



Labyrinth, Inc. Charitable Solicitation Whitepaper

The following is an examination of charity state registration requirements by the experts who have filed over 250,000 charity state registrations, specializing in charity state registration for over 30 years.

Charitable Solicitation Requirements

40 states and the District of Columbia require charitable solicitation registration. Any charity that solicits donations by phone, direct mail, in person, email, or online may be subject to charity registration requirements. Charities that contract professional solicitors, fundraising consultants, or commercial co-ventures to solicit on their behalf are also required to register.

Almost every state requires charities to register before they begin soliciting, regardless of whether any donations are received. In most states, the government agency managing registration is the Office of the Attorney General or the Secretary of State. In addition to the initial registration, most states also require the filing of an annual report or renewal application in order to maintain compliance with state regulations.

Some states offer exemptions for certain nonprofits based on their type of charitable activity (e.g. religious organizations, hospitals, and educational institutions), but the requirements vary from state to state and often require an application. There are also some unusual exceptions, such as in Missouri where 501(c)(3) nonprofits are exempt from annual registration, or Louisiana, where only organizations that use professional solicitors are required to register.

Charity Registration Forms and Materials

Charitable solicitation registrations generally consist of the state's specific application form, supporting documents, and a filing fee.

State forms may require charities to disclose solicitation methods, the names of the individuals responsible for fundraising and managing funds, banks in which funds are deposited, details on the founding of the nonprofit, names of organization executives, and information on any conflicts of interest that may exist.

Supporting documents that must accompany annual charitable solicitation filings usually include the nonprofit's IRS Form 990, audited financial statements and/or state-specific financial reports. Documents that usually need to be filed with initial registrations (and sometimes annual registrations) include:

- ▶ IRS Determination Letter
- ▶ Articles of Incorporation and Amendments
- ▶ Bylaws
- ▶ Lists of officers and directors
- ▶ IRS Form 990
- ▶ Audited financial statements, if applicable
- ▶ Professional fundraiser and commercial co-venture contracts

Fees vary by state and are typically calculated based on an organization's total gross revenue or contributions received in the previous year. Some states require a fixed fee that may remain the same from year to year.

Renewal Requirements

Most states require annual renewal applications, but a few states require renewals on a biennial basis. Renewal due dates can be set based on the organization's fiscal year end, on the anniversary of registration, or are a fixed date for all organizations. Initial registration forms, fees and supporting documents may be different from the renewal application requirements and will vary by state. Most states will require the organization to complete their renewal application form and submit copies of the annual IRS Form 990, and audited financial statements (if applicable). Some states will also require the organization to submit copies of contracts with fundraisers or commercial co-venturers, and copies of founding bylaws and articles, if these were recently amended.

Keep in mind that all state requirements, due dates and fees are subject to change at any time, and often will change from year to year.

Common Charity State Registration Due Dates

Most states base their renewal due dates on one of three methods:

- 1) On a fixed date for all organizations, such as November 30 for Maine.*
- 2) On the anniversary date of initial registration, such as in West Virginia or Rhode Island.*
- 3) On a fixed period after the nonprofit's fiscal year end, such as is done by New York and Maryland.*

Extensions

Many states have renewal due dates that fall four to six months after the end of an organization's fiscal year. Most states typically require an organization to include their IRS 990 as part of the registration. Because of this, many nonprofits have a tough time meeting the state deadlines. If the Form 990 and/or audited financial statements are not ready by the state's due date, then an organization will want to apply for state renewal extensions. Some states have automatic extensions that do not need to be applied for, but many states require an organization to complete a form, send an email or letter, or complete an online request in order to file for an extension. All states have different extension request requirements and due dates.

Extension lengths will vary by state and can be as little as 30 days and as long as 6 months. Some states even offer second extension opportunities that must also be applied for. Failure to submit an extension request when the renewal is not ready can result in late fees, fines and penalties that could put the organization at risk of being denied the right to ever solicit in a state again.

Filing Methods

Most states require initial and renewal applications to be filed on paper, using the state's forms. Some states require for these filings to be completed online, and a couple of states require all filings to be submitted on CD.

Online Registration Available		Online Registration Required
California (Renewal)	Utah	Colorado
Connecticut	Washington	District of Columbia
Georgia		Florida
Maine		Hawaii
North Carolina		Mississippi
Oklahoma		New Jersey
Oregon		New Mexico
South Carolina		New York (Initial)
Tennessee		Ohio

Audit Requirements

A number of states require an audited financial statement be included along with the registration if an organization is above a certain gross contribution or revenue threshold. Each state has its own requirements, but for most states the audit requirement goes into effect once the organization exceeds \$500,000 in annual revenue. Several states require these audits to be prepared in accordance with GAAP (generally accepted accounting principles).

For certain states, such as Georgia and Pennsylvania, even if an organization is below the threshold that would require an audit, the state may still require reviewed financial statements or compiled financial statements. States may grant waivers for these audit requirements, but it is up to the organization to prove to the state that there is a legitimate reason why an audit could not be prepared.

Additional Requirements

Several states require an organization to obtain a registered agent for service of process as part of the charitable solicitation licensure. This agent must be located in the state and must be maintained continuously. Most organizations will appoint a corporate registered agent company that has offices in all 50 states and the District of Columbia. States that require registered agents for charitable registration are DC, MI and ND.

In addition, states like DC and ND also require an organization to obtain foreign corporate authority in the state. For most other states, foreign corporate authority is usually only required if an organization has employees or a physical presence (such as offices) in the state. Obtaining foreign corporate authority is an entirely separate qualification process that also must be maintained through the submittal of

corporation annual reports. To obtain foreign qualification in a state, an organization must typically file a registration form along with attachments such as a Certificate of Good Standing from the state in which the charity is incorporated.

Online Fundraising Registration Requirements

Generally any request for a contribution triggers state registration requirements. This is true whether the organization makes the request by email, text, in-person, by phone, direct mail, etc. However, some states do not require registration if the only method the organization uses to raise money is through a donate button on their website.

In 2001, the National Association of Attorneys General (NAAG) and the National Association of State Charity Officials (NASCO) developed a framework regarding solicitation on the internet and the registration requirements that pertain to it. This framework essentially said that even if a charity only raises money through the use of a donate button, that it would still need to register if it targets individuals in a state and encourages them to give or if the organization receives repeated or substantial contributions from a state. Many states follow this framework, though several states, such as Rhode Island, have adopted an even tougher line.

Unified Registration Statement

In the 1990s, the founder of Labyrinth, Inc. proposed standardizing the registration process and the registration forms across all states. This was followed up on, and in 1995, the states released the Unified Registration Statement (URS). For more than a dozen years the URS made the registration process easier for charities to get and stay registered.

However, in recent years there has been a shift away from the URS and to each state requiring their own forms and attachments. Currently 23 states do not accept the URS for annual renewal registration, and out of the handful that still do accept the form, most require complex attachments. Unfortunately, as years passed, the complexity of filing state registrations has only increased.

Disclosures

Many states require charities to include disclosure statements on all written solicitation materials. This includes direct mail pieces and on the organization's

website. The purpose of a disclosure statement is to protect donors from illegitimate charities. The statement requirements vary by state, but should generally contain information about where a donor may find information about the charity.

Sample Disclosure Paragraph

A copy of the latest financial report, registration filed by this organization, and a description of our programs and activities may be obtained by contacting us at: (YOUR ORGANIZATION'S ADDRESS, YOUR TELEPHONE NUMBER). (NAME OF CHARITY) was formed in (STATE). If you are a resident of one of the following states, you may obtain financial information directly from the state agency: Florida: A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE, WITHIN THE STATE, 1-800-435-7352 (800- HELP-FLA), OR VISITING www.800helpfla.com. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE. Florida Registration #(insert FL #). Georgia: A full and fair description of our programs and our financial statement summary is available upon request at our office and phone number indicated above. Maryland: For the cost of copies and postage, from the Office of the Secretary of State, State House, Annapolis, MD 21401. Mississippi: The official registration and financial information of (NAME OF CHARITY) may be obtained from the Mississippi Secretary of State's office by calling 1-888-236-6167. Registration by the Secretary of State does not imply endorsement. New Jersey: INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION AND THE PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE CHARITY DURING THE LAST REPORTING PERIOD THAT WERE DEDICATED TO THE CHARITABLE PURPOSE MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING 973-504-6215 AND IS AVAILABLE ON THE INTERNET AT: <http://www.state.nj.us/lps/ca/charfrm.htm>. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT. New York: **Attorney General Charities Bureau, 120 Broadway, 3rd Floor, New York, NY 10271**. North Carolina: Financial information about this organization and a copy of its license are available from the State Solicitation Licensing Branch at 919-807-2214. This is not an endorsement by the state. Pennsylvania: The official registration and financial information of (NAME OF CHARITY) may be obtained from the Pennsylvania Department of State by calling toll-free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement. Virginia: State Division of Consumer Affairs, Department of Agricultural and Consumer Services, PO Box 1163, Richmond, VA 23218. Washington: Secretary of State at 1-800-332-4483 or <http://www.sos.wa.gov/charities/>. West Virginia: West Virginia residents may obtain a summary of the registration and financial documents from the Secretary of State, State Capitol, Charleston, WV 25305. Registration does not imply endorsement. **REGISTRATION WITH A STATE AGENCY DOES NOT CONSTITUTE OR IMPLY ENDORSEMENT, APPROVAL OR RECOMMENDATION BY THAT STATE.**

Consequences

While not every nonprofit needs to be registered in every state, it is most important that nonprofits be registered in any state where they will be soliciting donations. Nonprofits can be fined by states at any time for soliciting without a license or for soliciting with an expired license. The penalties vary by state but often include fines of thousands of dollars per state, cease and desist orders, being banned from ever soliciting in a state again, or even the loss of tax-exempt status.

In several states, fees may be issued for each year of missed filing. For example, missed filings in states like South Carolina, Hawaii, or Mississippi may be \$2,000 to \$4,000 per year, and if multiple filings are missed, these fees may be considerable higher.

All nonprofits should be aware of state charity regulations before they begin soliciting. Since nonprofit organizations rely so heavily on the donations and grants they receive, state noncompliance penalties and the reputational risk from noncompliance can have the potential to be detrimental to the work of many worthy organizations.

Donors are becoming more aware of these state registration requirements and have come to expect the charities that they support to be in compliance with the law. Several states publish lists of charities that have solicited without being properly registered or who have otherwise run afoul of the law in that state. States can even bring criminal or civil cases against the officers or directors of a nonprofit for flagrant offences.

Reasons to Outsource the State Registration Process

Filing charity state registrations is incredibly challenging. If any of the questions on the forms are answered incorrectly or attachments are not submitted, this can lead to the registration being rejected and the application fee being forfeited. State regulators can be quite demanding and may require lots of additional information in supplement to the registration packet. Individuals tasked with completing state registrations will need to dedicate hundreds of hours per year to annual renewals and reports.

In addition, information provided to the states becomes public record and is available on state websites. States may ask for sensitive information about officers, like social security numbers, dates of birth, and home address, or may require information about donors. Labyrinth, Inc. has worked with the states to come up with ways to avoid disclosing all of this sensitive information to the public.

An organization doing their own state filings simply cannot keep up with all of the state law changes, changes in forms, due dates, and registration requirements the way that a firm specializing in this area can. There are many techniques that an experienced firm, such as Labyrinth, Inc., can employ to make the annual registration process run smoothly.

About Labyrinth, Inc.

Labyrinth, Inc. was founded in 1989 and has been specializing in charity state registrations ever since. Each year, Labyrinth assists thousands of charities ranging from those just starting out to established charities with billions of dollars in annual revenue. Labyrinth has legal counsel and accountants on staff as well as scores of other experienced charity state registration specialists. Because Labyrinth specializes in charity state registrations and files many times more charity state registrations than any other firm, we have an unmatched depth of knowledge. If you take a look at competing firms, you'll also find that we tend to be the most affordable solution. For more information about Labyrinth, Inc., please visit us online at www.labyrinthinc.com or call us at 844-863-0915.

Charitable Solicitation Requirements

State	Charity Registration Required?	Initial Fee for Registration?	Extensions Available?	Can Charity File Online?	Registered Agent Required?	Disclosure Statement Required?
AL	Yes	25	Yes	No	No	No
AK	Yes	40	No	No	No	No
AZ	No	N/A	N/A	N/A	N/A	N/A
AR	Yes	0	Yes	No	No	No
CA	Yes	25	Yes	Renewal Only	No	No
CO	Yes	10	Yes	Yes	No	No
CT	Yes	50	No	Yes	No	No
DE	No	N/A	N/A	N/A	N/A	N/A
DC	Yes	412.50	No	Yes	Yes	No
FL	Yes	10-400	Yes	Yes	No	Yes
GA	Yes	35	Yes	Yes	No	Yes
HI	Yes	0	Yes	Yes	No	No
ID	No	N/A	N/A	N/A	N/A	N/A
IL	Yes	15	Yes	No	No	No
IN	No	N/A	N/A	N/A	N/A	N/A
IA	No	N/A	N/A	N/A	N/A	N/A
KS	Yes	35	No	No	No	No
KY	Yes	0	Yes	No	No	No
LA	Yes*	25	No	No	No	No
ME	Yes	50	No	Yes	No	No
MD	Yes	0-300	Yes	No	No	Yes
MA	Yes	135-2000	Yes	No	No	No
MI	Yes	0	Yes	No	Yes	No
MN	Yes	25	Yes	No	No	No
MS	Yes	50	Yes	Yes	No	Yes
MO	Yes**	15	No	No	No	No

MT	No	N/A	N/A	N/A	N/A	N/A
NE	No	N/A	N/A	N/A	N/A	N/A
NV	Yes	0	No	No	No	No
NH	Yes	25	Yes	No	No	No
NJ	Yes	30-250	Yes	Yes	No	Yes
NM	Yes	0	Yes	Yes	No	No
NY	Yes	25	Yes	No	No	Yes
NC	Yes	0-200	Yes	Yes	No	Yes
ND	Yes	75	Yes	No	Yes	No
OH	Yes	0-200	Yes	Yes	No	No
OK	Yes	15 or 65	No	No	No	No
OR	Yes	0	Yes	Yes	No	No
PA	Yes	15-250	Yes	No	No	Yes
RI	Yes	90	Yes	No	No	No
SC	Yes	50	Yes	Yes	No	No
SD	No	N/A	N/A	N/A	N/A	N/A
TN	Yes	50	Yes	Yes	No	No
TX	Yes***	200, 250, 500	Yes	No	No	No
UT	Yes	75	No	Yes	No	No
VT	No	N/A	N/A	N/A	N/A	N/A
VA	Yes	100	Yes	No	No	Yes
WA	Yes	60	Yes	Yes	No	No
WV	Yes	15 or 50	Yes	No	No	Yes
WI	Yes	15	No	No	No	No
WY	No	N/A	N/A	N/A	N/A	N/A