

9 §5003. DEFINITIONS

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As used in this Act, unless the context specifically indicates otherwise, the following words shall have the following meanings. [1977, c. 488, §1 (NEW).]

1. Charitable organization. "Charitable organization" means any person or entity, including any person or entity organized in a foreign state, that is or holds itself out to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable purpose and by any means, including, but not limited to, personal contact, telephone, mail, newspaper advertisement, television or radio. Status as a tax-exempt entity does not necessarily qualify that entity as a charitable organization. A chapter, branch, area office or similar affiliate or any person soliciting contributions for any charitable purpose within the State for a charitable organization that has its principal place of business outside the State is considered a charitable organization for the purposes of this Act. For purposes of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.

[2003, c. 541, §1 (AMD) .]

2. Charitable purpose. "Charitable purpose" means any charitable, benevolent, educational, philanthropic, humane, patriotic or eleemosynary purpose.

[1983, c. 277, §1 (AMD) .]

3. Commercial co-venturer. "Commercial co-venturer" means any person who, for profit, is regularly and primarily engaged in trade or commerce in this State, other than in connection with the raising of funds for charitable organizations or purposes, and who conducts a sale, performance, event or collection and sale of donated goods that is advertised in conjunction with the name of any charitable organization. Any such person who will benefit in good will only may not be considered a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event, or the collection and sale of donated goods, are supervised and controlled by the benefiting charitable organization. Any such person whose annual contributions to charitable organizations do not exceed \$10,000 is exempt from the licensure requirement under section 5002.

[2007, c. 402, Pt. A, §2 (AMD) .]

3-A. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

[1999, c. 386, Pt. A, §3 (AMD) .]

4. Contribution. "Contribution" means the promise or grant of any money or property of any kind or value, including the payment or promise to pay in consideration of a sale, performance or event of any kind which is advertised in conjunction with the name of any charitable organization. This definition does not include:

A. Payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor or other direct benefits, other than the right to vote, elect officers or hold offices; [2005, c. 497, §3 (AMD) .]

B. Money or property received from any governmental authority; or [2005, c. 497, §4 (AMD) .]

C. Money or property received from a foundation established for charitable or educational purposes.
[2005, c. 497, §5 (NEW) .]

[2005, c. 497, §§3-5 (AMD) .]

4-A. Entity. "Entity" means any natural person, corporation, partnership, limited liability company, association or any other organization.

[1999, c. 386, Pt. A, §4 (NEW) .]

4-B. Department. "Department" means the Department of Professional and Financial Regulation.

[2003, c. 541, §3 (NEW) .]

5. Federated fund-raising organization. "Federated fund-raising organization" means a federation of independent charitable organizations which have voluntarily joined together, including, but not limited to, a United Fund, United Way or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual organizations upon the federated fund-raising organization.

[1977, c. 488, §1 (NEW) .]

5-A. Independent public accountant. "Independent public accountant" means a public accountant who is not the principal officer or other officer, professional solicitor, professional fund-raising counsel or commercial co-venturer of the charitable organization or parent organization.

[1977, c. 696, §359 (NEW) .]

5-B. Fund raising. "Fund raising" means a solicitation to the public for funds, except those solicitations which are made as an integral part of the presentation of program services.

[1979, c. 678, §1 (NEW) .]

5-C. Hospital. "Hospital" means an institution that is engaged primarily in providing inpatient, outpatient or both inpatient and outpatient medical and psychiatric diagnostic and therapeutic services in the care and treatment of injured, disabled, sick or mentally ill persons who are under the supervision of a physician.

[1999, c. 386, Pt. A, §5 (AMD) .]

5-D. Management. "Management" means the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related management functions.

[1979, c. 678, §1 (NEW) .]

5-E. Membership. "Membership" means the relationship of a person to an organization that entitles that person to the privileges, professional standing, honors or other direct benefits of the organization in addition to the right to vote, elect officers and hold office in the organization.

[1999, c. 386, Pt. A, §6 (NEW) .]

5-F. Office. "Office" means the Office of Licensing and Registration within the Department of Professional and Financial Regulation.

[1999, c. 386, Pt. A, §6 (NEW) .]

6. Parent organization. "Parent organization" means that part of a charitable organization which coordinates, supervises or exercises control over policy, fund-raising and expenditures, or assists or advises one or more chapters, branches or affiliates in the State. A federated fund-raising organization, as defined in this chapter, shall not be considered a parent organization.

[1977, c. 488, §1 (NEW) .]

7. Person. "Person" means any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them.

[1977, c. 488, §1 (NEW) .]

8. Principal officer. "Principal officer" means the president, chairman or other charitable officers responsible for the daily operation of the charitable organization.

[1977, c. 488, §1 (NEW) .]

9. Professional fund-raising counsel. "Professional fund-raising counsel" means any person who is retained, for compensation, by a charitable organization to plan, manage, advise or provide consultation services with respect to the solicitation in this State of contributions, but who does not solicit contributions, has neither custody nor control of contributions and does not directly or indirectly employ, procure or engage any person compensated to solicit contributions. A bona fide nontemporary salaried officer or employee of a charitable organization is not considered to be a professional fund-raising counsel. An attorney, investment counselor or banker who advises any person to make a contribution to a charitable organization is not, as the result of such advice, a professional fund-raising counsel.

[2003, c. 541, §4 (AMD) .]

10. Professional solicitor. "Professional solicitor" means any person or entity that, alone or through its employees or agents, solicits contributions from the public on behalf of a charitable organization in exchange for a fee or other remuneration. "Professional solicitor" does not include a bona fide employee, bona fide salaried officer, attorney, accountant or investment counselor of a charitable organization.

[1999, c. 386, Pt. A, §7 (AMD) .]

10-A. Program services. "Program services" means those activities directly related to the stated charitable purposes of the charitable organization. "Program services" does not mean activities related to fund raising or management.

[1979, c. 678, §2 (NEW) .]

11. Solicit and solicitation. "Solicit and solicitation" means any oral or written request, however communicated directly or indirectly, for any contribution. "Solicitation" as defined herein shall be deemed to have taken place when the request is made, whether or not the person making the solicitation receives any contribution in response.

[1977, c. 488, §1 (NEW) .]

SECTION HISTORY

1977, c. 488, §1 (NEW). 1977, c. 654, §1 (AMD). 1977, c. 696, §359 (AMD). 1979, c. 127, §50 (AMD). 1979, c. 678, §§1,2 (AMD). 1981, c. 456, §A23 (AMD). 1983, c. 277, §§1,2 (AMD). 1999, c. 221, §1 (AMD). 1999, c. 386, §§A2-7 (AMD). 2003, c. 541, §§1-4 (AMD). 2005, c. 497, §§2-5 (AMD). 2007, c. 402, Pt. A, §2 (AMD).

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