

**SENATE . . . . . No. 1844**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act to update public charities law..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 8E of chapter 12 of the General Laws, as so appearing, is hereby  
2 amended by striking the word “and”, in line 12, following the words: - “association or instrument  
3 of trust,”

4           Provided, further, that Section 8E of chapter 12, as so appearing, is hereby amended by  
5 inserting after the words “a true copy of its constitution and by-laws,” in line 12, the following  
6 words:- “and a one time initial registration fee of \$100,”

7           Provided, further, that Section 8E of chapter 12, as so appearing, is hereby amended by  
8 striking the last paragraph and inserting the following: -

9           “If any public charity fails to comply with the requirements of this section, the director  
10 shall notify the delinquent public charity, or any responsible officer or agent of such public  
11 charity, by mailing a notice thereof to its last known address or that of any such responsible  
12 officer or agent. Such notice mailed by the director shall be deemed a sufficient notice, and a  
13 certificate of the person mailing such notice that it has been mailed in accordance with this

14 section shall be deemed prima facie evidence thereof and shall be admissible in any court of the  
15 commonwealth as to the facts contained therein. If a complete registration is not filed within  
16 thirty days of the day such notice is mailed, the director may assess a civil penalty against the  
17 public charity and may further assess a separate civil penalty against any responsible officer or  
18 agent receiving such notice who fails, without good cause, to cause the filing of a complete  
19 registration. Such civil penalties shall each be in the amount of fifty dollars per day for each day  
20 subsequent to the end of such thirty day period until such report is filed; provided, however, that  
21 the maximum penalty for failure to register shall be no greater than ten thousand dollars. Any  
22 public charity, or the responsible officer or agent of a public charity, aggrieved by the imposition  
23 of a civil penalty pursuant to this section may bring a civil action in the nature of certiorari  
24 pursuant to section 4 of chapter 249; provided, however, that such action shall be commenced  
25 within 60 days of the date of the notice of the civil penalty. If any public charity, or the  
26 responsible officer or agent of a public charity shall fail to pay any civil penalty provided herein  
27 within 21 days of the date of imposition of such penalty, excluding any time during which  
28 judicial review pursuant to section 4 of chapter 249 remains pending, the division may initiate a  
29 civil action in the superior court to enforce such penalty or to obtain any other relief so required.”

30 SECTION 2. Section 8F of chapter 12 of the General Laws, as so appearing, is hereby  
31 amended by inserting after the words “if more than five hundred thousand dollars” in lines 43-  
32 44, the following words:- “but not more than one million dollars; (e) five hundred dollars, if  
33 more than one million but not more than ten million; (f) one thousand dollars, if more that ten  
34 million but not more than one hundred million; (g) two thousand dollars, if more than one  
35 hundred million.”

36 SECTION 3. Section 8F of chapter 12 of the General Laws, as so appearing, is hereby  
37 amended by striking the last paragraph and inserting the following:

38 “If any public charity fails to file a written report for any year, the director shall notify the  
39 delinquent public charity, or the responsible officer or agent of such public charity, by mailing a  
40 notice thereof to its last known address or that of any responsible officer or agent. Such notice  
41 mailed by the director shall be deemed a sufficient notice, and a certificate of the person mailing  
42 such notice that it has been mailed in accordance with this section shall be deemed prima facie  
43 evidence thereof and shall be admissible in any court of the commonwealth as to the facts  
44 contained therein. If a complete report is not filed within thirty days of the day such notice is  
45 mailed, the director may assess a civil penalty against the public charity and may further assess a  
46 separate civil penalty against any responsible officer or agent receiving such notice who fails,  
47 without good cause, to cause the filing of a complete report. Such civil penalties shall each be in  
48 the amount of fifty dollars per day for each day subsequent to end of such thirty day period until  
49 a complete report is filed; provided, however, that the maximum penalties assessed with respect  
50 to any report shall be no greater than ten thousand dollars. Any public charity, or the responsible  
51 officer or agent of a public charity, aggrieved by the imposition of a civil penalty pursuant to this  
52 section may bring a civil action in the nature of certiorari pursuant to section 4 of chapter 249;  
53 provided, however, that such action shall be commenced within 60 days of the date of the  
54 assessment of the civil penalty. If any public charity, or the responsible officer or agent of a  
55 public charity shall fail to pay any civil penalty provided herein within 21 days of the date of  
56 imposition of such penalty, excluding any time during which judicial review pursuant to section  
57 4 of chapter 249 remains pending, the attorney general may initiate a civil action in the superior  
58 court to enforce such penalty or to obtain any other relief so required.”

59           “Any public charity, or any officer or agent of a public charity, who willfully makes,  
60 executes or files a report false in any material representation shall be punished by a fine of not  
61 more than five thousand dollars or by imprisonment for not more than one year or both.”

62           SECTION 4. Section 21 of chapter 68 of the General Laws, as so appearing, is hereby  
63 deleted in its entirety.

64           SECTION 5. Section 24 of chapter 68 of the General Laws, as so appearing, is hereby  
65 amended by striking the words “(a) professional solicitor, three hundred dollars; (b) professional  
66 fund-raising counsel, two hundred dollars; (c) commercial co-venturer, fifty dollars.”, in lines 9-  
67 11, and inserting the following words:-“(i) professional solicitor, one thousand dollars; (ii)  
68 professional fund-raising counsel, four hundred dollars; (iii) commercial co-venturer, two  
69 hundred dollars.”

70           SECTION 6. Section 24 of chapter 68 of the General Laws, as so appearing, is hereby  
71 amended by striking the word “ten”, in line 17, and inserting the following word:-“twenty five”

72           SECTION 7. Section 24 of chapter 68 of the General Laws, as so appearing, is hereby  
73 amended by inserting after the words “exceed the sum of said bond.”, in line 27, the following  
74 words:-“ A professional solicitor shall conduct solicitations only by or through persons who are  
75 covered (i) by a consolidated bond under which such professional solicitor is the principal  
76 obligor, or (ii) by a bond under which such person is both the principal obligor and  
77 independently registered with the division as a professional solicitor under clause (a) above.”

78           SECTION 8. Section 32 of chapter 68 of the General Laws, as so appearing, is hereby  
79 amended by adding after subsection (e) the following subsection: -

80 (f) In addition to any remedies or actions authorized or permitted pursuant to subsections  
81 (a) through (e) of this section, if any charitable organization, professional fundraising counsel,  
82 commercial co-venturer or professional solicitor violates one or more applicable provisions of  
83 sections 19 through 35 of chapter 68, the director shall notify the delinquent charitable  
84 organization, professional fundraising counsel, commercial co-venturer, professional solicitor, or  
85 any responsible officer or agent of any of the foregoing by mailing a notice thereof to its last  
86 known address or that of any such responsible officer or agent. Such notice mailed by the  
87 division shall be deemed a sufficient notice, and a certificate of the person mailing such notice  
88 that it has been mailed in accordance with this section shall be deemed prima facie evidence  
89 thereof and shall be admissible in any court of the commonwealth as to the facts contained  
90 therein. If the charitable organization, professional fundraising counsel, commercial co-venturer  
91 or professional solicitor fails to correct any such violation within thirty days of the day such  
92 notice is mailed, the director may assess a civil penalty against the charitable organization,  
93 professional fundraising counsel, commercial co-venturer or professional solicitor and may  
94 further assess a separate civil penalty against any responsible officer or agent receiving such  
95 notice who fails, without good cause, to cause the violation to be corrected. Such civil penalty  
96 shall be in the amount of fifty dollars per day for each day subsequent to the end of such thirty  
97 day period until such violation is cured; provided, however, that the maximum penalty shall be  
98 no greater than ten thousand dollars. Any charitable organization, professional fundraising  
99 counsel, commercial co-venturer, professional solicitor, or responsible officer or agent aggrieved  
100 by the imposition of a civil penalty pursuant to this section may bring a civil action in the nature  
101 of certiorari pursuant to section 4 of chapter 249; provided, however, that such action shall be  
102 commenced within 60 days of the date of the notice of the civil penalty. If any charitable

103 organization, professional fundraising counsel, commercial co-venturer, professional solicitor, or  
104 responsible officer or agent shall fail to pay any civil penalty provided herein within 21 days of  
105 the date of imposition of such penalty, excluding any time during which judicial review pursuant  
106 to section 4 of chapter 249 remains pending, the division may initiate a civil action in the  
107 superior court to enforce such penalty or to obtain any other relief so required.

108 SECTION 9. Section 11A of chapter 180 of the General Laws, as so appearing, is hereby  
109 amended by striking the first paragraph and inserting the following:-

110 A charitable corporation constituting a public charity organized under the provisions of  
111 general or special law, which desires to voluntarily windup and close its affairs, may authorize  
112 its dissolution in accordance with the provisions of this section. The provisions of this section  
113 shall constitute the sole method for the voluntary dissolution of any such charitable corporation.

114 “(a) Petition for Dissolution. A petition for dissolution shall be authorized by vote of a  
115 majority of the corporation’s board of directors entitled to vote thereon, provided, however, that  
116 if the corporation has one or more classes of members, the corporation may in its articles of  
117 corporation, in a bylaw adopted by the incorporators pursuant to section three or in a bylaw  
118 adopted by the members, assign the power of authorization to the members acting by majority  
119 vote of the members entitled to vote thereon or provide that the exercise of such power shall be  
120 subject to approval by the members.

121 (b) No Net Assets. If the corporation has no remaining assets, the petition for dissolution  
122 shall be submitted to the division of public charities of the office of the attorney general setting  
123 forth in substance the grounds of the application for dissolution together such forms, affidavits  
124 and information as the division may from time to time prescribe. If the division is satisfied that

125 such corporation has or will become inactive and that its dissolution would be in the public  
126 interest, the division may approve the dissolution of the corporation.

127 (c) Net Assets. If the corporation has remaining assets, the petition for its dissolution  
128 shall be filed in the supreme judicial court setting forth in substance the grounds of the  
129 application for dissolution and requesting the court to authorize the administration of its funds  
130 for such similar public charitable purposes as the court may determine. The supreme judicial  
131 court may by rule or order provide that such petition and court authorization are not required for  
132 dissolutions approved by the division upon receipt of such forms, affidavits and information as  
133 the division may require if the corporation has net assets no greater than such amount as the  
134 court may provide in said rule or order or in such other situations as the court may so provide.”