

Chapter 649

(House Bill 1182)

AN ACT concerning

**Charitable Organizations and Representatives – Fund–Raising Counsel –
Definition**

FOR the purpose of providing that a person who is engaged as an independent contractor directly by a charitable organization and who provides certain services relating to written materials prepared by a charitable organization or an employee of the charitable organization or provides certain services relating to event planning is not included in the definition of fund–raising counsel; and generally relating to fund–raising counsel and charitable organizations and representatives.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 6–101(a), (c), (d), and (f)
Annotated Code of Maryland
(2015 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 6–101(h)
Annotated Code of Maryland
(2015 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Business Regulation

6–101.

(a) In this title the following words have the meanings indicated.

(c) (1) “Charitable contribution” means a contribution made on a representation that it will be used for a charitable purpose.

(2) “Charitable contribution” includes the payment, transfer, or enforceable pledge of financial help, including money, credit, property, or services.

(3) “Charitable contribution” does not include:

(i) an unsolicited gift;

- (ii) a government grant or government money;
- (iii) membership assessments, dues, or fines;
- (iv) a payment for property sold or services rendered by a charitable organization, unless the property is sold or the services are rendered in connection with a charitable solicitation; and
- (v) a public safety contribution as defined in subsection (j) of this section.

(d) (1) “Charitable organization” means:

- (i) a person that:
 1. is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization; and
 2. solicits or receives charitable contributions from the public; or
- (ii) an ambulance, firefighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public.

(2) “Charitable organization” includes an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization that is organized or has its principal place of business outside the State.

(3) “Charitable organization” does not include:

- (i) an agency of the State government or of a political subdivision;
- or
- (ii) a political club, committee, or party.

(f) (1) “Charitable solicitation” means an oral or written request for a charitable contribution, regardless of whether the person who makes the request receives the charitable contribution.

(2) “Charitable solicitation” includes:

- (i) a fund-raising drive, event, campaign, or other activity;
- (ii) an announcement to the news media seeking charitable contributions;

(iii) except as provided in § 6–621 of this title, the distribution of a written advertisement or other publication that, directly or implicitly, seeks charitable contributions; and

(iv) the sale of, or offer or attempt to sell an admission, advertisement, advertising space, book card, chance, coupon, device, magazine, membership, merchandise, patron listing, subscription, tag, ticket, or other tangible item in connection with which:

1. an appeal is made for charitable contributions;
2. the name of a charitable organization is used expressly or implicitly to induce a purchase; or
3. a statement is made that some or all of the proceeds from the sale are to be used for a charitable purpose.

(h) (1) “Fund–raising counsel” means a person who, for pay:

- (i) advises a charitable organization about a charitable solicitation in Maryland or holds, plans, or manages a charitable solicitation in Maryland; but
- (ii) does not directly solicit or receive charitable contributions from the public.

(2) “Fund–raising counsel” does not include:

- (i) an attorney because of giving legal advice;
- (ii) an attorney, investment counselor, or banker because of advising a client or customer to contribute to a charitable organization;
- (iii) a salaried officer or employee of a charitable organization that keeps a permanent office in the State; [or]
- (iv) a person who prepares a grant proposal for submission to a specific charitable organization, corporation, or foundation; **OR**

(V) A PERSON WHO IS ENGAGED AS AN INDEPENDENT CONTRACTOR DIRECTLY BY A CHARITABLE ORGANIZATION AND WHO:

- 1. PRINTS, REPRODUCES, OR DISTRIBUTES WRITTEN MATERIALS PREPARED BY A CHARITABLE ORGANIZATION OR AN EMPLOYEE OF THE CHARITABLE ORGANIZATION;**

2. PERFORMS ARTISTIC OR GRAPHIC SERVICES RELATING TO WRITTEN MATERIALS PREPARED BY A CHARITABLE ORGANIZATION OR AN EMPLOYEE OF THE CHARITABLE ORGANIZATION; OR

3. IS REGULARLY AND PRIMARILY ENGAGED IN THE PLANNING AND ORGANIZING OF MEETINGS, SOCIAL EVENTS, OR OTHER SIMILAR ACTIVITIES, BUT WHO DOES NOT SOLICIT CHARITABLE CONTRIBUTIONS AS A PART OF THE PERSON'S SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 19, 2016.