

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2985



Introduced by Representative Giorgidi B. Aggabao

EXPLANATORY NOTE

Many will agree that solicitation letters abound on practically every imaginable occasion in the Philippines : Christmas, New Year, Valentine, to name a few. But it is not only during the happy times that public solicitation is rampant. The times of disaster and calamities are not even spared. Sadly, many unscrupulous people take advantage of the opportunity to gain not only at the expense of legitimate organizations who selflessly devote their time and resources to help, but more importantly, the victims of these disasters and calamities who are being used as alleged beneficiaries and the unsuspecting public as well.

It is time to protect the public from these nefarious solicitation activities by instituting mechanisms and modes regulating public solicitation, strengthening the monitoring of such and engaging the concerned government agencies and law enforcement in the implementation of the same.

This bill is a cumulative product of the consultation conducted by the Department of Social Welfare and Development (DSWD) with the stakeholders. Approval of this bill is earnestly sought.


GIORGIDI B. AGGABAO

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

SECTION 1. Short Title. - This Act shall be known as the "The Public Solicitation Act of 2013."

SECTION 2. Purpose. - It shall be the purpose of this Act to regulate public solicitation undertaken by organizations and agencies, groups and individuals in order to protect the general public from unscrupulous solicitation. It also aims to establish standards and guidelines and strengthen the system of granting permits or authorization primarily to solicit funds or donations from the public for charitable, social and public welfare purposes to ensure that funds are properly utilized for the intended purpose and beneficiaries.

SECTION 3. Coverage. - This Act shall apply to all National Government Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs), State Colleges/Universities, Local Government Units (LGUs) and other government agencies; Non-Government Organizations (NGOs) including faith-based, people's organization and civil society organizations, associations, branch offices and similar organizations, 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 from the Coverage. - Organizations and agencies created by laws that specifically confer authority on these organizations and agencies to solicit or conduct fund campaign for charitable or public welfare purposes shall continue to be covered by its charter. Provided, the DSWD, PSWDO and C/MSWDO shall have the

authority to monitor their activities and to require these organizations and agencies to submit but not limited to the following documents:

- 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 with their corresponding signatures, addresses and contact numbers and amount or types of assistance extended;
- d. List of projects completed, location and cost with complete documentation on the project, e.g. pictures, videos and testimonies of beneficiaries; and
- e. Other documents which the DSWD may require in order to make assessment of performance of the organization and agency.

Caroling during Christmas season as a form of solicitation and the solicitation within the church/mosque or building for religious purposes or Christian/Muslim worship is also exempted from the application of solicitation permit. However, approval of the concerned PSWDO or C/MSWDO that has jurisdiction over the areas, must first be obtained prior to the solicitation activities for religious purposes that are to be conducted outside the peripheral of the Christian/Muslim worship.

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 and operation of the conduct of the solicitation activity such as mails, print of letter of appeal and other paraphernalia, etc.
- b. Beneficiaries - refer to the poor, vulnerable, marginalized and 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 in conflict with the law, out of school youth and other youth with special needs; (3) persons with disabilities; (4) senior citizens; (5) victims of natural or man-made calamities; (6) disadvantaged women and women in especially difficult circumstances; (7) indigenous peoples and communities; (8) rebel returnees and families who are victims of armed conflict situation, and (9) poor or dysfunctional families and depressed communities among others.
- c. Charitable purpose - refers to the intent to provide services or conduct of activities for the beneficiaries indicated in sub-section (b) of this Section.
- d. Donor/s - refers to a person, organization or agency who/that donates something for charitable or public welfare purposes.
- e. Memorandum of Agreement - refers to a notarized contract executed between parties stating among others, the amount or percentage from the proceeds to be given to the beneficiaries or the project to be undertaken, the date and place where the activity shall be undertaken and date of awarding of

proceeds or turn-over of project. It should clearly state the date and duration of the awarding of proceeds.

f. Organization or agency - refers to all National Government Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs), State Colleges/Universities, Local Government Units (LGUs) and other government agencies, Non-Government Organizations (NGOs) including religious and civil society organizations, people's organizations, associations, branch offices and similar organizations, chapters and affiliates of similar international organizations operating in the Philippines desiring to solicit or receive contributions from the public for charitable or public welfare purpose/s.

g. Program Cost - refers to all expenses incurred in the direct or indirect provision of services or goods to the beneficiary including expenses of the donee person or agency in its operation and the implementation of relevant programs and services.

h. Public Solicitation - refers to any activity or project intended to generate funds, goods, or other assistance from the public sectors for charitable and/or public welfare purposes. Categories of public solicitation:

h.1. Local Public Solicitation - refers to a solicitation activity conducted within the city or municipality

h.2. Provincial Public Solicitation - refers to a solicitation activity conducted within two or more cities or municipalities in a province

h.3. Regional Public Solicitation - refers to a solicitation activity conducted within two or more provinces in a region

h.4. National Public Solicitation - refers to a solicitation activity conducted in two or more regions in the country

i. Public Welfare Purpose/s - refers to any activity or project relative to health, education, peace, social welfare and protection, environmental safety, rights, security and safety of citizens and similar circumstances or conditions.

SECTION 6. Authority to Issue Permit. - The following are the authorized officials of government agencies who will grant permits to eligible organization or agency that will conduct solicitation activities for public welfare and charitable purposes:

a. Department of Social Welfare and Development (DSWD) Secretary/Undersecretary or Regional Director for national or regional public solicitation respectively.

b. Provincial Governor through the Provincial Social Welfare and Development Office (PSWDO) Chief or his/her representative/s for provincial public solicitation.

c. City/Municipal Mayor through the City/Municipal Social Welfare and Development Office (C/MSWDO) Chief or his/her representative/s for local public solicitation.

SECTION 7. Requirements. - Prior the issuance of the permit to conduct public solicitation, the organization or agency shall comply with the requirements that may be set by the DSWD, PSWDO or C/MSWDO respectively including but not limited to the following:

- a. Duly accomplished application form, prescribed by the DSWD, PSWDO or C/MSWDO, signed by the organization or agency head or his/her authorized representative;
- b. Project proposal on the intended public solicitation activity including the work and financial plan of 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 agency which has jurisdiction to regulate the applying organization or agency, if non-government organization or private agency;
- d. Certification of status of operation and updated certification from SEC or other regulatory government agency, which has jurisdiction to regulate the applying organization or agency on the validity of its registration, if non-government organization or private agency;
- e. Notarized Memorandum of Agreement or other written document signifying the intended beneficiary concurrence as recipient of the solicitation activity. It shall entail (i) Statement of the purpose for which the solicitation is being conducted; (ii) Statement of the amount or percentage from the proceeds to be given to the beneficiaries or the project to be undertaken; and (iii) the date, duration and place where the activity shall be undertaken and the date of awarding of proceeds or turn-over of project; and
- f. Notarized Board Resolution on their planned solicitation activity and ensure the strict compliance to the standard ratio on fund utilization.

SECTION 8. 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. The solicitation permit shall be valid only on the approved date of coverage which in no case shall exceed one (1) year within the specified city/municipality, region or areas 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 or agency should comply with the rules and regulations of the concerned countries.

SECTION 9. 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 10. Methods of Public Solicitation. - Public solicitation may be done using any of the following , but not limited to:

- a.* Written request such as letter of appeal, envelopes, and cards, and other similar forms.
- b.* Mass media campaign through television, cinema, radio, magazine, newspapers, and billboards, and other similar forms.
- c.* Distribution, circulation, publication or posting of written advertisement or other similar forms.
- d.* Sale of goods such as souvenir items, printing, rummage sales, among others.
- e.* Benefit shows, i.e. concert, fashion show and other forms of entertainment.
- f.* Donation box, coin banks and other similar forms.
- g.* Other methodologies that may be allowed by the DSWD, PSWDO and/or C/MSWDO.

However, the ceiling amount for the cost of every paraphernalia for public solicitation shall be set in the Implementing Rules and Regulations, e.g. cost of tickets for benefit shows, amount for request of letter of appeal , among others.

SECTION 11. Tax Deduction or Exemption of Donations and Contributions. - The donor by virtue of the 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 12. Allocation of Proceeds. - Not more than fifteen percent (15%) of the total proceeds for the fund raising activity of any organization or agency shall be expended for the administrative cost. 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 or agency 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 or agency to which the permit was issued. Book of accounts shall also be required in the monitoring/validation of report.

The date, duration and place where the consolidation and accounting of proceeds shall be undertaken and the date of the awarding or turn-over of the proceeds to the beneficiaries, shall be witnessed by the authorized representatives from the DSWD, PSWDO or C/MSWDO for national/ regional, provincial or city/municipal fund campaign respectively.

SECTION 13. Monitoring of Public Solicitation Activity. - The concerned organization or agency to which the permit was issued shall submit to the concerned DSWD office, PSWDO or C/MSWDO within sixty (60) days after the expiration of the issued permit, a report signed and sworn to by at least two authorized officers of the organization or agency, indicating whether such permit was used or not.

a. If used, additional documents to be submitted are the following:

a.1. Audited fund utilization report of its income and expenditures and other documents;

a.2. List of donors with their corresponding addresses and contact numbers, and the amount of donations;

a.3. List of beneficiaries, their corresponding addresses and contact numbers and amount or types of assistance extended;

a.4. List of projects completed, location and cost; and

a.5. Expired original permit authorizing the conduct of national or local fund campaign.

If the issued permit is unutilized, the concerned organization or agency shall submit the following records to the respective DSWD, PSWDO or C/MSWDO:

b.1. Justification for not conducting or continuing the solicitation activity within the validity period; and

b.2. Expired original 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 on-the-spot investigations or reviewing the books of account of the concerned organization or agency. Further, the organization or agency shall for each solicitation activity maintain and preserve an accurate and detailed books 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, or C/MSWDO. Likewise, the latter should keep the submitted report of the organization or agency including audited fund utilization report, list of beneficiaries and their corresponding addresses and contact numbers and amount and type of assistance extended and list of project completed, its costs and location.

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 local police or prosecutor's office, if warranted, against the organization or agency 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 local police or prosecutor's office 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 or individual engaging in prohibited acts whom they have apprehended in accordance with the Rules of Court.

SECTION 15. Handling of Complaint - There shall be a Review Committee at the concerned DSWD office, PSWDO or C/MSWDO which will handle the complaint against the organization or agency. The law enforcement agencies e.g. Philippine National Police (PNP), National Bureau Investigation (NBI), Department of Interior and Local Government (DILG), and Ombudsman among others shall assist in the enforcement of this Act. Said Committee shall be organized within sixty (60) days upon the effectivity of this Act. The Committee shall be composed of minimum of seven (7) members which consist of three (3) representatives from concerned government agencies, two (2) from Non-Government Organizations and two (2) from DSWD and PSWDO or C/MSWDO. The specific roles and functions of the Committee as well as the procedures in handling of complaints shall form part of the Implementing Rules and Regulations of this Act.

SECTION 16. Prohibited Acts. This Act prohibits any organization or agency to do any of the following acts:

- a. Soliciting without securing solicitation permit from DSWD, PSWDO or C/MSWDO.
- b. Soliciting beyond the allowed area of coverage or violating the mode of solicitation as indicated in the approved solicitation permit.
- c. Using falsified or tampered solicitation permit.
- d. Soliciting with expired solicitation permit.
- e. Using of solicited funds other than the intended purposes.
- f. Using the clients or beneficiaries in conducting the solicitation activities.
- g. Use of lottery and other game of chances where the source of prizes shall be taken from the proceeds of the solicitation activity and all other means contrary to law, public policy and morals.
- h. Solicitation paraphernalia which portray a dehumanizing picture, information or situation of the intended beneficiary.

Further, all solicited funds from the prohibited acts shall be turned over to concerned DSWD, PSWDO or C/MSWDO for the implementation of its social welfare and development programs and services after the court disposition. The specific procedures in the management of turn-over of solicited funds from the prohibited acts shall be provided in the Implementing Rules and Regulations of this Act.

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

- a. Any person who violates the provision of this Act shall be punished with imprisonment of not less than one (1) year but not more than three (3) years or a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00) or both at the discretion of the court.

- b. Additionally, for the first offense, the solicitation permit of the concerned organization or agency shall be revoked and no permit shall be issued to them for a period of two (2) years from the date of violation.
- c. For the second offense, the concerned organization or agency shall be permanently banned from conducting any solicitation activity. Further, its registration or license to operate as an organization or agency issued by any of the concerned government regulatory agency shall be cancelled and revoked permanently.
- d. When the offender is a foreigner, he/she shall be immediately deported and be barred permanently from entering the country after having served his/her sentence.
- e. In case of a violation of this Act by an organization or association, the incumbent officers thereof who have knowingly participated in the violation of this Act shall be held liable.

SECTION 18. Information Dissemination. - The DSWD, PSWDO or C/MSWDO shall disseminate information on the organizations or agencies issued with public solicitation permits to include the permit number, duration period, methodology to be used and the area/s covered. Likewise the DSWD, PSWDO or C/MSWDO shall also inform the public on the list of organizations or agencies which permits have been cancelled or revoked.

SECTION 19. Implementing Rules and Regulations. - The officers or authorized representatives of the DSWD, Association of PSWDO and Associations of C/MSWDO in coordination with the Bureau of Internal Revenue (BIR), Department of Finance (DOF), Department of the Interior and Local Government (DILG), Department of Trade and Industry (DTI), Department of Transportation and Communication (DOTC), Local Government Unit (LGU), Philippine National Police (PNP), National Bureau of Investigation (NBI), Securities and Exchange Commission (SEC) and other concerned government agencies and three (3) representatives selected by DSWD from the academe, NGOs, media organizations and peoples organizations shall promulgate the necessary implementing rules and regulations within ninety (90) working days from the effectivity of this Act.

SECTION 20. Appropriations. - The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the budget of the DSWD in the General Appropriations Act for the year following its enactment into law and thereafter.

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

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

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

Approved.