

CHARITABLE ORGANIZATIONS, PAID SOLICITORS, AND TELEPHONIC SELLERS:
NOTICE OF PROPOSED REGULATIONS CHANGES
DEPARTMENT OF LAW

BRIEF DESCRIPTION

The Department of Law proposes changes to regulations dealing with the registration of charitable organizations, paid solicitors, and telephonic sellers.

The Department of Law (Department) proposes the following changes to regulations in Title 9 of the Alaska Administrative Code, dealing with the registration of charitable organizations, paid solicitors, and telephonic sellers:

- (1) **9 AAC 12.010. Charitable registration statement** will be changed to list the information charitable organizations will be required to provide in a registration or renewal statement. The regulation requires charitable organizations to provide some new information, eliminates some previously required attachments, and eliminates the use of the Unified Registration Statement (URS) in order to facilitate electronic filing. The regulation also clarifies when a registration statement will not be accepted and who has authority to sign a registration statement.
- (2) **9 AAC 12.020. Paid Solicitor registration statement** will be changed to list the information paid solicitors will be required to provide in a registration or registration renewal statement, including some new information. The regulation clarifies when a registration statement will not be accepted and who has the authority to sign a registration statement.
- (3) **9 AAC 12.065. Paid Solicitor financial report** will be changed to list the information paid solicitors will be required to provide in a paid solicitor financial report.
- (4) **9 AAC 12.890. Electronic filing and signatures** will be a new section that allows charitable organizations and paid solicitors to electronically submit and sign any filing required under AS 45.68 or 9 AAC 12.
- (5) **9 AAC 14.010. Registration of telephonic sellers** will be changed to list the information telephonic sellers will be required to provide in a notice of intent to engage in a telephonic solicitation campaign. The regulation includes new sections describing what a seller must attach to the notice if the seller does not use a script, and what must be included in a sample contract required under AS 45.63.020. The regulation clarifies when a registration statement will not be accepted by the Department.
- (6) **9 AAC 14.030. Confirmation of information** will repeal the requirement that the Department send confirmation of receipt of a notice of intent to engage in a telephonic solicitation campaign.
- (7) **9 AAC 14.050. Affiliated entities** will be a new section that eliminates the requirement that telephonic sellers and their agents submit separate registration forms.

- (8) **9 AAC 14.890. Electronic filing and signatures** will be a new section that allows telephonic sellers to electronically submit and sign any filing required under AS 45.63 or 9 AAC 14.
- (9) **9 AAC 14.900(a)(1)** will be changed to replace the term “affiliated company” with “affiliated entity,” and revises the definition of affiliated entity.
- (10) **9 AAC 14.900(a)(3)** dealing with the definition of “parent company” will be repealed because the term will no longer be used in 9 AAC 14.
- (11) **9 AAC 14.900(a)(5)** will be a new paragraph clarifying that “telephonic seller” has the same meaning given “telephone seller” in AS 45.63.100.
- (12) **9 AAC 14.900(b)** dealing with the definition of “property or services” will be changed to correct the reference to AS 45.63.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Davyn Williams, Assistant Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, AK 99501. Additionally, the Department will accept comments by facsimile at (907) 276-8554 and by electronic mail at davyn.williams@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. **The comments must be received no later than 4:30 PM on Friday, January 15, 2016.**

You may submit written questions relevant to the proposed action to Davyn Williams, Assistant Attorney General, Department of Law, 1031 W. 4th Avenue, Suite 200 or by electronic mail at davyn.williams@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and response available on the Department’s website www.law.alaska.gov/consumer or on Alaska Online Public Notice System. The Department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Davyn Williams, Assistant Attorney General at (907) 269-5200 no later than Friday, January 7, 2016 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Davyn Williams at the address above, or at davyn.williams@alaska.gov or (907) 269-5200, or go to www.law.alaska.gov/consumer.

After the public comment period ends, the Department will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

Statutory Authority: AS 09.80.150, AS 45.63.100, AS 45.63.150, AS 45.68.010, AS 45.68.020, AS 45.68.055, AS 45.63.090, AS 45.68.130

Statutes Being Implemented, Interpreted, or Made Specific: AS 09.80.150, AS 45.63.010, AS 45.63.090, AS 45.63.100, AS 45.63.150, AS 45.68.010, AS 45.68.020, AS 45.68.055, AS 45.68.080, AS 45.68.130

CHARITABLE ORGANIZATIONS, PAID SOLICITORS, AND TELEPHONIC SELLERS
ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Law
2. General subject of regulation: Registration of Charitable Organizations, Paid Solicitors, and Telephonic Sellers.
3. Citation of regulation: 9 AAC 12.010, 9 AAC 12.020, 9 AAC 12.065, 9 AAC 12.890, 9 AAC 14.010, 9 AAC 14.030, 9 AAC 14.050, 9 AAC 14.890, 9 AAC 14.900(a)(1), 9 AAC 14.900(a)(3), 9 AAC 14.900(a)(5), and 9 AAC 14.900(b)
4. Department of Law file number, if any: JU2013200876
5. Reason for the proposed action:
 - Compliance with federal law or action
 - Compliance with new or changed state statute
 - Compliance with Federal or state court decision
 - Development of program standards
 - Other: Update and clarification of current regulations
6. Appropriation/Allocation: Law
7. Estimated annual costs in the aggregate to comply with the proposed action to:
 - Private Persons: There are no costs to private persons through this action because no changes are made to the annual registration fee for charitable organizations, paid solicitors, or telephonic sellers.
 - Other State Agencies: None
 - Municipalities: None
8. Cost of implementation to the state agency and available funding (in thousands of dollars):
No costs are expected for 2015 or subsequent years.
9. The name of the contact person for the regulations:

Davyn Williams, Assistant Attorney General
Department of Law, Civil Division
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501

Telephone: (907) 269-5200
Email Address: davyn.williams@alaska.gov

Title 9. Law

Chapter 12. Charitable Solicitation

9 AAC 12.010 is repealed and readopted to read:

9 AAC 12.010. Charitable organization registration statement. (a) To file a registration statement or registration renewal statement, a charitable organization must use a registration statement or registration renewal statement on a form or in a format issued by the department. Information provided on the statement must include

(A) the full legal name and federal taxpayer identification number of the charitable organization;

(B) the charitable organization's mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address;

(C) the names under which the charitable organization does business or solicits contributions;

(D) the place where, and the date when, the charitable organization was established or incorporated, and the type of organization;

(E) the charitable organization's tax exempt status with the United States Internal Revenue Service and whether the organization's tax exempt status has ever been denied, revoked or modified;

(F) the names and addresses of the members of the charitable organization's governing body, including officers, directors, trustees, and principal

employees;

(G) the general purposes for which the charitable organization is organized and for which contributions are solicited;

(H) the methods by which the charitable organization solicits contributions;

(I) the names and addresses of any paid solicitors that solicit contributions on behalf of the charitable organization;

(J) the dates on which the accounting or fiscal year of the charitable organization begin and end;

(K) a statement containing financial information for the charitable organization's most recent fiscal or accounting year; the statement must include

- (i) the total dollar value of revenue received from all sources; and,
- (ii) total expenditures;

(L) a list of other states where the charitable organization is registered to solicit contributions; and

(M) a statement explaining whether the charitable organization has ever been enjoined or prohibited by a government agency or court in any state or jurisdiction from soliciting contributions.

(b) If the department considers submission of the information necessary to verify information provided on the registration statement or registration renewal statement or to review the charitable organization's compliance with AS 45.68 and this chapter, and on the department's request, the charitable organization shall provide a complete copy of

(1) the most recent Form 990, Form 990-N, Form 990-EZ, Form 990 PF and Form 990T that the charitable organization filed with the United States Internal Revenue Service, including all schedules and statements; however, a charitable organization that files Form 990 or Form 990-EZ is not required to provide Schedule B in response to a request made under this subsection;

(2) the charitable organization's most recent audited financial statement; and

(3) any contract or written agreement between the charitable organization and any paid solicitor identified in the registration statement or registration renewal statement.

(c) An authorized employee of the charitable organization or member of the organization's governing body must sign the registration statement or registration renewal statement.

(d) The department will not accept a registration statement or registration renewal statement from a charitable organization if

(1) the statement is not complete;

(2) the statement contains material misrepresentations or false information;

(3) the statement is not legible;

(4) an authorized employee of the charitable organization or member of the organization's governing body has not signed the statement; or

(5) the charitable organization has not complied with requirements of AS 45.68.010 or this section.

(e) A charitable organization registration or registration renewal is complete for purposes of AS 45.68.010 on the date the department sends notice to the charitable organization that the

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registration is complete.

(f) Nothing in this section relieves a charitable organization of the obligation to provide documents to the department under AS 44.23, AS 45.50, AS 45.62, AS 45.63, or another provision of law. (Eff. 3/19/94, Register 129; am 8/6/2006, Register 179; am ___/___/___, Register ____)

Authority: AS 45.68.010 AS 45.68.020 AS 45.68.130

Editor's note: [THE UNIFIED REGISTRATION STATEMENT (URS) FOR CHARITABLE ORGANIZATIONS AND] the Department of Law's **registration form** [STATE OF ALASKA, CHARITABLE ORGANIZATION ANNUAL REGISTRATION FORM, ADOPTED BY REFERENCE IN 9 AAC 12.010, ARE] **is** available from the Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: **<http://www.law.alaska.gov/departments/civil/consumer/charityreg.html>** [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12.020 is repealed and readopted to read:

9 AAC 12.020. Paid solicitor registration statement. (a) To file a registration statement or registration renewal statement, a paid solicitor must use a registration statement or registration renewal statement on a form or in a format issued by the department. Information provided on the statement must include

- (1) the full legal name of the paid solicitor;
- (2) the paid solicitor's mailing address, physical address, telephone number,

facsimile number, electronic mail address, and Internet address;

(3) any additional addresses that the paid solicitor uses to solicit contributions in this state;

(4) the names under which the paid solicitor does business or solicits contributions;

(5) the place where, and the date when, the paid solicitor was established or incorporated, and the type of organization;

(6) the names and addresses of the paid solicitor's owners, officers, directors, and principal employees;

(7) the names, addresses, electronic mail addresses, and telephone numbers of individuals responsible for the activities of the paid solicitor in this state;

(8) a list of other states where the paid solicitor is registered to solicit contributions;

(9) the methods by which the paid solicitor solicits contributions; and

(10) a statement explaining whether

(A) the paid solicitor has ever been enjoined or prohibited by a government agency or court in any state or jurisdiction from soliciting contributions; and

(B) the paid solicitor or any of its owners, officers, directors, or principal employees has ever been convicted of a crime involving charitable solicitations in any state or jurisdiction.

(b) A paid solicitor registration statement must be signed by

(1) the paid solicitor; or

(2) an authorized owner, officer, director, or employee of the paid solicitor, if the paid solicitor is an organization.

(c) The department will not accept a registration statement or registration renewal statement from a paid solicitor if

(1) the statement is not complete;

(2) the statement contains material misrepresentations or false information;

(3) the statement is not legible;

(4) the statement is not signed by

(A) the paid solicitor; or

(B) an authorized owner, officer, director, or employee of the paid solicitor, if the paid solicitor is an organization; or

(5) the paid solicitor has not complied with requirements of AS 45.68.010 or this section.

(d) A paid solicitor registration or registration renewal is complete for purposes of AS 45.68.010 on the date the department sends notice to the paid solicitor that the registration is complete. (Eff. 3/19/94, Register 129; am 8/6/2006, Register 179; am ___/___/____, Register ___)

Authority: AS 45.68.010 AS 45.68.130

Editor's note: The Department of Law's registration form [STATE OF ALASKA, PAID SOLICITOR FOR CHARITABLE ORGANIZATION ANNUAL REGISTRATION STATEMENT, ADOPTED BY REFERENCE IN 9 AAC 12.020,] is available from the

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Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: <http://www.law.alaska.gov/department/civil/consumer/charityreg.html> [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12.065 is repealed and readopted to read:

9 AAC 12.065. Paid solicitor financial report. (a) To file a financial report required under AS 45.68.055, a paid solicitor must submit the report on a form or in a format issued by the department. Information provided in the report must include

- (1) the name of the paid solicitor as registered with the department;
- (2) the name of the charitable organization;
- (3) the start and end dates of the fundraising campaign;
- (4) the dates covered by the report;
- (5) the total gross receipts from residents of this state during the time period

covered by the report; and

(6) the distribution of gross receipts from the fundraising campaign in this state during the time period covered by the report, including itemized lists of expenses, commissions and other costs, and the net amount paid to the charitable organization.

(b) The department will not accept a paid solicitor financial report that is not complete, is not signed, is not legible, or does not comply with the requirements of AS 45.68.055 or this section. (Eff. 8/6/2006, Register 179; am ___/___/___, Register ___)

Authority: AS 45.68.010 AS 45.68.055 AS 45.68.130

Editor's note: The Department of Law's **paid solicitor financial report form** [STATE OF ALASKA, PAID SOLICITOR FOR CHARITABLE ORGANIZATION SOLICITATION CAMPAIGN FINANCIAL REPORT, ADOPTED BY REFERENCE IN 9 AAC 12.065,] is available from the Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: **http://www.law.alaska.gov/department/civil/consumer/charityreg.html** [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12 is amended by adding a new section to read:

9 AAC 12.890. Electronic filing and signatures. A filing required under AS 45.68 or this chapter may be filed electronically in a manner and format that the department prescribes, if the department makes electronic filing available. The department may accept an electronic signature on an electronic record that is filed with the department and that requires a signature under AS 45.68 or this chapter in accordance with AS 09.80.150. (Eff. ___/___/___, Register ___)

Authority: AS 09.80.150 AS 45.68.020 AS 45.68.130
AS 45.68.010 AS 45.68.055

Chapter 14. Telephonic Sellers.

9 AAC 14.010 is repealed and readopted to read:

9 AAC 14.010. Registration of telephonic sellers. (a) To register, a telephonic seller

must file a notice of intent to engage in a telephonic solicitation campaign on a form or in a format issued by the department. Information provided in the notice must include

- (1) the telephonic seller's full legal name and the names by which it does business;
- (2) the telephonic seller's mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address;
- (3) any additional addresses and telephone numbers from which the telephonic seller will solicit sales;
- (4) the form of the telephonic seller's organization and when and where it was incorporated or legally established;
- (5) the identity and contact information for the principals, officers, owners, and managers of the telephonic seller;
- (6) a detailed description of the goods or services to be offered in the telephonic solicitation campaign;
- (7) the mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address for any affiliated entity;
- (8) the form of the affiliated entity and when and where it was incorporated or legally established;
- (9) a list of other states where the telephonic seller is registered to conduct telephonic sales;
- (10) a list of states where the telephonic seller's registration to conduct telephonic sales has been denied, suspended, or revoked;

(11) information about criminal convictions, civil judgments, orders, consent decrees, bankruptcy proceedings, and administrative determinations relating to the telephonic seller or its principals, officers, owners, or managers; and

(12) a statement describing how the telephonic seller will comply with AS 45.50.475(a)(2) - (4).

(b) With the notice of intent the telephonic seller must submit documents related to the solicitation campaign as requested by the department, including

(1) the script containing the required representations under AS 45.63.045;

(2) if the telephonic seller does not require its salespeople to use a script,

(A) the outline, materials, or information that the telephonic seller uses or refers to when contacting the buyer; and

(B) a statement describing how the telephonic seller will comply with AS 45.63.045;

(3) a sample of the written contract required under AS 45.63.020, including

(A) the notice of the rights of the buyer under AS 45.63.030(a); and

(B) the information required in 9 AAC 14.040; and

(4) copies of promotional materials associated with the telephonic solicitation campaign.

(c) The principals, owners, officers, managers, or other individuals with similar ownership or supervisory responsibilities must sign the notice of intent, and certify under the penalty of unsworn falsification under AS 11.56.210 that the information provided is true and correct.

- (d) The department will not accept a notice of intent from a telephonic seller if
- (1) the notice of intent is not complete;
 - (2) the notice of intent or accompanying documents contain material misrepresentations or false information;
 - (3) the information provided is not legible;
 - (4) the appropriate representatives of the telephonic seller have not signed the notice of intent; or
 - (5) the telephonic seller has not complied with requirements of AS 45.63.010 or this section.
- (e) A registration is complete for purposes of AS 45.63.010 on the date the department sends an acknowledgement to the telephonic seller that the telephonic seller has complied with AS 45.63.010.
- (f) Nothing in this section relieves a telephonic seller of the obligation to provide documents to the department under AS 44.23, AS 45.50, or another provision of law. (Eff. 3/19/94, Register 129; am ___/___/___, Register ____)

Authority: AS 45.63.010 AS 45.63.090

Editor's note: The Department of Law's Notice of Intent to Engage in Telephonic Solicitations is available from the [THE ADDRESS FOR FILING THE TELEPHONIC SELLER'S REGISTRATION FORM OR OBTAINING INFORMATION ABOUT THOSE FORMS IS THE ALASKA] Department of Law, [FAIR BUSINESS PRACTICES SECTION] 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet

address: <http://www.law.alaska.gov/department/civil/consumer/telemarketingreg.html>.

9 AAC 14.030 is repealed.

9 AAC 14.030. Confirmation of information. Repealed. (Eff. 3/19/94, Register 129; repealed ___/___/___, Register ____)

9 AAC 14.050 is repealed and readopted to read:

9 AAC 14.050. Affiliated entities. If a telephonic seller is conducting a solicitation campaign for an affiliated entity, the telephonic seller is exempt to the same extent under AS 45.63.080 as the affiliated entity would be if the affiliated entity were directly conducting the solicitation campaign. (Eff. 3/19/94, Register 129; am ___/___/___, Register ____)

Authority: AS 45.63.080 AS 45.63.090

9 AAC 14 is amended by adding a new section to read:

9 AAC 14.890. Electronic filing and signatures. A filing required under AS 45.63 or this chapter may be filed electronically in a manner and format that the department prescribes, if the department makes electronic filing available. The department may accept an electronic signature on an electronic record that is filed with the department and that requires a signature under AS 45.63 or this chapter in accordance with AS 09.80.150. (Eff. ___/___/___, Register ____)

Authority: AS 09.80.150 AS 45.63.010 AS 45.63.090

9 AAC 14.900(a)(1) is amended to read:

(1) "affiliated **entity** [COMPANY]" means any **individual or entity** [COMPANY] that will engage **or attempt to engage** in [BUSINESS] transactions with buyers relating to **the telephonic solicitation campaign** [SALES SOLICITED BY THE TELEPHONIC SELLER], or **that is responsible** [WHICH ACCEPTS RESPONSIBILITY] for the acts or statements made by the telephonic seller relating to **the telephonic solicitation campaign** [SALES MADE OR SOLICITED BY THE TELEPHONIC SELLER];

9 AAC 14.900(a)(3) is repealed:

(3) repealed ___/___/___;

9 AAC 14.900(a) is amended by adding a new paragraph to read:

(5) "telephonic seller" has the meaning given "telephone seller" in AS 45.63.100.

The introductory language of 9 AAC 14.900(b) is amended to read:

(b) In **AS 45.63** [AS 45.] and [IN] this chapter, the sale of "property or services" does not include a transaction [:]

...

(Eff. 3/19/94, Register 129; am ___/___/___, Register ____)

Authority: AS 45.63.010 AS 45.63.090 AS 45.63.100