

13-22-9 Professional fund raiser's or fund raising counsel's or consultant's permit.

- (1) It is unlawful for any person or entity to act as a professional fund raiser or professional fund raising counsel or consultant, whether or not representing an organization exempt from registration under Section 13-22-8, without first obtaining a permit from the division by complying with all of the following application requirements:
 - (a) pay an application fee as determined under Section 63J-1-504; and
 - (b) submit a written application, verified under oath, on a form approved by the division that includes:
 - (i) the applicant's name, address, telephone number, facsimile number, if any;
 - (ii) the name and address of any organization or person controlled by, controlling, or affiliated with the applicant;
 - (iii) the applicant's business, occupation, or employment for the three-year period immediately preceding the date of the application;
 - (iv) whether it is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;
 - (v) the names and residence addresses of any officer or director of the applicant;
 - (vi) the name and address of the registered agent for service of process and a consent to service of process;
 - (vii) if a professional fund raiser:
 - (A) the purpose of the solicitation and use of the contributions to be solicited;
 - (B) the method by which the solicitation will be conducted and the projected length of time it is to be conducted;
 - (C) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and any other items;
 - (D) a statement of what percentage of the contributions collected as a result of the solicitation are projected to remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of the flat fee; and
 - (E) a statement of total contributions collected or received by the professional fund raiser within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;
 - (viii) if a professional fund raising counsel or consultant:
 - (A) the purpose of the plan, management, advice, counsel or preparation of materials for, or respect to the solicitation and use of the contributions solicited;
 - (B) the method by which the plan, management, advice, counsel, or preparation of materials for, or respect to the solicitation will be organized or coordinated and the projected length of time of the solicitation;
 - (C) the anticipated expenses of the plan, management, advice, counsel, or preparation of materials for, or respect to the solicitation, including all commissions, costs of collection, salaries, and any other items;
 - (D) a statement of total fees to be earned or received from the charitable organization declared in the application, and what percentage of the contributions collected as a result of the plan, management, advice, counsel, or preparation of materials for, or respect to the solicitation are projected after deducting the total fees to be earned or received remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected

- anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of such flat fee; and
- (E) a statement of total net fees earned or received within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use of the net earned or received fees in the planning, management, advising, counseling, or preparation of materials for, or respect to the solicitation and use of the contributions solicited for the charitable organization;
 - (ix) disclosure of any injunction, judgment, or administrative order against the applicant or the applicant's conviction of any crime involving moral turpitude;
 - (x) a copy of any written agreements with any charitable organization;
 - (xi) the disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the applicant;
 - (xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds;
 - (xiii) an acknowledgment that fund raising in the state will not commence until both the professional fund raiser or professional fund raising counsel or consultant and the charity, and its parent foundation, if any, are registered and in compliance with this chapter; and
 - (xiv) any additional information the division may require by rule.
- (2) If any information contained in the application for a permit becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.
- (3) In addition to the permit fee, an applicant failing to file a permit application or renewal by the due date or filing an incomplete permit application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the permit application or renewal were due to be filed.

Amended by Chapter 124, 2013 General Session