

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 480
CHARITABLE TRUST ACT

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AUTHORITY: Implementing and authorized by the Charitable Trust Act [760 ILCS 55].

SOURCE: Adopted and effective November 5, 1975; amended at 2 Ill. Reg. 37, p. 185, effective September 30, 1978; amended at 2 Ill. Reg. 45, p. 166, effective November 30, 1978; codified at 7 Ill. Reg. 880; amended at 24 Ill. Reg. 14665, effective September 21, 2000.

Section 480.10 General

- a) The Charitable Trusts Bureau of the Attorney General's Chicago Office (hereafter Bureau) will maintain the principal register of charitable trusts registered under the Illinois Charitable Trust Act.
- b) The register of charitable trusts will consist of records, such as index or computer cards, organization or trust file folders, a list, a computer printout or a combination thereof.

(Source: Amended at 24 Ill. Reg. 14665, effective September 21, 2000)

Section 480.20 Definitions

"A Trustee" holds property when he has title or possession of the property and controls its distribution subject to conditions which devote the property to a charitable purpose. A custodian or depository does not hold property.

"A Charitable Remainder Trust" is one where the income goes to the donor or designated individual for life, with remainder to an operating charity on the death of the life tenant. The Trust must be irrevocable, as to the remainder, to fall within this regulation. Registration is required of all such trusts. A Charitable Remainder Trust may qualify for alteration of the reporting requirement pursuant to Section 480.60 of this Part and 14 Ill. Adm. Code 400.10 and 400.20.

"Charitable Purposes" includes without limitation any funds which are to be applied for the benefit of an indefinite number of people to provide them with:

Education,

The benefit of religion,

Relief from poverty, sickness or disease,

A means of establishing themselves in life,

Public building or recreational activities, or

Services which lessen the burden of government.

"Charitable Trusts" means any relationship whereby real or personal property is held for a charitable purpose or purposes.

"Trustee" is any person, group of persons, or other legal entity who holds property intended to be used for charitable purposes.

"Trustees" who hold property for charitable purposes with a value exceeding \$4,000, are required to register.

For the purposes of registration, the value of a trust's assets is fair market value.

Where the value of trust assets fluctuate, the value is determined by its greatest value during the year or the total amount disbursed, whichever is greater.

(Source: Amended at 2 Ill. Reg. 37, p. 185, effective September 30, 1978)

Section 480.30 Registration

- a) Trustees subject to the Act holding property with a value in excess of \$4,000 must file with the Attorney General a registration statement in the forms set forth in Exhibits A and B of this Part prior to any disbursement or within six months after property is received for charitable purposes, whichever occurs first.

- b) Trustees who hold property in excess of \$4,000 during any 12 month period are required to register.
- c) Upon termination of, or resignation by, a charitable trustee, the charitable organization shall notify the Attorney General in writing within ten days of such fact.
- d) Each trustee, officer or director is responsible for accurate record keeping and for the timely and accurate filing of financial reports required by the Attorney General. Resignation of such trustee, officer or director shall not avoid or diminish these record keeping and filing responsibilities for any period during which such person held office.
- e) Each "trustee" has a fiduciary obligation toward: his/her charitable organization; charitable monies; donors; and unknown charitable beneficiaries as described by the charitable organization's stated purpose or the purpose for which charitable monies were collected.
- f) To register, a charitable trust must file a completed registration statement, all required statutory fees and all appropriate attachments, including schedules of assets and investments. All registrations must be accompanied by copies of the instrument under which the property is administered, financial statements for each of the past three years and executed copies of the tax returns and/or reports filed with the Internal Revenue Service for the past three years. Where there is no written instrument, the trustee must prepare an affidavit setting forth the conditions of the trust. The registration must be made by the trustee. In the case of a corporate charitable trust with two or more officers, the president and the treasurer must sign. Additional prior years' reports and schedules may be required at the discretion of the Attorney General.
- g) The Attorney General may by pre-approval accept registration forms used by other states which contain the information required in Exhibit A.
- h) When a registration is cancelled, to return to compliance, a re-registration must be made. Re-registration requires the submission of all of the above as applicable, including the re-registration penalty fees as provided by Section 5(b) of the Act.
- i) When a charitable trust combines the interest of living private individuals with charitable interests, confidential registration may be made.
- j) A confidential registration statement shall contain the information required by Section 480.30(e) and also two (2) additional copies of the trust instrument form which are deleted the names of the individual beneficiaries.
- k) The trustee shall notify the Attorney General of any changes in the registration information within thirty (30) days of the changes.

(Source: Amended at 24 Ill. Reg. 14665, effective September 21, 2000)

Section 480.40 Organizations and Activities Exempt from Registration

- a) Trustees who hold property with a value of less than \$4,000 are not required to register with the Attorney General provided that, if assets exceed \$4,000 during any 12 month period, no exemption is available and registration is required.
- b) The Federal, state and local governments and their duly authorized agencies and subdivisions are exempt from the registration requirements of the Act.
- c) Religious organizations, agencies or affiliates directly supervised by such religious organizations are exempt from the registration requirements of the Act for exclusively religious activities.
- d) Individual officers and directors of religious bodies who hold property in their official capacity are exempt from registration under the Act.
- e) Trustees who hold property for the purpose of and who are exclusively operating schools or; hospitals are exempt from the registration requirements of the Act.
- f) Trustees engaged in any of the above exempt activities, if engaged in non-exempt activities, must still register and account for all non-exempt activities.

(Source: Amended at 24 Ill. Reg. 14665, effective September 21, 2000)

Section 480.50 Annual Reports

- a) All trustees subject to the Act; must file annual financial reports with the Attorney General on the form as set forth in Exhibit C of this Part with the attachments prescribed by the form and this Section and with all required statutory fees paid prior to the due date.
- b) The annual financial report is due within six months after the close of an organization's fiscal year.
- c) The annual financial report shall be signed as required by the Act and must include the following:
 - 1) The Illinois Charitable Organization Annual Report form;
 - 2) A copy of the Federal Internal Revenue return and/or report, as required by the Internal Revenue Code and incorporated attachments for the same period;
 - 3) Required statutory fees; and

- 4) A schedule of investments on a form that lists a description of the asset, quantity, cost and fair market value to the Attorney General.

The use of substitute forms or computer printouts may be approved in writing by the Attorney General for good cause upon a timely request.

- d) Alternative Annual Accountings in lieu of compliance with subsection (c) above:
 - 1) A trustee of a trust subject to court supervision must: notify the Attorney General pursuant to the Act; provide a copy of the court accounting signed under oath by the trustees; provide a copy of the court order approving the accounting; and submit the required statutory fees.
 - 2) Bank and trust companies and their cofiduciaries may file a copy of the trust's federal return and the required fees instead of an annual report required by the Act.
 - 3) Trusts holding and receiving less than \$25,000 in assets and less than \$25,000 in revenue during a fiscal year may file a simplified financial statement using the Illinois Charitable Organization Annual Report form disclosing gross receipts, total disbursements, and assets on hand at the year's end and signed by the trustee.
- e) The Attorney General shall, upon written request, extend for 60 days the time for filing of the annual financial report.
- f) If an organization is entitled to an additional extension for good cause by the Internal Revenue Service, which would extend its federal tax return or report due date later than the Attorney General's due date, the organization may obtain an additional extension from the Attorney General coinciding with the same Internal Revenue Service due date. Extension requirements are:
 - 1) This extension request must be made prior to the due date for the Attorney General's annual financial reports and must include:
 - A) A request for such additional extension;
 - B) A completed and signed Illinois Charitable Organization Annual Report form;
 - C) Financial statements, including a balance sheet and report of income and expenses for the subject period in final or interim form;
 - D) All required statutory fees; and

- E) A copy of the application for extension of time filed with the Internal Revenue Service.
- 2) The filing of all required reports must be done on or before the Internal Revenue Service extended filing date and shall include:
 - A) A copy of the approved Internal Revenue Service application for extension; and
 - B) A copy of the Federal tax return or report.
- g) All financial reports or substitutes must be signed by a trustee or, if a corporation, the president and chief fiscal officer.
- h) Organizations registered under both the Charitable Trust Act and the Solicitation for Charity Act [225 ILCS 460], may file one report, but it must meet the requirements of both the Solicitation for Charity Act and the Charitable Trust Act.
- i) An organization may alter its fiscal year only upon written notice to the office of the Attorney General and after providing whatever financial reports are necessary to furnish a complete picture of its operation during any gap period.
- j) The Attorney General may, for good cause, alter or suspend the reporting period of a charitable trust for a reasonable and specifically designated time.
 - 1) Anyone requesting a change in reporting period or suspension of the reporting requirement shall file a written request with the Attorney General setting forth the reasons for the request and accompanied by a financial report showing the current financial condition of the trust.
 - 2) The Attorney General will make a written determination on the request. The request will only be granted if the beneficiary will not be prejudiced and periodic reporting is not required for the proper supervision of the trust.
- k) All trustees must notify the Attorney General of the termination of a charitable trust and file a final financial report within six months after termination, upon the same forms and using the same attachments as required for an annual financial report.
- l) Failure to file a timely and complete financial report will result in penalty fees and/or a fine and subjects the organization's registration to cancellation.
- m) Upon cancellation the organization must cease operations.

(Source: Amended at 24 Ill. Reg. 14665, effective September 21, 2000)

Section 480.60 Public Records

The registration and annual reports, except for confidential registrations, made with the Bureau are public records. They may be examined by interested members of the public in the office of the Attorney General during ordinary business hours.

(Source: Amended at 24 Ill. Reg. 14665, effective September 21, 2000)