

Department of Legislative Services  
 Maryland General Assembly  
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1000 (Delegate Barnes, *et al.*)  
 Economic Matters

Charitable Solicitations - Commercial Resellers

This bill requires a “commercial reseller” working for the benefit of a charitable organization to register annually with the Secretary of State and comply with specified reporting and disclosure requirements.

Fiscal Summary

**State Effect:** The Secretary of State’s Office can manage the registration of commercial resellers with existing budgeted resources and revenue from the application fees. Assuming 30 companies file annual registration forms, State revenues could increase by \$3,000 a year.

| (in dollars) | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|--------------|---------|---------|---------|---------|---------|
| GF Revenue   | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 |
| Expenditure  | \$0     | \$0     | \$0     | \$0     | \$0     |
| Net Effect   | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Potential meaningful for approximately 30 companies.

Analysis

**Bill Summary:** The bill defines a commercial reseller as a person that, for profit, • sells used personal property to the general public; • obtains a majority of its inventory through the purchase, receipt, or control for resale of used personal property solicited by or on

behalf of a charitable organization; and • uses the name of the charitable organization expressly or implicitly to induce the purchase of used personal property.

An individual may not act as a commercial reseller without first applying to register with the Secretary of State and paying a \$100 application fee. The application must consent in writing to the jurisdiction and venue of the Circuit Court for Anne Arundel County and certify that the individual has paid all State and local taxes due for the preceding year, or that taxes for the preceding year are under dispute and have not been finally resolved. The application must also provide any other nonproprietary information required in regulations issued by the Secretary of State.

Each year, the commercial reseller must submit a report to the Secretary of State detailing total revenues and the share of total revenues distributed to a charitable organization. This information must also be posted prominently at each point of sale and at each entrance to the reseller's place of business.

**Current Law:** A charitable organization must register annually with the Secretary of State and receive a letter of registration from the Secretary's Office before it solicits charitable contributions in the State, has charitable contributions solicited on its behalf, or, if it located in the State, solicits charitable contributions outside the State. The application must include an annual fee of between \$50 and \$200, depending on the organization's level of fundraising. A charitable organization includes:

- a person that is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization and solicits or receives charitable contributions from the public;
- an ambulance, fire fighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public; or
- an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization located outside the State.

Charitable organizations are exempt from the registration requirement under certain circumstances, most notably if they are religious organizations.

Charitable representatives, which include professional solicitors, associate solicitors, or fundraising counsel, must have applied to register with the Secretary of State's Office before acting in those capacities, unless ordered to stop by the Circuit Court of Anne Arundel County or other competent jurisdiction. The application for registration must

include application fees of either \$200 (counsel) or \$300 (professional solicitor) and an executed surety bond of \$25,000.

Charitable organizations are required to issue annual reports, financial statements, and financial disclosures similar to those required by this bill for commercial resellers. The Maryland Solicitations Act provides for criminal and civil penalties for noncompliance with these provisions.

**Background:** As of February 1, 2008, there were 8,047 registered charitable organizations in Maryland and several hundred charitable representatives.

Commercial resellers are for-profit companies that typically operate either thrift stores or vehicle donation programs on behalf of one or more charities. They charge either a flat fee for their services or a percentage of the contributions collected on behalf of the charities.

Legislative Services is aware of only two states, California and Washington, that require commercial resellers to register with either the Secretary of State or the Attorney General's Office. In 2007, California had 133 registered resellers and Washington had 108. Based on reports it receives from registered resellers, the California Attorney General's Office has found that a charitable campaign conducted by a commercial reseller typically returns less than 50% of total contributions to a charity. The remainder is kept by the reseller as a fundraising fee. In 2005, commercial resellers in California collected \$332.8 million in contributions and returned 36.5% to charities. In Washington, the percentage of charitable contributions raised by resellers and returned to charities has increased gradually from 41% in 1997 to 52% in 2007.

**State Fiscal Effect:** The Secretary of State's Office anticipates that approximately 30 commercial resellers will have to register annually under the terms of this bill. Based on the number of registered resellers in California and Washington, Legislative Services believes the number could be slightly higher. Since the Secretary of State's Office already manages two much larger lists of registered charitable organizations and charitable representatives, Legislative Services believes it can handle the modest increase in administrative responsibilities with existing budgeted resources and the additional fee revenue it will collect from registrants. Assuming 30 companies file annual registration forms and pay the \$100 fee, State revenues could increase by \$3,000 a year.

**Small Business Effect:** Based on the Secretary of State's estimate, about 30 companies, many of which are small businesses, will have to abide by the terms of this bill. That

includes registering with the Secretary of State, paying the \$100 registration fee, and complying with the bill's reporting and disclosure requirements.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Secretary of State, Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2008  
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