

Description.

All those two parcels of land situate in Connellsville, Fayette County, Pennsylvania, known and designated as Lots Nos. 11 and 22 in the Plan of Lots laid out by John D. Frisbee, the plot of which is recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan Book 1, page 144, separately bounded and described as follows:

Lot No. 11 fronts 40 feet on the west side of Tenth Street in said plan and extends of even width southwestwardly to a 20 foot alley on which it fronts 40.3 feet bounded on the north by Lot No. 10 for 112.1 feet and on the south by Lot No. 12 for 106.8 feet.

Lot No. 22 fronts 40.57 feet on the east side of Tenth Street and extends eastwardly of even width to a 15 foot alley on which it fronts 43.1 feet bounded on the south by Lot No. 21 for 127.8 feet and on the north by another 15 foot alley for 114.5 feet.

Being the same two tracts of land conveyed to the Trustees of Connellsville State Hospital, Connellsville, Fayette County, Pennsylvania, by deed of Ethel Addison Dunn Jones et al., dated December 31, 1960, and recorded in Fayette County Deed Book 941-1.

Title approval required.

Section 2. The land shall not be acquired until its title has been approved by the Department of Justice.

Act effective immediately.

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 337

AN ACT

Relating to charitable organizations; requiring the registration of such organizations; and regulating the solicitation of money and property by or on behalf of charitable organizations.

Solicitation of Charitable Funds Act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the "Solicitation of Charitable Funds Act."

Section 2. Definitions.—As used in this act:

(1) "Charitable organization" means a person which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, religious or eleemosynary organization or any person which solicits or obtains contributions solicited from the public for charitable purposes after the effective date of this act. A chapter, branch, area, office or similar affiliate or any person

soliciting contributions within the Commonwealth of Pennsylvania for a charitable organization which has its principal place of business outside the Commonwealth shall be a charitable organization for the purposes of this act. This definition shall not be deemed to include duly constituted religious organizations or any group affiliated with and forming an integral part of said organization no part of the net income of which inures to the direct benefit of any individual and which have received a declaration of current tax exempt status from the government of the United States: Provided, That no such affiliated group shall be required to obtain such declaration if the parent or principal organization shall have obtained same.

(2) "Contributions" means the promise or grant of any money or property of any kind or value.

(3) "Department" means the Department of State.

(4) "Federated fund raising organization" means a federation of independent charitable organizations which have voluntarily joined together, including but not limited to a United Fund 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 agencies upon the federated group organization.

(5) "Parent organization" is 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 Commonwealth.

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

(7) "Professional fund-raising counsel" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of any charitable organization but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employe of a charitable organization maintaining a permanent establishment within the Commonwealth shall not be deemed to be a professional fund-raising counsel.

(8) "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of a charitable organization, whether such solicitation is performed personally or through their agents, servants or employes or through agents, servants or employes specially employed by, or for a charitable organization, who are engaged in the

solicitation of contributions under the direction of such person, or a person who plans, conducts, manages, carries on, advises or acts as a consultant to a charitable organization in connection with the solicitation of contributions but does not qualify as "professional fund-raising counsel" within the meaning of this act. A bona fide salaried officer or employe of a charitable organization maintaining a permanent establishment within the Commonwealth shall not be deemed to be a professional solicitor.

No attorney, investment counselor or banker, who advises any person to make a contribution to a charitable organization, shall be deemed, as the result of such advice, to be a professional fund-raising counsel or a professional solicitor.

(9) "Commission" means the Commission on Charitable Organizations herein created.

Section 3. Registration of Charitable Organizations.

—(a) Every charitable organization which intends to solicit contributions within this Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the department upon forms prescribed by the commission, which shall be good for one full year and which shall be refiled in the next and each following year in which such charitable organization is engaged in solicitation activities. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this act. Such statements shall be sworn to and shall contain the following information:

(1) The name of the organization and the purpose for which it was organized.

(2) The principal address of the organization and the address of any offices in this Commonwealth. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(3) The names and addresses of any chapters, branches or affiliates in this Commonwealth.

(4) The place where and the date when the organization was legally established, the form of its organization, and a reference to any determination of its tax exempt status under the Internal Revenue Code.

(5) The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer.

(6) A copy of a balance sheet and income and expense statement audited by an independent public accountant for the organization's immediately preceding fiscal year, or a copy of a financial statement audited by an independent public accountant covering, in a consolidated report, complete information as to all the preceding

year's fund-raising activities of the charitable organization, showing kind and amount of funds raised, costs and expenses incidental thereto, and allocation or disbursement of funds raised.

(7) Whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.

(8) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.

(9) The general purpose or *purposes for which the contributions to be solicited shall be used.

(10) The name or names under which it intends to solicit contributions.

(11) The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.

(12) The names of the individuals or officers of the organization responsible for the final distribution of the contributions.

(b) Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, may separately report the information required by this subsection, or report the information to its parent organization which shall then furnish such information as to its Pennsylvania affiliates, chapters and branches in a consolidated form to the department. An independent member agency of a federated fund-raising organization, as hereinbefore defined, shall comply with the provisions of this act independently, unless specifically exempted from doing so.

(c) The registration forms and any other documents prescribed by the commission shall be signed by an authorized officer or by an independent public accountant and by the chief fiscal officer of the charitable organization and shall be verified under oath.

(d) Every charitable organization which submits an independent registration to the department shall pay an annual registration fee of ten dollars (\$10); a parent organization filing on behalf of one or more chapters, branches or affiliates and a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and such chapters, branches, affiliates or member agencies included in the registration statement.

Section 4. Certain Persons and Organizations Exempt from Registration.—(a) The following charitable

* "purposese" in original.

organizations shall not be required to file an annual registration statement with the department:

(1) Educational institutions, the curriculums of which in whole or in part are registered or approved by the State Council of Education of the Commonwealth of Pennsylvania, either directly or by acceptance of accreditation by an accrediting body recognized by the State Council of Education: Provided, That such educational institutions simultaneously file with the Commission on Charitable Organizations duplicates of such annual fiscal reports as are filed with the Department of Public Instruction of the Commonwealth of Pennsylvania.

(2) Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

(3) Charitable organizations which do not intend to solicit and receive and do not actually raise or receive contributions from the public in excess of two thousand dollars (\$2,000) during a calendar year or do not receive contributions from more than ten persons during a calendar year, if all of their functions, including fundraising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public, whether all of such is or is not received by any charitable organization during any calendar year, shall be in excess of two thousand dollars (\$2,000), it shall, within thirty days after the date it shall have received total contributions in excess of two thousand dollars (\$2,000), register with and report to the department as required by this act.

(4) Hospitals which are nonprofit and charitable and are required by law to file financial reports at least annually with the Auditor General of the Commonwealth of Pennsylvania: Provided, That a copy of the annual fiscal report so filed is also filed simultaneously with the Commission on Charitable Organizations.

(5) Organizations which solicit only within the membership of the organization by the members thereof.

The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(6) A local post, camp, chapter or similarly designated element or a county unit of such elements of a bona fide veterans' organization which issues charters to such local elements throughout this State, a bona fide

organization of volunteer firemen, a bona fide ambulance association or bona fide rescue squad association or a bona fide auxiliary or affiliate of any such organization, provided all its fund-raising activities are carried on by members of such an organization or an affiliate thereof, and such members receive no compensation directly or indirectly therefor.

(b) Any charitable organization claiming to be exempt from the registration provisions of this act and which is about to or does solicit charitable contributions shall submit, annually, to the department on forms to be prescribed by the commission the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. If exempted, the department shall issue, annually, a letter of exemption which may be exhibited to the public. No registration fee shall be required of any exempt organization.

Section 5. Commission on Charitable Organizations.

—(a) The Commission on Charitable Organizations, herein referred to as the “commission,” shall consist of seven members, one of whom shall be the Secretary of the Commonwealth or his designate, who shall be the chairman, one of whom shall be the Attorney General or his designate, one of whom shall be the Secretary of Public Welfare or his designate and one of whom shall be the Secretary of Health or his designate and three members to be appointed by the Governor.

(b) The commission shall have the power, and its duty shall be to promulgate rules and regulations and prescribe forms for registration or other purposes consistent with the specific requirements of this act and, after due notice to and consultation with representatives of charitable organizations, professional fund-raising counsel and professional solicitors and an opportunity for all such to be heard to make effective such rules, regulations, forms and procedures and when necessary to hold hearings and make adjudications as provided in this act and make recommendations to the Attorney General for enforcement of this act.

Section 6. Limitations on Amount of Payments for Solicitation Activities.—(a) No charitable organization shall pay or agree to pay to a professional solicitor or his agents, servants or employes in the aggregate a total amount in excess of fifteen per cent (including reimbursement for expenses incurred) of the total moneys, pledges or other property raised or received by reason of any solicitation activities or campaigns.

(b) For purposes of this section, the total *moneys, funds, pledges or other property raised or received shall

* “money” in original.

not include the actual cost to the charitable organization or professional solicitor of goods sold or service provided to the public in connection with the soliciting of contributions.

(c) Every contract or written agreement between professional fund-raising counsel and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded.

(d) Every contract or a written statement of the nature of the arrangement to prevail in the absence of a contract between a professional solicitor and a charitable organization shall be filed with the Secretary of the Commonwealth within ten days after such contract or written agreement is concluded. If the contract or arrangement with a professional solicitor does not provide for compensation on a percentage basis, the commission shall examine the contract to ascertain whether the compensation to be paid in such circumstances is likely to exceed fifteen per cent of the total moneys, pledges or other property raised or received as a result of the contract or arrangement; if the reasonable probabilities are that the compensation will exceed fifteen per cent of the total moneys, pledges or other property, the secretary shall disapprove the contract or arrangement within ten days after its filing. No registered charitable organization or professional solicitor shall carry out or execute a disapproved contract, or receive or perform services, or receive or make payments, pursuant to a disapproved contract. Any party to a disapproved contract shall, upon written request made within thirty days of disapproval, be given a hearing before the commission within thirty days after such request is filed.

Section 7. Limitation on Activities of Charitable Organizations.—No charitable organizations subject to this act shall solicit funds from the public except for charitable purposes or expended funds raised for charitable purposes for non-charitable purposes.

Section 8. Registration of Professional Fund-Raising Counsel and Professional Solicitor; Bonds; Records; Books.—(a) No person shall act as a professional fund-raising counsel or professional solicitor for a charitable organization subject to the provisions of this act, unless he has first registered with the department. Applications for such registration shall be in writing under oath or affirmation in the form prescribed by the department and contain such information as the commission may require. The application for registration by professional fund-raising counsel or professional solicitor shall be accompanied by an annual fee in the sum of fifty dollars

(\$50). A partnership or corporation, which is a professional fund-raising counsel or professional solicitor, may register for and pay a single fee on behalf of all its members, officers, agents and employes. However, the names and addresses of all officers, agents and employes of professional fund-raising counsel and all professional solicitors, their officers, agents, servants or employes employed to work under the direction of a professional solicitor must be listed in the application.

(b) The applicant shall, at the time of making application, file with and have approved by the department a bond in which the applicant shall be the principal obligor in the sum of ten thousand dollars (\$10,000) with one or more sureties satisfactory to the department, whose liability in the aggregate as such sureties will at least equal the said sum and maintain said bond in effect so long as a registration is in effect. The bond shall run to the Commonwealth of Pennsylvania for the use of the department and any person who may have a cause of action against the obligor of said bonds for any losses resulting from malfeasance, nonfeasance or misfeasance in the conduct of solicitation activities. A partnership or corporation which is a professional fund-raising counsel or professional solicitor may file a consolidated bond on behalf of all its members, officers and employes.

(c) Each registration shall be valid throughout the Commonwealth for a period of one year and may be renewed for additional one year periods upon written application under oath in the form prescribed by the commission and the payment of the fee prescribed herein.

(d) The Secretary of the Commonwealth or his designate shall examine each application, and if he finds it to be in conformity with the requirements of this act and all relevant rules and regulations and the registrant has complied with the requirements of this act and all relevant rules and regulations, he shall approve the registration. Any applicant who is denied approved registration may, within fifteen days from the date of notification of such denial, request, in writing, a hearing before the commission, which hearing shall be held within fifteen days from the date of the request.

Section 9. Information Filed to Become Public Records.—Registration statements and applications, reports, professional fund-raising counsel contracts or professional solicitor contracts, and all other documents and information required to be filed under this act or by the department or by the commission shall become public records in the office of the department, and shall be open to the general public for inspection at such time and under such conditions as the department may prescribe.

Section 10. Records to be Kept by Charitable Organizations, Professional Fund-raising Counsel and Professional Solicitors.—Every charitable organization subject to the provisions of this act shall, in accordance with the rules and regulations prescribed by the commission, keep true fiscal records as to its activities in Pennsylvania as may be covered by this act in such form as will enable it accurately to provide the information required by this act. Upon demand, such records shall be made available to the department, the commission or the Attorney General for inspection. Such records shall be retained for a period of at least three years after the end of the period of registration to which they relate.

Section 11. Reciprocal Agreements.—The department may enter into reciprocal agreements with the appropriate authority of any other state for the purpose of exchanging information with respect to charitable organizations, professional fund-raising counsel and professional solicitors. Pursuant to such agreements, the department may accept information filed by a charitable organization, professional fund-raising counsel or professional solicitor with the appropriate authority of another state in lieu of the information required to be filed in accordance with the provisions of this act, if such information is substantially similar to the information required under this act. The department shall also grant exemption from the requirement for the filing of annual registration statement with the department to charitable organizations organized under the laws of another state having their principal place of business outside the Commonwealth whose funds are derived principally from sources outside the Commonwealth and which have been granted exemption from the filing of registration statements by the state under whose laws they are organized if such state has a statute similar in substance to the provisions of this act.

Section 12. Prohibited Acts.—(a) No charitable organization, professional fund-raising counsel or professional solicitor, subject to the provisions of this act, shall use or exploit the fact of registration so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by the Commonwealth: Provided, however, That the use of the following statement shall not be deemed a prohibited exploitation “Registered with the Pennsylvania Department of State as required by law. Registration does not imply endorsement of a public solicitation for contributions.”

(b) No person shall, in connection with the solicitation of contributions for or the sale of goods or services of a person other than a charitable organization, mis-

represent to or mislead anyone by any manner, means, practice or device whatsoever, to believe that the person on whose behalf such solicitation or sale is being conducted is a charitable organization or that the proceeds of such solicitation or sale will be used for charitable purposes, if such is not the fact.

(c) No person shall in connection with the solicitation of contributions or the sale of goods or services for charitable purposes represent to or lead anyone by any manner, means, practice or device whatsoever, to believe that any other person sponsors or endorses such solicitation of contributions, sale of goods or services for charitable purposes or approves of such charitable purposes or a charitable organization connected therewith when such other person has not given consent to the use of his name for these purposes; any member of the board of directors or trustees of a charitable organization or any other person who has agreed either to serve or to participate in any voluntary capacity in the campaign shall be deemed thereby to have given his consent to the use of his name in said campaign.

(d) No person shall make any representation that he is soliciting contributions for or on behalf of a charitable organization or shall use or display any emblem, device or printed matter belonging to or associated with a charitable organization for the purpose of soliciting or inducing contributions from the public without first being authorized to do so by the charitable organization.

(e) No professional solicitor shall solicit in the name of or on behalf of any charitable organization unless such solicitor has:

(1) Written authorization of two officers of such organization, a copy of which shall be filed with the department. Such written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued.

(2) Such authorization with him when making solicitations and exhibits the same on request to persons solicited or police officers or agents of the department.

Section 13. Nonresident Charitable Organizations, Professional Fund-Raising Counsel and Solicitors, Designation of Secretary of the Commonwealth as Agent for Service of Process; Notice of Such Service by Attorney General.—Any charitable organization or professional fund-raising counsel or professional solicitor having its or his principal place of business without the Commonwealth, or organized under and by virtue of the laws of a foreign state, which or who shall solicit contributions from people in this Commonwealth, shall be subject

to the provisions of this act and shall be deemed to have irrevocably appointed the Secretary of the Commonwealth as its or his agent upon whom may be served any summons, subpoena, subpoena duces tecum or other process directed to such charitable organization, professional fund-raising counsel or professional solicitor or any partner, principal officer or director thereof in any action or proceeding brought under the provisions of this act. Service of such process upon the Secretary of the Commonwealth shall be made by personally delivering to and leaving with him a copy thereof at the office of the Department of State in the City of Harrisburg, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the Attorney General to such charitable organization or professional fund-raising counsel or professional solicitor by registered or certified mail with return receipt requested at its or his office, as set forth in the registration form required to be filed in the department pursuant to this act or in default of the filing of such form, at the last address known to the Attorney General or to the department.

Section 14. Enforcement and Penalties.—(a) If any charitable organization, professional fund-raising counsel or professional solicitor fails to file any registration application or statement, report or other information required to be filed by the department or the commission under this act, or otherwise violates the provisions of this act, the department shall notify the delinquent charitable organization, professional fund-raising counsel or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to its or his last known address. If the required registration application or statement, annual report or other information is not filed or if the existing violation is not discontinued within two weeks after the formal notification or receipt of such notice, the commission may cancel, suspend or refuse to accept the registration of such delinquent charitable organization, professional fund-raising counsel or professional solicitor.

(b) The commission, upon its own motion or upon complaint of any person, may, if it has reasonable ground to suspect a violation, investigate any charitable organization, professional fund-raising counsel or professional solicitor to determine whether such charitable organization, professional fund-raising counsel or professional solicitor has violated the provisions of this act or has filed any application or other information required under this act which contains false or misleading statements. If the commission finds that any application or other information contains false or misleading statements, or

that a registrant under this act has violated the provisions thereof, it may recommend to the department that the registration be suspended or cancelled and the department may so order.

(c) The registration of any charitable organization, professional fund-raising counsel or professional solicitor, which or who knowingly makes a false or misleading statement in any registration application or statement, report or other information required to be filed by the department or this act shall be revoked.

(d) All proceedings under this act shall be conducted in accordance with the Administrative Agency Law and all commission and department adjudications shall be subject to review and appeal as provided therein.

(e) In addition to the foregoing, any person who wilfully and knowingly violates any provisions of this act, or who shall wilfully and knowingly give false or incorrect information to the department in filing statements or reports required by this act, whether such report or statement is verified or not, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) or undergo imprisonment for not more than six months, or both, and for the second and any subsequent offense to pay a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1000) or to undergo imprisonment for not more than one year, or both.

(f) Whenever the Attorney General or any district attorney shall have reason to believe that any charitable organization, professional fund-raising counsel or professional solicitor is operating in violation of the provisions of this act or has knowingly and wilfully made any false statement in any registration application or statement, report or other information required to be filed by this act or whenever a charitable organization, professional fund-raising counsel or professional solicitor has failed to file a registration statement required by this act, or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or whenever the officers or representatives of any charitable organization, professional fund-raising counsel or professional solicitor have refused or failed after notice to produce any records of such organization, or whenever the funds raised by solicitation activities are not devoted or will not be devoted to the charitable purposes of the charitable organization, in addition to all

other actions authorized by law, the Attorney General or district attorney may bring an action in the name of the Commonwealth of Pennsylvania against such charitable organization and its officers, such professional fund-raising counsel or professional solicitor or any other person who has violated this act or who has participated or is about to participate in any solicitation or collection by employing any device, scheme, artifice, false representation or promise, to defraud or obtain money or other property, to enjoin such charitable organization or professional fund-raising counsel or professional solicitor or other person from continuing such violation, solicitation or collection, or engaging therein, or doing any acts in furtherance thereof and for such other relief as to the court deems appropriate.

Section 15. Appropriation.—All fees shall be paid to the State Treasurer and are hereby appropriated to the Department of State for the administration and enforcement of this act.

Section 16. Repeal.—(a) The act of May 13, 1925 (P. L. 644), entitled “An act relating to and regulating the solicitation of moneys and property for charitable, religious, benevolent, humane and patriotic purposes,” and all acts amendatory thereof, are repealed.

(b) All other acts and parts of acts are repealed insofar as inconsistent herewith.

Effective date.

Section 17. This act shall take effect in ninety days.

APPROVED—The 9th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 338

AN ACT

Empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes.

First class cities.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Council of first class city may authorize coterminous first class school district to impose taxes for school purposes on certain objects.

Section 1. The council of any city of the first class, coterminous with a school district of the first class may, by ordinance, authorize the board of public education of such school district to impose taxes for the purposes of such school district on any persons, transactions, occupations, privileges, subjects, and real and personal