

CHAPTER 309

SOCIAL AND CHARITABLE ORGANIZATIONS

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- 309.12 [Repealed, 1971 c 568 s 27]
- 309.13 [Repealed, 1971 c 568 s 27]
- 309.14 [Repealed, 1971 c 568 s 27]
- 309.15 [Repealed, 1971 c 568 s 27]
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- 309.171 [Repealed, 1971 c 568 s 27]
- 309.175 [Repealed, 1971 c 568 s 27]
- 309.176 [Repealed, 1973 c 494 s 6; 1973 c 651 s 4]
- 309.18 [Repealed, 1951 c 550 s 78]
- 309.19 [Repealed, 1951 c 550 s 78]
- 309.20 [Repealed, 1951 c 550 s 78]

## REGULATION OF CHARITABLE SOLICITATIONS

**309.50 SOLICITATION OF CHARITABLE FUNDS; DEFINITIONS.**

Subdivision 1. As used in sections 309.50 to 309.61 the words, terms and phrases, defined in this section have the meanings given them.

Subd. 2. "Person" means any individual, organization, group, firm, copartnership, association, partnership, corporation, company, trust or joint stock association, church, religious sect, religious denomination, society, or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

Subd. 3. "Charitable purpose" means any charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, eleemosynary, cultural, artistic, or public interest purpose, either actual or purported.

Subd. 4. "Charitable organization" means any person who engages in or purports to engage in solicitation for a charitable purpose and includes a chapter, branch, area office or similar affiliate or any person soliciting contributions within the state for a parent charitable organization, but does not include an organization whose primary purpose is supporting or opposing any candidate for elective office, or influencing the nomination for election or the election of any candidate for elective office.

Subd. 5. "Contribution" means the promise or grant of any money or property of any kind or value, including the promise to pay, or payment for merchandise or rights of any other description when representation is made by or on behalf of the seller or solicitor that the whole or any part of the price will be applied to a charitable purpose. "Contributions" shall not include any funds obtained by a charitable organization through grants from any governmental agency. "Contributions" shall include, in the case of a charitable organization offering goods and services to the public, the difference between the direct cost of the goods and services to the charitable organization and the price at which the charitable organization or any person acting on its behalf resells those goods or services to the public.

Subd. 6. "Professional fund raiser" means any person who for financial compensation or profit performs for a charitable organization any service in connection with which contributions are, or will be, solicited in this state by the compensated person or by any compensated person the person employs, procures, or engages to solicit; or any person who for compensation or profit plans, manages, advises, consults, or prepares material for, or with respect to, the solicitation in this state of contributions for a charitable organization. No investment adviser, investment adviser representative, broker-dealer, or agent licensed pursuant to chapter 80A, or lawyer, accountant, or banker who advises a person to make a charitable contribution or who provides legal, accounting, or financial advice in the ordinary course of a profession or business shall be deemed, as a result of the advice, to be a professional fund raiser. A bona fide salaried officer, employee, or volunteer of a charitable organization is not a professional fund raiser.

Subd. 6a. "Accounting year" means the 12 month period on which a charitable organization keeps its financial records.

Subd. 7. [Repealed, 1969 c 112 s 17]

Subd. 8. "Department" means the department of commerce.

Subd. 9. "Parent organization" is that part of a charitable organization which coordinates, supervises or exercises control over policy, fundraising, and expenditures, or assists or advises one or more chapters, branches or affiliates in the state.

Subd. 10. "Solicit" and "solicitation" mean the request directly or indirectly for any contribution, regardless of which party initiates communication, on the plea or representation that such contribution will or may be used for any charitable purpose, and include any of the following methods of securing contributions:

- (1) Oral or written request;
- (2) The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication;
- (3) The making of any announcement to the press, over the radio, by television, by telephone, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, bene-

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fit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution;

(4) The sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, magazine, merchandise, subscription, ticket of admission, or any other thing, or the use of the name of any charitable person in any offer or sale as an inducement or reason for purchasing any such item, or the making of any statement in connection with any such sale, that the whole or any part of the proceeds from any such sale will be used for any charitable purpose. A "solicitation" shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any such sale.

Subd. 11. "Management and general costs" means costs determined to be management and general by generally accepted accounting principles.

Subd. 12. "Fund raising costs" means costs determined to be fund raising by generally accepted accounting principles.

Expenses incurred in planning or developing a fundraising campaign, regardless of whether the expenses are incurred before, during, or after that campaign, constitute fundraising costs.

**History:** 1961 c 309 s 1; 1969 c 112 s 1; 1973 c 762 s 1-4; 1978 c 601 s 1-4; 1980 c 516 s 2; 1983 c 75 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444; 1987 c 336 s 27.

## 309.501 REGISTERED COMBINED CHARITABLE ORGANIZATIONS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them:

(b) "Registered combined charitable organization" means a federated funding organization:

(1) which is tax exempt under section 501(c)3 of the Internal Revenue Code of 1986, as amended through December 31, 1992 (hereinafter "Internal Revenue Code"), and to which contributions are deductible under section 170 of the Internal Revenue Code;

(2) which exists for purposes other than solely fundraising;

(3) which secures funds for distribution to 14 or more affiliated agencies in a single, annual consolidated effort;

(4) which is governed either by a local, independent, voluntary board of directors which represents the broad interests of the public and 90 percent of the directors of the governing board live or work in the community or surrounding area or, if the charitable agencies are solely educational institutions which meet the requirements of paragraph (c), by a national board of directors that has a local advisory board composed of members who live or work in the community or surrounding area;

(5) which distributes at least 70 percent of its total campaign income and revenue, plus donor designated amounts raised to its affiliated agencies and to the designated agencies it supports and expends no more than 30 percent of its total income and revenue, plus donor designated amounts raised for management and general costs and fund raising costs;

(6) which distributes at least 70 percent of its total campaign income and revenue to affiliated agencies and designated agencies that are incorporated in Minnesota or headquartered in the service area in which the state employee combined charitable campaign takes place or, if the charitable agencies are solely educational institutions which meet the requirements of paragraph (c), distributes at least 70 percent of the state employee combined charitable campaign income and revenue directly to Minnesota residents using established eligibility criteria;

(7) and each designated or affiliated agency supported by the recipient institution devotes substantially all of its activities directly to providing health, welfare, social, or other human services to individuals;

(8) and each designated or affiliated agency supported by the recipient institution with funds contributed by state employees through the combined charitable campaign provides all or substantially all of its health, welfare, social, or other human services, in the community

and surrounding area in which the state employee combined charitable campaign takes place;

(9) and each charitable agency is affiliated with no more than one registered combined charitable organization within the registered combined charitable organization's service area in the state's employee combined charitable campaign; and

(10) which has been registered with the commissioner of employee relations in accordance with this section.

Registered combined charitable organization includes a charitable organization organized by Minnesota state employees and their exclusive representatives for the purpose of providing grants to nonprofit agencies providing Minnesota residents with food or shelter if the charitable organization meets the requirements of clauses (1), (4), and (5).

(c) "Affiliated agency" means a charitable agency that is represented by a federation and has an ongoing relationship with that federation which involves a review and monitoring process to ensure financial, managerial, and programmatic responsibility.

(d) "Charitable agency" means a governmental agency or an organization (1) which is tax exempt under section 501(c)3 of the Internal Revenue Code; (2) to which contributions are deductible under section 170 of the Internal Revenue Code; and (3) which is in compliance with the provisions of this chapter.

(e) "State employees combined charitable campaign" means the annual state campaign whereby a state employee may designate that the employee's contribution to a registered combined charitable organization may be deducted from the pay of the employee for each pay period.

**Subd. 2. Designated contributions.** A registered combined charitable organization may offer a state officer or employee the option of designating in writing that the amount deducted in section 16A.134, be designated to any charitable agency, whether or not the charitable agency receives funds from the single, annual consolidated effort. A registered combined charitable organization which offers this option shall provide a list of charitable agencies receiving funds and the amount each charitable agency receives in the annual report required pursuant to section 309.53.

**Subd. 3. Registration.** (a) In order to participate in the state employee combined charitable campaign, a federated funding organization shall apply to the commissioner of employee relations as a registered combined charitable organization on or before June 1, 1993, and in 1994 and thereafter on or before March 1 in order to be eligible to participate in the campaign for that year.

(b) A federated funding organization which applies to the commissioner of employee relations shall provide the commissioner with all information the commissioner deems necessary to identify the charitable and tax exempt status of the organization and its compliance with the provisions of this chapter including, but not limited to the following:

(1) assurance of tax exempt status for the federated funding organization and each of the charitable agencies identified by the federated funding organization as an affiliated agency;

(2) assurance of proper registration with the attorney general of Minnesota to solicit contributions in the state of Minnesota for the federated funding organization and each of the charitable agencies identified by the federated funding organization as an affiliated agency. A copy of the registration letter must be available upon request;

(3) an affidavit signed by a duly constituted officer of the federated funding organization attesting to the fact that the federated funding organization and its affiliated agencies are in compliance with each of the provisions of this section;

(4) a list of the board of directors for the federated funding organization which identifies the address for each director; and

(5) a fee of \$100, or ten percent of the funds raised from state employees in the previous campaign, whichever is less.

(c) A registered combined charitable organization shall disclose in its solicitation and its annual report filed under section 309.53:

(1) gross dollars received in contributions in the prior year;

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(2) names of, business addresses, and amount of money distributed to each affiliated charitable agency by the registered combined charitable organization;

(3) percentage of gross dollars contributed which was directly received by the charitable agencies; and

(4) projected percentage of the contribution to be received by the charitable agencies in the year for which the solicitation is being made.

If participating charitable agencies are required to pay any fees to the combined charitable organization, it shall also be disclosed in the solicitation and annual report. In the annual report the combined charitable organization shall include a list of charitable agencies to which donors specifically designated funds, and the amount designated to each agency. Notwithstanding section 309.53, subdivision 1a, each charitable agency shall file the report required in section 309.53. The commissioner shall consult with the attorney general to determine if the combined charitable organization and its charitable agencies are in compliance with this chapter.

(d) The commissioner shall register or not register the application of an organization within 75 days. No organization may apply to the commissioner more than once in a calendar year. An organization whose application is denied has ten calendar days after receiving notice of the denial to appeal the decision or file an amended application correcting the deficiency. The commissioner shall register or not register the organization within ten calendar days of the submission of the appeal. If the organization fails to correct the deficiency and registration is denied a second time, the organization may appeal within five calendar days after being notified by the commissioner or the commissioner's designee that the deficiency has not been cured and the organization is not registered. A hearing shall be scheduled by the commissioner of employee relations and shall be held within 15 calendar days after receiving notice of the appeal. The provisions of chapter 14 do not apply to the hearing. The hearing shall be conducted in a manner considered appropriate by the commissioner. The commissioner's determination following the hearing shall be made within five calendar days after the hearing has been completed. Registered combined charitable organizations shall file the report required in section 309.53. The commissioner shall notify the commissioner of finance in writing of the decision to register an organization under this section by July 15.

(e) An organization whose application as a registered combined charitable organization is denied shall not be eligible to participate in the state employee combined charitable campaign for that year. Only organizations that are approved may participate in the state employee combined charitable campaign for the year of approval and only contributions authorized during the campaign may be deducted from an employee's pay pursuant to section 16A.134.

**Subd. 3a. Related organization.** No two federated funding campaigns that are related organizations, as defined in section 317A.011, subdivision 18, may participate simultaneously in the state employee combined charitable campaign.

**Subd. 4. Compliance waiver.** This subdivision applies only to the 1993 state employee combined charitable organization fund drive. A registered combined charitable organization that participated in the 1992 state employee's combined charitable organization's fund drive but that would not be qualified to participate in future fund drives because it will not satisfy the standards of this section, may certify to the commissioner of employee relations those provisions of subdivision 1 that it fails to meet and the extent of the inability to meet the specified standards, and may request a waiver of compliance. The commissioner shall issue a waiver to the registered combined charitable organization unless the provisions of subdivision 1 that the registered combined charitable organization fails to meet is subdivision 1, paragraph (b), clause (1) or (5).

To be entitled to a waiver, an organization must apply to the commissioner by the registration dates specified in subdivision 3.

**History:** 1983 c 289 s 114 subd 1; 1983 c 355 s 2; 1984 c 655 art 1 s 92; 1986 c 444; 1991 c 145 s 1; 1993 c 192 s 86; 1994 c 535 s 1,2; 1995 c 235 s 1; 1996 c 268 s 1

**309.502** [Repealed, 1993 c 192 s 110]

**309.51** [Repealed, 1973 c 762 s 18]

**309.515 EXEMPTIONS.**

Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections 309.52 and 309.53 shall not apply to any of the following:

- (a) Charitable organizations:
  - (1) which did not receive total contributions in excess of \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349, from the public within or without this state during the accounting year last ended, and
  - (2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and
  - (3) whose functions and activities, including fund raising, are performed wholly by persons who are unpaid for their services, and
  - (4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to contributions solicited from the public by it, the contributions solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) A religious society or organization which is exempt from filing a federal annual information return pursuant to Internal Revenue Code, section 6033(a)(2)(A)(i) and (iii), and Internal Revenue Code, section 6033(a)(2)(C)(i).

(c) Any educational institution which is under the general supervision of the state board of education, the board of trustees of the Minnesota state colleges and universities, or the University of Minnesota or any educational institution which is accredited by the University of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on the person's expenditure of it and with no deductions whatsoever.

(f) A private foundation, as defined in section 509(a) of the Internal Revenue Code of 1954, which did not solicit contributions from more than 100 persons during the accounting year last ended.

Subd. 2. Where any such group or association or person soliciting for the benefit of such group or association described in subdivision 1, clauses (a) and (d), employs a professional fund raiser to solicit or assist in the solicitation of contributions, sections 309.52 and 309.53 shall apply and such group or association or person shall file a registration statement as provided in section 309.52 and an annual report as provided in section 309.53.

Subd. 3. [Repealed, 1987 c 336 s 47]

**History:** 1973 c 349 s 2; 1973 c 762 s 5; 1975 c 321 s 2; 1978 c 601 s 5; 1983 c 284 s 17; 1985 c 248 s 70; 1986 c 444; 1987 c 336 s 28; 1989 c 151 s 1; 1996 c 395 s 18

**309.52 REGISTRATION REQUIREMENT.**

Subdivision 1. No charitable organization, except as otherwise provided in section 309.515, shall solicit contributions from persons in this state by any means whatsoever unless, prior to any solicitation, there shall be on file with the attorney general upon forms provided by the attorney general, a registration statement containing, without limitation, the following information:

- (a) Legally established name.
- (b) Name or names under which it solicits contributions.

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- (c) Form of organization.
- (d) Date and place of organization.
- (e) Address of principal office in this state, or, if none, the name and address of the person having custody of books and records within this state.
- (f) Names and addresses of, and total annual compensation paid to, officers, directors, trustees, and chief executive officer.
- (g) Federal and state tax exempt status.
- (h) Denial at any time by any governmental agency or court of the right to solicit contributions.
- (i) Date on which accounting year of the charitable organization ends.
- (j) General purposes for which organized.
- (k) General purposes for which contributions to be solicited will be used.
- (l) Methods by which solicitation will be made.
- (m) Copies of contracts between charitable organization and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. Where any such contract is executed after filing of the registration statement, a copy thereof shall be filed within seven days of the date of execution.
- (n) Board, group or individual having final discretion as to the distribution and use of contributions received.
- (o) The amount of total contributions received during the accounting year last ended.
- (p) Such other information as the attorney general may by rule or order require to promote fairness of the solicitation and to assure full and fair disclosure of all material information to the attorney general.

Subd. 1a. A charitable organization whose total contributions received during any accounting year are in excess of \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349, shall file a registration statement with the attorney general within 30 days after the date on which the organization's total contributions exceeded \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349. The registration shall exist unless revoked by a court of competent jurisdiction, or the attorney general, or as provided in subdivision 7. This subdivision shall not apply to a charitable organization which had filed a registration statement pursuant to this section for the accounting year last ended or to organizations described in section 309.515, subdivision 1.

Subd. 2. The registration statement filed by a charitable organization shall include a registration fee of \$25 and a financial statement of the organization's operation for its most recent 12 months period immediately preceding the filing of the first registration statement.

Subd. 3. The registration statement shall be executed by any two duly constituted officers of the charitable organization who shall acknowledge that it was executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the registration statement, and shall certify that the board of directors or trustees, or if there be no such board, its managing group, have assumed, and will continue to assume responsibility for determining matters of policy and have supervised, and will continue to supervise the finances of the charitable organization.

Subd. 4. Where any chapter, branch, area office or similar affiliate of a charitable organization is supervised and controlled by a parent organization located within or outside the state, the affiliate may file a registration statement on behalf of the parent organization in addition to or as part of its own registration statement, or the parent organization may file a registration statement on behalf of the affiliate in addition to or as part of its own registration statement.

Subd. 5. [Repealed, 1978 c 601 s 29]

Subd. 6. [Repealed, 1978 c 601 s 29]

Subd. 7. In no event shall the registration of a charitable organization continue in effect after the date such organization should have filed, but has failed to file an annual report, in-

cluding the payment of all required fees, in accordance with the requirements of section 309.53, and such organization, if in default under such section, shall not be eligible to file a new registration statement until it shall have filed the required annual report with the attorney general.

Subd. 8. [Repealed, 1978 c 601 s 29]

Subd. 9. A charitable organization that is organized and operated primarily for the purpose of offering and paying rewards for information leading to the apprehension or conviction of criminal suspects and that satisfies subdivision 10 shall not be required to include in its registration statement the information described in subdivision 1, clauses (f) and (o), or the financial statement described in subdivision 2, and notwithstanding subdivision 3, its registration statement may be executed by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated.

Subd. 10. Subdivision 9 applies to an organization whose financial statement described in subdivision 2 has been audited and reported on by a certified public accountant and made available with the accountant's report for inspection by its members and by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated, and whose registration statement contains a certificate of compliance with this subdivision.

**History:** 1961 c 309 s 3; 1969 c 112 s 3-6; 1969 c 1129 art 4 s 4; 1973 c 762 s 6; 1976 c 239 s 90; 1978 c 601 s 6,7; 1982 c 585 s 1,2; 1987 c 336 s 29,30,46; 1992 c 503 s 1; 1995 c 235 s 2,3.

### 309.53 ANNUAL REPORT.

Subdivision 1. Every charitable organization that is required to file or that files a registration statement pursuant to section 309.52 shall file an annual report with the attorney general upon forms provided by the attorney general or on forms identical thereto on or before June 30 of each year if its books are kept on a calendar year basis, or within six months after the close of its fiscal year if its books are kept on a fiscal year basis. For cause shown the attorney general may extend the time for filing the annual report for a period not to exceed three months.

Subd. 1a. [Repealed, 1995 c 235 s 17]

Subd. 2. Such annual report shall include a financial statement covering the immediately preceding 12-month period of operation, shall be executed by any two duly constituted officers of the charitable organization, and shall be executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the annual report. Except as provided in section 309.55, subdivision 1, the annual report shall also include a copy of all tax or information returns, including all schedules and amendments, submitted by the charitable organization to the Internal Revenue Service for the period covered by the annual report except any schedules of contributors to the organization.

A charitable organization which files the annual report required under this subdivision with the attorney general is not required to file the tax return with the commissioner of revenue. An organization which fails to file the annual report on or before the date required or allowed under this section shall pay a late fee of \$50. This late fee shall be in addition to all other fees, costs, and penalties which may be imposed pursuant to this section or section 309.57.

Subd. 3. The financial statement shall include a balance sheet, statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the attorney general, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

- (a) total receipts and total income from all sources;
- (b) cost of management and general;
- (c) program services;
- (d) cost of fund raising;

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- (e) cost of public education;
- (f) funds or properties transferred out of state, with explanation as to recipient and purpose;
- (g) total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;
- (h) names of professional fund raisers used during the accounting year and the financial compensation and profit resulting to each professional fund raiser; and
- (i) a list of the five highest paid directors, officers, and employees of the organization and its related organizations, as that term is defined by section 317A.011, subdivision 18, that receive total compensation of more than \$50,000, together with the total compensation paid to each. Total compensation shall include salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation paid by the charitable organization and all related organizations as that term is defined by section 317A.011, subdivision 18.

Unless otherwise required by this subdivision, the financial statement need not be certified.

A financial statement of a charitable organization which has received total revenue in excess of \$350,000 for the 12 months of operation covered by the statement shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles that has been examined by an independent certified public accountant for the purpose of expressing an opinion. In preparing the audit the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization.

Subd. 3a. The federal tax return may be filed in lieu of other financial statements if it is prepared in accordance with generally accepted accounting principles and meets the requirements for financial statements set forth in subdivisions 2, 3, and 4.

Subd. 4. Where a registration statement has been filed by a parent organization or affiliate as provided in section 309.52, subdivision 4, the registered parent organization may file the annual report required under this section on behalf of the chapter, branch, area office, similar affiliate, or person in addition to or as part of its own report or the registered affiliate may file the annual report required under this section on behalf of the parent organization in addition to or as part of its own report. The accounting information required under this section shall be set forth separately and not in consolidated form with respect to every chapter, branch, area office, similar affiliate, or person within the state which raises or expends more than \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349. The attorney general may permit any chapter, branch, area office, similar affiliate, or person to file a consolidated statement with any other chapter, branch, area office, similar affiliate, or person or parent organization if the interests of the charitable beneficiaries will not be prejudiced thereby and separate accounting information is not required for proper supervision.

Subd. 5. [Repealed, 1978 c 601 s 29]

Subd. 6. A charitable organization that is organized and operated primarily for the purpose of offering and paying rewards for information leading to the apprehension or conviction of criminal suspects and that satisfies subdivision 7 shall not be required to include in its annual report the financial statement described in subdivisions 2 and 3, and notwithstanding subdivision 2, its annual report may be executed by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated.

Subd. 7. Subdivision 6 applies to an organization whose financial statement described in subdivisions 2 and 3 has been audited and reported on by a certified public accountant and made available with the accountant's report for inspection by its members and by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated, and whose annual report contains a certificate of compliance with this subdivision.

Subd. 8. A reregistration fee of \$25 shall be paid by every charitable organization submitting the annual report required by this section.

**History:** 1961 c 309 s 4; Ex1967 c 49 s 2; 1969 c 112 s 7-10; 1969 c 1129 art 4 s 4; 1973 c 762 s 7; 1978 c 601 s 8-10; 1981 c 148 s 1; 1982 c 585 s 3,4; 1983 c 284 s 18,19; 1983 c 289 s 114 subd 1; 1983 c 301 s 184,185; 1984 c 655 art 1 s 92; 1987 c 336 s 31-34,46; 1994 c 465 art 1 s 37; 1995 c 235 s 4-7; 1996 c 384 s 3

### 309.531 REGISTRATION OF PROFESSIONAL FUND RAISERS; BOND REQUIRED.

Subdivision 1. No person shall act as a professional fund raiser unless registered with the attorney general. The registration statement must be in writing, under oath, in the form prescribed by the attorney general and must be accompanied by a registration fee of \$200. Each registration is effective for a period of not more than 12 months and in any event expires on April 30 next following the date of registration. The registration may be renewed for additional one-year periods on application and payment of all required fees. A professional fund raiser failing to register on the date required by this section or failing to file the financial report required by this section on or before the date provided shall pay a late fee of \$300. This late fee shall be in addition to all other fees, costs, and penalties which may be imposed pursuant to this section or section 309.57.

Subd. 2. The registration statement of the professional fund raiser shall consist of the following:

(a) If the professional fund raiser at any time has custody of or access to contributions from a solicitation, or if any person the professional fund raiser employs, obtains, or engages has custody of or access to contributions from a solicitation, the registration statement shall include a bond, in which the professional fund raiser shall be the principal obligor. The bond shall be in the sum of \$20,000, with one or more responsible sureties whose liability in the aggregate as the sureties will at least equal that sum. In order to maintain the registration, the bond shall be in effect for the full term of the registration. The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the state and to any person who may have a cause of action against the principal obligor of the bond for any liabilities resulting from the obligor's conduct of any activities subject to sections 309.50 to 309.61 or arising out of a violation of the statutes or a rule adopted under the statutes.

(b) If the professional fund raiser, or any person the professional fund raiser employs, procures, or engages, solicits in this state, the registration statement shall include a completed "solicitation notice" on a form provided by the attorney general. The solicitation notice shall include a copy of the contract described in paragraph (c), the projected dates when soliciting will commence and terminate, the location and telephone number from where the solicitation will be conducted, the name and residence address of each person responsible for directing and supervising the conduct of the campaign, a statement as to whether the professional fund raiser will at any time have custody of contributions, and a description of the charitable program for which the solicitation campaign is being carried out. The charitable organization on whose behalf the professional fund raiser is acting shall certify that the solicitation notice and accompanying material are true and complete to the best of its knowledge.

(c) The professional fund raiser shall also include, as part of the registration statement, a copy of the contract between the charitable organization and the professional fund raiser. The contract shall:

- (1) be in writing;
- (2) contain information as will enable the attorney general to identify the services the professional fund raiser is to provide, including whether the professional fund raiser will at any time have custody of contributions; and
- (3) if the professional fund raiser or any person the professional fund raiser employs, procures, or engages, directly or indirectly, solicits in this state, the contract shall disclose the percentage or a reasonable estimate of the percentage of the total amount solicited from each person which shall be received by the charitable organization for charitable purposes.

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The stated percentages required by this section and section 309.556, subdivision 2, shall exclude any amount which the charitable organization is to pay as expenses of the solicitation campaign, including the cost of merchandise or services sold or events staged.

(d) The registration statement shall also include the financial report for previous campaigns conducted by the professional fund raiser in this state as set forth in subdivision 4.

Subd. 3. No professional fund raiser shall use the name of or solicit on behalf of any charitable organization unless such solicitor has written authorization from two officers of such organization, a copy of which shall be filed with the attorney general. Such written authorization shall conform to the requirements of the contract described in subdivision 2, clause (c).

Subd. 4. Within 90 days after a solicitation campaign has been completed, and 90 days following the anniversary of the commencement of a solicitation campaign lasting more than one year, the professional fund raiser who solicited contributions in this state in conjunction with a charitable organization shall file with the attorney general a financial report for the campaign, including gross revenue and an itemization of all expenses incurred. The report shall be completed on a form prescribed by the attorney general. The report shall be signed by an authorized official of the professional fund raiser and an authorized official from the charitable organization and they shall certify, under oath, that it is true to the best of their knowledge.

**History:** 1973 c 762 s 8; 1987 c 336 s 35; 1987 c 358 s 115; 1989 c 151 s 2; 1994 c 465 art 3 s 10; 1995 c 235 s 8,9

**309.532** [Repealed, 1987 c 336 s 47]

## **309.533 INVESTIGATIONS; PROCEEDINGS.**

Subdivision 1. The attorney general:

(a) may make public or private investigations within or outside the state as deemed necessary by the attorney general to determine whether any person has violated or is about to violate any provision of sections 309.50 to 309.61 or any rule or order thereunder, or to aid in the enforcement of sections 309.50 to 309.61 in the prescribing of rules and forms thereunder, and may publish information, concerning the violation of sections 309.50 to 309.61 or any rule or order thereunder.

(b) may require or permit any person to file a statement in writing, under oath or otherwise as the attorney general determines, as to all facts and circumstances concerning the matter being investigated.

Subd. 2. [Repealed, 1987 c 336 s 47]

Subd. 3. [Repealed, 1987 c 336 s 47]

Subd. 4. [Repealed, 1987 c 336 s 47]

Subd. 5. In connection with an investigation under this section, the attorney general may obtain discovery from any person regarding any matter, fact, or circumstance, not privileged, that is relevant to the subject matter involved in the investigation, in accordance with the provisions of section 8.31.

**History:** 1978 c 601 s 11; 1986 c 444; 1987 c 336 s 36,46

**309.534** [Repealed, 1987 c 336 s 47]

## **309.54 PUBLIC RECORD.**

Subdivision 1. Registration statements, annual reports, and other documents required to be filed shall become public records in the office of the attorney general.

Subd. 2. Every person subject to sections 309.50 to 309.61 shall maintain, for not less than three years from the date of preparation, accurate and detailed books and records to provide the information required by sections 309.50 to 309.61. All such books and records shall be open to inspection at all reasonable times by the attorney general.

Subd. 3. Every charitable organization which is required to file an annual report under section 309.53 shall keep and maintain, at the place designated in its registration statement,

the original books and records, or true copies thereof, pertaining to all money or other property collected from residents of this state and to the disbursement of such money or property. Such books and records shall be preserved for a period of not less than three years from the date of preparation thereof.

**History:** 1961 c 309 s 5; 1969 c 112 s 11,12; 1969 c 1129 art 4 s 4; 1973 c 762 s 9; 1987 c 336 s 37; 1995 c 235 s 10

### 309.55 USE OF NAMES.

Subdivision 1. No charitable organization or person acting for a charitable organization shall 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 being solicited) in public solicitation literature without the written consent of such other person. Nothing herein contained shall prevent the publication of names of contributors; without their written consent, in an annual or other periodic report issued by a charitable organization for the purpose of reporting to its membership. Nothing in section 309.52 or 309.53 shall require the disclosure in any registration statement or annual report of the names of individual contributors and the amount contributed by each one individually.

Subd. 2. No charitable organization soliciting contributions shall use a name, symbol or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

Subd. 3. Registration under sections 309.50 to 309.61 shall not be deemed to constitute an endorsement by the state of Minnesota of the charitable organizations so registered, and no person shall directly or indirectly misrepresent the registration hereunder to any donor or prospective donor.

Subd. 4. No charitable organization and no person acting on behalf of a charitable organization shall use any uniformed personnel of any local, state or federal agency or department to solicit contributions. This subdivision shall not apply to firefighters who solicit contributions in uniform.

Subd. 5. No charitable organization and no person acting on behalf of a charitable organization shall use or employ any fraud, false pretense, false promise, misrepresentation, misleading statement, misleading name, mark or identification, or deceptive practice, method or device, with the intent that others should rely thereon in connection with any charitable solicitation, including any such actions or omissions designed to confuse or mislead a person to believe that such organization is another organization having the same or like purposes; or to believe that the funds being solicited are or will be used for purposes and programs conducted within or for persons located within the state of Minnesota when such is not the case; or to otherwise present purposes and uses of the funds which are not as provided within the purposes and uses filed upon registration of said organization under this chapter, or if no such registration has been filed, then as provided under the exemption of said organization from federal and state income taxes as an organization formed and operating for charitable purposes as defined herein.

Subd. 6. No person shall, either as an individual or as agent, officer or employee of a charitable organization sell or otherwise furnish for a consideration to any other person any list of contributors unless the contributor has consented to the transaction.

Subd. 7. No moneys solicited within the state by any organization subject to this chapter shall be paid or contributed by the soliciting organization to any other charitable organization not registered under this chapter by which it is controlled or with which it is affiliated by contract, franchise or otherwise, whose purposes, policies, articles or bylaws are in conflict with those of the soliciting organization upon any material matter unless such other organization to which such moneys are to be paid or delivered shall agree to be bound by the purposes, policies, articles and bylaws of the soliciting organization.

**History:** 1961 c 309 s 6; 1973 c 762 s 10; 1974 c 367 s 1; 1975 c 386 s 1,2; 1977 c 429 s 63; 1986 c 444; 1987 c 336 s 38

309.555 [Repealed; 1987 c 336 s 47]

**309.556 PUBLIC DISCLOSURE REQUIREMENTS.**

Subdivision 1. **Identity of organization; percentage of deductibility; description of program.** Prior to orally requesting a contribution or contemporaneously with a written request for a contribution, the following information shall be clearly disclosed:

- (a) the name and location by city and state of each charitable organization on behalf of which the solicitation is made;
- (b) the tax deductibility of the contribution; and
- (c) a description of the charitable program for which the solicitation campaign is being carried out; and, if different, a description of the programs and activities of the organization on whose behalf the solicitation campaign is being carried out.

If the solicitation is made by direct personal contact, the required information shall also be disclosed prominently on a written document which shall be exhibited to the person solicited. If the solicitation is made by radio, television, letter, telephone, or any other means not involving direct personal contact, the required information shall be clearly disclosed in the solicitation.

Subd. 2. **Identity of professional fund raiser.** In addition to the disclosures required by subdivision 1, any professional fund raiser soliciting contributions in this state shall also disclose 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." The disclosures required by this subdivision shall be given in the same manner as the disclosures required by subdivision 1.

**History:** 1973 c 762 s 12; 1984 c 527 s 1; 1987 c 336 s 39; 1989 c 151 s 3; 1995 c 235 s 11

**309.56 SERVICE OF PROCESS.**

Subdivision 1. Any charitable organization or professional fund raiser which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there be no such registered agent, then upon the person, if any, who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization or professional fund raiser at its last known address;

(b) When a charitable organization or professional fund raiser has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or professional fund raiser as maintaining an office, service may be made as in any other civil suit, or in the manner provided by section 5.25, or in a manner as the court may direct.

Subd. 2. The solicitation of any contribution within this state shall be deemed to be the agreement of the charitable organization or professional fund raiser that any process against it which is so served in accordance with the provisions of this section shall be of the same legal force and effect as if served personally within this state.

**History:** 1961 c 309 s 7; 1969 c 1129 art 4 s 4; 1973 c 762 s 13; 1978 c 601 s 14; 1978 c 674 s 60; 1986 c 444; 1987 c 336 s 40; 1995 c 128 art 1 s 10

**309.57 DISTRICT COURT JURISDICTION, PENALTIES, ENFORCEMENT.**

Subdivision 1. **General.** Upon the application of the attorney general the district court is vested with jurisdiction to restrain, enjoin, and redress violations of sections 309.50 to 309.61. The court may make any necessary order or judgment including, but not limited to, injunctions, restitution, appointment of a receiver for the defendant or the defendant's assets, suspension of the defendant's registration, awards of reasonable attorney fees, and costs of

investigation and litigation, and may award to the state civil penalties up to \$25,000 for each violation of sections 309.50 to 309.61. In ordering injunctive relief, the attorney general shall not be required to establish irreparable harm but only a violation of statute or that the requested order promotes the public interest. The court may, as appropriate, enter a consent judgment or decree without the finding of illegality.

**Subd. 2. Assurance of discontinuance.** The attorney general may accept an assurance of discontinuance of any method, act, or practice in violation of sections 309.50 to 309.61 from any person alleged to be engaged or to have been engaged in the method, act, or practice. The assurance may, among other terms, include a stipulation for the voluntary payment by the person of the costs of investigation, or of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons, or both. Any assurance of discontinuance shall be in writing and be filed with the district court of the county of the violator's residence or principal place of business or in Ramsey county. An assurance shall not be considered an admission of a violation for any purpose. Failure to comply with the assurance of discontinuance shall be punishable as contempt.

**History:** 1961 c 309 s 8; 1987 c 336 s 41; 1989 c 151 s 4

**309.58** [Repealed, 1987 c 336 s 47]

### **309.581 VIOLATIONS; PENALTIES.**

Any person who willfully and knowingly violates any provision of sections 309.50 to 309.61, or who willfully and knowingly gives false information to the attorney general in statements, reports, or contracts required to be filed by sections 309.50 to 309.61 shall be guilty of a misdemeanor.

**History:** 1969 c 112 s 14; 1969 c 1129 art 4 s 4; 1976 c 2 s 123; 1987 c 336 s 46

### **309.582 CONSULTANTS.**

The attorney general may retain as consultants such accountants or other experts as the administration of this chapter may require.

**History:** 1969 c 112 s 15

**309.583** [Repealed, 1976 c 2 s 124]

### **309.59 CONSTRUCTION; POWERS OF ATTORNEY GENERAL.**

Sections 309.50 to 309.61 shall not be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general which the attorney general otherwise is authorized to exercise or perform under any other provision of law.

**History:** 1961 c 309 s 10; 1986 c 444

### **309.591 RULEMAKING POWER.**

The attorney general may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of this chapter.

**History:** 1973 c 762 s 15; 1980 c 516 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1987 c 336 s 46

### **309.60 RECIPROCAL AGREEMENTS, OTHER STATES.**

The attorney general may enter into reciprocal agreements with a like authority of any other state or states for the purpose of exchanging information made available to the attorney general or to such other like authority.

**History:** 1961 c 309 s 11; 1969 c 1129 art 4 s 4; 1973 c 762 s 16; 1987 c 336 s 46

### **309.61 SEVERABILITY.**

If any provision of sections 309.50 to 309.61 or the application thereof to any person or circumstance is held invalid the invalidity shall not affect other provisions or application of

said sections which can be given effect without the invalid provision or application, and to this end the provisions of said sections are severable.

**History:** 1961 c 309 s 12

## MANAGEMENT OF INSTITUTIONAL FUNDS

### 309.62 UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT; DEFINITIONS.

Subdivision 1. For the purposes of sections 309.62 to 309.68, the following terms shall have the meanings here given them.

Subd. 2. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

Subd. 3. "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (a) a fund held for an institution by a trustee that is not an institution or (b) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

Subd. 4. "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

Subd. 5. "Historic dollar value" means the aggregate fair value in dollars of (a) an endowment fund at the time it became an endowment fund, (b) each subsequent donation to the fund at the time it is made, and (c) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

Subd. 6. "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document, including the terms of any institutional solicitations from which an institutional fund resulted, under which property is transferred to or held by an institution as an institutional fund.

**History:** 1973 c 313 s 1

### 309.63 APPROPRIATION OF APPRECIATION.

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 309.67. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

**History:** 1973 c 313 s 2

### 309.64 RULE OF CONSTRUCTION.

Section 309.63 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after August 1, 1973.

**History:** 1973 c 313 s 3

### 309.65 INVESTMENT AUTHORITY.

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, sub-

ject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

**History:** 1973 c 313 s 4

### 309.66 DELEGATION OF INVESTMENT MANAGEMENT.

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.

**History:** 1973 c 313 s 5

### 309.67 STANDARD OF CONDUCT.

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall discharge their duties in the manner provided in section 317A.251. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

**History:** 1973 c 313 s 6; 1989 c 304 s 133

### 309.68 RELEASE OF RESTRICTIONS ON USE OR INVESTMENT.

Subdivision 1. With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

Subd. 2. If written consent of the donor cannot be obtained by reason of death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

Subd. 3. A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

Subd. 4. This section does not limit the application of the doctrine of cy pres.

**History:** 1973 c 313 s 7; 1986 c 444

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## 309.69 SEVERABILITY.

If any provision of sections 309.62 to 309.71 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of sections 309.62 to 309.71 which can be given effect without the invalid provision or application, and to this end the provisions of sections 309.62 to 309.71 are declared severable.

**History:** 1973 c 313 s 8

## 309.70 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 309.62 to 309.71 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of sections 309.62 to 309.71 among those states which enact it.

**History:** 1973 c 313 s 9

## 309.71 CITATION.

Sections 309.62 to 309.71 may be cited as the "Uniform Management of Institutional Funds Act."

**History:** 1973 c 313 s 10

## ACQUIRING INTERESTS IN INSURANCE

### 309.72 ACQUISITION OF INTERESTS IN INSURANCE.

An organization described in section 170(c) of the Internal Revenue Code of 1986, as amended through December 31, 1991, may purchase, accept, or otherwise acquire an interest in a life insurance policy as beneficiary or owner, as provided in section 61A.073.

**History:** 1992 c 483 s 3