

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 4923

Introduced by Representative ABENIO D. PUNICOLAS-ACAPAS

EXPLANATORY NOTES

Presidential Decree No. 1564 entitled Amending Act No. 4075 otherwise known as The Public Solicitation Law was issued on June 11, 1978 to regulate the solicitation of donations and voluntary contributions from the public sector in order to obviate the illegal fund drives.

The said law has been in existence and implemented for the past thirty (30) years. However, as a result of changes in national and global environment, some of its provisions are no longer attuned to the present conditions and development in the regulation of public solicitations. Among the issues identified in the implementation of the law include: (1) the need to intensify the monitoring of individuals/organizations/associations who were issued authority to conduct solicitation; (2) the need to religiously monitor the proceeds of the solicited funds to ensure that these are delivered to the intended beneficiaries or are all used for projects for which these are intended for and to protect the general public as well as the beneficiaries from being exploited; (3) the presence of several organizations

conducting fund raising activities without the required solicitation permit and (4) the need to increase the penalties or sanctions for violators and/or soliciting fund outside the country.

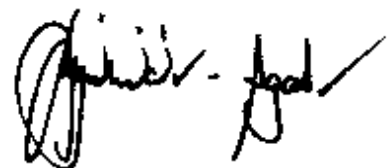
The Bill "An Act to Regulate Public Solicitation Providing Funds Therefore and for Other Purposes" seeks to regulate public solicitation undertaken in order to protect the general public from unscrupulous solicitation. The Bill, once passed will enable the government to effectively and efficiently monitor public solicitations. Thus, will provide the public with an open and ready access to information regarding the financial operation, projects and activities of the public solicitors.

The Bill shall apply to all National Government Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs), State Colleges/Universities, Non-Government Organizations (NGOs), religious and civic organizations, branch offices and similar organizations, individuals, chapters and affiliates of similar international organizations operating in the Philippines which are partly or fully financed with funds solicited from or contributed by the public or private sectors for charitable or public welfare purpose/s.

The Bill also aims to further enhance mechanisms and the modes in conducting public solicitation, increase the share of the proceeds allocated for the intended programs and projects and protect the beneficiaries. Likewise, increase the penalties and tighten sanctions for violations.

Further, the Bill also seeks to strengthen the partnership and involvement of the government regulating and law enforcement agencies in the implementation of the law.

In view hereof, approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to be "Dionisio" followed by a flourish.

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FIFTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 4923

Introduced by Representative JOSEPH L. BRINCIAS-AGABAS

**AN ACT TO REGULATE PUBLIC SOLICITATION
PROVIDING FUNDS THEREFORE AND FOR OTHER PURPOSES**

1 **SECTION 1. Short Title** - This Act shall be known as the "The Public Solicitation Act of
2 2010"

3 **SECTION 2. Purpose** - It shall be the purpose of this Act to regulate public solicitation
4 undertaken by organizations, agencies, groups and individuals in order to protect the
5 general public from unscrupulous solicitation. It also aims to establish standards and
6 guidelines and strengthen the system of granting permits or authorization primarily to
7 solicit funds or donations from the public for charitable, social and/or public welfare
8 purposes

9 **SECTION 3. Coverage** - This Act shall apply to all National Government Agencies
10 (NGAs), Government Owned and Controlled Corporations (GOCCs), State
11 Colleges/Universities and other government agencies, Non-Government Organizations

(NGOs) including faith based and civic organizations, associations, branch offices and similar organizations, individuals, chapters and affiliates of similar international organizations operating in the Philippines which are partly or fully financed with funds solicited from or contributed by the public or private sectors for charitable or public welfare purpose/s.

SECTION 4. Exemption on the Coverage: Organizations and agencies created by laws that specifically confer authority on these organization and agencies to solicit and/or conduct fund campaign for charitable and/or public welfare purposes shall continue to be covered by its charter. Provided, the DSWD shall have the authority to monitor their activities and to require these organizations and agencies to submit the following as well as other documents that the DSWD may require to make an assessment of the performance of these organizations and agencies:

- a. Audited fund utilization report of its collections, income and expenditures and other financial documents;
- b. Lists of donors and their corresponding addresses and contact numbers;
- c. List of beneficiaries, their corresponding addresses and contact numbers and amount or types of assistance extended; and
- d. List of projects completed, location and cost

SECTION 5. Definition of Terms – For purposes of this Act, the following terms shall be defined as:

- a. **Administrative Cost** – refers to the costs incurred in the management/operation of the conduct of the solicitation activity and/or of the soliciting organization.
- b. **Beneficiaries** – refer to the poor, the vulnerable and the disadvantaged sectors or entities who will be benefiting from the proceeds of the public solicitation conducted. These include but are not limited to: (1) neglected, abandoned, orphaned, exploited children or children under difficult circumstances; (2) children

1 in conflict with the law, out of school youth and other youth with special needs; (3)
2 persons with disabilities; (4) senior citizens; (5) victims of natural or man-made
3 disasters/calamities; (6) disadvantaged women and women in especially difficult
4 circumstances; (7) indigenous peoples and communities; (8) rebel returnees and
5 (9) poor or dysfunctional families and depressed communities.

6 c. **Charitable purpose/s** - refers to the intent to provide services or conduct of
7 activities for the beneficiaries indicated on letter b of this Section.

8 d. **Memorandum of Agreement** – refers to a contract executed between parties
9 stating among others, the amount or percentage from the proceeds to be given to
10 the beneficiaries or the project to be undertaken, the date and place where the
11 activity shall be undertaken and date of awarding of proceeds or turn-over of
12 project. It should clearly state the date and duration of the awarding of proceeds.

13 e. **Organization, agency or individual** – refers to all National Government
14 Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs),
15 State Colleges/Universities and other government agencies, Non-Government
16 Organizations (NGOs) including religious and civic organizations, associations,
17 branch offices and similar organizations, individuals, chapters and affiliates of
18 similar international organizations operating in the Philippines desiring to solicit or
19 receive contributions from the public for charitable or public welfare purpose/s

20 f. **Program Cost** – refers to all expenses incurred in the direct or indirect provision
21 of services or goods to the beneficiary including expenses of the donee person or
22 agency in its operation and the implementation of relevant programs and services.

23 g. **Public Solicitation** - refers to any activity or project intended to generate funds,
24 money, materials or other assistance from the public sectors for charitable and/or
25 public welfare purposes. Categories of public solicitation:

- 26 • **Local Public Solicitation** - refers to a solicitation activity conducted within the
27 city/municipality

- 1 • **Provincial Public Solicitation** – refers to a solicitation activity conducted
2 within two or more cities/municipalities in a province.
- 3 • **Regional Public Solicitation** - refers to a solicitation activity conducted within
4 two or more provinces in a region
- 5 • **National Public Solicitation** - refers to a solicitation activity conducted in two
6 or more regions in the country
- 7 h. **Public Welfare Purpose/s** - refers to any activity or project relative to health,
8 education, peace, social welfare and protection, environmental safety, rights,
9 security and safety of citizens and similar circumstances or conditions.

10 **SECTION 6. Authority to Issue Permit** – The following are authorized to grant permits to
11 conduct public solicitation.

- 12 a. Department of Social Welfare and Development (DSWD) Secretary or the
13 Undersecretary or Regional Director for national or regional public solicitation
14 respectively.
- 15 b. Provincial Governor through the Provincial Social Welfare and Development
16 Office (PSWDO) Chief or his/her representative/s for provincial public solicitation
- 17 c. City/Municipal Mayor through the City/Municipal Social Welfare and Development
18 Office (C/MSWDO) Chief or his/her representative/s for local public solicitation

19 Provided, that the organization, agency or individual applying for such permit complies with
20 the requirements that may be set by the DSWD, PSWDO or C/MSWDO respectively
21 including but not limited to the following:

- 22 a. Duly accomplished application form signed by the agency head or authorized
23 representative. The form shall be prescribed by the DSWD, PSWDO or
24 C/MSWDO which shall indicate the intended purpose of the solicitation

- b. Project proposal on the intended public solicitation activity including the work and financial plan on the activity to be undertaken
- c. Certified true copy of Certificate of Registration and Articles of Incorporation and by-laws with the Securities and Exchanges Commission (SEC) or other regulatory government agencies, which have jurisdiction to regulate the applying organization, agency or individual and information. (for non-government).
- d. Certification of status of operation and updated certification from SEC or other regulatory government agencies, which have jurisdiction to regulate the applying organization, agency or individual on the validity of registration (for non-government)
- e. Notarized Memorandum of Agreement or other written document signifying the intended beneficiary/ies concurrence as recipient of the solicitation activities

SECTION 7. Validity of Permit – All permits for the purpose of undertaking public solicitation shall be issued by the DSWD, PSWDO or C/MSWDO for a stated period of time. No organization, agency or individual shall solicit contributions or have contributions solicited on its behalf before issuance of its permit by the DSWD, PSWDO or C/MSWDO. The solicitation permit shall be valid only on the approved date of coverage which in no case shall exceed one year within the specified region/s or area/s of the Philippine territory. Its validity does not extend to other countries regardless of whether or not the target beneficiaries and donors are Filipinos. In such cases, the organization, agency or individual should comply with the rules and regulations of the concerned countries

SECTION 8. Fees and Charges – For national and regional coverage, the DSWD shall charge and collect corresponding fees to be determined by the Department for the effective implementation of this Act. The fees shall be remitted to the National Treasury, recorded as a Special Account in the General Fund and shall be available to the DSWD through a Special Budget pursuant to Section 35, Chapter 5, Book VI of Executive Order No. 292. Likewise, the provincial governor and city/municipal mayors shall impose

corresponding fees for the provincial and local public solicitation respectively, consistent with the Local Government Code and its amendments

SECTION 9. Methods of Public Solicitation - Public solicitation may be done using but not limited to the following:

- a. Oral or written request;
- b. Announcement to the press, over the radio or television or by telephone or the internet;
- c. Distribution, circulation, publication or posting of written advertisement or other publication;
- d. Sale of goods i.e souvenir items, printing, rummage sales, among others;
- e. Benefit shows i.e. concert, fashion show and other forms of entertainment; and
- f. Other methodologies that may be allowed by the DSWD, PSWDO and/or C/MSWDO

On the other hand, caroling during Christmas season as a form of solicitation and the solicitation within the church/mosque or building for public Christian/Muslim worship are exempted from the application of solicitation permit from DSWD, PSWDO and/or C/MSWDO.

SECTION 10. Tax Deduction or Exemption of Donations and Contributions. - The donor by virtue of foregoing provisions shall be entitled to allowable deduction in his/her income tax return the equivalent amount of donations he/she would give to public solicitation subject to such conditions as provided under the National Internal Revenue Code, as amended.

SECTION 11. Beneficiaries of Fund Campaigns – The applying organization, agency or individual for solicitation permit shall be required to submit a duly notarized Memorandum of Agreement executed between the parties, which shall contain the following:

- a. Statement of the purpose for which the solicitation is being conducted;
- b. Statement of the amount or percentage from the proceeds to be given to the beneficiaries or the project to be undertaken; and
- c. The date, duration and place where the activity shall be undertaken and the date of awarding of proceeds or turn-over of project.

The benefiting organization, agency or individual, has the right not to allow its name to be used, advertised or publicized as the beneficiary of any public solicitation project.

SECTION 12. Allocation of Proceeds - Not more than fifteen percent (15%) of the total proceeds for the fund raising activity of any organization, agency or individual shall be expended for the administrative cost of the said fund-raising activity or other operations of the agency. The remaining eighty-five percent (85%) shall be utilized entirely for projects/programs for the targeted beneficiaries. Unless compliance with this section is satisfactorily established on the basis of the report as required in Section 13 hereof, no organization, agency or individual shall be issued any subsequent permit. Funds collected during the conduct of fund campaign activities shall be deposited in a banking institution regulated by the Bangko Sentral ng Pilipinas in the name of the organization, agency or individual to whom the permit was issued. Book of accounts shall also be required in the monitoring/validation of report.

SECTION 13. Monitoring of Public Solicitation Activity – The concerned organization, agency or individual to whom the permit was issued shall submit to the concerned DSWD offices, PSWDO or C/MSWDO within sixty (60) days after the expiration of the issued permit, a report signed and sworn to by the individual or at least two authorized officers of the organization/agency, indicating whether such permit was used or not. If used, additional documents to be submitted are the following:

- a. Audited fund utilization report of its income and expenditures and other documents;
- b. List of donors and the amount of donations, their corresponding addresses and contact numbers;
- c. List of beneficiaries, their corresponding addresses and contact numbers and amount or types of assistance extended;
- d. List of projects completed, location and cost; and
- e. Expired permit authorizing the conduct of local/national fund campaign

The DSWD, PSWDO or C/MSWDO may in the exercise of their regulatory powers, verify the authenticity of the report submitted by conducting spot investigations or reviewing the book of accounts of the concerned organization, agency or individual, among others.

Further, the organization, agency or individual shall for each solicitation activity maintain and preserve an accurate and detailed book of accounts for not less than three (3) years after the completion of such public solicitation activity, which shall be available for inspection, at all times, upon demand by the DSWD, PSWDO, C/MSWDO.

SECTION 14. Filing of Complaints - The DSWD, PSWDO or C/MSWDO shall on its initiative or upon the complaint of any individual initiate an investigation and the filing of complaints in the appropriate court, if warranted, against the organization, agency or individual which undertake fund campaigns without the necessary permit or which secures such permits through fraudulent representation. Provided, however, that any concerned person, may in his/her own file a complaint before the Regional Trial Court against any person who shall commit any of the acts punishable under Section 16 of this Act. Any law enforcement agency can also file a complaint against any organization/agency/individual engaging in prohibited acts whom they have apprehended in accordance with the Rules of Court.

1 **SECTION 15. Handling of Complaint** - There shall be a Review Committee at the
2 concerned DSWD, PSWDO or C/MSWDO who will handle the complaint against the
3 organization, agency or individual. The law enforcement agency/ies e.g. Philippine
4 National Police (PNP), National Bureau Investigation (NBI), Local Government Unit (LGU)
5 and Department of Interior and Local Government (DILG) among others shall assist in the
6 enforcement of this Act. Said Committee shall be organized within sixty (60) days upon
7 effectivity of this Act. Their specific roles and functions as well as the procedures in
8 handling of complaints shall form part of the Implementing Rules and Regulations of this
9 Act.

10 **SECTION 16. Prohibited Acts.** This Act prohibits any organization, agency or individual
11 to do any of the following acts:

- 12 a. Soliciting without securing solicitation permit from DSWD, PSWDO or C/MSWDO
- 13 b. Soliciting beyond the allowed area of coverage and/or violating the mode of
14 solicitation as indicated in the approved solicitation permit
- 15 c. Using falsified or tampered solicitation permit
- 16 d. Soliciting with expired solicitation permit
- 17 e. Using of solicited funds for purpose/s other than the purpose/s in which funds
18 were intended

19 Further, all solicited funds from the prohibited acts shall be turned over to DSWD,
20 PSWDOs or C/MSWDOs for the implementation of its social welfare and development
21 programs and services

22 **SECTION 17. Penalties** – Violations of this law shall be subject to the following penalties:

- 23 a. Any person who violates the provision of this Act shall be punished with
24 imprisonment of not less than one (1) year but not more than three (3) years or a
25 fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more

1 than Five Hundred Thousand Pesos (P500,000.00) or both at the discretion of the
2 court

3 b. Additionally, for the first offense, the solicitation permit of the concerned
4 organization, agency or individual shall be revoked and no permit shall be issued
5 to them for a period of two (2) years from the date of violation

6 c. For the second offense, the concerned organization, agency or individual shall be
7 permanently banned from conducting any solicitation activity. Further, its
8 registration and/or license to operate as an organization, agency, or individual
9 shall be cancelled and revoked permanently.

10 d. When the offender is a foreigner, he/she shall be immediately deported and be
11 barred permanently from entering the country after having served his/her
12 sentence.

13 **SECTION 18. Information Dissemination** – The DSWD, PSWDO or C/MSWDO shall
14 disseminate information on the organizations, agencies and individuals issued with public
15 solicitation permits to include the pertinent data such as permit number, duration period,
16 methodology to be used and the area/s covered. Likewise the DSWD, PSWDO or
17 C/MSWDO shall also inform the public on the list of organizations, agencies and
18 individuals whose permits have been cancelled or revoked.

19 **SECTION 19. Implementing Rules and Regulations** – The DSWD, Association of
20 PSWDO and Associations of C/MSWDO in coordination with the Bureau of Internal
21 Revenue (BIR), Department of Finance (DOF), Department of the Interior and Local
22 Government (DILG), Department of Trade and Industry (DTI), Department of
23 Transportation and Communication (DOTC), Local Government Unit (LGU), Philippine
24 National Police (PNP), National Bureau Investigation (NBI), Securities and Exchange
25 Commission (SEC) and other concerned government agencies and three (3)
26 representatives selected by DSWD from the academe, NGOs, media organizations and

1 peoples organizations shall promulgate the necessary implementing rules and regulations
2 within ninety (90) working days from the effectivity of this Act.

3 **SECTION 20. Appropriations** – The amount necessary to carry out the provisions of this
4 Act is hereby authorized to be appropriated in the concerned DSWD and Local
5 Government Units General Appropriations Act for the year following its enactment into law
6 and thereafter.

7 **SECTION 21. Repealing Clause** – Presidential Decree No. 1564, Local Government
8 Code of 1991 Book III Title II Ch 3 Art 1 Sec 444 (b) (3) V) and Sec 455 (b) (3) (v) and all
9 other laws, decrees, executive orders and proclamations, rules and regulations or parts
10 thereof, inconsistent with this Act are hereby repealed or modified accordingly.

11 **SECTION 22. Separability Clause** - In the event that any provision of this Act is held
12 invalid or unconstitutional, the other provisions not affected thereby shall remain valid and
13 subsisting

14 **SECTION 23. Effectivity Clause** - This Act shall take effect fifteen (15) days after its
15 publication in any two (2) newspapers or general circulation.

16 Approved.