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Thomas R. Calcagni
Director

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DIVISION OF CONSUMER AFFAIRS

RULE PROPOSAL
VOLUME 43, ISSUE 11
ISSUE DATE: JUNE 6, 2011
Law and Public Safety
DIVISION OF CONSUMER AFFAIRS
CHARITIES REGISTRATION UNIT

N.J.A.C. 13:48-11.2

Notice of Pre-Proposal
Disclosures to the Public

Authorized By: Thomas R. Calcagni, Acting Director, Division of Consumer Affairs.

Authority: N.J.S.A. 45:17A-21b.

Pre-Proposal Number: PPR 2011-001.

Take notice that the Division of Consumer Affairs (Division) is soliciting comments about amendments to its rules in N.J.A.C. 13:48-11.2 on disclosures to the public.

The Division believes that potential contributors to charities are induced to give to a particular charity because the mission of the charity appeals to their head or their heart. Charities' fundraising campaigns present their mission in a way calculated to have the biggest impact. Sometimes that involves featuring a particular program or programs in the soliciting materials, which may not be funded to the extent that a contributor might expect from the soliciting material. For example, soliciting material may feature both research and consumer education programs, but one may be funded almost to the exclusion of the other.

Donors can earmark their contributions to the program or programs that appealed to them and induced them to contribute. By law, the charity must honor the purpose for which the contribution was made. The Division has found that in most cases, however, donors have not directed contributions to programs that one would expect to attract the major share of contributions. The Division believes that if particular programs are the inducement for a donor to make a contribution to the charity, the donor should be advised that he or she has the option to direct the charity to use his or her contribution to fund that program.

The Division is contemplating a rule that would require a charity whose solicitation asks for contributions for more than one named program, to disclose in the material that contributors can direct the charity to use their contributions to fund the program of their choice, and if no direction is given, a contribution may be used for administration and fundraising as well as for any program.

The Division invites comments on the draft rule set forth below (additions indicated in boldface **thus**). In particular, the Division is interested in comments on the



threshold amount of contributions that would subject a charity to the rule, whether a directed contribution could fund administrative and fundraising expenses related to the program to which a contribution is directed, and whether such a rule might have the effect of limiting funding for a program that might otherwise be fully funded from general funds to a lesser amount equal to the directed contributions.

13:48-11.2 Disclosures to the public; solicitations; receipts and confirmations; notice

(a)-(b) (No change.)

(c) Any oral or written solicitation (including a telephonic or electronic solicitation but excluding any in-person solicitation) made by or on behalf of a charitable organization that received contributions of more than \$ 250,000 in its prior fiscal year, which names more than one particular program for which contributions are solicited, shall include notice that the contributor may designate the program or programs to be funded with the contribution and, if more than one program is designated, the dollar amount or percentage of the contribution to be allocated to each. The notice shall also state that any part of the contribution that is not earmarked for a particular program or programs may be used for any program or programs in furtherance of the organization's mission and for administrative and fundraising expenses.

(d) Any pledge or payment form included in a written solicitation or sent to a contributor as a result of a solicitation referred to in (c) above, shall provide a means for the contributor to designate the program or programs to be funded with the contribution.

Recodify existing (c) and (d) as **(e) and (f)** (No change in text.)

Submit written comments on this pre-proposal by August 5, 2011 to:
Thomas R. Calcagni, Acting Director, Division of Consumer Affairs
Post Office Box 45027
Newark, New Jersey, 07101.

If you wish to submit comments about this rule proposal, please fill out the form below. When you have completed the form, click the "Submit Your Comments" button below.

Last Name :

First Name:

Professional Organization, Association or Affiliation, if any:

E-Mail Address:

Comments:

Clear Your Information

Submit Your Comments

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