

State of New York - Department of Law



***Solicitation and Collection
of Funds for Charitable Purposes***

Article 7-A, Executive Law

&

***Administration of Charitable Assets
Section 8-1.4, Estates, Powers and Trusts Law***

and

**Chapter - V Charitable Uses and Purposes
Title 13 New York Code of Rules and Regulations**

**Rules and Regulation for Registration of Charitable Organizations,
Trusts and Estates With Charitable Interests and Fund Raising
Professionals Pursuant to Article 8 of the Estates, Powers and Trusts
Law and Article 7-A of the Executive Law**

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Article 7-A of the Executive Law

Solicitation and Collection of Funds for Charitable Purposes

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§ 171-a. Definitions

The following words and phrases as used in this article shall have the following meanings unless a different meaning is required by the context.

1. "Charitable organizations." Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such or law enforcement support organization as defined in subdivision eleven of this section.
2. "Contribution." The promise or grant of any money or property of any kind or value, whether or not in combination with the sale of goods, services, entertainment or any other thing of value, including a grant or other financial assistance from any agency of government, except payments by members of any organization for membership, for services or other benefit, other than the right to vote for directors or trustees, elect officers, or hold offices.
3. "Person." Any individual, organization, group, association, partnership, corporation, or any combination of them.
4. "Professional fund raiser." Any person who directly or indirectly by contract, including but not limited to sub-contract, letter or other agreement or other engagement on any basis, for compensation or other consideration (a) plans, manages, conducts, carries on, or assists in connection with a charitable solicitation or who employs or otherwise engages on any basis another person to solicit from persons in this state for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting for such purpose; (b) solicits on behalf of a charitable organization or any other person; or (c) who advertises that the purchase or use of goods, services, entertainment or any other thing of value will benefit a charitable organization but

is not a commercial co-venturer. A bona fide director, trustee, officer, volunteer or employee of a charitable organization or fund raising counsel shall not be deemed a professional fund raiser.

5. "Professional solicitor." Any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes or for the purposes of any law enforcement support organization from persons in this state.

6. "Commercial co-venturer." Any person who for profit is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization and who advertises that the purchase or use of goods, services, entertainment, or any other thing of value will benefit a charitable organization.

7. "Secretary." The secretary of state.

8. "Membership." The collective body of any charitable organization comprised of persons having voting rights and other powers of governance.

9. "Fund raising counsel." Any person who for compensation consults with a charitable organization or who plans, manages, advises, or assists with respect to the solicitation in this state of contributions for or on behalf of a charitable organization, but who does not have access to contributions or other receipts from a solicitation or authority to pay expenses associated with a solicitation and who does not solicit. A bona fide officer, volunteer, or employee of a charitable organization or an attorney at law retained by a charitable organization, shall not be deemed a fund raising counsel.

10. "Solicit." To directly or indirectly make a request for a contribution, whether express or implied, through any medium. A "solicitation" shall be deemed to have taken place whether or not a contribution is made. For purposes of this article, a "solicitation" or a "solicitation of contributions" includes any advertising which represents that the purchase or use of goods, services, entertainment or any other thing of value will benefit a charitable organization. Provided, however, that the printing and the mailing of a written solicitation for funds or any other thing of value to benefit a charitable organization shall not alone constitute soliciting on the part of persons who printed and mailed such solicitation if such persons do not otherwise solicit, receive or have access to contributions.

11. "Law enforcement support organization." Any organization, association, union or conference of or purporting to be of current or former law enforcement officers, including, without limitation, peace officers and police officers as defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, sheriffs, deputy sheriffs, detectives, investigators or constables or any auxiliary or affiliate of such an organization, association, union or conference composed of one or more such organizations.

12. "Attorney general". The attorney general of the state of New York.

§ 172. Registration of charitable organizations

1. Every charitable organization, and any charitable organization registered or required to be registered pursuant to article eight of the estates, powers and trusts law, except as otherwise provided in section one hundred seventy-two-a of this article, which intends to solicit contributions from persons in this state or from any governmental agency shall, prior to any solicitation, file with the attorney general a prescribed registration form that includes, but is not limited to, the following information:

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

(b) The names and business, residence, or other addresses where each can regularly be found of the officers, directors, trustees, and executive personnel of the organization.

(c) The addresses of the organization and the addresses of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(d) Where and when the organization was established, the form of its organization, its tax exempt status together with a copy of the most recent letter of exemption, if any, issued by the internal revenue service, the most recent communication from the internal revenue service regarding any audit thereby, if any, and a copy of any certificate of incorporation, by-laws, amendments and other operative organizational documents.

(e) A clear description of the specific programs stating whether in existence or planned for which the contributions to be solicited will be used.

(f) The date on which the fiscal year of the organization ends.

(g) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it or any of its present officers, directors, executive personnel or trustees are or have ever been fined or otherwise penalized or enjoined from soliciting contributions or have been found to have engaged in unlawful practices regarding solicitation of contributions or administration of charitable assets and whether its registration or license has been suspended or cancelled by any court or other governmental agency together with the identity of such courts or governmental agencies and the reasons for such fine, penalty, injunction, suspension or cancellation.

(h) The names and addresses of any professional fund raisers, fund raising counsels and commercial co-venturers who are acting or have agreed to act on behalf of the organization.

(i) A copy of its annual report, if any, for the immediately preceding fiscal year in accordance with the requirements of section one hundred seventy-two-b of this article.

(j) The names and addresses of any chapters, branches, affiliates or organizations that share in the contributions or other revenue raised in this state.

2. The registration form shall be signed under penalties for perjury by the president or other authorized officer and the chief fiscal officer of the organization.

3. At the time of filing such registration, each charitable organization shall pay to the attorney general a fee of twenty-five dollars.

4. Any charitable organization required to register with the attorney general pursuant to this article and properly registered pursuant to article eight of the estates, powers and trusts law that has not previously registered pursuant to this article shall not be required to register separately, but shall file with the attorney general a statement that it is registered pursuant to article eight of the estates, powers and trusts law. Such statement shall be accompanied by all additional documents required to complete registration pursuant to this article, including any additional financial filings required by this article.

5. Registration pursuant to this article shall remain in effect unless it is either cancelled as provided in this article, withdrawn by the organization or the organization has failed to file the required financial report and such failure has not been remedied pursuant to subdivision seven of this section.

6. Every registered organization shall file with the attorney general within thirty days of any material change in the information required to be furnished by such organization under subdivision one of this section a prescribed form stating any such changes and signed under penalties for perjury by the president or other authorized officer of the organization.

7. In no event shall a registration of a charitable organization to solicit contributions in New York pursuant to this article continue, or be continued, in effect after the date such organization should have filed, but failed to file, a financial report in accordance with the requirements of section one hundred seventy-two-b of this article, and such organization shall not be eligible to file a new registration pursuant to this article until it shall have filed the required financial report or reports with the attorney general. If any such report is subsequently filed such organization shall file a new registration pursuant to this article upon the payment of a re-registration fee of one hundred fifty dollars to the attorney general.

8. Forms, financial reports, professional fund raisers' contracts, and other documents required to be filed pursuant to this article become public records of the attorney general.

9. No charitable organization, professional fund raiser, fund raising counsel or commercial co-venturer shall use or exploit the fact of its registration or the registration of any other registrant under this article or article eight of the estates, powers and trusts law so as to lead the public to believe that registration in any manner constitutes an endorsement or approval by the state.

10. To the extent practicable, the attorney general shall develop a single registration and uniform set of reporting forms to be filed in accordance with the requirements of this subdivision and those of section 8-1.4 of the estates, powers and trusts law. These forms shall avoid duplication with and make maximum use of information required in federal reporting forms filed with the attorney general.

§ 172-a. Certain persons exempted

1. This article shall not apply to corporations organized under the religious corporations law, and other religious agencies and organizations, and charities, agencies, and organizations operated,

supervised, or controlled by or in connection with a religious organization.

2. The following persons shall not be required to register with the attorney general:

(a) An educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

(b) Fraternal, patriotic, social, alumni, law enforcement support organizations and historical societies chartered by the New York state board of regents when solicitation of contributions is confined to their membership.

(c) Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are paid to or for the benefit of the named beneficiary. Prior to the commencement of any such solicitation, the principal person requesting contributions may file with the attorney general a form, provided by the attorney general, which shall read as follows:

CHARITABLE SOLICITATION FOR THE
RELIEF OF AN INDIVIDUAL

NAME AND ADDRESS OF THE PRINCIPAL
PERSON REQUESTING CONTRIBUTIONS

PURPOSE OF THE SOLICITATION

NAME AND ADDRESS OF THE PRIMARY BENEFICIARY

NAME AND ADDRESS OF SECONDARY BENEFICIARY
(IF ANY)

LIST NO MORE THAN THREE SECONDARY
BENEFICIARIES

The principal person requesting contributions may, on such form designate up to three secondary individuals or charitable organizations as charitable beneficiaries who shall be entitled to such contributions in the event circumstances change rendering it impossible or impracticable to use any or all of the money collected for the primary beneficiary. The designation of one or more secondary beneficiaries shall be ineffective unless such form has been filed with the attorney general and all persons requesting contributions shall have informed any person solicited at the time of any solicitation of such filing. In the event that it is or may be impossible or impracticable to use any or all of the money collected for the benefit of the primary beneficiary, and (i) no secondary beneficiary has been properly designated pursuant to this paragraph, or (ii) no secondary beneficiary exists, then the attorney general, the primary beneficiary, or any person who requested contributions may petition the supreme court, on notice to the attorney general, the primary beneficiary if living, any secondary beneficiaries, and the principal person who requested the contributions for an order directing that any moneys remaining shall be transferred to a charitable organization with purposes similar to those for which such contributions were collected. In the event that money collected for the relief of any individual, without any deductions whatsoever, is paid to or for the benefit of the primary beneficiary within sixty days of its receipt, then all requirements of this paragraph shall be deemed to have been complied with. For the purposes of this section, the term "principal person requesting the contributions" shall mean any person who is primarily responsible for soliciting funds for the relief of an individual, but shall not include any person who solicits funds when all such funds are subsequently transferred over to a principal person requesting contributions.

(d) Any charitable organization which solicits or receives gross contributions of less than twenty-five thousand dollars during a fiscal year of such organization, provided none of its fund raising is carried on by professional fund raisers or fund raising counsel. However, if the gross contributions received by such charitable organization during any fiscal year of such organization shall be in excess of twenty-five thousand dollars, it shall within thirty days after the date it shall have received gross contributions in excess of twenty-five thousand dollars register with the attorney general as required by section one hundred seventy-two of this article.

(e) Any charitable organization receiving an allocation from a federated fund, incorporated community appeal or a united way, provided such fund, appeal or united way is complying with the

provisions of this article relating to registration and filing of financial reports with the attorney general, and provided such organization does not receive, in addition to such allocation, gross contributions in excess of twenty-five thousand dollars during the fiscal year, and provided further that all the fund-raising functions of such organizations are carried on by persons who are unpaid for such services. However, if the gross contributions other than such allocation received by such charitable organization during any fiscal year of such organization shall be in excess of twenty-five thousand dollars, it shall within thirty days after the date it shall have received such contributions in excess of twenty-five thousand dollars register with the attorney general as required by section one hundred seventy-two of this article.

(f) A local post, camp, chapter or similarly designated element, or a county unit of such elements, of a bona fide veterans' organization which issues charters to such local elements throughout this state, a bona fide organization of volunteer firemen, an organization providing volunteer ambulance service (as defined in section three thousand one of the public health law) or a bona fide auxiliary or affiliate of such organizations, provided all its fund-raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor.

(g) An educational institution which files annual financial reports with the regents of the university of the state of New York as required by the education law or with an agency having similar jurisdiction in another state or a library which files annual financial reports as required by the state education department.

(h) A charitable organization which receives all or substantially all of its funds from a single governmental agency and reports annually to that agency provided such reports contain financial information substantially similar in content to that required by subdivision one of section one hundred seventy-two-b of this article; provided, however, that such organization may receive no more than twenty-five thousand dollars from sources other than the government agency to which it reports.

(i) Any police department, sheriff's department or other governmental law enforcement agency.

(j) The state parent teachers association and any parent teachers association affiliated with an educational institution that is subject to the jurisdiction of the state education department.

§ 172-b. Reports by registered charitable organizations; registration to be cancelled for failure to file

1. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year gross revenue and support in excess of two hundred fifty thousand dollars and every charitable organization whose fund-raising functions are not carried on solely by persons who are unpaid for such services shall file with the attorney general an annual written financial report, on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. The annual financial report shall be accompanied by an annual financial statement which includes an independent certified public accountant's audit report containing an opinion that the financial statements are presented fairly in all material respects and in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge, and shall be accompanied by an opinion signed by an independent public accountant that the financial statement and balance sheet therein present fairly the financial operations and position of the organization. A fee of twenty-five dollars payable to the attorney general shall accompany such financial report at the time of filing, provided however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

2. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in gross revenue and support in any fiscal year at least one hundred thousand dollars but not more than two hundred fifty thousand dollars shall file an annual financial report. The annual financial report shall be accompanied by an annual financial

statement which includes an independent certified public accountant's review report in accordance with "statements on standards for accounting and review services" issued by the American Institute of Certified Public Accountants. The annual financial statement shall be prepared in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall be filed with the attorney general, upon forms prescribed by the attorney general on an annual basis on or before the fifteenth day of the fifth calendar month after the close of such fiscal year, which shall include a financial report covering such fiscal year in accordance with such requirements as the attorney general may prescribe. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of ten dollars payable to the attorney general shall accompany such financial report at the time of filing, provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

2-a. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year of such organization gross revenue and support not in excess of one hundred thousand dollars shall file with the attorney general an unaudited financial report on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of ten dollars payable to the attorney general shall accompany such financial report at the time of filing. Provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

3. For any fiscal year of any organization registered pursuant to section one hundred seventy-two of this article in which such organization would have been exempt from registration pursuant to section one hundred seventy-two of this article if it had not been so registered, or in which it did not solicit or receive contributions, such organization shall file, instead of the financial reports required by subdivision one, two or two-a of this section, a report, signed under penalties for perjury by the president or other authorized officer and the chief fiscal officer, in the form prescribed by the attorney general stating the nature of the exemption and the facts upon which it is based or that such organization did not solicit or receive contributions in such fiscal year. The report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization and may include a notice, signed under penalties for perjury by the president or other authorized officer, on a form prescribed by the attorney general, that such organization's registration is being withdrawn.

4. (a) Upon prior written authorization by the attorney general any charitable organization registered pursuant to section one hundred seventy-two of this article, which is the parent organization of one or more affiliates thereof, and such affiliates, may comply with the reporting requirements of subdivision one, two, two-a or three of this section, by filing a combined written annual financial report upon forms prescribed by the attorney general.

(b) As used in this subdivision the term "affiliate" shall include any chapter, branch, auxiliary, or other subordinate unit of any registered charitable organization, howsoever designated, whose policies, fund raising activities, and expenditures are supervised or controlled by such parent organization.

(c) There shall be appended to each combined annual financial report a schedule, containing such information as may be prescribed by the attorney general, reflecting the activities of each affiliate, which shall contain a statement signed under penalties for perjury, by the president or other authorized officer certifying that the information contained therein is true.

(d) The failure of a parent organization to file a combined annual financial written report shall not

excuse either the parent organization or its affiliates from complying with the provisions of subdivision one, two, two-a or three of this section.

(e) A combined annual financial report filed pursuant to this subdivision shall be accompanied by a fee, paid to the attorney general, of twenty-five dollars plus ten dollars for each organization included in such annual financial report, but the aggregate fee shall not exceed five hundred dollars.

5. The attorney general shall cancel the registration of any organization which fails to comply with subdivision one, two, two-a or three of this section within the time therein prescribed, or fails to furnish such additional information as is requested by the attorney general within the required time; except that the time may be extended by the attorney general for a period not to exceed one hundred eighty days. Notice of such cancellation shall be mailed to the registrant at least twenty days before the effective date thereof.

6. Every charitable organization registered or required to register pursuant to section one hundred seventy-two of this article shall keep and maintain records, books and reports for at least three years after the end of the period of registration to which they relate which shall at all times be available for inspection by the attorney general, or any duly authorized representatives at the principal office of such organization.

7. The attorney general may accept a copy of a current financial report previously filed by a charitable organization with any other governmental agency in compliance with the provisions of this article provided that the report filed with such other governmental agency shall be substantially similar in content to the financial report required by this section.

8. Any financial report filed by any charitable organization required to be registered but which has not previously registered pursuant to this article or article eight of the estates, powers and trusts law must be accompanied by all registration materials required to be filed by this article.

§ 172-c. Non-resident charitable organizations; designation of secretary of state as agent for service of process; service of process

1. Any charitable organization having its principal place of business without the state or organized under and by virtue of the laws of another or foreign state and which solicits contributions from people in this state, shall be deemed to have irrevocably appointed the secretary of state as its agent upon whom may be served any summons, subpoena, subpoena duces tecum, other process or notice directed to such charitable organization, or any partner, principal, officer, trustee or director thereof, in any action or proceeding brought by the attorney general or any other party under the provisions of this article. Any such charitable organization may file with the secretary of state of the state of New York a designation, duly acknowledged in accordance with procedures for such filing with the secretary of state, irrevocably appointing the secretary of state as its agent upon whom may be served any such process; provided, however, that a designation filed with the secretary of state pursuant to section three hundred fifty-two-a of the general business law or section thirteen hundred four of the not-for-profit corporation law shall serve also as such designation.

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof of the office of the department of state in the city of Albany, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or any other party to such charitable organization by certified mail with return receipt requested, at its office as set forth in the registration form required to be filed with the attorney general pursuant to section one hundred seventy-two of this article, or in default of the filing of such form, at the last address known to the attorney general or any other party. Service of such process shall be complete upon the receipt by the attorney general or any other party of a return receipt purporting to be signed by the addressee or a person qualified to receive its certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or its agent, ten days after the return to the attorney general or any other party of a notation by the postal authorities that receipt thereof was refused.

§ 172-d. Prohibited activity

Except as exempted pursuant to subdivision one of section one hundred seventy-two-a of this article, in addition to other violations of this article no person shall:

1. Make any material statement which is untrue in an application for registration, registration statement, a claim of exemption, financial report or any other forms or documents required to be filed

or filed pursuant to this article; or fail to disclose a material fact in an application for registration, registration statement, claim of exemption, financial report or any other forms or documents required to be filed or filed pursuant to this article; or

2. Engage in any fraudulent or illegal act, device, scheme, artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise, transaction or enterprise in connection with any solicitation or with the registration, reporting and disclosure provisions of this article. The term “fraud” or “fraudulent” as used herein shall include those acts which may be characterized as misleading or deceptive including but not limited to those acts covered by the term “fraud” or “fraudulent” under subdivision twelve of section sixty-three of this chapter. To establish fraud neither intent to defraud nor injury need to be shown; or

3. Use or intend to use false or materially misleading advertising or promotional material in connection with any solicitation; or

4. Fail to apply contributions in a manner substantially consistent with the solicitation or the registration statement of the charitable organization or the purposes expressed therein; or

5. Enter into any contract or agreement with or otherwise employ or engage any professional fund raiser, fund raising counsel or professional solicitor required to be registered pursuant to this article unless such professional fund raiser, fund raising counsel or professional solicitor has provided to such person a statement, signed under penalties for perjury, that it is registered and in compliance with all filing requirements of this article; or

6. Enter into any contract or agreement, employment or engagement to raise funds or conduct any fund raising activities for any charitable organization required to be registered pursuant to this article unless such charitable organization is registered and in compliance with all filing requirements of this article; or

7. Repeatedly and wilfully fail to file as required by this article any fund-raising contract, closing statement or report or other form or document; or

8. Fail to respond or comply within sixty days with any cease and desist order of the attorney general; or

9. Represent in any manner that registration constitutes an endorsement or approval by the state or the attorney general; or

10. Solicit for a charitable purpose or engage in any other fund raising activities without being a registered charitable organization in compliance with all filing requirements of this article, if required to be registered, or having a written contract or agreement with a charitable organization or registered charitable organization if required to be registered, authorizing solicitation on its behalf; or

11. Continue soliciting on behalf of a charitable organization more than fifteen days after the cancellation in accordance with subdivision six of section one hundred seventy-four-a of this article; or

12. Act as or enter any contract or other agreement with a charitable organization as a professional fund raiser, fund raising counsel, or professional solicitor without having registered and being in compliance with all filing and disclosure requirements of this article; or

13. Fail to maintain books and records as required by this article or fail to produce to the attorney general any such books and records within fifteen days of receiving, by certified mail, a request for such books and records; or

14. Fail to discontinue solicitation immediately or to register pursuant to this article within fifteen days after the attorney general has given notice pursuant to subdivision two of section one hundred seventy-five of this article of violation of subdivision one, two, or three of section one hundred seventy-four of this article; or

15. Fail to provide a charitable organization with an accurate accounting of a sale advertised for its benefit as prescribed by subdivision three of section one hundred seventy-three-a of this article; or

16. Knowingly use in the course of soliciting contributions for or on behalf of a charitable organization a name, symbol, or other mark so closely related or similar to that used by another established charitable organization that the use thereof would tend to confuse or mislead the public; or

17. Solicit contributions in a manner or with words which are coercive as such term is defined pursuant to section 135.65 of the penal law; or

18. Vote or use personal influence as an officer or member of the board of directors of a charitable organization, a majority of whose members are professional fund raisers or their designees on matters on which such officer or member has a financial or material conflicting interest; or

19. Include in any solicitation a statement that the financial report of a charitable organization or professional fund raiser is on file with the attorney general unless the charitable organization or professional fund raiser has complied with all filing requirements pursuant to this article and article eight of the estates, powers and trusts law, to the extent also applicable; or

20. Use in any solicitation a New York state address, including a New York State return address unless:

(a) the charitable organization maintains and staffs an office at that address; or

(b) immediately proximate to the New York address, both the address of the charitable organization's actual headquarters and the fact that the New York address is a "mail drop", using this or a substantially similar term that clearly conveys the message that the New York address is that of a mail handling facility; or

21. State or imply that a charitable organization conducts any activities in New York and/or benefits New York State residents unless it conducts such activities and/or provides such benefits.

§ 173. Professional fund-raisers, commercial co-ventures and fund raising counsel

1. Registration and bond required. No person shall act as a professional fund raiser or fund raising counsel on behalf of a charitable organization required to be registered pursuant to this article before registering with the attorney general or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and re-registration shall be in writing, under oath, in the form prescribed by the attorney general and shall be accompanied by an annual fee in the sum of eight hundred dollars. A professional fund raiser shall at the time of filing each application for registration or re-registration, file with, and have approved by, the attorney general a bond. In said bond, the filer shall be the principal obligor, in the sum of ten thousand dollars, with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The bond which may be in the form of a rider to a larger blanket liability bond shall run to the attorney general for the use of the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation. Registration or re-registration when effected shall be for a period of one year, expiring one year from the date of registration or re-registration and may be renewed upon written application, under penalties for perjury, in the form prescribed by the attorney general and the filing of the bond and the fee prescribed herein for each additional one year period. Applications for registration and re-registration and bonds, when filed with the attorney general, shall become public records of the attorney general. If there is any material change in the information provided in any such application for registration or re-registration, the applicant or registrant shall notify the attorney general, under penalties for perjury, in writing within twenty days of such change.

2. Books and records. A professional fund raiser, commercial co-venturer and fund raising counsel shall maintain accurate and current books and records of all activities conducted pursuant to contracts required under section one hundred seventy-three-a of this article; which, until at least three years shall have elapsed after the end of the effective period of the contract to which they relate, shall be kept in such person's office available for inspection and examination and/or audit by the charitable organization and/or attorney general or any duly authorized representative. Provided, however, that any such books and records obtained by the attorney general shall not be available to the public for inspection. A professional fund raiser, commercial co-venturer and fund raising counsel shall, within seven days of a request of any charitable organization with which it has contracted, provide copies of such records to the charitable organization.

3. Violations. Any person who willfully violates the provisions of this section is guilty of a misdemeanor.

§ 173-a. Contracts of professional fund raisers, fund raising counsel and commercial co-venturers; closing statements; final accountings

1. No person shall act as a professional fund raiser, fund raising counsel or commercial co-venturer before he has a written contract with the charitable organization or other person benefitting from his services. A professional fund raiser or fund raising counsel shall within ten days after its execution by the parties thereto file with the attorney general a copy of each contract entered into between such professional fund raiser or fund raising counsel and a charitable organization required to be registered pursuant to this article, certified under penalties for perjury by said professional fund raiser or fund raising counsel to be a true and correct copy of such contract. When the services to be performed under such contracts include the oral

solicitation of funds from the public, such oral presentations shall be deemed to be part of the contract and shall be reduced to a writing which in the case of a professional fund raiser shall be filed with the attorney general by the registrant at the time such contracts are filed. If there is any change in the presentation filed with the attorney general, the registrant shall notify the attorney general in writing within five days of such change. No services shall be performed under such a contract until the professional fund-raiser shall have received an acknowledgement from the attorney general of the receipt of a copy of such contract or such contract shall have been on file with the attorney general for at least fifteen days, whichever is shorter. Provided, however, that no services shall be performed pursuant to such contract if, within fifteen days of filing, the attorney general has notified the professional fund raiser or fund raising counsel and the charitable organization of any deficiencies in the contract and/or the registration and filing under this article. True and correct copies of such contracts shall be kept on file in the offices of the charitable organization and the professional fund raiser, fund raising counsel or commercial co-venturer during the term thereof and until the expiration of a period of three years subsequent to the date the solicitation of contributions provided for therein actually terminates. Within ninety days after the termination of any such contract, the professional fund raiser shall file with the attorney general a closing statement, signed under penalties for perjury by all parties to the contract on forms prescribed by the attorney general. Such statement shall disclose gross revenue, all expenditures incurred in the performance of the contract, and all funds paid to the professional fund raiser and charitable organization. In the event that a contract term is longer than a one year period, the professional fund raiser shall file an interim statement, at least annually. No person shall act as a sub-contractor on behalf of another professional fund raiser prior to obtaining a written contract with such professional fund raiser and written consent from the charity on whose behalf fundraising activities are to be conducted pursuant to such contract, and such written consent shall have been attached to such contract and filed with the attorney general pursuant to subdivision one of this section. Willful violation of this section shall be a misdemeanor.

2. Every contract between a professional fund raiser and a charitable organization shall contain or shall be deemed to contain a provision that within five days of receipt by the professional fund raiser or any other person the gross revenue received from any solicitation shall be deposited in a bank account under the exclusive control of the charity.

3. Within ninety days after the termination of a sales promotion advertised to benefit a charitable organization, a commercial co-venturer shall provide such organization with an accounting stating the number of items sold, the dollar amount of each sale and the amount paid or to be paid to the charitable organization. In the event that any such sales promotion is longer than a one year period, the commercial co-venturer shall provide the charitable organization with an interim report, at least annually.

4. A charitable organization which enters into a contract with a commercial co-venturer shall file with the attorney general on the date that the next financial report is due to be filed the following information on forms prescribed by the attorney general and signed under penalties for perjury by an officer: (a) a list of the names and addresses of all commercial co-venturers authorized by the charitable organization to use its name during the year covered by that financial report and, if known, during the year following the year covered by the financial report, (b) a statement of the financial terms and any conditions of each co-venture contract, and (c) a statement whether each commercial co-venturer has provided the charitable organization with an accounting as prescribed by subdivision three of this section.

§ 173-b. Professional solicitor

1. Registration required. No person shall act as a professional solicitor in the employ of a professional fund raiser required to register pursuant to section one hundred seventy-three of this article before he or she has registered with the attorney general or after the expiration or cancellation of such registration or any renewal thereof. Application for registration or re-registration shall be in writing and signed under penalties for perjury in the form prescribed by the attorney general and shall be accompanied by a fee in the sum of eighty dollars. Such registration or re-registration when effected shall be for a period of one year, expiring one year from the date of such registration or re-registration, and may be renewed upon written application, signed under penalties for perjury, in the form prescribed by the attorney general and the payment of the fee prescribed herein, for additional one year periods. Applications for registration and re-registration, when filed with the attorney general, shall become public records in the office of the attorney general.

2. Limitations upon professional solicitors for law enforcement support organizations. No person or professional solicitor, in the course of soliciting or collecting funds on behalf of any law enforcement support organization, shall engage in any acts prohibited by subdivision seventeen of section one hundred seventy-two-d of this article, or by paragraph (h) of subdivision two of section one hundred seventy-five of this article, provided, however, that no criminal liability shall attach to any law enforcement support organization or its officers because of the activities of any professional solicitor employed on behalf of such organization.

3. Violations. Any person who willfully violates the provisions of this section is guilty of a misdemeanor.

§ 173-c. Non-resident professional fund raisers, fund raising counsel, professional solicitors and commercial co-venturers; designation of secretary of state as agent for service of process; service of process

1. Any professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer resident or whose principal place of business is without the state or organized under and by virtue of the laws of another or foreign state, who or which has been engaged by or on behalf of any charitable organization to conduct any fund raising activities in this state and/or solicit contributions from people in this state shall be deemed to have irrevocably appointed the secretary of state as the agent upon whom may be served any summons, subpoena, subpoena duces tecum, other process or notice directed to such professional fund raiser, fund raising counsel, professional solicitor, commercial co-venturer or any partner, principal, officer, or director thereof, in any action or proceeding brought by the attorney general or any other party under the provisions of this section. Any such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer may file with the secretary of state a designation, in terms complying herewith, duly acknowledged, irrevocably appointing the secretary of state as the agent upon whom may be served any such process; provided, however, that a designation filed with the secretary of state pursuant to section three hundred fifty-two-a of the general business law, section thirteen hundred four of the not-for-profit corporation law, or section thirteen hundred four of the business corporation law shall serve also as such designation.

2. Service of such process or notice upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in the city of Albany, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or other party as the case may be to such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer by certified mail with return receipt requested, at the office address as set forth in the registration form required to be filed with the attorney general pursuant to sections one hundred seventy-three and one hundred seventy-three-b of this article, or in default of the filing of such form, at the last address known to the attorney general or other party. Service of such process shall be complete ten days after the receipt by the attorney general or other party of a return receipt purporting to be signed by the addressee or a person qualified to receive the addressee's certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or the agent, ten days after the return to the attorney general or other party of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 174. Solicitation by unregistered charitable organizations, professional fund-raisers or commercial co-venturers a fraud upon the people of the state

1. No charitable organization shall employ any professional fund raiser or commercial co-venturer unless and until such fund raiser or commercial co-venturer is registered pursuant to this article. Any such contract of employment shall be voidable at the option of the charitable organization.

2. No professional fund raiser or commercial co-venturer shall enter into any contract or raise any funds for any organization required to be registered pursuant to this article unless such charitable organization actually so registered.

3. No professional fund raiser required to be registered under this article shall employ any professional solicitor who is not registered in accordance with this article.

4. In addition to all other remedies provided by law the attorney general may bring an action to enjoin the violation of the provisions of this section. The attorney general may give notice of at least fifteen days in writing by registered or certified mail to the organization, person or persons violating

the provisions hereof, requiring that registration be accomplished or that the solicitation funds be immediately terminated. The failure to immediately discontinue solicitation or to register in accordance with the provisions of this article within fifteen days of service of such notice shall be deemed to be a continuing fraud upon the people of the state of New York.

§ 174-a. Contracts with charitable organizations

1. Whenever a charitable organization contracts with a professional fund raiser or fund raising counsel or commercial co-venturer, the charitable organization shall have the right to cancel the contract without cost, penalty, or liability for a period of fifteen days following the date on which said contract is filed with the attorney general pursuant to the provisions of this article, regardless of the date of execution of said contract. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.

2. A charitable organization may cancel a contract signed pursuant to subdivision one of this section by a written notice of cancellation. If given by mail, cancellation shall be deemed effective when deposited in a mailbox, properly addressed and postage prepaid. The notice shall be sufficient if it states that the charitable organization does not intend to be bound by the contract.

3. Whenever a charitable organization cancels a contract pursuant to the provisions of this section it shall mail a duplicate copy of the notice of cancellation to the attorney general, at the address designated for that purpose.

4. Every contract entered into pursuant to subdivision one of this section shall contain, in a conspicuous typeface:

(a) a concise, accurate statement of the charitable organization's right to cancel;

(b) a concise, accurate statement of the period during which the contract may be cancelled;

(c) the address to which the notice of cancellation is to be sent;

(d) the address of the attorney general to which a duplicate of the notice of cancellation is to be sent; and

(e) a clear statement of the financial arrangement including, if applicable, a statement of the percentage of the total funds collected on behalf of the charitable organization which shall be paid to the professional fund raiser or any other person for purposes other than the exclusive benefit of the charitable organization.

5. Any funds collected by any professional fund raiser, fund raising counsel, professional solicitor, commercial co-venturer, charitable organization or any other person in violation of this section shall be deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature. A charitable organization shall be entitled to recover all funds collected in violation of this section together with costs, disbursements and allowances.

6. The failure of a professional fund raiser, fund raising counsel or commercial co-venturer to immediately discontinue solicitation or any other fund raising activity upon receipt of a notice of cancellation in accordance with the provisions of this article within fifteen days of the cancellation of the contract shall be deemed to be a continuing fraud upon the people of the state of New York.

7. In addition to all other remedies provided by law the attorney general may bring an action to enjoin the violation of the provisions of this section and to recover restitution, damages, costs and attorneys fees.

§ 174-b. Solicitation

1. Any solicitation, by any means, including but not limited to oral solicitation, by or on behalf of a registered charitable organization which is required to file financial reports pursuant to this article and has filed all such reports, shall include therein a statement that upon request, a person may obtain from the organization or from the attorney general, a copy of the last financial report filed by the organization with the attorney general. Such statement shall specify the address of the organization and the address of the attorney general, to which such request should be addressed and in the case of a written solicitation, must be placed conspicuously in the material with print no smaller than ten point bold face type or, alternatively, no smaller than the size print used for the most number of words in the statements. Provided, however, such statement need not be made where the space for a printed advertisement or promotional time in any media has been donated or made available to the charitable organization at no cost and such space or time does not reasonably permit inclusion of such statement.

2. Any solicitation used by or on behalf of any charitable organization shall provide a clear

description of the programs and activities for which it has requested and has expended or will expend contributions or shall include therein a statement that, upon request, a person may obtain from the organization such a description.

3. In addition to any other disclosure required by law, any solicitation by any means by a professional fund raiser or professional solicitor on behalf of a charitable organization required to be registered pursuant to this article shall clearly and unambiguously disclose:

(a) the name of the professional fund raiser as on file with the attorney general and that the solicitation is being conducted by a professional fund raiser;

(b) the name of the individual professional solicitor as on file with the attorney general and that the individual is receiving compensation for conducting the solicitation.

4. If any charitable organization makes contributions to another organization which is not its affiliate as defined by paragraph (b) of subdivision four of section one hundred seventy-two-b of this article, such solicitation shall include a statement that such contributions have been made and that a list of all organizations which have received contributions during the past twelve months from the soliciting organization may be obtained from that organization provided, however, a united way, federated fund or incorporated community appeal, by or through which a donation is merely transferred to a charity selected by the donor, need not include such donor selected organizations in the list.

5. A charitable organization shall comply with all requests made pursuant to subdivisions two and four of this section within fifteen days of their receipt. In the event that a charitable organization required to register pursuant to this article has not previously been required to file an annual report with the attorney general, the solicitation shall state the date when such report will be filed. Provided, however, that no additional solicitation shall be permitted by charitable organizations until an annual report is filed, if the report is delayed beyond one year.

§ 174-c. Sales advertised to benefit a charitable organization

All advertising, of every kind and nature, that a sale of goods, services, entertainment or any other thing of value will benefit a charitable organization shall set forth the anticipated portion of the sales price, anticipated percentage of the gross proceeds, anticipated dollar amount per purchase, or other consideration or benefit the charitable organization is to receive. Provided, however, that advertising for sales by a charitable organization that has not used the services of a professional fund raiser or commercial co-venturer in any way for the sale shall not be subject to the requirement of this section.

§ 174-d. Unauthorized use of names when soliciting or collecting contributions

1. No person shall, for the purpose of soliciting contributions from persons in this state, use the name of any other person, except that of an officer, director or trustee of the charitable organization by or for which contributions are solicited, without the written consent of such other person.

2. A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

3. Nothing contained in this section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

4. A violation of this section shall be a misdemeanor.

§ 175. Enforcement by attorney general

1. An action for violation of this article may be prosecuted by the attorney general, or his deputy, in the name of the people of the state, and in any such action, the attorney general or his deputy, shall exercise all the powers and perform all duties which the district attorney would otherwise be authorized to exercise or to perform therein.

2. In addition to any other action or proceeding authorized by law and any action or proceeding by the attorney general, the attorney general may bring an action or special proceeding in the supreme court, in the name and in behalf of the people of the state of New York, against a charitable organization and any other persons acting for it or in its behalf to enjoin such organization and/or

persons from continuing the solicitation or collection of funds or property or engaging therein or doing any acts in furtherance thereof, and to cancel any registration statement previously filed with the attorney general pursuant to this article and for an order awarding restitution and damages, penalties and costs; and removing any director or other person responsible for the violation of this article; dissolving a corporation and other relief which the court may deem proper, whenever the attorney general shall have reason to believe that the charitable organization or other person:

(a) is violating or has violated any of the provisions of this article;

(b) has refused or failed, or any of its principal officers has refused or failed, after notice, to produce any records of such organizations;

(c) is employing or about to employ, or there is employed or about to be employed, in any solicitation or collection of funds or other property for such organization, any device, scheme or artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise;

(d) has made a material false statement in an application, registration or statement required to be filed pursuant to this article;

(e) (i) has failed or is failing to apply the funds solicited from the public in a manner substantially consistent with its charitable purposes or solicitation or has engaged in repeated fraudulent or illegal activities, acts or conduct in connection with the solicitation for charitable purposes; (ii) or, in the case of a law enforcement support organization, has failed or is failing to apply the fund solicited from the public in a manner substantially consistent with the purposes of the solicitation or has engaged in repeated fraudulent or illegal activities, acts or conduct in connection with the solicitation for purposes of the law enforcement support organization;

(f) violates any order or determination made by the attorney general pursuant to the provisions of this article;

(g) has used or intends to use false or materially misleading advertising or promotional material in connection with any solicitation or with any commercial co-venture or fails to disclose the information required to be disclosed pursuant to section one hundred seventy-four-b of this article; or

(h) is a law enforcement support organization and is employing or about to employ, or there is employed or about to be employed, in any solicitation or collection of funds or other property for such organization, any device, scheme or artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise which shall include, without limitation, making any of the following representations: (i) that professional fund raisers or solicitors are police officers or employees of any law enforcement agency, (ii) that funds collected will be used to aid widows and children of police officers slain in the line of duty or for any other charitable program unless the organization is actually engaged in such a program, (iii) that contributors will receive special benefits from police officers, and (iv) that contributions are tax deductible as a charitable contribution or as a business expense unless they so qualify under the applicable provisions of the internal revenue code.

In connection with such proposed action or proceeding the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

3. Upon a showing by the attorney general in an application for an injunction that any person engaged in solicitation has been convicted in this state or elsewhere of a felony or of a misdemeanor involving the misappropriation, misapplication or misuse of the money or property of another, and who has not, subsequent to such conviction, received executive pardon therefor or a certificate of good conduct from the parole board, the supreme court, after a hearing, may enjoin such person from engaging in any solicitation.

4. The attorney general may exercise the authority granted in this section against any charitable organization which operates under the guise or pretense of being an organization exempted by the provisions of section one hundred seventy-two-a of this article and is not in fact an organization entitled to such an exemption.

5. Whenever the attorney general shall have reason to believe that any professional fund-raiser, fund raising counsel, professional solicitor or commercial co-venturer is operating in violation of the provisions of this article, or has made any false statement in any application, registration or statement required to be filed pursuant to this article, or if any professional fund-raiser, fund raising counsel, or commercial co-venturer has refused or failed, after notice, to produce any records demanded of him, or there is employed or is about to be employed in any solicitation or collection of contributions for a charitable or religious organization any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise, in addition to any other action

or proceeding authorized by law, he may bring in the supreme court an action or proceeding in the name, and on behalf, of the people of the state of New York against such professional fund-raiser, fund raising counsel, commercial co-venturer, professional solicitor, and any other person who has participated or is about to participate in such solicitation or collection by employing such device, scheme, artifice, false representation or promise, to enjoin such professional fund-raiser, fund raising counsel, commercial co-venturer, professional solicitor, or other person from continuing such solicitation or collection or engaging therein or doing any acts in furtherance thereof, or to cancel any registration statement previously filed with the attorney general.

6. Whenever the attorney general has determined to commence an action under this article, he may present to any justice of the supreme court, before beginning such action, an application in writing for an order directing the person or persons mentioned in the application to appear before the justice of the supreme court or referee designated in such order and answer such questions as may be put to them or to any of them, or to produce such papers, documents and books concerning the practices to which the action which he has determined to bring relates, and it shall be the duty of the justice of the supreme court to whom such application for the order is made to grant such application. The application for such order made by the attorney general may simply show upon his information and belief that the testimony of such person or persons is material and necessary. The provisions of the civil practice law and rules relating to an application for an order for the examination of witnesses before the commencement of an action and the method of proceeding on such examination, shall not apply except as herein prescribed. The order shall be granted by the justice of the supreme court to whom the application has been made with such preliminary injunction or stay as may appear to such justice to be proper and expedient and shall specify the time when and place where the witnesses are required to appear. The justice or referee may adjourn such examination from time to time and witnesses must attend accordingly. The testimony of each witness must be subscribed by him and all must be filed in the office of the clerk of the county in which such order for examination is filed. The order for such examination must be signed by the justice making it and service of a copy thereof with an endorsement by the attorney general signed by him or his deputy, to the effect that the person named therein is required to appear and be examined at the time and place and before the justice or referee specified in such endorsement, shall be sufficient notice for the attendance of witnesses. Such endorsement may contain a clause requiring such person to produce at such examination all books, papers and documents in his possession or under his control relating to the subject of such examination. The order shall be served upon the person named in the endorsement aforesaid by showing him the original order and delivering to and leaving with him at the same time a copy thereof, endorsed as above provided, and by paying or tendering to him the fee allowed by law to witnesses subpoenaed to attend trials of civil actions in any court of record in this state.

7. In addition to any other action authorized by law, the attorney general may bring an action or special proceeding in the supreme court to recover any civil penalties assessed by the attorney general.

8. Nothing contained in section one hundred seventy-seven of this article shall prevent, limit, restrict, impede or delay the attorney general from instituting, at any time, any action or proceeding authorized by the provisions of this article or any other appropriate law, as he may deem necessary.

§ 175-a. Application of article

This article shall not be construed to limit or restrict the exercise of the powers or the performance of the duties of the attorney general or district attorney which they otherwise are authorized to exercise or perform under any other provision of law.

§ 175-b. Municipal option

Nothing contained in this article shall be construed to prevent any municipality from adopting or enacting any local law, ordinance or regulation imposing more restrictive requirements for the solicitation of contributions for law enforcement support organizations, provided, however, that nothing permitted by this section shall be construed to modify or be inconsistent with the legal standards in this article that are applicable to individuals and organizations other than law enforcement support organizations and professional fund raisers and solicitors which are employed by such law enforcement support organizations even when such other individuals and organizations act jointly and together with such law enforcement support organizations.

§ 176. Advisory council

The advisory council on charities registration is continued. It shall advise the attorney general and make recommendations with respect to the operation and administration of this article with the objective of assuring maximum simplicity in the conformance of charitable organizations with the provisions of this article. The council shall consist of not fewer than five nor more than ten members. The members of the advisory council now in office shall continue to hold office for the remainder of the terms to which they were appointed and thereafter until their successors are appointed. The attorney general shall designate the chairman of the council and may appoint additional and successor members and fix their terms of office. The members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

§ 177. Administration and enforcement by attorney general

1. The attorney general shall make rules and regulations necessary for the administration of this article including, but not limited to regulations and waiver procedures that will ensure that charitable organizations do not have to register twice in relation to the solicitation and administration of assets.

2. Upon a finding by the attorney general that any person has committed or is committing a violation of any provision of this article, the attorney general may:

(a) revoke, suspend or deny a registration of a charitable organization, professional fund raiser, professional solicitor or fund raising counsel or deny or revoke a claim of exemption or issue an order directing a charitable organization, professional fund raiser, professional solicitor, fund raising counsel or commercial co-venturer to cease and desist specified fund raising activities; and

(b) assess a civil penalty against the violator of not more than one thousand dollars for each act or omission constituting a violation and an additional penalty of not more than one hundred dollars for each day during which such violation continues. Prior to assessing a civil penalty, the attorney general shall notify the violator in writing by certified mail to its last known business address that a civil penalty will be assessed pursuant to this section unless the violation is cured within thirty days of the date of the mailing of the notice.

3. The attorney general shall, before denying, revoking or suspending any registration or exemption, or issuing a cease and desist order or assessing a civil penalty, notify the applicant or registrant in writing and provide an opportunity for a hearing on a record in reference thereto in accordance with such rules as the attorney general may promulgate to effectuate the purposes of this article. Such written notice may be served by personal delivery to the applicant or registrant or by registered or certified mail to its last known business address. Hearings must be requested within twenty days of receipt of the notice from the attorney general. Any hearing shall be held within thirty days of the receipt of the request by the attorney general, at such time and place as the attorney general shall prescribe. The attorney general, or his or her designee may issue subpoenas in accordance with the civil practice law and rules, compel the attendance of witnesses at the hearing, administer oaths, take proof and make determinations of relevant facts. The respondent may appear at the hearing and may cross-examine all witnesses and produce evidence on his or her behalf. The attorney general or his or her designee shall not be bound by the rules of evidence during the conduct of the hearing. A final determination shall be made by the attorney general or his or her designee within ten days of the conclusion of the hearing. The attorney general shall serve a copy of such determination or order upon the registrant or applicant personally or by registered or certified mail at his or her last known business address.

4. The administrative remedies provided by this article shall not be applicable to any violation of this article which is or was the subject of any action or proceeding brought by the attorney general.

Section 8-1.4 of the Estates, Powers and Trusts Law

§ 8-1.4 Supervision of trustees for charitable purposes

(a) For the purposes of this section, "trustee" means (1) any individual, group of individuals, executor, trustee, corporation or other legal entity holding and administering property for charitable purposes, whether pursuant to any will, trust, other instrument or agreement, court appointment, or otherwise pursuant to law, over which the attorney general has enforcement or supervisory powers, (2) any non-profit corporation organized under the laws of this state for charitable purposes, and (3) any non-profit foreign corporation organized for charitable purposes, doing business or holding property in this state. Neither a foreign corporation nor a trustee acting under the will of, or an agreement executed by, a non-resident of this state shall become subject to the provisions of this section merely by reason of maintaining a bank, custody, investment or similar account in this state.

(b) The registration and reporting provisions of this section do not apply to (1) 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, (2) any trustee which is required by any other provision of law to render a full, complete and itemized annual financial report to the congress of the United States or to the legislature of this state, provided that such report contains the information required of trustees pursuant to this article, (3) corporations organized under the religious corporations law and other religious agencies and organizations, and charities, agencies and organizations operated, supervised or controlled by or in connection with a religious organization, (4) educational institutions incorporated under the education law or by special act, (5) any hospital, (6) fraternal, patriotic, veterans, volunteer firefighters, volunteer ambulance workers, social, student or alumni organizations and historical societies chartered by the New York state board of regents, (7) a trust for which there is a corporate trustee acting as sole trustee or co-trustee under the terms of a will of a decedent who died domiciled in a state other than New York or a trust instrument executed by a non-resident of the state of New York, (8) any trust in which and so long as the charitable interest is deferred or contingent, (9) any person who, in his or her capacity as an officer, director or trustee of any corporation or organization mentioned in this paragraph, holds property for the religious, educational or charitable purposes of such corporation or organization so long as such corporation or organization is registered with the attorney general pursuant to this section, (10) any cemetery corporation subject to the provisions of article fifteen of the not-for-profit corporation law, (11) the state parent teachers association and any parent teachers association affiliated with an educational institution that is subject to the jurisdiction of the state education department, (12) any corporation organized under article forty-three of the insurance law. The provisions of this subdivision shall apply only to the registration and reporting requirements of this section and shall not limit, impair, change or alter any other provision of this article, the not-for-profit corporation law or any other provision of law

(c) The attorney general shall establish and maintain a register of all trustees containing such information as the attorney general deems appropriate, and to that end may conduct such investigations as he or she deems necessary and shall obtain from public records, court officers, taxing authorities, trustees and other sources without the payment of any fee or charge, whatever information, copies of instruments, reports and records are needed for the establishment and maintenance of the register.

(d) Every trustee shall file with the attorney general, within six months after any property held by him or her or any income therefrom is required to be applied to charitable purposes, a copy of the instrument providing for his or her title, powers and duties; provided, however, that any trustee currently registered with the department of law pursuant to article 7-A of the executive law shall be deemed to have complied with this paragraph. If any property held by a trustee or any income therefrom is required to be applied to charitable purposes at the time this section becomes effective, the filing shall be made within six months thereafter.

(e)(1) Whenever any trustee or other person, holding property or any income therefrom, which may be required at any time to be devoted to charitable purposes, shall file in any court in this state (A) any petition for instructions relating to the administration or use of such property or income, (B) any petition for the construction of the instrument under which such property or income is held, (C) any petition respecting the disposition or distribution of such property or income or (D) any accounting, due notice of the action or proceeding shall be served by the petitioner upon the attorney general

together with a copy of any petition, accounting, will or trust instrument.

(2) Whenever any instrument of a testamentary nature which provides for a disposition for charitable purposes is the subject of (A) an application for denial of probate, (B) objections to probate or (C) an application for approval of a compromise agreement in respect of probate, due notice of the action or proceeding shall be served by the petitioner upon the attorney general together with a copy of the instrument and of any such application, objections or agreement.

(f)(1) Every trustee shall, in addition to filing copies of any instrument required under paragraph (d) of this section, file with the attorney general and all identified current charitable beneficiaries written annual financial reports, under penalties for perjury, on forms prescribed by the attorney general, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, and shall, file with the attorney general and all identified current charitable beneficiaries a notice of the termination of the interest of any party in a trust that would cause all or part of the trust assets to be applied to charitable purposes or to have the income therefrom so applied, in accordance with rules and regulations of the attorney general.

(2) Trustees required to report to the attorney general under article 7-A of the executive law shall comply with this paragraph by filing with the attorney general in addition to any other reports required herein, copies of the financial reports required by section 172-b of the executive law unless such reports have been filed previously.

(g) Unless the filing of reports is suspended as herein provided, the first report of any trustee shall be filed no later than six months after the end of the fiscal year of the trustee during which he or she becomes subject to this section.

(h) The attorney general shall make rules and regulations necessary for the administration of this section, including rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He or she may classify trusts, estates, corporations and other trustees as to purpose, nature of assets, duration, amount of assets, amounts to be devoted to charitable purposes, or otherwise, and may establish different rules for different classes as to time and nature of the reports required, to the ends that he or she shall receive current financial reports as to all such trusts, estates, corporations or other trustees which will enable him or her to ascertain whether they are being properly administered. The attorney general may suspend the filing of financial reports as to a particular trustee for a reasonable, specifically designated time upon written application of the trustee, signed under penalties for perjury, and filed with the attorney general and after the attorney general has filed in the register of trustees a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports during the term of such suspension are not required for proper supervision by his or her office. The filing of the financial reports required by this section, or the exemption from such filing or the suspension therefrom, shall not have the effect of absolving trustees from any responsibility for accounting for property or income held by them for charitable purposes. A copy of an account or other financial report filed by a trustee in any court in this state, if the account or other financial report substantially complies with the rules and regulations of the attorney general, may be filed as a financial report under this section.

(i) The attorney general may investigate transactions and relationships of trustees for the purpose of determining whether or not property held for charitable purposes has been and is being properly administered. The attorney general, his or her assistants, deputies or such other officers as may be designated by him or her, are empowered to subpoena any trustee, agent, fiduciary, beneficiary, institution, association or corporation or other witness, examine any such witness under oath and, for this purpose, administer the necessary oaths, and require the production of any books or papers which they deem relevant to the inquiry.

(j) No person shall be excused from attending such inquiry pursuant to the mandate of a subpoena, or from producing a paper or book, or from being examined or required to answer a question on the ground of failure of tender or payment of a witness fee or mileage, unless at the time of such appearance or production, as the case may be, such witness makes a demand for such payment as a condition precedent to the offering of the testimony or production required by the subpoena and such payment is not thereupon made. The provisions for payment of a witness fee or mileage do not apply to any trustee or other person holding funds for charitable purposes, or to any person in the employ of any such person, whose conduct or practices are being investigated.

(k) If a person subpoenaed to attend such inquiry fails to obey the mandate of a subpoena without reasonable cause, or if a person in attendance upon such inquiry shall without reasonable cause refuse to be sworn or to be examined or to answer a question or to produce a paper or book when ordered

so to do by the officer conducting such inquiry, he or she shall be subject to proceedings under subdivision (b) of section 2308 of the civil practice law and rules.

(l) The register, copies of the instruments and the reports filed with the attorney general shall be open to public inspection, subject to reasonable rules and regulations adopted by the attorney general, which may include such limitations as to type of information subject to inspection or purpose of inspection as the attorney general shall deem to be in the public interest. The attorney general shall withhold from public inspection copies of any report filed with any other governmental agency of this state or of the United States and required by law to be kept confidential by such agency, and shall, upon request of the trustee, withhold from public inspection that portion of any instrument filed which does not relate to charitable purposes and which is not otherwise of public record.

(m) The attorney general may institute appropriate proceedings to secure compliance with this section and to secure the proper administration of any trust, corporation or other relationship to which this section applies. The powers and duties of the attorney general provided in this section are in addition to all other powers and duties he or she may have. No court shall modify or terminate the powers and responsibilities of any trust, corporation or other trustee unless the attorney general is a party to the proceeding, but nothing in this section shall otherwise impair or restrict the jurisdiction of any court with respect to the matters covered by it. The failure of any trustee to register or to file reports as required by this section may be ground for judicial removal of any person responsible for such failure.

(n) This section shall apply regardless of any contrary provisions of any instrument and shall be liberally construed so as to effectuate its general purpose of protecting the public interest in charitable uses, purposes and dispositions.

(o) Every officer, agency, board or commission of this state or political subdivisions of this state or agencies thereof receiving applications for exemption from taxation of any trustee subject to this section shall annually file with the attorney general a list of all applications received during the year and shall notify the attorney general of any suspension or revocation of a tax exempt status previously granted.

(p) The attorney general shall collect from each trustee at the time of filing of the periodic reports required by this section a fee for the filing of such reports as follows:

(1) Twenty-five dollars, if the net worth of the property held by such trustee for charitable purposes is less than fifty thousand dollars,

(2) Fifty dollars if such net worth is fifty thousand dollars or more but less than two hundred and fifty thousand dollars,

(3) One hundred dollars if such net worth is two hundred and fifty thousand dollars or more but less than one million dollars,

(4) Two hundred fifty dollars if such net worth is one million dollars or more but less than ten million dollars,

(5) Seven hundred and fifty dollars if such net worth is ten million dollars or more but less than fifty million dollars, and

(6) One thousand five hundred dollars if such net worth is fifty million dollars or more.

(q) Any trustee shall be exempt from the annual reporting requirements of this section by filing each year with the attorney general a verified statement executed by such trustee attesting that during the annual reporting period (1) the gross receipts received by said trustee during such annual reporting period were less than twenty-five thousand dollars and that (2) the total assets held by such trustee at no time during such annual reporting period exceeded twenty-five thousand dollars. For the purposes of this paragraph, gross receipts mean the total received during the financial reporting period of (A) gifts, grants, and contributions; (B) gross income and revenue from all sources; and (C) gross amounts from sales of assets, other than inventory; and total assets mean the total principal and the accumulated income, if any, held by such trustee for purposes of charitable distribution on any day during such annual reporting period.

(r) A trustee who fails to comply with paragraph (d), (f) or (g) of this section shall, after notice of said failure served upon him or her by the attorney general by certified mail, return receipt requested, be liable to the state of New York for a fine of ten dollars a day not to exceed one thousand dollars for each failure to comply after the expiration of the thirty day period following the receipt of the notice from the attorney general, except that the time to comply may be extended by the attorney general. Where the attorney general, after such thirty day period has expired, finds that the failure to comply with paragraph (d), (f) or (g) of this section is due to excusable ignorance or inadvertence or

other reasonable cause, the attorney general shall waive the fine imposed by this paragraph.

(s) A trustee shall not be qualified to make application for funds or grants or to receive such funds from any department or agency of the state without certifying compliance with paragraphs (d), (f) and (g) of this section and all applicable registration and reporting requirements of article seven-A of the executive law.

ADDITIONAL INFORMATION

In New York State, most charitable organizations are required to register with the Attorney General pursuant to Article 7-A of the Executive Law and section 8-1.4 of the Estates, Powers and Trusts Law. Fundraising professionals are also required to register pursuant to Article 7-A of the Executive Law. For further information on the registration requirements or to obtain appropriate registration and reporting forms, please visit the Attorney General's website:

<http://www.oag.state.ny.us/charities/charities.html>

For amendments to Article 7-A of the Executive Law and Section 8-1.4 of the Estates, Powers and Trusts Law enacted since the publication of this publication, please refer to [McKinney's Consolidated Laws of New York](#)

Chapter V Charitable Uses and Purposes

Title 13 New York Code of Rules and Regulations

RULES AND REGULATIONS FOR REGISTRATION OF CHARITABLE ORGANIZATIONS, TRUSTS AND ESTATES WITH CHARITABLE INTERESTS AND FUND RAISING PROFESSIONALS PURSUANT TO ARTICLE 8 OF THE ESTATES, POWERS AND TRUSTS LAW AND ARTICLE 7-A OF THE EXECUTIVE LAW

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Part 90 Definitions

90.1 Charitable

For purposes of this Chapter, “charitable” shall mean:

(a) pursuant to Article 8 of the Estates, Powers and Trusts Law (the “EPTL”), charitable, religious, educational, scientific, literary, cultural, testing for public safety, fostering national or international sports competition, benevolent, promoting social welfare, for a public benefit or for the prevention of cruelty to children or animals.

(b) pursuant to Article 7-A of the Executive Law (“Article 7-A”), all purposes deemed charitable pursuant to the EPTL and also philanthropic, patriotic, eleemosynary or for law enforcement support and any other purpose included in the definition of “charitable organizations” in Article 7-A section 171-a.1., as it may be amended.

90.2 Charitable Organization

For the purposes of this Chapter, “charitable organization” shall mean an organization that is organized and/or operated for charitable purposes, whether or not exempt from federal income taxation, that is required to register with the Attorney General pursuant to the EPTL and/or Article 7-A.

(a) The term “charitable organization” includes any domestic or foreign corporation, unincorporated association or other legal entity, other than a trust or estate with a charitable interest (defined in section 90.3 of this Chapter), that is organized and/or operated for charitable purposes, including without limitation:

(1) Type B New York not-for-profit corporations;

(2) Type A, C and D New York not-for-profit corporations that are organized and/or operated for charitable purposes;

(3) organizations exempt from federal income taxation pursuant to United States Internal Revenue Code (the “Code”) section 501(c)(3), including wholly charitable trusts; and

(4) organizations exempt from federal income taxation pursuant to another Code section that are organized and/or operated for charitable purposes.

90.3 Trust or Estate with a Charitable Interest

For the purposes of this Chapter, “trust or estate with a charitable interest” (or, in the plural, “trusts and estates with a charitable interest”) shall mean any trust or estate holding or administering any personal or real property for charitable purposes that is required to register pursuant to the EPTL, other than a wholly charitable trust exempt from federal income taxation pursuant to Code section 501(c).

(a) Estates. The term “trust or estate with a charitable interest” includes estates with a charitable interest.

(1) The term “estate with a charitable interest” includes any estate with a charitable bequest that is either to an unnamed charity or is an unspecified amount (including without limitation a bequest of all or part of the residuary estate) or indefinite property.

(b) Trusts. The term “trust or estate with a charitable interest” also includes charitable remainder trusts and charitable lead trusts.

(1) The term “charitable remainder trust” includes any trust for which a charitable beneficiary has a remainder interest, including without limitation charitable remainder annuity trusts and charitable remainder unitrusts.

(2) The term “charitable lead trust” includes any trust for which a charitable beneficiary has a lead interest, including without limitation charitable lead annuity trusts and charitable lead unitrusts.

90.4 Fund Raising Professional

For purposes of this Chapter, fund raising professional includes professional fund raisers, fund raising counsel, professional solicitors and commercial co-venturers, as such terms are defined in Article 7-A section 171-a.

Part 91 Charitable Organizations

91.1 To Whom This Part Applies

This part applies to charitable organizations as defined in section 90.2 of this Chapter. The following sections of this Part contain the registration and reporting requirements applicable to charitable organizations.

91.2 Registration Types

Article 7-A requires registration of charitable and other nonprofit organizations that solicit contributions from New York State (including residents, foundations, corporations, government agencies and other entities). Section 8-1.4 of the EPTL requires registration of charitable organizations that are incorporated, are formed or otherwise conduct activity in New York State. Based on these two registration statutes, there are three Registration Types for charitable organizations registered with the Charities Bureau:

- (a) Article 7-A. Organizations registered pursuant to Article 7-A only and not registered under the EPTL.
- (b) EPTL. Organizations registered pursuant to the EPTL only and not registered under Article 7-A.
- (c) Dual. Organizations registered pursuant to both Article 7-A and the EPTL.

91.3 Registration Exemption

Certain organizations are exempt from registration with the Attorney General. Unregistered organizations that are exempt from registration are not required to submit an exemption request to the Attorney General, except that an organization that receives a failure to register notice from the Attorney General but believes it is exempt from registration

must claim an exemption from registration. Organizations that wish to request exemption from registration under Article 7-A or the EPTL or both, shall claim such exemption by completing the appropriate registration, amended registration or re-registration statement form, defined in sections 91.4, 91.7 and 91.8, respectively, of this Chapter, or a successor form, including the exemption request section of such form, and attaching Schedule E (Request for Exemption for Charitable Organizations) or a successor form along with all required attachments listed in both the registration and exemption request forms.

(a) EPTL Registration Exemption Claims. An organization is exempt from registration under the EPTL if it fits any of the following definitions:

(1) Organization is not charitable (EPTL section 8-1.4(a)).

(2) Organization does not conduct activity in NY State (EPTL section 8-1.4(a)).

(3) Organization is a government agency or is controlled by a government agency (EPTL section 8-1.4(b)(1)).

(4) Organization reports annually to either the U.S. Congress or the NY State Legislature (EPTL section 8-1.4(b)(2)).

(5) Organization is incorporated under the religious corporations law or is another type of organization with a religious purpose or is operated, supervised or controlled by or in connection with a religious organization (EPTL section 8-1.4(b)(3)).

(6) Organization is an educational institution, museum or library incorporated under the NY State Education Law or by special act (EPTL section 8-1.4(b)(4)).

(7) Organization is a hospital, skilled nursing facility or diagnostic/treatment center (EPTL section 8-1.4(b)(5)).

(8) Organization is a membership organization (fraternal, patriotic, social, student, alumni, veterans) (EPTL section 8-1.4(b)(6)).

(9) Organization is a volunteer firefighters or volunteer ambulance service organization (EPTL section 8-1.4(b)(6)).

(10) Organization is a historical society chartered by the Board of Regents of the State University of New York (EPTL section 8-1.4(b)(6)).

(11) Organization is a cemetery corporation subject to the provisions of Article 15 of the NY State Not-For-Profit Corporation Law (EPTL section 8-1.4(b)(10)).

(12) Organization is the NY State parent teachers association (“PTA”) or any PTA affiliated with an educational institution subject to the jurisdiction of the NY State Education Department (EPTL section 8-1.4(b)(11)).

(13) Organization is incorporated under Article 43 of the NY State Insurance Law (EPTL section 8-1.4(b)(12)).

(b) Article 7-A Registration Exemption Claims. An organization is exempt from registration under Article 7-A if it fits any of the following definitions:

(1) Organization does not solicit or receive any contributions from NY State (including residents, foundations, corporations, government agencies, etc.) (Article 7-A section 172.1.).

(2) Organization solicits and receives gross contributions from NY State (including residents, foundations, corporations, government agencies, etc.), but organization's gross contributions from NY State are less than and will continue to be less than twenty-five thousand dollars per year from NY State of New York and organization does not and will not use the services of a professional fund raiser or fund raising counsel (Article 7-A section 172-a.2.(d)).

(3) Organization receives all or substantially all of its contributions from a single government agency to which it submits annual financial reports similar to those required by Article 7-A, and organization's gross contributions from all other NY State sources, including other government agencies, do not and will not exceed twenty-five thousand dollars per year (Article 7-A section 172-a.2.(h)).

(4) Organization receives an allocation from a federated fund, United Way or incorporated community appeal and organization's gross contributions from all other sources do not and will not exceed twenty-five thousand dollars per year and organization does not and will not use the services of a professional fund raiser or fund raising counsel (Article 7-A section 172-a.2.(e)).

(5) Organization is incorporated under the religious corporations law or is another type of organization with a religious purpose or is operated, supervised or controlled by or in connection with a religious organization (Article 7-A section 172-a.(1)).

(6) Organization is an educational institution that confines its solicitation to its student body, alumni, faculty and trustees and their families (Article 7-A section 172-a.2.(a)).

(7) Organization is an educational institution or museum that files annual financial reports with the Board of Regents of the State University of New York as required by the NY State Education Law or with an agency having similar jurisdiction in another state (Article 7-A section 172-a.2.(g)).

(8) Organization is a library that files annual financial reports as required by the NY State Education Department (Article 7-A section 172-a.2.(g)).

(9) Organization is a membership organization (fraternal, patriotic, social or alumni) that confines its solicitation of contributions to its membership (Article 7-A section 172-a.2.(b)).

(10) Organization is a law enforcement support organization that confines its solicitation of contributions to its membership (Article 7-A section 172-a.2.(b)).

(11) Organization is a historical society chartered by the Board of Regents of the State University of New York that confines its solicitation of contributions to its membership (Article 7-A section 172-a.2.(b)).

(12) Organization is the NY State parent teachers association (“PTA”) or any PTA affiliated with an educational institution subject to the jurisdiction of the NY State Education Department (Article 7-A section 172-a.2.(j)).

(13) Organization is a chartered local post, camp, chapter or county unit of a bona fide veterans’ organization, a bona fide organization of volunteer firefighters, a volunteer ambulance service organization, or a bona fide auxiliary or affiliate of such an organization and organization’s fund raising is done by its members without direct or indirect compensation (Article 7-A section 172-a.2.(f)).

(14) Organization is a police department, sheriff’s department or other governmental law enforcement agency (Article 7-A section 172-a.2.(i)).

(15) Organization is a government agency or is controlled by a government agency (Article 7-A section 172-a.2.(i)).

91.4 Initial Registration

Unregistered charitable organizations subject to registration requirements of either or both Article 7-A and the EPTL must register with the Attorney General.

(a) What Documents to Submit. The following documents constitute a complete initial registration for a charitable organization:

(1) CHAR410 (Registration Statement for Charitable Organizations) or a Successor Form. This form is for unregistered organizations required to register with the Charities Bureau and shall include identifying, organization structure, activities and federal tax-exempt status information.

(2) a copy of the certificate of incorporation, trust agreement or other organizing document, and any amendments; and

(3) a copy of the bylaws or other organizational rules, and any amendments; and

(4) a copy of the United State Internal Revenue Service (“IRS”) Form 1023 or 1024 Application for Recognition of Exemption, if applicable; and

(5) a copy of the IRS tax exemption determination letter, if applicable.

(b) What Fees to Submit. Organizations registering to solicit contributions in New York State must pay a twenty-five dollar Article 7-A registration fee or any other fee mandated by Article 7-A as amended. Organizations requesting exemption from registration under Article 7-A should not submit any fee.

(c) When to Register. The initial registration must be submitted by whichever of the following deadlines is applicable. If both are applicable, the submission is due by the earlier of the two deadlines. All submissions must be mailed, postmarked by the deadline. If the regular due date falls on a Saturday, Sunday or legal holiday, the deadline is on the next business day. A business day is any day that is not a Saturday, Sunday or legal holiday:

(1) for organizations registering under Article 7-A, prior to solicitation of contributions from New York State (including residents, foundations, corporations, government agencies and other entities); or

(2) for organizations registering under the EPTL, within six months after receiving any property or income that is required to be applied to charitable purposes within New York State.

(d) Certification. Each registration statement shall be signed as follows, and each signature shall be accompanied by the signatory's printed name and title and the date signed:

(1) Certification by a Banking Institution. Certifications must be signed by a vice president.

(2) Certification on Behalf of a Trust. Certification must be signed by at least one trustee.

(3) Certification by All Others. Certifications must be signed by both the president or another authorized officer and the chief financial officer or treasurer.

(e) Request for Registration Exemption. Organizations that wish to request exemption from registration under Article 7-A or the EPTL or both, as described in section 91.3 of this Part, shall claim such exemption by completing the CHAR410 or a successor form, including the exemption request section of such form, and attaching Schedule E (Request for Exemption for Charitable Organizations) or a successor form along with all required attachments listed in both the CHAR410 and Schedule E.

91.5 Annual Filing

(a) Registration Types. Charitable organizations registered with the Attorney General pursuant to Article 7-A or the EPTL or both shall file with the Attorney General annually, pursuant to their Registration Type, as defined in section 91.2 of this Part, and according to the following instructions.

(b) Annual Filing. Charitable organizations registered with the Attorney General are required to file annually with the Charities Bureau. In any reporting period where the organization's finances exceed certain thresholds, the organization must submit a detailed financial report and a filing fee, as described in paragraphs (c) and (d) of this section.

In any reporting period where the organization's finances do not exceed certain financial thresholds, however, the organization may use the annual filing form to claim exemption from the annual report requirement and submit that annual filing without additional information, attachments or fees, as described in paragraph (e) of this section.

(c) **What Documents to Submit.** The following documents constitute a complete annual filing for a charitable organization:

(1) CHAR500 (Annual Filing for Charitable Organizations) or a successor form, which shall include identifying and contact information, annual report exemption claim information (see paragraph (e) of this section) and information regarding the submission of schedules required under Article 7-A.

(2) CHAR500 Article 7-A Schedules.

(i) Schedule 4a (Professional Fund Raisers (PFR), Fund Raising Counsels (FRC), Commercial Co-Venturers (CCV)) or a successor form schedule is required for organizations that contracted with or used the services of a PFR, FRC or CCV for fund raising activity in New York State during the reporting period and shall indicate the type of fund raising professional, as defined in Article 7-A section 171-a, and include contact information and information regarding the services provided, terms of the contract and fees paid.

(ii) Schedule 4b (Government Contributions (Grants)) or a successor form schedule is required for organizations that received a contribution or grant from a government agency during the reporting period and shall include the name of each agency from which contributions were received and the amount of each contribution.

(3) CHAR500 Attachments.

(i) All organizations that do not claim annual report exemptions for all laws under which they are registered, as described in paragraph (e) of this section, must include a copy of the following IRS forms with their submission of the CHAR500, regardless of whether such IRS forms are submitted or required to be submitted to the IRS:

(a) a copy of the complete IRS Form 990, 990-EZ or 990-PF with schedules; and

(b) a copy of the complete IRS Form 990-T, if applicable.

(ii) Organizations with Article 7-A and Dual Registration Types, as defined in section 91.2 of this Chapter, that are not claiming the Article 7-A annual report exemption, as described in paragraph (e) of this section, and whose total support and revenue for the reporting period exceed one hundred thousand dollars must include additional attachments according to the following schedule:

(a) a copy of an independent accountant's review report and financial statements with accompanying notes prepared in accordance with generally accepted accounting principles ("GAAP"), if total support and revenue for the reporting period is more than one hundred thousand but less than two hundred fifty thousand dollars.

(b) a copy of an independent accountant's audit report and financial statements with accompanying notes prepared in accordance with GAAP, if total support and revenue for the reporting period is more than two hundred fifty thousand dollars.

(iii) Organizations with Article 7-A and Dual Registration Types whose financial information is included in a consolidated certified public accountant's audit or review report may file such consolidated audit or review report with its annual financial report in lieu of filing a separate audit or review report for the registrant alone, as long as such consolidated audit or review report includes or attaches supplemental schedules containing the following:

- (a) a statement of financial position for each consolidated entity; and
- (b) a statement of activities for each consolidated entity; and
- (c) consolidating adjustments.
- (d) What Fees to Submit.

(1) Article 7-A Filing Fee. Any Article 7-A or Dual registrant that contracted with or used the services of a professional fund raiser or fund raising counsel, as defined in Article 7-A, during the reporting period must pay an Article 7-A filing fee of twenty-five dollars, or any other fee mandated by Article 7-A as amended. Otherwise, the Article 7-A filing fee is based on the total support and revenue of the organization for the reporting period, as indicated in the following schedule:

(i) No fee, if the organization is exempt from filing an annual report under Article 7-A (see paragraph (e) of this section);

(ii) Ten dollars, or any other fee mandated by Article 7-A as amended, if the organization's total support and revenue for the reporting period is less than two hundred fifty thousand dollars;

(iii) Twenty-five dollars, or any other fee mandated by Article 7-A as amended, if the organization's total support and revenue for the reporting period is two hundred fifty thousand dollars or more.

(2) EPTL Filing Fee. The EPTL filing fee for EPTL and Dual registrants is based on the net worth of the organization at the end of the reporting period, as indicated in the following schedule:

(i) No fee, if the organization is exempt from filing an annual report under the EPTL (see paragraph (e) of this section);

(ii) Twenty-five dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is less than fifty thousand dollars;

(iii) Fifty dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is fifty thousand dollars or more but less than two hundred fifty thousand dollars;

(iv) One hundred dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is two hundred fifty thousand dollars or more but less than one million dollars;

(v) Two hundred fifty dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is one million dollars or more but less than ten million dollars;

(vi) Seven hundred fifty dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is ten million dollars or more but less than fifty million dollars; or

(vii) One thousand five hundred dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is fifty million dollars or more.

(3) Total Filing Fee. The total filing fee is based on the Registration Type, as defined in section 91.2 of this Chapter:

(i) Article 7-A. The total fee for Article 7-A registrants equals the Article 7-A filing fee. Article 7-A only registrants do not need to calculate or pay an EPTL filing fee.

(ii) EPTL. The total fee for EPTL registrants equals the EPTL filing fee. EPTL only registrants do not need to calculate or pay an Article 7-A filing fee.

(iii) Dual. The total filing fee for Dual registrants is the sum of the Article 7-A and EPTL filing fees.

(e) Annual Report Exemption. In any reporting period where the organization's finances do not exceed certain financial thresholds, the organization may use the annual filing form to claim exemption from the annual report requirement and submit that annual filing without additional information, attachments or fees. To claim the relevant annual report exemption(s), the organization must check the Article 7-A annual report exemption box and/or the EPTL annual report exemption box on the CHAR500 (Annual Filing for Charitable Organizations) or a successor form and complete the certification, as described in paragraph (g) of this section, under penalty for perjury attesting that it qualifies for an annual report exemption for the reporting period. No fees and no schedules or attachments are required for any registrant claiming the annual report exemption for all laws under which it is registered (i.e., an Article 7-A registrant claiming the Article 7-A annual report exemption, an EPTL registrant claiming the EPTL annual report exemption, a Dual registrant claiming both the Article 7-A and the EPTL annual report exemptions).

(1) Organizations registered with the Attorney General pursuant to Article 7-A are exempt from the Article 7-A annual report requirement applicable to this period, but must still submit an annual filing to claim an annual report exemption, if:

(i) the organization:

(a) had total contributions from New York State (including residents, foundations, corporations, government agencies and other entities) that did not exceed twenty-five thousand dollars for the reporting period; and

(b) did not use the services of a professional fund raiser (PFR) or fund raising counsel (FRC) to solicit contributions during the reporting period; or if

(ii) the organization:

(a) received an allocation from a federated fund, United Way or incorporated community appeal; and

(b) had contributions from all other sources that did not exceed twenty-five thousand dollars for the reporting period; and

(c) did not use a PFR or FRC to solicit contributions during the reporting period; or if

(iii) the organization:

(a) received all or substantially all of its contributions for the reporting period from single a government agency to which it submitted an annual financial report similar to that required by Article 7-A; and

(b) did not use a PFR or FRC to solicit contributions during the reporting period.

(2) Organizations registered with the Attorney General pursuant to the EPTL are exempt from the EPTL reporting requirement applicable to this period, but must still submit an annual filing to claim the annual report exemption, if the organization's:

(i) total gross receipts were less than twenty-five thousand dollars for the reporting period; and

(ii) total assets did not exceed twenty-five thousand dollars at any time during the reporting period.

(f) When to File. All submissions must be mailed, postmarked by the deadline. If the regular due date falls on a Saturday, Sunday or legal holiday, the deadline is on the next business day. A business day is any day that is not a Saturday, Sunday or legal holiday. The submission deadline is based on the Registration Type, as defined in section 91.2 of this Chapter:

(1) Article 7-A and Dual. Submissions must be filed electronically or mailed and postmarked by the fifteenth day of the fifth month after the organization's accounting period ends. For example, a report for the fiscal year ended December 31, 2004 is due by May 15, 2005.

(2) EPTL. Submissions must be filed electronically or mailed and postmarked by the last day of the sixth month after the organization's accounting period ends. For example, a report for the fiscal year ended December 31, 2004 is due by June 30, 2005.

(3) Extension of Time to Submit an Annual Filing.

(i) Initial Request for Three Month Extension of Time to Submit An Annual Filing. Upon written request, preferably by email, submitted prior to the filing deadline, the time to submit an annual filing pursuant to section 8-1.4 of the Estates, Powers and Trusts Law and/or Article 7-A of the Executive Law may be extended by the Attorney General for up to three months. Email requests should be sent to charities.extensions@oag.state.ny.us or another email address designated by the Attorney General. An email request must include name of the organization and its registration number in the subject line and state the reason for the request in the body of the email or, if the registrant files financial reports with the IRS, include IRS Form 8868 as an attachment. No fees should be submitted with a request for an extension of time to submit an annual filing.

(ii) Requests for Further Extension of Time to File Annual Financial Reports. Any requests for further extensions must be submitted in writing, stating the reasons for such request and, if the registrant files financial reports with the IRS, must be accompanied by an IRS Form 8868 approved by the IRS if received.

(iii) Acknowledgment of Mailed Requests for Extension of Time to File Annual Financial Reports. Mailed requests for extension of time to submit annual filings will be acknowledged by the Attorney General only if submitted in duplicate and accompanied by a self-addressed postage-paid envelope.

(iv) The Attorney General has the sole discretion to deny any extension request, regardless of whether a corresponding extension request has been approved by the IRS.

(g) Certification. Each annual filing shall be signed as follows, and each signature shall be accompanied by the signatory's printed name and title and the date signed:

(1) Article 7-A and Dual. Certifications must be signed by both the president or another authorized officer and the chief financial officer or treasurer.

(2) EPTL. Certifications must be signed by both the president or another authorized officer and the chief financial officer or treasurer, except that certification by a banking institution need only be signed by a vice president and certification on behalf of a trust need only be signed by at least one trustee.

91.6 Combined Annual Financial Report

(a) Authorization to File a Combined Annual Financial Report. Upon prior written authorization by the Attorney General, a parent charitable organization which has one or more affiliates may file a combined annual financial report for itself and its affiliates. Affiliates that do not have a parent-subsidiary relationship cannot file a combined report. For this purpose “affiliate” shall include any chapter, branch, auxiliary or other subordinate unit of any registered charitable organization, however designated, whose policies, fund-raising activities and expenditures are supervised or controlled by the parent charitable organization. The Charities Bureau, in its discretion, may deny a request to file a combined report by the parent organization if any of the following facts are present:

(1) The parent organization does not file a group return IRS Form 990 for its subordinate organizations with the IRS.

(2) The parent organization and its affiliates do not consolidate their audited financial statements.

(3) The parent organization has one or more affiliates that are not included in the group return and/or consolidated financial statements.

(4) The parent organization has one or more affiliates that are registered and file separately with the Attorney General and, therefore, would not be included in the combined report.

(5) The parent organization and its affiliates have different fiscal years.

(b) What Documents to Submit. The following documents constitute a complete combined annual financial report for a charitable organization:

(1) CHAR500-C (Combined Annual Financial Report) or a successor form, which shall include identifying and contact information, annual report exemption claim information, information regarding the submission of schedules required under Article 7-A and a list affiliate organizations.

(2) Schedules.

(i) Schedule 4a (Professional Fund Raisers (PFR), Fund Raising Counsels (FRC), Commercial Co-Venturers (CCV)) or a successor form schedule is required for either the parent or any of its affiliate organizations that contracted with or used the services of a PFR, FRC or CCV for fund raising activity in New York State during the reporting period and shall indicate the type of fund raising professional, as defined in Article 7-A section 171-a, and include contact information and information regarding the services provided, terms of the contract and fees paid.

(ii) Schedule 4b (Government Contributions (Grants)) or a successor form schedule is required for the parent or any of its affiliate organizations that received a contribution or grant from a government agency during the reporting period and shall include the name of each agency from which contributions were received and the amount of each contribution.

(iii) Schedule 6a (Individual Affiliate Summary) or a successor form schedule is required for each affiliate organization that is part of the combined report and shall include annual report exemption information, a financial summary (if the affiliate is registered under Article 7-A and does not claim the Article 7-A annual report exemption) and fee information.

(3) A consolidated financial statement, including an independent accountant's audit report with accompanying notes prepared in accordance with GAAP.

(4) A copy of the letter from the Attorney General authorizing use of CHAR500-C, its predecessor form or its successor form.

(5) A copy of the parent organization IRS Form 990 and schedules.

(6) A copy of the IRS Form 990 Group Return and schedules.

(c) What Fees to Submit.

(1) Parent Organization Article 7-A Filing Fee. The parent organization Article 7-A filing fee is twenty-five dollars.

(2) Affiliate Organizations Combined Article 7-A Filing Fee. The Article 7-A fee for each individual affiliate included in the combined annual financial report with a Registration Type of Article 7-A or Dual, as defined in section 91.2 of this Part, that does not claim the affiliate Article 7-A annual report exemption is ten dollars, up to a maximum of four hundred seventy-five dollars in the aggregate for all individual affiliates included in the combined annual financial report.

(3) Parent Organization EPTL Filing Fee. Parent organization with Registration Type Article 7-A, as defined in section 91.2 of this Part, and parent organizations with Registration Type Dual that claim the parent organization EPTL annual report exemption do not owe any parent organization EPTL filing fee. Otherwise, the parent organization EPTL filing fee is based on the net worth of the parent organization at the end of the reporting period, as indicated in the following schedule:

(i) Twenty-five dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is less than fifty thousand dollars;

(ii) Fifty dollars, or any other fee mandated by EPTL as amended, if the organization's total fund balance at the end of the reporting period is fifty thousand dollars or more but less than two hundred fifty thousand dollars;

(iii) One hundred dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is two hundred fifty thousand dollars or more but less than one million dollars;

(iv) Two hundred fifty dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is one million dollars or more but less than ten million dollars;

(v) Seven hundred fifty dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is ten million dollars or more but less than fifty million dollars; or

(vi) One thousand five hundred dollars, or any other fee mandated by the EPTL as amended, if the organization's total fund balance at the end of the reporting period is fifty million dollars or more.

(4) Affiliate Organizations Combined EPTL Filing Fee. The EPTL fee for each individual affiliate included in the combined annual financial report with a Registration Type of EPTL or Dual, as defined in section 91.2 of this Chapter, that does not claim the affiliate EPTL annual report exemption is based on the individual affiliate's net worth at the end of the reporting period, as indicated in subparagraph (c)(3) of this section.

(5) Total Filing Fee. The total filing fee is the sum of all of the filings fees in subparagraphs (c)(1) through (c)(4) of this section.

(d) When to File.

(1) All combined annual financial reports must be mailed, postmarked by the fifteenth day of the fifth month after the organization's accounting period ends. For example, a report for the fiscal year ended December 31, 2004 is due by May 15, 2005. If the regular due date falls on a Saturday, Sunday or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday or legal holiday.

(2) Extension of Time to Submit an Annual Filing. Organizations filing a combined annual financial report may request an extension of time to submit an annual filing according to the procedures described in subparagraph (f)(3) of section 91.5 of this Chapter.

(e) Certification. Each consolidated annual financial report shall be signed as follows, and each signature shall be accompanied by the signatory's printed name and title and the date signed. Certifications must be signed by both the president or another authorized officer and the chief financial officer or treasurer.

91.7 Amended Registration

Organizations already registered with the Attorney General that have amended their information (e.g., the organization's name, contact information or list of directors) or organizing documents (e.g., the certificate of incorporation or by-laws) since last submitting a registration, amended registration or re-registration statement must amend their registration.

(a) What Documents to Submit. The following documents constitute a complete initial registration for a charitable organization:

(1) CHAR410-A (Amended Registration Statement for Charitable Organizations) or a Successor Form. This form is for organizations already registered with the Charities Bureau that have amended their information or document attachments since the last registration form was filed and shall include identifying information. If the organization structure, activities and federal tax-exempt status information have changed since the last registration statement was filed and such changes were not already presented in the organization's previous annual filing with the Attorney General, as described in section 91.5 of this Chapter, the amended registration statement shall include such information as well.

(2) copies of all amendments to the following documents previously filed with a prior registration, amended registration or re-registration statement:

- (i) the certificate of incorporation, trust agreement or other organizing document, and any amendments; and
- (ii) the bylaws or other organizational rules, and any amendments; and
- (iii) the IRS Form 1023 or 1024 Application for Recognition of Exemption, if applicable; and
- (iv) the IRS tax exemption determination letter, if applicable.

(b) What Fees to Submit. Organizations with Registration Type EPTL, as defined in section 91.2 of this Chapter, that are amending their registration to solicit contributions and not requesting exemption from registration under Article 7-A must submit a fee of twenty-five dollars. Other current EPTL registrants and all current Article 7-A and Dual registrants, as defined in section 91.2 of this Chapter, should not submit any fee with the amended registration.

(c) When to Amend Registration. Organizations are required to notify the Charities Bureau within thirty (30) days of the occurrence of the changes or amendments being reported. If such changes are indicated in the organization's most recently filed annual filing, the organization need not file an amended registration statement. All submissions must be mailed, postmarked by the deadline. If the regular due date falls on a Saturday, Sunday or legal holiday, the deadline is on the next business day. A business day is any day that is not a Saturday, Sunday or legal holiday.

(d) Certification. Each amended registration statement shall be signed as follows, and each signature shall be accompanied by the signatory's printed name and title and the date signed:

- (1) Certification by a Banking Institution. Certifications must be signed by a vice president.
- (2) Certification on Behalf of a Trust. Certification must be signed by at least one trustee.
- (3) Certification by All Others. Certifications must be signed by both the president or another authorized officer and the chief financial officer or treasurer.

(e) Request for Registration Exemption. Registered organizations that wish to request exemption from registration under Article 7-A or the EPTL or both, as described in section 91.3 of this Chapter, shall claim such exemption by completing the CHAR410-A or a successor form, including the exemption request section of such form, and attaching Schedule E (Request for Exemption for Charitable Organizations) or a successor form along with all required attachments listed in both the CHAR410-A and Schedule E.

91.8 Cancellation of Article 7-A Registration & Re-Registration

(a) Cancellation of Article 7-A Registration. If an Article 7-A or Dual registrant fails to file a complete annual filing on time, as described in section 91.5 of this Chapter, its Article 7-A registration to solicit contributions shall be deemed no longer in effect.

(b) The organization must then re-register pursuant to Article 7-A, regardless of its registration status pursuant to section 8-1.4 of the EPTL.

(1) What Documents to Submit. The following documents constitute a complete re-registration for a charitable organization:

(i) CHAR410-R (Re-Registration Statement for Charitable Organizations) or a Successor Form. This form is for organizations whose registration to solicit contributions is no longer in effect as the result of a violation of registration or reporting requirements and shall include identifying, organization structure, activities and federal tax-exempt status information.

(ii) a copy of the certificate of incorporation, trust agreement or other organizing document, and any amendments; and

(iii) a copy of the bylaws or other organizational rules, and any amendments; and

(iv) a copy of the IRS Form 1023 or 1024 Application for Recognition of Exemption, if applicable; and

(v) a copy of the IRS tax exemption determination letter, if applicable; and

(vi) all delinquent annual filings (annual reports or claims of annual report exemption), as described in section 91.5 of this Chapter, for all years for which the organization is delinquent, up to a maximum of six years. All delinquent filings must be sent in a single submission along with the re-registration. Any fees for delinquent filings shall be combined with the re-registration fee in a single payment.

(2) What Fees to Submit. The fee to accompany the re-registration is one hundred fifty dollars. Additional fees may be due with any delinquent annual filings that are being submitted, as described in section 91.5 of this Chapter.

(3) When to Re-Register. The re-registration must be submitted immediately after the failure of an Article 7-A or Dual registrant to file CHAR500 (Annual Filing for Charitable Organizations) or a successor form by the annual filing deadline, as described in section 91.5 of this Chapter, and in no event later than the deadline imposed in any delinquency notice sent to the organization by the Attorney General. All submissions must be mailed, postmarked by the deadline. If the regular due date falls on a Saturday, Sunday or legal holiday, the deadline is on the next business day. A business day is any day that is not a Saturday, Sunday or legal holiday.

(4) Certification. Each re-registration statement shall be signed by both the president or another authorized officer and the chief financial officer or treasurer, and each signature shall be accompanied by the signatory's printed name and title and the date signed.

(e) Request for Registration Exemption. Delinquent Article 7-A or Dual registrants that wish to request exemption from registration under Article 7-A or the EPTL or both, as described in section 91.3 of this Chapter, shall claim such exemption by completing the CHAR410-R or a successor form, including the exemption request section of such form, and attaching Schedule E (Request for Exemption for Charitable Organizations) or a successor form along with all required attachments listed in both the CHAR410-R and Schedule E.

91.9 Closing Registration and Dissolutions(a) Charitable Organizations. The registration of a charitable organization will only be closed if the organization demonstrates that it has dissolved or otherwise formally ceased operations.

(1) Corporations.

(i) If the organization was incorporated, it must be dissolved before the Attorney General can close its registration. If the organization has a certificate of dissolution from the New York Department of State, or from a similar government agency in a different state, it must be submitted along with the CHAR500 or a successor form marked "Final filing", with all required attachments to that form.

(ii) If the organization was incorporated and does not have a certificate of dissolution but does have a court-approved plan of dissolution, the organization must complete the dissolution process and then submit to the Attorney General a copy of that certificate of dissolution. New York corporations obtain the certificate of dissolution from the New York State Department of State Division of Corporations.

(iii) If the organization was incorporated and has ceased operations but does not have a certificate of dissolution and does not have a court-approved dissolution plan, the organization must start and complete the dissolution process.

(2) Wholly Charitable Trusts. If the organization was formed as a wholly charitable trust, it may request that the Attorney General close its registration by submitting:

- (i) a cover letter explaining the reasons for closure; and
- (ii) a copy of the CHAR500 or a successor form marked “final filing”; and
- (iii) a copy of IRS Form 990, 990-EZ or 990-PF marked “final return”, if applicable; and

if the assets were transferred to another organization, proof that the other organization received the assets (for example, a letter from the recipient organization, signed by an officer, stating that it received the transfer); and

(v) a judicial or informal final accounting containing sufficient information for the purposes of the Attorney General’s review.

(3) Unincorporated organizations. If the organization was never incorporated, it may request that the Attorney General close the registration by submitting:

- (i) a cover letter explaining the reasons for closure; and
- (ii) a copy of the CHAR500 or a successor form marked “final filing”; and
- (iii) a copy of IRS Form 990, 990-EZ or 990-PF marked “final return”, if applicable; and

if the assets were transferred to another organization, proof that the other organization received the assets (for example, a letter from the recipient organization, signed by an officer, stating that it received the transfer).

91.10 Where to Submit Registrations, Annual Filings and Other Submissions

Charitable organizations must submit their annual filing to the New York City office of the Attorney General’s Charities Bureau, Registration Section, 120 Broadway, Floor 3, New York, NY 10271, or such other place as the Attorney General may designate or electronically in the manner prescribed by statute or by the Attorney General.

91.11 Incomplete Material

The Attorney General will not accept any registration and/or filing unless all of the documents and fees required by law and these regulations have been submitted and paid. The organization shall not be in compliance with the law and these regulations until the registration and/or filing material has been accepted by the Attorney General and may be subject to appropriate sanctions pursuant to Article 7-A and/or the EPTL.

91.12 Attorney General Authority to Require Additional Information or Documentation

In addition to any documents the Attorney General requires of a charitable organization as part of its registration, exemption request, annual filing or request to close registration, the Attorney General may require a charitable organization to submit any information or documentation relevant to the Attorney General’s review of such organization, including without limitation a judicial or informal periodic or final accounting for a wholly charitable trust.

Part 92 Trusts and Estates with a Charitable Interest

92.1 To Whom This Part Applies

This part applies to trusts and estates with a charitable interest as defined in section 90.3 of this Chapter. The following sections of this Part contain the registration and reporting requirements applicable to trusts and estates with a charitable interest.

(a) Registration Types. Trusts and estates with a charitable interest are required to register pursuant to EPTL section 8-1.4, but are not required to register pursuant to Article 7-A.

92.2 Estates

(a) Registration. Estates with a charitable interest as defined in subparagraph (a)(1) of section 90.3 of this Chapter are required to register pursuant to EPTL section 8-1.4. Estates in which the only charitable interest is a specific gift (either a specific amount of money or specific property) to one or more named charities exempt from federal taxation pursuant to Internal Revenue Code section 501(c)(3) are not required to register pursuant to the EPTL.

(1) What Registration Documents to Submit. To register with the Attorney General, an estate with a charitable interest shall submit all of the following documents:

- (i) a copy of the notice of probate; and
- (ii) a copy of the last will and testament and any codicils.

(2) What Registration Fees to Submit. Estates with a charitable interest are not required to pay a registration fee pursuant to the EPTL. However, an EPTL filing fee is required when the estate submits a final report pursuant to paragraph (c) of this section 92.2.

(3) When to Register. Estates with a charitable interest shall register within six months after the earlier of the date letters testamentary or preliminary letters testamentary are issued. Nothing in this Chapter shall be interpreted to waive any requirement to submit any estate-related documents to the Attorney General in a timely manner pursuant to any other provision of the laws of the State of New York, such as the requirement to submit the notice of probate pursuant to section 1409 of the Surrogate's Court Procedure Act.

(4) Where to Register. Estates with a charitable interest shall submit their registration documents to the New York City office of the Attorney General's Charities Bureau, the Albany office of the Attorney General's Charities Bureau or the applicable Attorney General's Regional Office, in accordance with instructions issued by the Attorney General, or such other place as the Attorney General may designate.

(b) Periodic Reports. Estates with a charitable interest are not required to file periodic reports, but shall comply with any request made by the Attorney General for additional information or documentation pursuant to section 92.5 of this Part.

(c) Final Reports. Estates with a charitable interest are required to file a final report with the Attorney General.

(1) What Final Report Documents to Submit. A judicial or informal final accounting containing sufficient information for the purposes of the Attorney General's review shall constitute a complete final report for an estate with a charitable interest.

(2) What Final Report Fees to Submit. With the submission of a final report, estates with a charitable interest shall pay a filing fee based on the total value of all assets distributed or proposed to be distributed to charitable beneficiaries, including distributions resulting from specific and residuary gifts paid from principal or income, according to the following schedule:

(i) Twenty-five dollars, if the total value of all such charitable assets is less than fifty thousand dollars;

(ii) Fifty dollars, if the total value of all such charitable assets is fifty thousand dollars or more but less than two hundred fifty thousand dollars;

(iii) One hundred dollars, if the total value of such charitable assets is two hundred fifty thousand dollars or more but less than one million dollars;

(iv) Two hundred fifty dollars, if the total value of such charitable assets is one million dollars or more but less than ten million dollars;

(v) Seven hundred fifty dollars, if the total value of such charitable assets is ten million dollars or more but less than fifty million dollars; or

(vi) One thousand five hundred dollars, if the total value of such charitable assets is fifty million dollars or more.

The EPTL filing fee is due at the time the final report is submitted to the Attorney General and is required for all estates with a charitable interest that are required to register with the Attorney General.

(3) Where to File Final Report. An estate with a charitable interest shall submit its final report to the New York City office of the Attorney General's Charities Bureau, the Albany office of the Attorney General's

Charities Bureau or the applicable Attorney General's Regional Office, in accordance with instructions issued by the Attorney General, or such other place as the Attorney General may designate.

92.3 Charitable Remainder Trusts

(a) Registration with Notice of Termination. Charitable remainder trusts as defined in subparagraph (b)(1) of section 90.3 of this Part are required to register pursuant to EPTL section 8-1.4. Pursuant to EPTL section 8-1.4(f)(1), such registration shall contain a notice of the termination of the interest of any party in a trust that would cause all or part of the trust assets or income to be applied to charitable purposes. Charitable remainder trusts are not required to submit to the Attorney General a separate notice of termination.

(1) What Registration with Notice of Termination Documents to Submit. To register, a charitable remainder trust shall submit all of the following registration with notice of termination documents to the Attorney General and mail a copy to each identified current charitable beneficiary:

(i) CHAR001-RT (Registration Statement for Charitable Remainder Trusts with Notice of Termination of Intervening Trust Interest) or a successor form issued by the Attorney General, which shall include:

(a) identifying information, including the identity of the terminating interest (and, if applicable, the date of death of the individual whose interest terminated) and the identity of each charitable beneficiary,

(b) contact information for each trustee and attorney for the trust, and

(c) a statement that the trust has complied with the requirement to mail a copy of the notice of termination to each identified current charitable beneficiary; and

(ii) a copy of the trust instrument and any amendments.

(2) What Registration and Notice of Termination Fees to Submit. Charitable remainder trusts are not required to pay a registration or notice of termination fee pursuant to the EPTL. However, an EPTL filing fee is required when the trust submits a final report pursuant to paragraph (c) of this section 92.3.

(3) When to Submit and Mail Registration with Notice of Termination. Charitable remainder trusts shall submit their registration with notice of termination to the Attorney General and mail a copy of such registration with notice of termination to each identified current charitable beneficiary within six months after the date when, pursuant to the terms of the applicable trust instrument, all or part of the trust assets or income is required to be applied to charitable purposes.

(4) Where to Submit and Mail Registration with Notice of Termination. Charitable remainder trusts shall submit their registration with notice of termination to the New York City office of the Attorney General's

Charities Bureau, the Albany office of the Attorney General's Charities Bureau or the applicable Attorney General's Regional Office, in accordance with instructions issued by the Attorney General, or such other place as the Attorney General may designate. Charitable remainder trusts shall also mail a copy of such registration with notice of termination to each identified current charitable beneficiary at the last known address of such beneficiary or such other address for such beneficiary as may be determined from a diligent search.

(b) Periodic Reports. Charitable remainder trusts are not required to file periodic reports, but shall comply with any request made by the Attorney General for additional information or documentation pursuant to section 92.5 of this Part.

(c) Final Reports. Charitable remainder trusts are required to file a final report with the Attorney General.

(1) What Final Report Documents to Submit. A judicial or informal final accounting containing sufficient information for the purposes of the Attorney General's review shall constitute a complete final report for a charitable remainder trust.

(2) What Final Report Fees to Submit. With the submission of a final report, charitable remainder trusts shall pay a filing fee based on the total value of all assets distributed or proposed to be distributed to charitable beneficiaries, including distributions resulting from specific and residuary gifts paid from principal or income, according to the following schedule:

(i) Twenty-five dollars, if the total value of all such charitable assets is less than fifty thousand dollars;

(ii) Fifty dollars, if the total value of all such charitable assets is fifty thousand dollars or more but less than two hundred fifty thousand dollars;

(iii) One hundred dollars, if the total value of such charitable assets is two hundred fifty thousand dollars or more but less than one million dollars;

(iv) Two hundred fifty dollars, if the total value of such charitable assets is one million dollars or more but less than ten million dollars;

(v) Seven hundred fifty dollars, if the total value of such charitable assets is ten million dollars or more but less than fifty million dollars; or

(vi) One thousand five hundred dollars, if the total value of such charitable assets is fifty million dollars or more. The EPTL filing fee is due at the time the final report is submitted to the Attorney General and is required for all charitable remainder trusts that are required to register with the Attorney General.

(3) Where to File Final Report. A charitable remainder trust shall submit its final report to the New York City office of the Attorney General's Charities Bureau, the Albany office of the Attorney General's Charities Bureau or the applicable Attorney General's Regional Office, in accordance with instructions issued by the Attorney General, or such other place as the Attorney General may designate.

92.4 Charitable Lead Trusts

(a) Registration. Charitable lead trusts as defined in subparagraph (b)(2) of section 90.3 of this Chapter are required to register pursuant to EPTL section 8-1.4.

(1) What Registration Documents to Submit. To register with the Attorney General, a charitable lead trust shall submit all of the following documents:

(i) CHAR001-LT (Registration Statement for Charitable Lead Trusts) or a successor form issued by the Attorney General, which shall include:

- (a) identifying information, including the identity of each charitable beneficiary, and
- (b) contact information for each trustee and attorney for the trust; and
- (ii) a copy of the trust instrument and any amendments.

(2) What Registration Fees to Submit. Charitable lead trusts are not required to pay a registration fee pursuant to the EPTL. However, an EPTL filing fee is required when the charitable lead trust submits each periodic report and its final report pursuant to paragraphs (b) and (c) of this section 92.4.

(3) When to Register. Charitable lead trusts shall register within six months after the trust is funded.

(4) Where to Register. Charitable lead trusts shall submit their registration documents to the New York City office of the Attorney General's Charities Bureau or such other place as the Attorney General may designate.

(b) Periodic Reports. Charitable lead trusts are required to file annual reports with the Attorney General.

(1) What Annual Report Documents to Submit. The following documents constitute a complete annual filing for a charitable lead trust:

(i) CHAR004 (Annual Filing for Charitable Lead Trust) or a successor form issued by the Attorney General, which shall include:

(a) identifying information, including the identity of each charitable beneficiary and the fiscal year end of the annual report,

(b) contact information for each trustee and attorney for the trust and each financial institution where trust assets are held, and

(c) principal, income and total financial information for the trust, including charges; administration expenses, distributions to beneficiaries and other credits; liabilities; and fund balances; and

(ii) a copy of the trust's IRS Form 5227 (Split-Interest Trust Information Return) or a successor form.

(2) What Annual Report Fees to Submit. Charitable lead trusts shall pay an annual EPTL filing fee according to the following schedule:

(i) Twenty-five dollars, if the total amount distributed to charity by the trust during the fiscal year is less than fifty thousand dollars;

(ii) Fifty dollars, if the total amount distributed to charity by the trust during the fiscal year is fifty thousand dollars or more but less than two hundred fifty thousand dollars;

(iii) One hundred dollars, if the total amount distributed to charity by the trust during the fiscal year is two hundred fifty thousand dollars or more but less than one million dollars;

(iv) Two hundred fifty dollars, if the total amount distributed to charity by the trust during the fiscal year is one million dollars or more but less than ten million dollars;

(v) Seven hundred fifty dollars, if the total amount distributed to charity by the trust during the fiscal year is ten million dollars or more but less than fifty million dollars; or

(vi) One thousand five hundred dollars, if the total amount distributed to charity by the trust during the fiscal year is fifty million dollars or more.

(3) When to File Annual Reports. A charitable lead trust shall file an annual report within six months after the end of its fiscal year. The extension request provisions for charitable organizations contained in subparagraph (f)(3) of section 91.5 of this Chapter apply to annual reports of charitable lead trusts.

(4) Where to File Annual Reports. A charitable lead trust shall submit its annual reports to the New York City office of the Attorney General's Charities Bureau or such other place as the Attorney General may designate.

(c) Final Reports. Charitable lead trusts are required to file a final report with the Attorney General.

(1) What Final Report Documents to Submit. The following documents shall constitute a complete final annual report for a charitable lead trust:

(i) CHAR004 (Annual Filing for Charitable Lead Trust) or a successor form issued by the Attorney General, which shall include:

(a) identifying information, including the identity of each charitable beneficiary and the end date of the annual report,

(b) contact information for each trustee and attorney for the trust and each financial institution where trust assets are held, and

(c) principal, income and total financial information for the trust, including charges; administration expenses, distributions to beneficiaries and other credits; liabilities; and fund balances; and

(ii) a copy of the trust's IRS Form 5227 (Split-Interest Trust Information Return) or a successor form for the year during which the charitable lead interest terminates.

(2) What Final Report Fees to Submit. Charitable lead trusts shall pay a final EPTL annual filing fee of twenty-five dollars, if the total amount distributed to charity by the trust during the fiscal year is twenty-five thousand dollars or more.

(3) When to File Final Report. A charitable lead trust shall file its final report within six months after the end of its fiscal year during which the lead charitable interest terminated. The extension request provisions for charitable organizations contained in subparagraph (f)(3) of section 91.5 of this Chapter apply to final reports of charitable lead trusts.

(4) Where to File Final Report. A charitable lead trust shall submit its final report to the New York City office of the Attorney General's Charities Bureau or such other place as the Attorney General may designate.

92.5 Attorney General Authority to Require Additional Information or Documentation

In addition to any documents the Attorney General requires of a trust or estate with a charitable interest as part of its registration, periodic report, final report or notice of termination, the Attorney General may require a trust or estate with a charitable interest to submit any information or documentation relevant to the Attorney General's review of such entity, including without limitation a periodic accounting, a detailed securities schedule, IRS Form 706 (United States Estate (and Generation-Skipping Transfer) Tax Return), IRS Form 1041 (U.S. Income Tax Return for Estates

and Trusts) and New York State Department of Taxation and Finance ET-90 (New York State Estate Tax Return) or successor forms.

92.6 Certification Requirement

For each registration, periodic report, final report or notice of termination required to be submitted by a trust or estate with a charitable interest pursuant to this Part, a trustee, executor or other authorized individual shall certify under penalties for perjury that, to the best of his or her knowledge and belief, such submission is true, correct and complete in accordance with the laws of the State of New York applicable to such submission.

Part 93 Fund Raising Professionals

93.1 To Whom This Part Applies

This Part applies to professional fund raisers, fund raising counsel, professional solicitors and commercial co-venturers, as defined in Article 7-A section 171-a; provided, however, that this Part shall not apply to any individual or entity that prints, prepares for mailing and/or mails solicitation material but does not otherwise provide advice to or solicit on behalf of a charitable organization.

93.2 Registration

(a) When to Register. Professional fund raisers, fund raising counsel and professional solicitors shall register with the Attorney General prior to engaging in any fund raising activities in the State of New York and/or solicitation of persons in New York State.

(b) Registration Forms.

(1) Professional Fund Raisers. Professional fund raisers shall file with the Attorney General a professional fund raiser's registration form signed under penalties for perjury and all documents required to be annexed thereto. Such form shall include the following information:

(i) the full legal name of the professional fund raiser and all other legally authorized names under which it operates in any capacity;

(ii) organizational type (corporation, partnership, unincorporated association, proprietorship, etc.);

(iii) the date, state and county in which organized;

(iv) the principal New York State address of the professional fund raiser and all addresses from which it solicits contributions from New York State residents and the telephone number at each address;

(v) the names, primary residence or business address where each can be regularly located, and title or relationship to the professional fund raiser of:

- (a) individual owners of unincorporated associations and proprietorships,
- (b) partners,
- (c) corporate officers and directors, and
- (d) comparable managers of the legal entities;

(vi) the names and primary residence or business address where each can be regularly located of any individual or entity that owns ten percent or more of the professional fund raiser;

(vii) as required by section 5 of the New York State Tax Law, the federal tax identification number or individual Social Security number for each entity or individual listed pursuant to subparagraph (v). Tax identification numbers and Social Security numbers are exempt from disclosure to the public, except as may be required by compulsory or other legal process, but must be provided to the Attorney General pursuant to the Tax Law;

(viii) the names and addresses of each charitable organization with which the professional fund raiser has contracts or has contracted within the prior twelve months to act as a professional fund raiser or fund raising counsel in New York and the dates and a description of activities to be or that have been conducted pursuant to such contracts;

(ix) a statement as to whether any individual listed pursuant to subparagraph (v) is or has been an officer, director or employee of any other professional fund raiser or fund raising counsel that has engaged in fund raising activities in New York and/or is or has been an officer, director or employee of any charitable organization that has engaged in fund raising activities in New York and, if so, the names and primary residence or business addresses of such individuals where they can be regularly located and the entities with which they are or have been associated and the titles of all such individuals;

(x) a statement as to whether the professional fund raiser is registered with any other state or local governmental agency and, if so, the names of such governmental agencies;

(xi) a statement as to whether the professional fund raiser has ever had any license, registration or permit to engage in fund raising activities denied, canceled, suspended or revoked and, if so, a detailed description of such circumstances;

(xii) a statement as to whether any disciplinary or legal action in connection with fund raising activities has been taken or is pending against the professional fund raiser and, if so, a detailed description of such action; and

(xiii) a statement as to whether the professional fund raiser employs any professional solicitors.

(2) Fund Raising Counsel. Fund raising counsel shall file with the Attorney General a fund raising counsel registration form, signed under penalties for perjury, and all documents required to be annexed thereto. Such form shall include the following information:

(i) the full legal name of the fund raising counsel and all other legally authorized names under which it operates in any capacity;

(ii) organizational type (corporation, partnership, unincorporated association, proprietorship, etc.);

(iii) the date, state and county in which organized;

(iv) the principal address of the fund raising counsel, the principal New York State address and the telephone number at each address;

(v) the names, primary residence or business address where each can be regularly located, and title or relationship to the fund raising counsel of:

(a) individual owners of unincorporated associations and proprietorships,

(b) partners,

(c) corporate officers and directors, and

(d) comparable managers of the legal entities;

(vi) the names and primary residence or business address where each can be regularly located of any individual or entity that owns ten percent or more of the fund raising counsel;

(vii) as required by section 5 of the New York State Tax Law, the federal tax identification number or individual Social Security number for each entity or individual listed pursuant to subparagraph (v). Tax identification numbers and Social Security numbers are exempt from disclosure to the public, except as may be required by compulsory or other legal process, but must be provided to the Attorney General pursuant to the Tax Law;

(viii) the names and addresses of charitable organizations with which the fund raising counsel has contracts or has contracted within the prior twelve months to act as a fund raising counsel for organizations soliciting contributions in New York and the dates and a description of activities to be or that have been conducted pursuant to such contracts;

(ix) a statement as to whether any individual listed pursuant to subparagraph (v) has been or is associated with any professional fund raiser, fund raising counsel and/or charitable organization and, if so, the names and

primary residence or business address where each can be regularly located and the entities and the titles of all such individuals;

(x) a statement as to whether the fund raising counsel is registered with any other state or local governmental agency and, if so, the names of such governmental agencies;

(xi) a statement as to whether the fund raising counsel has ever had any license, registration or permit denied, canceled, suspended or revoked and, if so, a detailed description of such circumstances;

(xii) a statement as to whether any disciplinary or legal action has been taken or is pending against the fund raising counsel and, if so, a detailed description of such action;

(iii) a statement as to whether the fund raising counsel or any of its representatives is authorized to solicit contributions;

(xiv) a statement as to whether the fund raising counsel or any of its representatives is authorized to pay expenses associated with a solicitation;

(xv) a statement as to whether the fund raising counsel or any representatives has access to contributions or other receipts from a solicitation. For purposes of this Chapter, "access to contributions" shall mean the physical control, handling or possession of any cash or legal instrument, regardless of to whom payable, if such cash or legal instrument constitutes a contribution or donation. Access to contributions occurs when there is any signature authority over an escrow account or bank account in which contributions or donations have been or will be deposited and/or authorization to approve or pay expenses; and

(xvi) a statement as to whether the fund raising counsel employs any professional solicitors.

(3) Professional Solicitors. Professional solicitors shall file with the Attorney General a professional solicitor registration form, signed under penalties for perjury, and all documents required to be annexed thereto.

Such form shall include the following information:

(i) the full legal name of the professional solicitor by which her or she shall solicit contributions and any other names by which the solicitor is known;

(ii) the primary residence or business address where the solicitor can be regularly located and the solicitor's telephone numbers;

(iii) with regard to all past and present employment as a professional fund raiser, fund raising counsel and/or professional solicitor, the names and addresses of all such employers, the dates of employment and the terms of remuneration;

(iv) the Social Security number of the solicitor. Social Security numbers are exempt from disclosure to the public, except as may be required by compulsory or other legal process, but must be provided to the Attorney General pursuant to the Tax Law;

(v) a statement as to whether the solicitor is registered with any other state or local governmental agency and, if so, the names of such governmental agencies;

(vi) a statement as to whether the solicitor has ever had any license, registration or permit to solicit contributions denied, canceled, suspended or revoked and, if so, a detailed description of such circumstances; and

(vii) a statement as to whether any disciplinary or legal action has been taken or is pending against the solicitor and, if so, a detailed description of such action.

(c) **Incomplete Registration Material.** The Attorney General will not accept any registration of any professional fund raiser, fund raising counsel or professional solicitor unless all of the documents and fees required by law and this Chapter have been submitted and paid, respectively. Incomplete registration material shall be returned by the Attorney General and the professional fund raiser, fund raising counsel or professional solicitor may be subject to sanctions pursuant to Article 7-A. The professional fund raiser, fund raising counsel or professional solicitor shall not be in compliance with the law and this Chapter until the registration material has been accepted by the Attorney General.

93.3 Registration Fees and Bonds Required of Professional Fund Raisers, Fund Raising Counsel and Professional Solicitors

(a) Each professional fund raiser registration form, fund raising counsel registration form and professional solicitor registration form must be accompanied by the fees mandated by Article 7-A sections 173.1 and 173-b.

(b) Each professional fund raiser registration form must be accompanied by a bond as mandated by Article 7-A section 173.1.

93.4 Contracts with Professional Fund Raisers, Fund Raising Counsel and Commercial Co-Venturers

(a) **Content of Contracts.**

(1) In addition to any information required by Article 7-A, including section 174-a, all contracts filed with the Attorney General must include the following:

- (i) the names, addresses and New York State registration numbers of both parties to the contract;
- (ii) the signatures and dates of signature of the parties to the contract;

- (iii) the beginning and expiration dates of the contract;
- (iv) the terms of the contract, including a clear description of the services to be performed by the professional fund raiser or fund raising counsel; and
- (v) a clear statement of the financial arrangement between the parties which shall include, if

applicable, a statement of:

(a) the percentage or dollar amount of the total funds collected on behalf of the charitable organization which shall be retained by or paid to the professional fund raiser for purposes other than the exclusive benefit of the charitable organization's charitable purposes,

(b) the fixed fee if any to be received by the professional fund raiser or fund raising counsel,

(c) all contractual expenses to be incurred by the professional fund raiser or fund raising counsel but charged to the charitable organization or subsequently deducted from the gross receipts. Such list shall contain specific dollar amounts or projected estimates of these costs, and

(d) the costs per unit for the services to be provided and the projected number of units to be provided; and

(vi) a renewal or extension of a contract must comply with the provisions of this section.

(b) Contract Approval, Filing and Cancellation.

(1) No contract will be accepted for filing by the Attorney General, unless the contract complies with this subsection and Article 7-A, and no services shall be performed pursuant to such contract if the Attorney General notifies the professional fund raiser or fund raising counsel and the charitable organization of any deficiencies in the contract and/or compliance with the registration and filing requirements of Article 7-A or EPTL section 8-1.4 and this Chapter.

(2) Whenever a charitable organization contracts with a professional fund raiser, fund raising counsel or commercial co-venturer, the charitable organization shall have the right to cancel the contract without cost, penalty or liability for a period of fifteen days following the date on which said contract was executed. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.

93.5 Interim Statements and Closing Statements of Professional Fund Raisers

Professional fund raisers shall file interim and closing statements as required by Article 7-A section 173-a. Such statements shall be signed under penalties for perjury by the professional fund raiser, any subcontractor and the charity on forms prescribed by the Attorney General. Closing statements shall be filed within ninety days after the

termination of a fund raising contract, provided that in the case of a fund raising contract that covers a period of more than one year, a professional fund raiser shall file with the Attorney General, within fifteen months of the execution of the contract and annually thereafter, an interim statement signed under penalties for perjury by the professional fund raiser, any subcontractor and the charity on forms prescribed by the Attorney General. Closing and interim statements must be prepared for all activities conducted pursuant to each contract and shall include the following:

- (a) the names of the professional fund raiser(s) and charity(s) that are party to the contract;
- (b) the effective and termination dates of the contract as stated in the contract;
- (c) if the contract covers more than one year, the period covered by the closing or interim statement;
- (d) the beginning and ending dates of the campaign within the specified contract period or contract year covered by the statement;
- (e) if services were provided at any other time during the contract period, a statement of the period during which such services were provided;
- (f) a description of the type of fund raising campaign conducted, including without limitation telemarketing, direct mail, door-to-door, electronic media (television, radio, Internet, etc.), special event, publication, ticket or product sale or donation of used or new goods;
- (g) a statement as to whether the campaign was directed at persons in New York State only or persons in New York State and other states;
- (h) a statement as to whether all contributions received from fund raising activity under the contract were deposited within five days of receipt in a bank account under exclusive control of the charity.
- (i) the names, addresses and account numbers of the banking or other financial institution(s) in which contributions received from solicitation activity pursuant to the contract were deposited;
- (j) a statement as to whether during the specified contract period or contract year the professional fund raiser contracted with any sub-contractor to perform any services covered by the contract and, if so, the name, address and telephone number of any such sub-contractor;
- (k) a statement as to whether contractual services have been provided and whether the charitable organization has received all contractual monetary guarantees (if any). If all services have not been completed, an explanation of what remains to be completed;
- (l) a breakdown of all revenue received during the reporting period;

(m) a breakdown of all expenses incurred by the professional fund raiser and charitable organization in connection with the campaign, including without limitation:

- (1) the professional fund raiser's remuneration or other fees;
- (2) salaries and benefits for professional solicitors, office managers and other professional fund raiser employees;
- (3) permit, license and registration fees;
- (4) sub-contractors' remuneration or other fees;
- (5) postage and shipping;
- (6) telephone;
- (7) office rent, office utilities and office insurance;
- (8) office supplies and other office expenses;
- (9) list rentals;
- (10) printing;
- (11) advertising;
- (12) show and other event fees;
- (13) show and other event facilities rental fees and insurance;
- (14) computer and data-processing fees;
- (15) cost of merchandise for re-sale;
- (16) total expenses;
- (17) net amount retained by or paid to the charitable organization;
- (18) additional amounts paid to the charitable organization as a contractual guarantee;
- (19) professional fund raiser's profit or loss;
- (20) uncollected pledges;
- (21) in-kind donations; and
- (22) the dated signature of the parties to the contract under the penalties for perjury.

93.6 Where to File

All registrations, interim and closing statements, contracts, fees and any other documents or instruments required to be filed by fund raising professionals and all correspondence relating thereto shall be directed to the New York State

Attorney General, Charities Bureau, The Capitol, Albany, New York 12224 or to any other address that the Attorney General may designate.

Part 94 Availability of Forms and Instructions

Forms and instructions for registration and filing may be downloaded from the Attorney General's website at www.oag.state.ny.us/charities/charities.html or by writing to New York State Attorney General, Charities Bureau, 120 Broadway, 3rd floor, New York, NY 10271 or at any other website or address designated by the Attorney General.

Part 95 Identification of Filings

Identifying information, including the organization or entity name and, if applicable, the registration number must be placed on all correspondence and other documents, including payments, submitted to the Charities Bureau.

Part 96 Documents Filed with the Attorney General are Subject to Public Inspection

96.1 Public Documents

Unless otherwise exempt from disclosure pursuant to state or federal law, registrations, filings and other documents required to be filed pursuant to EPTL section 8-1.4 and/or Article 7-A become public records of the Attorney General.

96.2 Inspection of Public Documents

Copies of all registrations, filings and other documents filed with the Attorney General and not exempt from disclosure pursuant to state or federal law shall be open to public inspection subject to the following requirements:

- (a) A request for inspection shall indicate the name and address of the person seeking the inspection and shall be submitted in writing on form CHAR007 (Freedom of Information Law (FOIL) Request Form) to the New York State Attorney General, Charities Bureau, Attn: FOIL Officer, 120 Broadway, 3rd floor, New York, NY 10271 or by email to Charities.FOIL@oag.state.ny.us or such other address or email address as the Attorney General may designate;
- (b) Such inspection shall be subject to the applicable provisions of Article 6 of the Public Officers Law;
- (c) Such inspection shall at all times be subject to the supervision and control of the Attorney General or the Attorney General's assistants;
- (d) The Attorney General is authorized to charge a reasonable fee for copying and postage; and

(e) Filings may be inspected, by prior appointment, at the offices of the Charities Bureau during regular business hours or will be mailed or emailed to the requestor upon payment of all copying and postage fees.

Part 97 Administrative Enforcement by the Attorney General

97.1 Procedures Applicable to Administrative Proceedings Commenced by the Attorney General Pursuant to Article 7-A Section 177

(a) **Violations Under the Attorney General’s Administrative Jurisdiction.** Upon a finding by the Attorney General that any person has committed or is committing a violation of Article 7-A, by engaging in activities prohibited under Section 172-d that are subject to the administrative remedies of Section 177, or by failing to comply with the reporting requirements set forth in Section 172-b, the Attorney General may impose the administrative remedies listed in section 97.2 of this Part.

97.2 Remedies in Attorney General’s Administrative Proceeding

(a) Upon a finding of a violation of Article 7-A, the Attorney General may:

(1) revoke, suspend or deny a registration of a charitable organization, professional fund raiser, professional solicitor or fund raising counsel or issue an order directing a charitable organization, professional fund raiser, professional solicitor or fund raising counsel to cease and desist specified fund raising activities; and

(2) assess a civil penalty in an amount authorized by Article 7-A Section 177.

97.3 Notice of Violation

(a) The Attorney General shall, before revoking, suspending or denying any registration or exemption, or issuing a cease and desist order, or assessing a civil penalty, notify the respondent in writing and provide an opportunity for a hearing in accordance with Article 7-A Section 177 and this Chapter.

(b) The notice shall consist of a statement of the charges and shall be served by personal delivery or by registered or certified mail to the last known business address of the respondent.

(c) If, within thirty days of the date of mailing of the notice of violation, the violation is cured, the respondent may be entitled to waiver of any civil penalty, as provided under Article 7-A Section 177.2(b).

97.4 Requests for Hearings

(a) Hearings shall be conducted in accordance with articles three and five of the New York State Administrative Procedure Act (“SAPA”) and in accordance with 19 NYCRR Part 400.

(b) A hearing must be requested within twenty days after receipt of notice from the Attorney General.

(c) A hearing shall take place within thirty days of the receipt of the request by the Attorney General.

(d) Should the respondent not request a hearing, the Attorney General may impose the administrative remedies described in section 97.2 of this Part.

97.5 Notice of Hearing

(a) A hearing shall be held at a time and place designated by the Attorney General.

(b) The Attorney General shall notify the respondent in writing of the time and place of the hearing.

The notice may be served by personal delivery or by registered or certified mail to its last known business address.

(c) Every notice of hearing shall be served with a copy of articles three and five of SAPA, 1 NYCRR Part 400 and this Chapter.

(d) The notice shall include:

- (1) a statement of the time, place and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction for the hearing;
- (3) the sections of the statutes or rules and regulations involved;
- (4) a statement of the facts asserted; and
- (5) a statement that free interpreter services will be made available.

97.6 Administrative Hearing Officers

All hearings shall be conducted by administrative law judges (“hearing officers”) appointed by the Attorney General or the Attorney General’s designee. The hearing officer shall be an attorney who has not worked on or otherwise become familiar with the facts of the matter in issue, and shall exercise his or her judgment independently and impartially.

97.7 Adjournments

(a) Adjournments must be requested by written affidavit sent to the hearing officer no later than three business days before the scheduled date of the hearing. The affidavit should contain sufficient details to explain the reason for the request.

(b) Adjournments will be granted only for good cause.

(c) No more than two adjournments will be granted.

97.8 Subpoenas

(a) Subpoenas may be issued by the hearing officer, the Attorney General or any attorney for a party who is a member of the New York Bar.

(b) Subpoenas shall be served in accordance with the Civil Practice Law and Rules.

97.9 Conduct of the Hearing

(a) A hearing officer designated by the Attorney General shall conduct the hearing.

(b) The hearing officer may regulate the conduct of the hearing, require witnesses to attend the hearings, take proof and make relevant factual determinations.

(c) The respondent may appear at the hearing, cross examine witnesses and produce evidence on his or her own behalf. Should the applicant fail to appear at the hearing, the hearing officer shall hear the evidence given by the Attorney General and make his or her findings and recommendations on the basis of that evidence.

(d) The proceeding may be resolved by stipulation, consent order or default of any respondent.

97.10 Representation

Any respondent who requests a hearing or is compelled to appear before the Attorney General has the right to be represented by counsel or a non-lawyer representative.

97.11 Evidence

(a) Strict rules of evidence do not apply.

(b) In order to expedite the hearing, the hearing officer may permit all or part of the evidence to be submitted in written form.

(c) The Attorney General shall have the burden of proving the violation by a preponderance of the evidence.

(d) A party has the right to cross examine witnesses.

(e) Objections to evidence may be made and shall be noted in the record.

97.12 Record

(a) The hearing officer shall make a complete record of the proceeding by whatever means he or she deems appropriate, including but not limited to, stenographic transcription or recording devices.

(b) The record shall include:

(1) records and documents in the Attorney General's possession relevant to the initial findings under Article 7-A;

(2) notices, pleadings, motions and all rulings by the hearing officer;

(3) evidence presented;

(4) questions, offers of proof and objections;

(5) findings of fact and conclusions of law; and

(6) the decision or determination.

(c) If requested, the Attorney General shall prepare the record and any transcript of the proceedings within a reasonable time after the decision, but before the commencement of time for judicial review, and provide a copy to any party.

97.13 Costs

The Attorney General may charge for the costs incurred in preparing and providing copies of the record.

97.14 Motions

(a) A motion to dismiss the statement of charges for failure of proof may be made at the conclusion of the Attorney General's case.

(b) The hearing officer may:

(1) grant the motion;

(2) deny the motion and continue the hearing; or

(3) reserve making a decision on the motion and continue the hearing.

(c) Denial of the motion by the hearing officer is not appealable because it is not a final decision on the merits.

97.15 Findings of Fact

(a) Any party may submit written proposed findings of fact to the hearing officer within the time frames set by the hearing officer. The hearing officer will rule on each finding of fact.

(b) Findings of fact must be based on the evidence.

97.16 Time Periods

(a) Every adjudicatory proceeding must be completed within one hundred fifty days of the date of the hearing stated in the notice of hearing. A request for an adjournment extends the time period by the length of time the adjournment is granted.

(b) Prior to the expiration date, the Attorney General or the hearing officer may extend the time period for no longer than an additional one hundred twenty days by a written determination mailed to all parties that the proceeding cannot be completed within one hundred fifty days and the reasons for the extension.

97.17 Final Determinations and Orders

(a) The hearing officer shall make a final determination within ten days of the conclusion of the hearing.

(b) The hearing officer shall make his or her determination or order in writing after consideration of the entire record and as supported by substantial evidence. Substantial evidence means such proof as a reasonable person may accept as adequate to support a decision and constitutes a rational basis for the decision.

(c) The determination shall contain findings of fact and conclusions of law or reasons for the decision.

(d) The Attorney General shall serve a copy of such determination or order upon the respondent personally or by registered or certified mail to the last known business address, or to the attorney of record.

(e) The Attorney General shall maintain an index of all final written decisions by name and subject area.

97.18 Stay of the Decision or Order

(a) After the decision and before filing an appeal from the decision, any party may immediately apply to the Attorney General for a stay pending a decision on an appeal.

(b) The application must be in writing, based on evidence in the record and served on opposing parties, who can rebut the application in writing within two business days of receipt.

(c) The Attorney General's designee shall promptly decide the application.

97.19 Administrative Appeal from the Decision or Order

(a) Within thirty calendar days of receipt, any of the parties may appeal from the decision or order revoking, suspending or denying any registration or exemption, or issuing a cease and desist order or assessing a civil penalty, by filing with the individual designated by the Attorney General to hear administrative appeals, and serving on the other party or parties, a written memorandum stating the appellant's arguments.

(b) The memorandum should identify the part or parts of the decision to which the appellant is objecting, state the grounds for the objection and identify the portions of the record supporting the objection.

(c) The party served with the appeal may file and serve a memorandum in opposition and a cross-appeal within thirty days after service of the appeal. A response to a cross-appeal may be filed and served within fifteen days after service of the cross-appeal.

(d) The record on appeal shall consist of the transcript of the hearing, the evidence admitted at the hearing and the memoranda.

(e) The individual designated by the Attorney General to hear and decide administrative appeals may make a final written determination:

(1) confirming the decision;

- (2) vacating the decision with an explanation of the basis for vacating the decision; or
- (3) sending the matter back to the hearing officer for further proceedings.

97.20 Judicial Appeal from the Final Administrative Determination

Within one hundred twenty days after the final determination, a party may appeal from the final determination by commencing a proceeding for judicial review under Article 78 of the New York State Civil Practice law and Rules.

Part 98 Civil Enforcement by the Attorney General

This Chapter shall not prohibit the Attorney General from initiating any civil action or proceeding authorized by law for failure to register and/or file reports pursuant to, and/or comply with, any provision of EPTL Article 8 or Article 7-A, any other law or the common law.

Part 99 Criminal Enforcement by the Attorney General

(a) This Chapter shall not prohibit the Attorney General from initiating any criminal action authorized by law for failure to register and/or file reports pursuant to, and/or comply with, any provision of EPTL Article 8 or Article 7-A, any other law or the common law.

(b) Any person who swears falsely to any document required by this Chapter to be signed under penalties for perjury may be guilty of a crime under the New York Penal Code.

(c) Any provision of Article 7-A, violation of which is designated a misdemeanor without specification of classification, is a class A misdemeanor. See Penal Law section 55.10.2(b).