform  
14 material services for a charitable organization that is required to be registered under  
15 AS 45.63.010, the charitable organization and the fund-raising counsel shall enter into a written  
16 contract, and the fund-raising counsel shall file a copy of the contract with the department. The  
17 contract must contain the information necessary for the department to identify the services that  
18 the fund-raising counsel will provide, including whether the fund-raising counsel will at any time  
19 have custody of contributions.

20           **Sec. 45.63.140. HANDLING OF CONTRIBUTIONS.** A fund-raising counsel shall,  
21 within five days of receipt, deposit in an account at a bank or other federally insured financial  
22 institution the entire amount of a contribution that is at any time in the custody of the fund-  
23 raising counsel. The account shall be in the name of the charitable organization for which the  
24 contribution was received, and the charitable organization shall have sole control of all  
25 withdrawals from the account.

26           **Sec. 45.63.150. RECORDS.** A fund-raising counsel shall maintain during the period of  
27 each contract entered into under AS 45.63.130

28                   (1) a record of all contributions at any time in the custody of the fund-raising  
29 counsel, including the name and address of each contributor and the date and amount of the  
30 contribution;

31                   (2) the location and account number of all bank and other financial institution

1 accounts in which the fund-raising counsel has deposited money raised under the contract.

2 Sec. 45.63.160. ACCOUNTING. Within 90 days after a contract subject to AS 45.63.130  
3 is completed, and on the anniversary of the signing of a contract subject to AS 45.63.130 lasting  
4 more than one year, a fund-raising counsel shall account in writing to the charitable organization  
5 for all contributions collected and expenses incurred under the contract.

6 ARTICLE 3. SOLICITORS.

7 Sec. 45.63.200. REGISTRATION. (a) A paid solicitor may not solicit for a charitable  
8 organization unless the paid solicitor has registered with the department.

9 (b) To register under this section, a paid solicitor shall

10 (1) submit to the department an application for registration on a form provided  
11 by the department;

12 (2) file with the department a bond that meets the requirements of AS 45.63.210;  
13 and

14 (3) pay the registration fee established by the department.

15 (c) The department shall issue a certificate of registration to each paid solicitor that  
16 registers under (b) of this section.

17 (d) A certificate of registration issued under this section expires on September 1 of each  
18 year. To renew the certificate a paid solicitor shall

19 (1) submit a renewal application to the department on a form provided by the  
20 department on or before the date specified by the department;

21 (2) pay the renewal fee established by the department; and

22 (3) submit evidence satisfactory to the department that the paid solicitor maintains  
23 a bond that meets the requirements of AS 45.63.210.

24 Sec. 45.63.210. BOND. (a) The bond required under AS 45.63.200 must meet the  
25 following criteria:

26 (1) the paid solicitor must be the principal obligor in the sum of \$20,000 with one  
27 or more responsible sureties whose liability in the aggregate as sureties will at least equal the  
28 same sum;

29 (2) the bond, which may be in the form of a rider to a larger blanket liability  
30 bond, must run to the benefit of the state and of a person who may have a cause of action against  
31 the paid solicitor for liabilities arising from the paid solicitor's

- 1 (A) conduct of activities as a paid solicitor; or  
2 (B) violation of this chapter.

3 (b) The paid solicitor shall maintain the bond in effect as long as the registration is in  
4 effect.

5 Sec. 45.63.220. CONTRACT REQUIRED. If the charitable organization is required to  
6 be registered under AS 45.63.010, a paid solicitor and the charitable organization for which the  
7 paid solicitor is working shall execute a written contract that clearly states the respective  
8 obligations of the paid solicitor and the charitable organization, including

9 (1) a statement of the method that will be used to calculate the compensation of  
10 the paid solicitor;

11 (2) a reasonable estimate of the expenses that will be incurred, directly or  
12 indirectly, by the charitable organization in connection with the solicitation, including the  
13 estimated compensation to the paid solicitor; and

14 (3) the percentage of the gross contributions that the charitable organization will  
15 receive.

16 Sec. 45.63.230. SOLICITATION NOTICE. Before performing services under a contract  
17 with a charitable organization that is required to be registered under AS 45.63.010, a paid  
18 solicitor shall file with the department a completed solicitation notice on a form provided by the  
19 department. The solicitation notice must include

20 (1) a copy of the contract required by AS 45.63.220;

21 (2) the projected dates when the solicitation will begin and end;

22 (3) the telephone number and address of the location from where the solicitation  
23 will be conducted;

24 (4) the name and residence address of each person responsible for directing and  
25 supervising the conduct of the services under the contract;

26 (5) a statement indicating whether the paid solicitor will at any time have custody  
27 of contributions;

28 (6) a full and fair description of the charitable purpose for which the solicitations  
29 will be made; and

30 (7) a certification by the charitable organization on whose behalf the paid solicitor  
31 is acting that the solicitation notice and accompanying material are true and complete to the best

1 of the organization's knowledge.

2 **Sec. 45.63.240. DISCLOSURES AND REPRESENTATIONS.** (a) At the point of  
3 solicitation, and before an oral request for a contribution or contemporaneously with a written  
4 request for a contribution, a paid solicitor who is conducting a solicitation for a charitable  
5 organization that is required to be registered under AS 45.63.010 shall clearly and conspicuously  
6 disclose or cause to be disclosed the paid solicitor's name and that the solicitation is being  
7 conducted by a paid solicitor.

8 (b) In addition to the other disclosures required by this section, a paid solicitor who  
9 solicits a contribution for a charitable organization that is required to be registered under  
10 AS 45.63.010 shall make the following disclosures to the person from whom the contribution is  
11 solicited:

12 (1) the name and address of the charitable organization;

13 (2) clear description of the primary charitable purpose for which the solicitation  
14 is made;

15 (3) the fact that a financial statement disclosing assets, liabilities, fund balances,  
16 revenue, and expenses for the preceding fiscal year will be provided on request; the expenses in  
17 the statement must at least be broken down into the categories of management, program services,  
18 and fund-raising, and must be consistent with the annual financial report required by  
19 AS 45.63.050.

20 (c) Within five days after a person has been solicited orally by a paid solicitor for a  
21 charitable organization that is required to be registered under AS 45.63.010, whether by telephone  
22 or other method, and if the solicited person has contributed or pledged to contribute, the paid  
23 solicitor who made the solicitation shall send to the person a written confirmation of the  
24 contribution that includes a clear and conspicuous disclosure of the information required by (a)  
25 of this section.

26 (d) Unless the charitable organization has consented in a writing signed before the  
27 solicitation by two authorized officers, directors, or trustees of the organization to the use of the  
28 organization's name, a paid solicitor may not represent that any part of the contributions will be  
29 given to the charitable organization.

30 (e) During a solicitation, a paid solicitor may not represent that tickets to events will be  
31 donated to the charitable organization unless the

1 (1) paid solicitor has commitments in writing from the charitable organization  
2 stating that the charitable organization will accept donated tickets and specifying the number of  
3 tickets the charitable organization is willing to accept; and

4 (2) the paid solicitor solicits contributions for donated tickets from a number of  
5 contributors that is not greater than the number of tickets that the charitable organization has  
6 agreed to accept under (1) of this subsection.

7 Sec. 45.63.250. DEPOSIT OF CONTRIBUTIONS. A paid solicitor shall, within five  
8 days of receipt, deposit in an account at a bank or other federally insured financial institution the  
9 entire amount of each contribution received by the paid solicitor. The account shall be  
10 established in the name of the charitable organization with whom the paid solicitor has  
11 contracted, and the charitable organization shall have sole control of all withdrawals from the  
12 account.

13 Sec. 45.63.260. RECORDS. (a) A paid solicitor shall maintain during the period of a  
14 contract entered into under AS 45.63.220,

15 (1) the name, and if known to the paid solicitor, the address of each person  
16 contributing and the date and amount of the contribution;

17 (2) the name and residence address of each employee, agent, or other person  
18 involved in the solicitation;

19 (3) a record of all contributions at any time in the custody of the paid solicitor;

20 (4) a record of all expenses incurred by the paid solicitor that the charitable  
21 organization is required to pay; and

22 (5) the location and account number of all bank and other financial institution  
23 accounts in which the paid solicitor has deposited contributions.

24 (b) If, under a contract entered into under AS 45.63.220, a paid solicitor sells tickets to  
25 an event and represents that tickets will be donated to the charitable organization, the paid  
26 solicitor shall maintain the names and addresses of the

27 (1) donors and the number of tickets donated by each donor; and

28 (2) charitable organization receiving donated tickets and the number of tickets  
29 received by the charitable organization.

30 Sec. 45.63.270. CHANGE IN FILED INFORMATION. Within seven days after the  
31 change occurs, a paid solicitor shall report to the department a material change in the information

1 filed by the paid solicitor with the department under this chapter.

2 **Sec. 45.63.280. SOLICITATIONS BY UNPAID SOLICITORS.** An unpaid solicitor shall  
3 make the disclosures required by AS 45.63.240(b) when soliciting a contribution for a charitable  
4 organization that is required to be registered under AS 45.63.010.

5 **ARTICLE 4. CHARITABLE SALES PROMOTIONS.**

6 **Sec. 45.63.300. NOTICE OF PROMOTION.** A charitable organization that agrees to  
7 permit a charitable sales promotion to be conducted by a commercial coventurer on behalf of the  
8 organization shall file with the department a notice of the promotion before the promotion begins  
9 in the state. The notice must state

10 (1) the names of the charitable organization and commercial coventurer;

11 (2) the fact that the organization and coventurer will conduct a charitable sales  
12 promotion; and

13 (3) the date the promotion is expected to begin.

14 **Sec. 45.63.310. CONTRACT REQUIRED.** A charitable organization that agrees to  
15 permit a charitable sales promotion to be conducted in its behalf by a commercial coventurer  
16 shall, before the beginning of the charitable sales promotion in the state, execute a written  
17 contract with the commercial coventurer. The charitable organization shall make the contract  
18 available to the department on request. The contract shall be signed by an authorized  
19 representative of the charitable organization and of the commercial coventurer. The contract must  
20 indicate that a written final accounting on a per unit basis will be given by the commercial  
21 coventurer to the charitable organization and must include

22 (1) a description of the goods or services to be offered to the public;

23 (2) the identification of the geographic area where the promotion will be made;

24 (3) the beginning and ending dates of the promotion;

25 (4) the manner in which the charitable organization's name will be used, including  
26 the representation to be made to the public about the actual or estimated dollar amount, or  
27 percent per unit of goods or services purchased or used, that will benefit the charitable  
28 organization;

29 (5) if applicable, the maximum dollar amount that will benefit the charitable  
30 organization;

31 (6) the estimated number of units of goods or services to be sold or used;

1 (7) a provision for a final accounting, on a per unit basis, to be given by the  
2 commercial coventurer to the charitable organization and the date by which the accounting will  
3 be made;

4 (8) a statement that the charitable sales promotion is subject to the requirements  
5 of this chapter; and

6 (9) when and how the benefit will be conferred on the charitable organization.

7 Sec. 45.63.320. FINAL ACCOUNTING. A commercial coventurer shall provide the  
8 charitable organization with a written final accounting of the charitable sales promotion on a per  
9 unit basis.

10 Sec. 45.63.330. ADVERTISING DISCLOSURES. The commercial coventurer shall  
11 disclose in each advertisement for the charitable sales promotion the dollar amount or percentage  
12 per unit of goods or services purchased or used that will benefit the charitable organization or  
13 purpose. If the actual dollar amount or percentage cannot reasonably be determined before the  
14 charitable sales promotion, the commercial coventurer shall disclose an estimated dollar amount  
15 or percentage. The estimate must be reasonable and based on all of the relevant facts known to  
16 the commercial coventurer and the charitable organization about the charitable sales promotion.

17 ARTICLE 5. UNLAWFUL PRACTICES, PENALTIES; AND ENFORCEMENT.

18 Sec. 45.63.400. UNLAWFUL PRACTICES. (a) In the planning, conduct, or execution  
19 of a solicitation by or for a charitable organization that is required to register under  
20 AS 45.63.010, a person may not

21 (1) use an unfair or deceptive act or practice, including an act or practice that is  
22 described in AS 45.50.471;

23 (2) represent or imply that the contribution is for or on behalf of a charitable  
24 organization, or use an emblem, device, or printed matter belonging to, or associated with, a  
25 charitable organization without first being authorized in writing to do so by the charitable  
26 organization;

27 (3) use a name, symbol, or statement so closely related or similar to that used by  
28 another charitable organization that the use would tend to confuse or mislead a solicited person;

29 (4) lead a person in any manner to believe that another person sponsors, endorses,  
30 or approves the solicitation when the other person has not given written consent to the use of the  
31 person's sponsorship, endorsement, or approval for these purposes;

1 (5) use or exploit the fact of registration under this chapter to lead a person to  
2 believe that the registration constitutes an endorsement or approval by the state; or

3 (6) represent directly or by implication that a charitable organization will receive  
4 from the gross revenue raised under a contract entered into under AS 45.63.220 a percentage that  
5 is greater than the percentage identified in the contract.

6 Sec. 45.63.410. INVESTIGATIVE POWER. (a) When the department has reason to  
7 believe that a person has violated or is violating this chapter, the department may conduct an  
8 investigation to determine whether the person has violated or is violating this chapter.

9 (b) When conducting an investigation under (a) of this section, the department may take  
10 testimony under oath, and examine or cause to be examined documentary material relevant to the  
11 subject of the investigation.

12 (c) A person upon whom a notice is served under (b) of this section shall comply with  
13 the terms of the notice unless the superior court orders otherwise.

14 (d) The department may bring an action in superior court to enforce a subpoena issued  
15 under (b) of this section.

16 Sec. 45.63.420. INTERFERENCE WITH INVESTIGATION. A person who intentionally  
17 avoids, prevents, or interferes with a civil investigation under this chapter, is subject to a civil  
18 fine of up to \$5,000 if the person

19 (1) knowingly conceals relevant information; or

20 (2) alters or by other means falsifies, removes from a place, conceals, withholds,  
21 destroys, or mutilates documentary material in the possession, custody, or control of a person  
22 who is subject to the taking of testimony or examination of documents under AS 45.63.410.

23 Sec. 45.63.430. DEPARTMENT SUSPENSION AND REVOCATION OF  
24 REGISTRATION. (a) The department may suspend or revoke the registration of a charitable  
25 organization, fund-raising counsel, or paid solicitor who makes a false statement in a registration  
26 statement, report, or other information required by this chapter or who otherwise violates this  
27 chapter.

28 (b) The suspension or revocation of registration under (a) of this section shall be  
29 conducted under AS 44.62 (Administrative Procedure Act).

30 Sec. 45.63.440. COURT ACTION TO ENFORCE CHAPTER. (a) The department may,  
31 in addition to other action authorized by law, bring an action in the superior court to enforce this

1 chapter.

2 (b) Upon a finding that a person has violated or is violating this chapter, the court may  
3 in addition to other orders or judgments, issue an order for injunctive relief, restitution, and, in  
4 addition to the attorney fees and costs allowed by court rule, for an award of the expenses of  
5 investigating the violation. The court may also award the state a civil penalty of not more than  
6 \$5,000 against the person for each violation.

7 Sec. 45.63.450. VIOLATION OF COURT ORDER. A charitable organization, fund-  
8 raising counsel, paid solicitor, unpaid solicitor, commercial coventurer, or other person who  
9 violates the terms of an injunction or other court order entered under this chapter shall in addition  
10 to other remedies, including contempt, pay to the state a civil penalty of not more than \$5,000  
11 for each violation, that may be recovered in a civil action brought by the department. Each  
12 separate violation of the order is a separate offense, except that in the case of a violation through  
13 continuing failure or neglect to obey an order, each day of continuance of the failure or neglect  
14 is a separate offense.

15 Sec. 45.63.460. PROHIBITION AGAINST INDEMNIFICATION. A charitable  
16 organization may not indemnify an officer, employee, or director against the costs, fees,  
17 restitution, fines, or penalties assessed against the individual by a court under this chapter unless  
18 the individual is determined by the court to have acted in good faith and with the reasonable  
19 belief that the conduct was in, or not opposed to, the best interests of the charitable organization.

20 Sec. 45.63.470. ASSURANCE OF DISCONTINUANCE. The department may accept  
21 a written assurance of discontinuance of a violation of this chapter from a person alleged to have  
22 violated this chapter. The assurance may include a stipulation for the voluntary payment by the  
23 person of the costs of investigation, an amount to be held in escrow pending the outcome of an  
24 action or as restitution to aggrieved persons, or both. A matter closed by an assurance of  
25 discontinuance may at any time be reopened by the department for further proceedings in the  
26 public interest. In a subsequent proceeding brought by the department, evidence of a violation  
27 of the assurance is prima facie evidence of a violation of this chapter.

28 Sec. 45.63.500. DEPARTMENT REVIEW. The department shall examine each  
29 registration statement and contract required to be filed under this chapter to determine whether  
30 the document satisfies the requirements established for the document by this chapter or by a  
31 regulation of the department. If, within 20 days after receiving a document for filing, the

1 department does not notify the filer that there is a deficiency in the document, the document is  
2 considered accepted as filed.

3 Sec. 45.63.510. PUBLIC NATURE OF RECORDS. (a) The registration statements,  
4 applications, reports, contracts, and agreements of a charitable organization, fund-raising counsel,  
5 paid solicitor, unpaid solicitor, and commercial coventurer, and other documents and information  
6 required to be filed with the department by this chapter or the regulations adopted under this  
7 chapter are public records and available to the public for inspection and copying under  
8 AS 09.25.110 - 09.25.220.

9 (b) Notwithstanding (a) of this section, the department may not disclose, except to the  
10 extent necessary for investigative or law enforcement purposes, the information received by the  
11 department from records maintained by fund-raising counsel under AS 45.63.150(1) and by a paid  
12 solicitor under AS 45.63.260(a)(1).

13 Sec. 45.63.520. RETENTION AND INSPECTION OF FISCAL RECORDS. A charitable  
14 organization, fund-raising counsel, paid solicitor, unpaid solicitor, and commercial coventurer  
15 shall maintain the records and accountings required by this chapter in a form that will enable the  
16 accurate provision of the information. The records shall be retained for a period of at least three  
17 years after the end of the registration period to which they relate and shall be made available  
18 upon request to the department for inspection and copying.

19 Sec. 45.63.530. EXCHANGE OF INFORMATION. Except as provided in  
20 AS 45.63.510(b), the department may exchange with the appropriate authority of another state  
21 or the United States information that relates to a charitable organization, fund-raising counsel,  
22 paid solicitor, unpaid solicitor, or commercial coventurer.

23 Sec. 45.63.540. REGULATIONS. The department shall adopt regulations under  
24 AS 44.62 (Administrative Procedure Act) that the department determines are necessary to  
25 implement this chapter.

26 Sec. 45.63.550. SUBSTITUTE SERVICE ON COMMISSIONER. (a) A charitable  
27 organization, fund-raising counsel, paid solicitor, unpaid solicitor, or commercial coventurer that  
28 is subject to this chapter, but that has its principal place of business outside of the state or is  
29 organized under the laws of another state, is considered to have irrevocably appointed the  
30 commissioner of commerce and economic development as its agent for the service of a summons,  
31 subpoena duces tecum, or other process directed to the charitable organization, fund-raising

1 counsel, paid solicitor, unpaid solicitor, or commercial coventurer, or to a partner, principal,  
2 officer, or director of one of them, in an action or proceeding brought under this chapter.

3 (b) Service of process on the commissioner under (a) of this section shall be made by  
4 delivering a copy of the process or other notice to the commissioner in Juneau.

5 (c) The service under (b) of this section is complete if the department immediately sends  
6 notice of the service and a copy of the process or other notice to the charitable organization,  
7 fund-raising counsel, paid solicitor, unpaid solicitor, commercial coventurer, or other person to  
8 whom it is directed by registered mail, return receipt requested, at the last address known to the  
9 commissioner.

10 ARTICLE 7. GENERAL PROVISIONS.

11 Sec. 45.63.900. DEFINITIONS. In this chapter,

12 (1) "charitable organization" means a person who

13 (A) is determined by the Internal Revenue Service to be a tax exempt  
14 organization under 26 U.S.C. 501(c)(3); or

15 (B) is established or represents to be established for a charitable purpose;

16 (2) "charitable purpose" means a purpose that is

17 (A) required to qualify as an exempt organization under 26 U.S.C.  
18 501(c)(3); or

19 (B) benevolent, educational, philanthropic, humane, scientific, patriotic,  
20 social welfare or advocacy, public health, environmental conservation, civic, or otherwise  
21 eleemosynary, or that benefits law enforcement personnel, firefighters, or other persons  
22 who protect public safety;

23 (3) "charitable sales promotion" means an advertising or sales campaign conducted  
24 by a commercial coventurer that represents that the purchase or use of goods or services offered  
25 will benefit, in whole or in part, a charitable organization or purpose;

26 (4) "commercial coventurer" means a person who for profit is regularly and  
27 primarily engaged in trade or commerce other than in connection with solicitations and who  
28 conducts a charitable sales promotion;

29 (5) "contribution" means a grant or pledge of money, credit, property, or other  
30 thing of value to a charitable organization or for a charitable purpose, but does not include a  
31 government grant or bona fide fees, dues, or assessments paid by a member of a charitable

1 organization, except that if the initial membership is conferred solely as consideration for making  
2 a grant or pledge of money in response to a solicitation, the grant or pledge of money is a  
3 contribution;

4 (6) "department" means the Department of Commerce and Economic  
5 Development;

6 (7) "fund-raising counsel" means a person who for compensation plans, manages,  
7 advises, consults, or prepares material for, or with respect to, the solicitation in the state of  
8 contributions for a charitable organization, but who does not solicit contributions, or employ,  
9 procure, or engage a person who is paid to solicit contributions; "fund-raising counsel" does not  
10 include

11 (A) a lawyer, investment counselor, or employee of a financial institution,  
12 to the extent the lawyer, investment counselor, or employee advises a person on whether  
13 to make a contribution;

14 (B) a bona fide salaried officer, employee, or volunteer of a charitable  
15 organization;

16 (C) an employee of a temporary help agency who is placed with a  
17 charitable organization; or

18 (D) a bona fide employee of a person who employs another person to  
19 solicit in the state;

20 (8) "paid solicitor" means a person who for compensation performs for a  
21 charitable organization a service in connection with which contributions are, or will be, solicited  
22 by the compensated person or by another compensated person employed, procured, or engaged,  
23 directly or indirectly, to solicit, by the compensated person; "paid solicitor" does not include a

24 (A) lawyer, investment counselor, or banker, to the extent the lawyer,  
25 investment counselor, or banker advises the person on whether to make a contribution;  
26 or

27 (B) bona fide salaried officer, employee, or volunteer of a charitable  
28 organization;

29 (9) "solicit" means to request, directly or indirectly, a contribution and to state  
30 or imply that the contribution will be used for a charitable purpose or will benefit a charitable  
31 organization;

1                   (10) "solicitation" means, whether or not the person making the solicitation  
2 receives a contribution, the act or practice of soliciting, including using one or more of the  
3 following methods of requesting or securing a contribution:

4                   (A) an oral or written request;

5                   (B) an announcement to the news media or by radio, television, telephone,  
6 telegraph, or other transmission of images or information concerning the request for  
7 contributions by or for a charitable organization or purpose;

8                   (C) the distribution or posting of a handbill, written advertisement, or  
9 other publication that directly or by implication seeks contributions;

10                  (D) the sale of, or attempt to sell, a membership, an advertisement,  
11 advertising space, or a tangible item by making a request for financial support for a  
12 charitable organization or purpose, by using or referring to the name of a charitable  
13 organization as a reason for making the purchase, or by making a statement that all or  
14 part of the sale proceeds will be used for a charitable purpose or benefit a charitable  
15 organization; in this subparagraph, "tangible item" includes a book, card, tag, coupon,  
16 device, magazine, merchandise, subscription, flower, ticket, candy, cookie, or other  
17 tangible item;

18                  (11) "unpaid solicitor" means a person who solicits but who is not a paid solicitor.