
By: **Chairman, Economic Matters Committee (By Request - Departmental - Secretary of State)**

Introduced and read first time: January 27, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Secretary of State - Maryland Charitable Solicitations Act - Solicitations**
3 **Disclosure Statement**

4 FOR the purpose of altering provisions of the Maryland Charitable Solicitations Act
5 to require a charitable organization to be in total compliance prior to soliciting
6 the public; authorizing a noncompliant applicant for registration to request a
7 hearing with the Secretary of State under certain circumstances; establishing
8 the burden of proof in a court proceeding based on a certain appeal by a
9 charitable organization; altering the enforcement provisions of the Act; altering
10 the type of charitable solicitation that is required to contain a disclosure
11 statement; and generally relating to the Maryland Charitable Solicitations Act.

12 BY repealing and reenacting, with amendments,
13 Article - Business Regulation
14 Section 6-401, 6-404, 6-406, and 6-411(b)(1)
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2005 Supplement)

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

19 **Article - Business Regulations**

20 6-401.

21 (a) A charitable organization shall [submit a registration statement to]
22 REGISTER AND RECEIVE A REGISTRATION LETTER FROM the Secretary of State
23 before the charitable organization:

24 (1) solicits charitable contributions in the State;

25 (2) has charitable contributions solicited on its behalf in the State; or

26 (3) solicits charitable contributions outside of the State, if the charitable
27 organization is in the State.

1 (b) A separate registration statement [shall be submitted by each] AND A
2 REGISTRATION LETTER IS NECESSARY BEFORE ANY OF THE FOLLOWING charitable
3 [organization that is] ORGANIZATIONS CAN SOLICIT:

4 (1) a federated fund-raising organization consisting of independent
5 charitable organizations, including a united fund and a community chest, that:

6 (i) have joined to solicit charitable contributions and distribute
7 them among themselves; but

8 (ii) keep their own operating authority and control; or

9 (2) an independent charitable organization, including one that is a
10 member of a federated fund-raising organization, unless it is specifically exempted or
11 it does not solicit charitable contributions other than as a member of a federated
12 fund-raising organization.

13 (c) (1) A parent organization shall submit a consolidated registration
14 statement for the affiliates, branches, or chapters in the State that it coordinates,
15 controls, or supervises.

16 (2) An affiliate, branch, or chapter of a charitable organization shall:

17 (i) report information needed for a consolidated registration
18 statement to its parent organization; [or]

19 (ii) submit a separate registration statement; AND

20 (III) RECEIVE A REGISTRATION LETTER FROM THE SECRETARY OF
21 STATE PRIOR TO SOLICITING.

22 (3) For purposes of this subsection, an independent member agency of a
23 federated fund-raising organization is not an affiliate, branch, or chapter.

24 6-404.

25 (a) If the Secretary of State finds that an applicant for registration has
26 complied with this title and the regulations adopted under it, the Secretary of State
27 shall approve the application.

28 (b) (1) If the Secretary of State finds that an applicant for registration has
29 not complied with this title and the regulations adopted under it applicable to
30 registration, the Secretary of State:

31 [(1)] (I) shall notify the applicant of the reasons the applicant is not in
32 compliance; and

33 [(2)] (II) for each month or part of a month that the applicant is not in
34 compliance, may assess a fee of \$25 30 days after a second notice is sent, by regular
35 mail, to the applicant at the address on file with the Secretary of State.

1 (2) IF THE SECRETARY OF STATE FAILS TO NOTIFY THE APPLICANT OF A
2 NONCOMPLIANT APPLICATION WITHIN 10 BUSINESS DAYS AS REQUIRED BY
3 PARAGRAPH (1) OF THIS SUBSECTION, THE APPLICANT SHALL BE DEEMED
4 REGISTERED.

5 (C) (1) AN APPLICANT FOR REGISTRATION WHO RECEIVES NOTICE OF A
6 NONCOMPLIANT APPLICATION UNDER SUBSECTION (B) OF THIS SECTION MAY
7 REQUEST A HEARING WITH THE SECRETARY OF STATE WITHIN 7 BUSINESS DAYS
8 AFTER RECEIVING THE NOTICE.

9 (2) THE SECRETARY OF STATE SHALL:

10 (I) HOLD A HEARING WITHIN 7 BUSINESS DAYS AFTER A REQUEST
11 FOR A HEARING FROM AN APPLICANT; AND

12 (II) MAKE A FINAL DECISION WITHIN 3 BUSINESS DAYS AFTER THE
13 HEARING.

14 6-406.

15 (a) (1) [A person who has applied to register as a charitable organization
16 may solicit the public unless and until the Circuit Court for Anne Arundel County or
17 other court of competent jurisdiction orders the applicant to stop.] UNLESS
18 EXEMPTED FROM REGISTRATION UNDER § 6-413 OF THIS SUBTITLE, A PERSON MAY
19 NOT SOLICIT THE PUBLIC AS A CHARITABLE ORGANIZATION PRIOR TO
20 REGISTRATION.

21 (2) THE CIRCUIT COURT OF ANNE ARUNDEL COUNTY OR OTHER COURT
22 OF COMPETENT JURISDICTION MAY RESTRAIN OR ENJOIN A PERSON FROM
23 SOLICITING IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION.

24 (b) (1) Except as provided in paragraph (2) of this subsection, the Secretary
25 of State has the burden of proof in any court proceeding:

26 (I) to restrain or enjoin a charitable organization from soliciting
27 the public; OR

28 (II) BASED ON AN APPEAL BY A CHARITABLE ORGANIZATION OF A
29 FINAL DECISION OF THE SECRETARY OF STATE UNDER § 6-404(C) OF THIS SUBTITLE.

30 (2) A charitable organization claiming to be exempt from the
31 requirements of this title has the burden of production of evidence on that issue.

32 (c) The Circuit Court for Anne Arundel County or other court of competent
33 jurisdiction may order a charitable organization to stop soliciting the public if the
34 charitable organization:

35 (1) is required to be registered but has not applied to be registered [or
36 has not met all registration requirements]; or

1 (2) has otherwise violated the Maryland Charitable Solicitations Act.

2 6-411.

3 (b) (1) A charitable solicitation that is a specific written request to the
4 public for [money] A CHARITABLE CONTRIBUTION shall contain a disclosure
5 statement.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2006.