



## Alliance Action Alert!

### **How Changes to the Mississippi Telephone Solicitation Act (“the Act”) Effective July 1<sup>st</sup>, Apply to and Affect Mississippi Nonprofit Charities**

**Background:** On June 3, 2019, Secretary of State Delbert Hoseman and Public Service Commission (PSC) Chair Brandon Presley emailed every registered charity in the state of Mississippi alerting them that changes to the Mississippi Telephone Solicitation Act (the Act) might require Mississippi nonprofits whose staff members make telephone solicitations to potential donors in Mississippi to register, pay a registration fee, and post a \$50,000 bond with the PSC, effective July 1, 2019.

Broadly speaking, if a paid caller (whether a third party telemarketing firm, or paid staff) makes calls or sends text messages seeking a charitable contribution to persons or businesses with whom the organization does not have an existing business relationship (cold calls), then the nonprofit must register with the PSC as a telemarketer. (Calls made by volunteers remain exempt from this Act.)

**Possible Exclusion from Registration:** In discussions with the Public Utilities and PSC staff, we have learned there is an exclusion in the act that *may exempt many nonprofits from this registration.*

The Act does not apply when nonprofit staff members are calling consumers with whom the nonprofit has “an existing business relationship.” In many cases the relationship a nonprofit has with its donors and volunteers where the nonprofit provides mail or email updates and appeals for contributions would be deemed “an existing business relationship” and thus telephone solicitations to them would be exempt from the Act and its registration fees and bond. That would likely be the case with any individual who has purchased a membership or services from your nonprofit, contributed to your nonprofit several times in the past, asked you for services or registered with you to receive emails and updates. However, if your staff is making phone solicitations to individuals who do NOT have such an existing business relationship to your nonprofit, The Act would require you to register before your staff makes any such calls. Again, telephone calls made by volunteers (rather than paid staff) are exempt from this Act.

## **Proposed Annual Registration Fees and Bond Requirement:**

The annual registration fees proposed by the PSC are as follows:

- No fee for nonprofits who raise less than \$25,000 in contributions per year. They must register but are exempt from paying a registration fee or posting a bond.
- \$500/ year for nonprofits who raise \$25,000 to \$50,000 in contributions per year.
- \$750/year for nonprofits who raise \$50,000 to \$75,000 in contributions per year.
- \$1,000/year for nonprofits who raise over \$100,000 in contributions per year.

Proposed Bond: Nonprofits who must pay a registration fee, must also post a \$50,000 bond, which costs approximately \$500 per year.

## **How Does a Nonprofit Register?**

If you conclude that your nonprofit is covered by the Act, and thus required to register, go to the Public Service Commission website:

<https://www.psc.ms.gov/nocall/forms> download and complete the Telephonic Solicitor Registration Application and The Surety Bond Agreement. These completed forms, along with your registration fee and Surety Bond must be mailed to the Public Service Commission. If your nonprofit is covered by this law, which takes effect July 1, 2019, you must NOT make calls covered by The Act on or after July 1, 2019, until you have completed your registration with the PSC for the July 1, 2019 through June 30, 2020 fiscal year.

## **How to Seek Guidance/Clarification from the Public Service Commission**

Nonprofits with questions about this act and whether it may or may not apply to fundraising telephone calls made by your paid staff, can contact Frank Farmer, General Counsel of the Public Service Commission at [Frank.Farmer@psc.ms.gov](mailto:Frank.Farmer@psc.ms.gov) at 601-961-5821 office or 769-798-7125, cell.

## **Opportunity to Offer Comment on Proposed Rules**

The PSC issued temporary rules and a request for comments at their meeting on June 11, 2019. If you wish to file comment, you should send your statement to the Public Service Commission, Comments on Amended Rule 28, 501 N West St, Jackson, MS 39201.

## **You May Wish to Consult Your Attorney or Accountant about this Act**

The information provided in this email by the Alliance is general information and does not constitute professional legal or accounting advice. You may wish to consult your attorney or accounting advisor about how this act does or does not apply to your specific situation.

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