



*This article presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **Charitable Solicitation Registration in Georgia**

Most charitable organizations try to raise money for their causes (i.e. solicit donations). In the state of Georgia (and in most other states), certain organizations that solicit donations must register their activities with the state. The reason for this registration stems from those bad apples that pretend to do charitable activities, con Georgians into giving them money, and then use the money for their own benefit. The state of Georgia wants to make sure that Georgians are not defrauded.

The Georgia Charitable Solicitations Act of 1988 (the “Act”) regulates the solicitation and collection of charitable contributions in Georgia. Most organizations and individuals that solicit contributions from Georgia citizens for charitable purposes are required to register with the Secretary of State, and to disclose financial information and other facts relating to the organization.

This article provides an overview of the application process, exemptions, and penalties under the Act. If you need more information, please visit the [Charitable Organization Registration section of the Secretary of State website](#) or seek legal advice from an attorney.

### **A. Definitions under the Act:**

- **Solicitation:** the request or acceptance directly or indirectly of money, credit, property, financial assistance, or any other thing of value to be used for any charitable purpose.
- **Charitable organizations:** any benevolent, philanthropic, patriotic or such associated group or person who solicits or obtains contributions from the general public, any part of which is used for charitable purposes. The term charitable organizations does not include religious organizations which are defined as:
  - *Religious Organization:* an entity that (a) conducts regular worship services; or (b) is qualified as a religious organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) that is not required to file IRS Form 990 under any circumstances.

## B. Who has to register under the Georgia Charitable Solicitations Act?

- 1) **Charitable organizations** that solicit funds in Georgia, as per the definitions above.
  - Exceptions: There are certain categories of organizations that are exempt from registering for solicitation of funds. Below is a partial list of exemptions that may apply to nonprofits. For a complete list, visit the [Charitable Organization Registration section of the Secretary of State website](#). Remember that it is the organization's responsibility to claim and prove its entitlement to exemption.
    - *Educational organizations* - institutions and those organizations, foundations, associations, corporations, charities, and agencies operated, supervised, or controlled by or in connection with a nonprofit educational institution, provided that those organizations are recognized under Section 501(c)(3) of the Code and are public charities under §170(b)(1)(A)(ii) of the Internal Revenue Code.
    - *Named Individuals* - persons requesting any contribution for the relief of any other individual who is specified by name at the time of the solicitation if all the contributions collected, without any tax deductions whatsoever, are turned over to the named beneficiary. If contributions exceed \$5,000, a written accounting of funds may be required.
    - *\$25,000 Exemption* - any charitable organization which does not have any agreement with a paid solicitor and whose total revenue has been less than \$25,000 for both the immediately preceding and current calendar years.
    - *Multi-Level Organizations* - local community and state-wide organizations affiliated with or acting on behalf of a registered or exempt state-wide or national parent organization by contract or agreement where such state-wide or national parent organization has incorporated such local community and state-wide organization activities into their registration.
- 2) **Paid Solicitors**: someone who is hired by a charity to collect solicitations. A salaried officer, employee, or volunteer of a charitable organization is not considered to be a Paid Solicitor. Paid Solicitors must have a written contract with a specified compensation and must file a bond with the state.
  - Note that a Fundraising Counsel is not considered to be a Paid Solicitor and is therefore not required to register with the Secretary of State unless he or she has custody of control of contributions at any time.
  - *Fundraising Counsel*: someone who is paid to plan, advise, consult, or prepare material for a solicitation of charitable contributions. This person does not actually fundraise but comes up with ideas and plans for fundraising.

- 3) **Solicitor Agent:** someone who works for a Paid Solicitor, is paid for his services and is not an already existing officer or volunteer of the charitable organization.

### **C. Registration, Fees & Schedule for Charitable Organizations:**

Charitable organizations that solicit funds in or from Georgia residents must register with the Secretary of State unless they are exempt from registration as set forth under the Act. The initial filing fee is \$35 and must be submitted along with [application C-100](#). Mark the “Initial Application” box, if this is the first time applying for registration, or the “Reinstatement” form, if your prior registration has expired. Include the Execution Page, making sure that it is manually signed by an authorized agent and notarized.

Amendments to the application must be made within 30 days of any material change in operations of the organization. To file an amended registration, use the application C-100, mark the “Amendment” box on the first page, and circle the section of the form that you are amending. Attach any documentation necessary to prove the changes, and include the Execution Page. There is no fee to file an Amendment.

The registration will be valid for a period of 24 months from its effective date and must be renewed on or before the expiration date. Renewal may be made up to 90 days prior to the expiration date of the current registration. Renewing early will help avoid missing the deadline and losing the registration.

A renewal notice is mailed to the organization in the month prior to its expiration date. (Note: the applicant is responsible of filing its renewal whether or not the notice is received.) The notice should be signed and returned with the requested attachments, including financial statements (see section [Financial Disclosures](#) below) and the renewal fee of \$20. For additional time to file financial statements, send a written request with your renewal form and fee. The request must include the reason for the delay and when you expect to have the statements completed and filed. There is no extension available for submitting the renewal form and fee.

If an organization’s registration expires, the C-100 application and \$35 are required to reinstate the registration.

### **D. Financial Disclosures for Charitable Organizations:**

If the organization has received or collected any charitable contributions, IRS Form 990 for the previous two taxable years must be attached to the C-100 application along with financial statements as set forth below:

- Organizations that received or collected more than \$1,000,000 in its preceding fiscal year: Must file a financial statement for that year that has

been prepared by an independent certified public accountant and shall be a certified financial statement of the charitable organization or a certified consolidated financial statement of the charitable organization and its subsidiaries.

- Organizations that received or collected more than \$500,000 but less than \$1,000,000 in its preceding fiscal year: Must file a financial statement for that year that has been reviewed by an independent certified public accountant and such certified public accountants review report, prepared in accordance with generally accepted accounting principles.
- Organizations that received or collected less than \$500,000 in its preceding fiscal year: Must file financial statements for that year. The financial statements do not have to be reviewed or certified.
- If the charitable organization has received less than the amount required by the IRS to file Form 990 or Form 990-EZ, financial statements that disclose the income and expenses for the fiscal years will be acceptable.
- If the charitable organization is newly formed and has not received charitable contributions, a signed statement from an officer of the organization attesting to the financial status of the organization will be accepted in lieu of financial statements.

#### **E. Charitable Solicitation Disclosure Requirements**

At the time of solicitation, a charitable organization is required to disclose its name and location and state that a full description of the charitable program and financial statement will be sent upon request. For example, in addition to listing the organization's name and address on all solicitation materials, the organization can say:

- "We will be happy to provide a full description of our program and/or a financial statement upon request." OR
- "For a full description of our program click here [insert link to description on organization's website] and for a copy of our financial statement click here [insert link to financial statements on organization's website or to organization's page on Guidestar]."

Note that if a charitable organization has collection receptacles, there are specific disclosure rules that apply depending upon who actually owns the receptacles.

#### **F. Penalties for Non-Compliance for Charitable Organizations:**

If your organization has only partially complied with its charitable solicitation requirements, the Secretary of State may deny, suspend, or revoke your registration. It may also limit fundraising activities or prohibit your association with a paid solicitor or other charitable organization.

If your organization fails completely to comply, the Secretary of State may issue a restraining order against your solicitation campaigns, force a restitution to contributors, fine you up to \$2,500, and/or file criminal charges.

**F. More Information:**

For further information please view our [Charitable Solicitation webcast](#).