

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

Secretary of the Senate

13 NOV -4 P9:23

SENATE

S.B. No. 1897

RECEIVED

ji

Introduced by Sen. Manuel "Lito" M. Lapid

EXPLANATORY NOTE

The Department of Social Welfare and Development (DSWD) has, over the span of several years, received reports regarding unscrupulous solicitations by organizations and associations. Complainants report that government agencies are being misrepresented to give syndicates the guise of legality in their solicitation. On other occasions, soliciting groups do not identify the intended beneficiaries of or projects to be undertaken by the proceeds of the solicitation.

The lack of transparency and feedback from organizations and agencies has caused many citizens to question the legality, sincerity, and truthfulness of solicitation campaigns. Not only does this situation mar the reputation and goals of organizations, agencies, and individuals who are sincere in their charitable and public benefit efforts, but it also misappropriates funds that the public may be investing for the benefit of those who are less privileged.

The proposed measure identifies the DSWD and its offices as the regulator of public solicitation activities. The system of regulation envisioned under this bill will protect the integrity of government agencies and non-government organizations with a genuine intent to pursue charitable and public welfare activities that require funding through public solicitation. Further, the regulation of public solicitation will promote good relations between donors and beneficiaries.

Passage of this measure is earnestly urged.


MANUEL "LITO" M. LAPID
Senator *MLR*

SENATE

S. B. NO. 1897

RECEIVED

Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
TO REGULATE PUBLIC SOLICITATION
AND PROVIDING FUNDS THEREFOR

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

3
4 SEC. 2. *Declaration of Policy.* - It is the policy of the State to promote and
5 strengthen the partnership between the public and private sectors for the upliftment of
6 poor, disadvantaged, marginalized, vulnerable, and underprivileged individuals,
7 families, groups, and communities in the country. Towards this end, the State shall
8 establish standards and guidelines, and strengthen the system of granting permits or
9 authorization primarily to solicit funds or donations from the public for charitable,
10 social, and public welfare purposes to ensure that funds are properly utilized for the
11 intended purpose and beneficiaries.

12
13 SEC. 3. *Coverage.* - This Act shall apply to all National Government
14 Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs), State
15 Colleges/Universities, Local Government Units (LGUs) and other government
16 agencies; Non-Government Organizations (NGOs) including faith based, people's
17 organization and civil society organizations, associations, branch offices and similar
18 organizations, chapters and affiliates of similar international organizations operating in
19 the Philippines which are partly or fully financed with funds solicited from or
20 contributed by the public or private sectors for charitable or public welfare purposes.

21
22 SEC. 4. *Exemption from Coverage.* - The following shall be exempt from
23 the coverage of this Act:

1 a. Organizations and agencies created by laws that specifically confer
2 authority on them to solicit or conduct fund campaign for charitable or public welfare
3 purposes shall continue to be covered by their respective charters: *Provided*, That the
4 Department of Social Welfare and Development (DSWD), which may act through the
5 Provincial Social and Welfare Development Office (PSWDO), the City Social Welfare
6 Development Office (CSWDO), or the Municipal Social Welfare Development Office
7 (MSWDO), shall have the authority to monitor the activities of these organizations and
8 agencies and to require them to submit documents such as, but not limited to, the
9 following:

- 10 (1) Audited fund utilization report of collections, income and
11 expenditures, and other financial documents;
- 12 (2) A list of donors and their corresponding addresses and contact
13 numbers;
- 14 (3) A list of beneficiaries with their corresponding signatures,
15 addresses, contact numbers, and amount or type of assistance extended;
- 16 (4) A list of completed projects indicating the location and cost of the
17 same, with complete documentation on the implementation of the project, such
18 as through pictures, videos, and testimonies of beneficiaries; and
- 19 (5) Such other documents that the DSWD may require in order to
20 effectively assess the performance of the organization or agency;

21 b. Caroling during the Christmas season as a form of solicitation; and
22 c. Solicitations for religious purposes that are made within religious
23 sanctuaries, such as churches, mosques, and such other building regularly used for
24 religious services or worship.

25
26 **SEC. 5.** *Definition of Terms.* - For purposes of this Act, the following terms
27 shall be defined as:

- 28 a. Administrative cost - refers to the costs incurred in the management and
29 operation of solicitation activities, such as sending out mails, printing letters of appeal,
30 production of paraphernalia, and such other activities;
- 31 b. Beneficiaries - refer to the persons from lower income brackets,
32 vulnerable, marginalized, and financially or otherwise disadvantaged sectors who will
33 benefit from the proceeds of public solicitations, such as, but not limited to: (1)
34 neglected, abandoned, orphaned, or exploited children; (2) children under difficult or
35 sub-par living conditions or circumstances; (3) children in conflict with the law; (4) out
36 of school youth; (5) youth with special needs; (6) persons with disabilities; (7) senior

1 citizens; (8) victims of natural or man-made calamities; (9) financially or socially
2 disadvantaged women or those living under especially difficult circumstances; (10)
3 indigenous peoples and communities; (11) rebel returnees; (12) families who are victims
4 of armed conflict situations; (13) financially disadvantaged or dysfunctional families;
5 and (14) communities in depressed areas, among others;

6 c. Charitable purpose - refers to an intention to provide services or the
7 conduct of activities for beneficiaries, as defined in this Act;

8 d. Donors - refer to a person, organization, or agency that donates, gives, or
9 contributes personal or real property to beneficiaries for charitable or public welfare
10 purposes;

11 e. Memorandum of Agreement - refers to a notarized contract executed for
12 the purpose of undertaking a project that shall be for charitable or public welfare
13 purposes and shall state in particular the following information: (1) the identity of the
14 beneficiaries; (2) the amount or percentage from the proceeds that shall be given to said
15 beneficiaries; (3) the date and place where the project shall be undertaken; (4) the date
16 when the proceeds shall be awarded or the project turned-over to the beneficiaries; (5)
17 the duration of time or period throughout which the proceeds shall be distributed or
18 may be claimed; and (6) such other information as may be required to identify the
19 project or specify and delimit its objectives and nature;

20 f. Organization or agency - refers to all national government agencies
21 (NGAs), government-owned and -controlled corporations (GOCCs), State universities
22 and colleges (SUCs), local government units (LGUs), and other such other government
23 instrumentalities or agencies, non-government organizations (NGOs), including
24 religious and civil society organizations, people's organizations, associations, or branch
25 offices, and similar chapters, affiliates, branches, or local offices of similarly-natured
26 international organizations operating within the Philippines that express the desire to
27 or undertake the actual conduct of solicitation or receipt of contributions from the
28 public of funds and proceeds that shall be applied to charitable or public welfare
29 purposes;

30 g. Program cost - refers to all expenses incurred in the direct or indirect
31 provision of services or goods to a beneficiary including expenses of the donee in its
32 operation and implementation of programs and services relevant to and necessary for
33 the project;

34 h. Public solicitation - refers to any activity or project intended to generate
35 funds, goods, or other assistance from the public sectors for charitable or public welfare
36 purposes. Categories of public solicitation shall include:

1 (1) Local Public Solicitation - refers to a solicitation activity conducted
2 within the city or municipality;

3 (2) Provincial Public Solicitation - refers to a solicitation activity
4 conducted in two or more cities or municipalities within a province;

5 (3) Regional Public Solicitation - refers to a solicitation activity
6 conducted in two or more provinces within a region; and

7 (4) National Public Solicitation - refers to a solicitation activity
8 conducted in two or more regions; and

9 i. Public welfare purpose - refers to any activity or project relative to health,
10 education, peace, social welfare and protection, environmental safety, rights, security,
11 and safety of citizens, and similar circumstances or conditions.
12

13 **SEC. 6. Authority to Issue Permit.** - The following shall be authorized to
14 grant and issue permits to eligible organizations or agencies for the conduct of
15 allowable solicitation activities:

16 a. The Secretary or Undersecretary of the Department of Social Welfare and
17 Development (DSWD), or their designated representative, for national public
18 solicitation;

19 b. The Regional Director of the DSWD, or his designated representative, for
20 regional public solicitation;

21 c. The head of the PSWDO, or his designated representative, in coordination
22 with the Provincial Governor, for provincial public solicitation;

23 d. The head of the CSWDO or MSWDO, or his designated representative, in
24 coordination with the City or Municipal Mayor, for local public solicitation.
25

26 **SEC. 7. Requirements.** - Applicant organizations or agencies shall comply
27 with such requirements as may be imposed by the DSWD, PSWDO, CSWDO, or
28 MSWDO, as the case may be, such as, but not limited to the following:

29 a. A duly accomplished and signed application form, in the form prescribed
30 by the DSWD, PSWDO, CSWDO, or MSWDO, as the case may be, which shall be
31 completed by the head of the applicant organization or agency head or his designated
32 representative;

33 b. A project proposal for the intended public solicitation activity with an
34 attached work and financial plan;

35 c. Certified true copies of the Certificate of Registration, Articles of
36 Incorporation, and By-Laws, as filed with the Securities and Exchanges Commission

1 (SEC) or such other regulatory agency with jurisdiction to register and monitor the
2 applicant organization or agency;

3 d. A certification from the SEC or such other regulatory agency regarding
4 the good standing and continuing operations of the applicant organization or agency
5 and its good standing and updated certification from SEC or other regulatory
6 government agency, which has jurisdiction to regulate the applying organization or
7 agency on the validity of its registration, if non-government organization or private
8 agency;

9 e. A notarized Memorandum of Agreement, as defined in this Act, or such
10 other similar written contract signifying the intended beneficiary's knowledge of and
11 concurrence with the solicitation activity;

12 f. A Board Resolution authorizing the conduct of the solicitation activity;
13 and

14 e. Such other requirements to be imposed by the DSWD, PSWDO, CSWDO,
15 or MSWDO, as the case may be.

16

17 **SEC. 8. *Validity of Permit.*** - All permits for the purpose of undertaking
18 public solicitation shall be valid for a specified period not exceeding one (1) year. No
19 permit issued pursuant to this Act shall be valid for activities or beneficiaries located
20 outside of the Philippines.

21

22 **SEC. 9. *Fees and Charges.*** - The DSWD or such other concerned
23 implementing agencies may impose reasonable fees and charges on applicant
24 organizations or agencies: *Provided*, That the collection and liquidation of fees or charges
25 shall be in compliance with existing laws thereon.

26

27 **SEC. 10. *Methods of Public Solicitation.*** - Public solicitation may be
28 conducted through any of the following methods:

29 a. Written requests, such as letters of appeal, printed envelopes, cards, and
30 similar forms;

31 b. Campaigns through mass media, such as through television, cinema,
32 radio, magazine, newspapers, billboards, and others;

33 c. Publication, distribution, circulation, or posting of written advertisements;

34 d. Sale of goods such as souvenir items, rummage sale materials, printed
35 materials, and the like;

- 1 e. Benefit shows, concerts, fashion shows, and other forms of entertainment
2 shows;
- 3 f. Distribution or leaving of donation boxes, coin banks, and the like; or
- 4 g. Other methods that may be allowed by the DSWD, PSWDO, CSWDO, or
5 MSWDO, as the case may be.

6

7 The ceiling amount for the cost of public solicitation paraphernalia shall be set in
8 the implementing rules and regulations to be issued pursuant to this Act.

9

10 **SEC. 11. *Tax Deduction or Exemption of Donations and Contributions.* -**

11 The donor, by virtue of the foregoing provisions, shall be entitled to an allowable
12 deduction in his income tax return equivalent to the amount of the donation given,
13 pursuant to the provisions thereon as found in the National Internal Revenue Code, as
14 amended.

15

16 **SEC. 12. *Allocation of Proceeds.* -** Not more than fifteen percent (15%) of

17 the total proceeds from public solicitation activities shall be allocated to and expended
18 for administrative costs. The remaining eighty-five percent (85%) shall be distributed to
19 or utilized entirely for programs directly benefitting or to be received by the named
20 beneficiaries. Unless compliance with this section is satisfactorily established on the
21 basis of the report as required in Section 13 hereof, no organization or agency shall be
22 issued any subsequent permit.

23 Funds collected during the conduct of fund campaign activities shall be
24 deposited in a banking institution regulated by the Bangko Sentral ng Pilipinas in an
25 account under the name of the organization or agency to which the permit was issued.
26 Books of account shall also be required in the monitoring or validation of report. The
27 date, duration, and place where the consolidation and accounting of proceeds shall be
28 undertaken and the date of the awarding or turn-over of the proceeds to the
29 beneficiaries, shall be witnessed by the authorized representatives from the DSWD,
30 PSWDO, CSWDO, or MSWDO for national, regional, provincial, city, or municipal fund
31 campaigns respectively.

32

33 **SEC. 13. *Monitoring of Public Solicitation Activity.* -** The concerned
34 organization or agency to which the permit was issued shall submit to the concerned
35 DSWD office, PSWDO, CSWDO, or MSWDO, as the case may be, within sixty (60) days
36 after the expiration of the issued permit, a report signed and sworn to by at least two

1 authorized officers of the organization or agency, indicating whether such permit was
2 used or not. If the activity authorized under the permit was undetaken, the following
3 documents should be submitted:

- 4 a. Audited fund utilization report of income and expenditures;
- 5 b. List of donors indicating their corresponding addresses, contact numbers,
6 and amount of donation;
- 7 c. List of beneficiaries indicating their corresponding addresses, contact
8 numbers, and amount or type of assistance received;
- 9 d. List of projects undertaken and completed with an indication of their location
10 and cost; and
- 11 e. Expired original permit authorizing the conduct of national or local fund
12 campaigns.

13 However, if the activity authorized under the permit is not undertaken, the
14 concerned organization or agency shall submit the following records:

- 15 a. Justification for not conducting or not completing the solicitation activity
16 within the validity period; and
- 17 b. Expired original permit authorizing the conduct of public solicitation.

18 The DSWD, PSWDO, CSWDO, or MSWDO may, in the exercise of their
19 regulatory powers, verify the authenticity of the report submitted by conducting spot
20 investigations or by reviewing the books of account of the concerned organization or
21 agency, which should be maintained and preserved for not less than three (3) years
22 after the completion of the public solicitation activity.

23
24 **SEC. 14. *Filing of Complaints.*** - The DSWD, PSWDO, CSWDO, or MSWDO
25 may, whether *motu proprio* or upon the complaint of any individual, initiate an
26 investigation and the filing of complaints in the appropriate court against any
27 organization or agency that undertakes fund campaigns without first securing the
28 necessary permit therefor or that secures such permits through fraudulent
29 representation: *Provided*, That the foregoing shall not prohibit any concerned person or
30 law enforcement agency to file a complaint before the Regional Trial Court against any
31 person who shall commit any of the acts punishable under Section 16 of this Act.

32
33 **SEC. 15. *Handling of Complaint.*** - There shall be a Review Committee at the
34 concerned DSWD office, PSWDO, CSWDO, or MSWDO that will handle complaints
35 against an organization or agency. Said Committee shall be organized within sixty (60)
36 days after the effectivity of this Act. The Committee shall be composed of a minimum

1 of seven (7) members consisting of three (3) representatives from concerned
2 government agencies, two (2) from non-government organizations and two (2) from the
3 DSWD, PSWDO, CSWDO, or MSWDO. The specific roles and functions of the
4 Committee as well as the procedures in handling of complaints shall form part of the
5 Implementing Rules and Regulations of this Act.

6

7 **SEC. 16. *Prohibited Acts.*** – This Act prohibits any organization or agency to
8 do any of the following acts:

- 9 a. Soliciting without securing solicitation permit from DSWD, PSWDO,
10 CSWDO, or MSWDO;
- 11 b. Soliciting beyond the allowed area of coverage or through unapproved
12 modes of solicitation, as indicated in the approved solicitation permit;
- 13 c. Using falsified or tampered solicitation permits;
- 14 d. Soliciting under an expired solicitation permit;
- 15 e. Using solicited funds for purposes other than those intended or indicated
16 in the solicitation permit;
- 17 f. Using clients or beneficiaries in conducting solicitation activities;
- 18 g. Using proceeds from solicitation activities to finance lottery games, games
19 of chance, or such other activities that are contrary to law, public policy, and morals;
- 20 h. Using solicitation paraphernalia that portray dehumanizing pictures,
21 information, or situations of the intended beneficiary.

22

23 Solicited funds attributable or connected to and resulting from prohibited acts
24 shall be turned over to the DSWD, PSWDO, CSWDO, or MSWDO that issued the
25 solicitation permit. The specific procedures in the management and turn-over of such
26 funds shall be stipulated in the implementing rules and regulations to be issued
27 pursuant to this Act.

28

29 **SEC. 17. *Penalties.*** – Violations of this law shall be subject to the following
30 penalties:

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

1 b. *Cancellation of Permit.* For the first offense, the solicitation permit of the
2 concerned organization or agency shall be revoked and no permit shall be issued to
3 them for a period of two (2) years from the date of violation. For the second offense, the
4 concerned organization or agency shall be permanently prohibited from conducting any
5 solicitation activity.

6 c. If the offender is a foreign individual, he shall be immediately deported
7 after service of his sentence.

8 d. If the offender is an organization or association, the officers and members
9 who knowingly participated in the prohibited acts Act shall be held liable.

10
11 **SEC. 18. *Information Dissemination.*** - The DSWD, PSWDO, CSWDO, or
12 MSWDO shall disseminate information on issued public solicitation permits clearly
13 indicating the association or agency name, permit number, duration of the activity,
14 coverage area, and method of solicitation to be used. Likewise the DSWD, PSWDO,
15 CWSDO, or MSWDO shall also provide the public with a list of organizations or
16 agencies whose permits have been cancelled or revoked.

17
18 **SEC. 19. *Implementing Rules and Regulations.*** - The Department of Social
19 Works and Development, in coordination with other concerned government agencies
20 and three (3) representatives from the academe, relevant non-government
21 organizations, and the media shall promulgate implementing rules and regulations for
22 this Act within ninety (90) working days from its effectivity.

23
24 **SEC. 20. *Appropriations.*** - The amount necessary to carry out the provisions
25 of this Act is hereby authorized to be appropriated in the concerned DSWD and Local
26 Government Units General Appropriations Act for the year following its enactment into
27 law and thereafter.

28
29 **SEC. 21. *Repealing Clause.*** - Presidential Decree No. 1564, Local
30 Government Code of 1991 Book III Title II Ch 3 Art 1 Sec 444 (b) (3) V and Sec 455 (b)
31 (3) (v) and all other laws, decrees, executive orders and proclamations, rules and
32 regulations or parts thereof, inconsistent with this Act are hereby repealed or modified
33 accordingly.

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

4
5 **SEC. 23.** *Effectivity Clause.* - This Act shall take effect fifteen (15) days after
6 its publication in any two (2) newspapers or general circulation.

Approved,