



*The Commonwealth of Massachusetts*  
HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

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STATE HOUSE, ROOM 22

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The Honorable Tackey Chan  
Joint Committee on Consumer  
Protection and Professional Licensure  
State House, Room 42  
Boston, MA 02133

The Honorable Paul Feeney  
Joint Committee on Consumer  
Protection and Professional Licensure  
State House, Room 215  
Boston, MA 02133

Dear Chair Chan and Chair Feeney,

I write respectfully to request a favorable report on H.249, *An Act to increase transparency and trust in charitable solicitations*.

Professional solicitors who conduct fundraising campaigns in Massachusetts for charities frequently give potential contributors the impression that all or virtually all of the money raised will go to the charities. In reality, however, most of the money stays with the solicitors. In 2017 (the most recent year for which records are available), professional fundraisers retained \$165.79 million, or 59%, of the \$281 million they raised in Massachusetts for charities.<sup>1</sup>

Under current Massachusetts law, professional solicitors are prohibited from misrepresenting what percentage of the funds they raise will be used for charitable purposes (M.G.L. c. 68 §28). However, they are not required to disclose this percentage unless a potential contributor specifically asks. Even when asked, they are trained and directed to give evasive answers. In one recent campaign, for example, solicitors were instructed to tell donors that “all funds go directly to the Charity for processing” when in fact the charity was only keeping 48%.

As a result of this inadequate regulatory framework and such evasive tactics, Massachusetts residents are unable to make informed decisions about giving money to charities. If they knew that professional fundraisers retain most of the money they raise, some residents might choose to donate directly to their preferred charity. Others might choose to give only when the fundraiser’s share falls below a certain threshold. Still others might choose to give regardless of how the

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<sup>1</sup>[https://www.mass.gov/files/documents/2018/11/26/NPCD%20PS%20Bulletin%20112618.pdf?\\_ga=2.6211514.82863934.1543245560-1735771491.1530552232](https://www.mass.gov/files/documents/2018/11/26/NPCD%20PS%20Bulletin%20112618.pdf?_ga=2.6211514.82863934.1543245560-1735771491.1530552232)

funds are divided between the solicitor and the charity. At present, however, Massachusetts residents lack convenient access to the information they need to make these decisions.

One obvious way to address this problem would be to place an affirmative obligation on paid fundraisers to disclose in their solicitations the percentage of donations that will go to the charity itself. However, the U.S. Supreme Court has ruled this approach unconstitutional, holding that it runs afoul of the First Amendment doctrine that "government not dictate the content of speech" (*Riley v. National Federation of the Blind of North Carolina*, 108 S. Ct. 2667 (1988)).

H.249 takes an alternative approach already in effect in Vermont, which requires paid fundraisers to disclose "how the potential contributor may obtain information from the State on the respective percentages of contributions that will be paid to the charitable organization and to the paid fundraiser" (9 V.S.A § 2475 (e) (2)). The Vermont statute, adopted in 1989, has never been subject to any challenge on constitutional or other grounds.

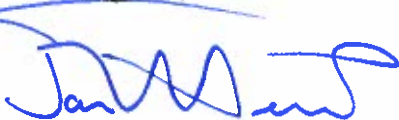
Using the Vermont statute as a blueprint, H. 249 builds on current Massachusetts law under which paid fundraisers are required to file their fundraising contracts at the Attorney General's Division of Public Charities (M.G.L c. 68 §22). The bill amends that law to require that the filing include a website and telephone number at which a potential donor can learn the percentage of money donated that will flow to the charity. The bill also amends M.G.L c. 68 §23 to require that the website and telephone number be disclosed to potential donors in any fundraising solicitation.

As an additional measure, H. 249 requires paid fundraisers to state that they are required by law to answer all questions fully and accurately. This simple disclosure will empower potential donors to ask more questions of fundraisers and alter the dynamics of what is now generally a one-way conversation.

I hope that you and your Committee will give this proposed legislation your favorable consideration. It serves a highly important consumer protection purpose: to make it easier for residents of the Commonwealth to understand where their money will go if they choose to donate to a charity. People who are willing to part with their hard-earned dollars to serve a good cause deserve nothing less. At the same time, it will dispel the confusion and mistrust that surrounds many telemarketing campaigns and increase public confidence in the charitable sector.

If you have further questions or if I can be of any other assistance in your review of this legislation, please let me know.

Best regards,



Jonathan Hecht  
29<sup>th</sup> Middlesex  
State Representative