

SENATE BILL 964

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CF 4r1073

By: **Senator Kelley**

Introduced and read first time: February 7, 2014

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Secretary of State and Attorney General – Charitable Enforcement and**
3 **Protection of Charitable Assets**

4 FOR the purpose of authorizing the Attorney General to take certain actions relating
5 to investigations of alleged violations of laws relating to charitable
6 organizations and charitable representatives; repealing the authority of a
7 designee of the Secretary of State to investigate certain violations; repealing
8 certain authority for the legal counsel for the Office of the Secretary of State to
9 administer oaths and examine an individual under oath; providing that a
10 failure of the Attorney General to enforce a certain violation does not constitute
11 a waiver of certain provisions or rights; altering the permissible circuit courts in
12 which the Attorney General may sue for a certain order; adding the issuance of
13 a cease and desist order by the Attorney General to the circumstances in which
14 a person may request a certain hearing; authorizing the Attorney General to
15 make reciprocal agreements with other states for certain purposes; establishing
16 the Charitable Enforcement Fund as a special, nonlapsing fund in the Office of
17 the Secretary of State; specifying the purpose of the Fund; requiring the
18 Secretary of State to administer the Fund; requiring the State Treasurer to
19 hold the Fund and the Comptroller to account for the Fund; specifying the
20 contents of the Fund; specifying the purpose for which the Fund may be used;
21 providing for the investment of money in and expenditures from the Fund;
22 providing that a certain provision of law does not apply to the Fund; repealing
23 requirements for certain written consent; altering certain fees; requiring certain
24 amounts of certain fees to be distributed to the Fund for a certain use;
25 expanding the types of advertising the broadcaster, publisher, or printer of
26 which is not liable for a certain violation, except under certain circumstances;
27 prohibiting a person from taking certain actions against an individual because
28 the individual provided certain information to certain persons; requiring the
29 Attorney General to represent the public interest in the protection of charitable
30 assets; authorizing the Attorney General to take certain actions relating to
31 charitable assets; authorizing the Secretary of State or the Attorney General to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 enter into a settlement agreement under certain circumstances; authorizing the
2 Attorney General to sue in a circuit court for a certain order; providing that
3 certain remedies are in addition to and do not limit certain powers and duties of
4 the Secretary of State and the Attorney General; requiring the Secretary of
5 State and the Attorney General, on or before a certain date, to convene a certain
6 workgroup, composed of certain representatives, and to submit certain reports
7 to the Governor and the General Assembly; requiring the Secretary of State and
8 the Attorney General to review, make recommendations, and submit certain
9 reports, on or before certain dates, on charitable organizations that fail to pay a
10 certain fee or file a certain report; providing for the effective dates of this Act;
11 defining certain terms; making stylistic and conforming changes; clarifying
12 language; and generally relating to the powers and duties of the Secretary of
13 State and the Attorney General for charitable enforcement and protection of
14 charitable assets.

15 BY repealing and reenacting, with amendments,
16 Article – Business Regulation
17 Section 6–205 and 6–206 to be under the amended subtitle “Subtitle 2. Powers
18 and Duties of the Secretary of State and the Attorney General”; 6–302,
19 6–402(b), 6–407(b), 6–5A–02, and 6–621
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2013 Supplement)

22 BY adding to
23 Article – Business Regulation
24 Section 6–2A–01 to be under the new subtitle “Subtitle 2A. Charitable
25 Enforcement Fund”; 6–407(d), 6–622; and 6.5–101 through 6.5–103 to be
26 under the new title “Title 6.5. Protection of Charitable Assets”
27 Annotated Code of Maryland
28 (2010 Replacement Volume and 2013 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article – Business Regulation
31 Section 6–402(a) and 6–407(a)
32 Annotated Code of Maryland
33 (2010 Replacement Volume and 2013 Supplement)

34 BY repealing and reenacting, without amendments,
35 Article – State Finance and Procurement
36 Section 6–226(a)(2)(i)
37 Annotated Code of Maryland
38 (2009 Replacement Volume and 2013 Supplement)

39 BY repealing and reenacting, with amendments,
40 Article – State Finance and Procurement
41 Section 6–226(a)(2)(ii)76. and 77.
42 Annotated Code of Maryland

1 (2009 Replacement Volume and 2013 Supplement)

2 BY adding to

3 Article – State Finance and Procurement

4 Section 6–226(a)(2)(ii)78.

5 Annotated Code of Maryland

6 (2009 Replacement Volume and 2013 Supplement)

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

9 **Article – Business Regulation**

10 Subtitle 2. Powers and Duties of the Secretary of State **AND THE ATTORNEY**
11 **GENERAL.**

12 6–205.

13 (a) (1) The Secretary of State or the [Secretary’s designee] **ATTORNEY**
14 **GENERAL** may investigate an alleged violation of this title.

15 (2) (i) In the course of any examination, investigation, or hearing,
16 the Secretary of State **OR THE ATTORNEY GENERAL** may subpoena witnesses,
17 administer oaths, examine an individual under oath, serve written interrogatories,
18 and compel production of records, books, papers, and other documents.

19 (ii) [In the course of any examination, investigation, or hearing,
20 the legal counsel for the Office of the Secretary of State may administer oaths and
21 examine an individual under oath.

22 (iii)] Information obtained under this subsection is not admissible
23 in a subsequent criminal proceeding against the person who provided the information.

24 (b) If the Secretary of State **OR THE ATTORNEY GENERAL** finds or has
25 reasonable grounds to believe that a charitable organization, charitable
26 representative, or public safety solicitor has violated this title, the Secretary of State
27 **OR THE ATTORNEY GENERAL** may take [1] **ONE** or more of the following actions:

28 (1) by mediation with the apparent violators and any representatives
29 they may choose to assist them, enter into a written assurance of discontinuance,
30 written assurance of voluntary compliance, or other settlement agreement with the
31 apparent violators, in accordance with subsection (c) of this section;

32 (2) summarily issue a cease and desist order to the violator, if the
33 Secretary of State **OR THE ATTORNEY GENERAL**:

1 (i) finds that this title has been violated and that the public
2 health, safety, or welfare requires emergency action; and

3 (ii) gives the violator written notice of the order, the reasons for
4 the order, and the right of the violator to request a hearing under subsection (g) of this
5 section; or

6 (3) refer the matter to[:

7 (i) the Attorney General for civil enforcement; or

8 (ii)] the appropriate State's Attorney for prosecution.

9 (c) A settlement agreement under subsection (b)(1) of this section may
10 include one or more of the following stipulations or conditions:

11 (1) payment by the apparent violator of the cost of the investigation;

12 (2) payment by the apparent violator of civil penalties a court could
13 order under this title;

14 (3) payment by the apparent violator of refunds to donors a court
15 could order under this title;

16 (4) payment by the apparent violator of contributions received to
17 charitable or public safety beneficiaries or for charitable or public safety purposes
18 consistent with the beneficiaries named or purposes represented in the charitable or
19 public safety solicitations which generated the contributions; or

20 (5) any other stipulation, condition, or remedy that will correct a
21 violation of this title.

22 (d) An agreement under this section is for conciliation purposes only and
23 does not constitute an admission by any party that the law has been violated.

24 (e) (1) It is a violation of this title to fail to adhere to any provision
25 contained in a settlement agreement.

26 (2) A failure of the Secretary of State **OR THE ATTORNEY GENERAL**
27 to enforce a violation of any provision of a settlement agreement does not constitute a
28 waiver of that or any other provision, or of any right of the Secretary of State **OR THE**
29 **ATTORNEY GENERAL**.

30 (f) [On referral by the Secretary of State, the] **THE** Attorney General may
31 sue in the [Circuit Court for Anne Arundel County] **CIRCUIT COURT FOR THE**
32 **COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED** for an order that:

1 (1) restrains further violation of this title;

2 (2) restrains the defendant from making further charitable or public
3 safety solicitations in the State;

4 (3) except as provided under § 6-5A-11 of this title, recovers for the
5 State a civil penalty not to exceed \$5,000 for each willful violation of this title;

6 (4) except as provided under § 6-5A-11 of this title, recovers for the
7 State a civil penalty not to exceed \$3,000 for each grossly negligent violation of this
8 title;

9 (5) enforces compliance with this title; or

10 (6) secures any other appropriate relief, including:

11 (i) refunds to donors; and

12 (ii) payment of the charitable or public safety contributions
13 received by the solicitor to charitable or public safety purposes or beneficiaries
14 consistent with the purposes represented or beneficiaries named in the charitable or
15 public safety solicitations which generated the contributions.

16 (g) (1) If the Secretary of State **OR THE ATTORNEY GENERAL** issues a
17 cease and desist order to a person, the person may request a hearing from the
18 Secretary of State.

19 (2) Within 30 days after a request is submitted, the Secretary of State
20 shall hold a hearing in accordance with Title 10, Subtitle 2 of the State Government
21 Article.

22 6-206.

23 The Secretary of State **OR THE ATTORNEY GENERAL** may make reciprocal
24 agreements with other states to:

25 (1) exchange information about charitable organizations or charitable
26 representatives; or

27 (2) accept substantially similar information submitted to those states
28 by charitable organizations or charitable representatives instead of the information
29 required to be submitted under this title.

30 **SUBTITLE 2A. CHARITABLE ENFORCEMENT FUND.**

31 **6-2A-01.**

1 (A) IN THIS SUBTITLE, "FUND" MEANS THE CHARITABLE
2 ENFORCEMENT FUND.

3 (B) THERE IS A CHARITABLE ENFORCEMENT FUND IN THE OFFICE OF
4 THE SECRETARY OF STATE.

5 (C) THE PURPOSE OF THE FUND IS TO SUPPORT THE ACTIONS OF THE
6 SECRETARY OF STATE AND THE ATTORNEY GENERAL IN ADMINISTERING AND
7 ENFORCING THIS TITLE AND TITLE 6.5 OF THIS ARTICLE.

8 (D) THE SECRETARY OF STATE SHALL ADMINISTER THE FUND.

9 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
10 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (2) THE STATE TREASURER SHALL HOLD THE FUND
12 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

13 (F) THE FUND CONSISTS OF:

14 (1) REVENUE DISTRIBUTED TO THE FUND UNDER §§ 6-302 AND
15 6-407 OF THIS TITLE;

16 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

17 (3) INVESTMENT EARNINGS; AND

18 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
19 THE BENEFIT OF THE FUND.

20 (G) THE FUND MAY BE USED ONLY TO SUPPORT THE ACTIONS OF THE
21 SECRETARY OF STATE AND THE ATTORNEY GENERAL IN CARRYING OUT THE
22 DUTIES OF THE SECRETARY OF STATE AND THE ATTORNEY GENERAL UNDER
23 THIS TITLE AND TITLE 6.5 OF THIS ARTICLE.

24 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE
25 FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

26 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID
27 INTO THE FUND.

1 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**
2 **ACCORDANCE WITH THE STATE BUDGET.**

3 6–302.

4 (a) An applicant for registration as a professional solicitor or fund–raising
5 counsel shall:

6 (1) submit to the Secretary of State an application under oath on the
7 form that the Secretary of State provides;

8 (2) [consent in writing to the jurisdiction and venue of the Circuit
9 Court for Anne Arundel County in actions brought under this title;

10 (3)] pay to the Secretary of State an application fee of:

11 (i) [\$200] **\$250** for registration as a fund–raising counsel; or

12 (ii) [\$300] **\$350** for registration as a professional solicitor;

13 and

14 [(4)] **(3)** (i) certify that all taxes due from the applicant to the
15 State or to Baltimore City or a county of the State during the preceding fiscal year
16 have been paid, and all taxes the applicant was required to collect and pay over to the
17 State or to Baltimore City or a county of the State during the preceding fiscal year
18 have been collected and paid over; or

19 (ii) certify that the taxes due from the applicant to the State or
20 to Baltimore City or a county are under dispute and the dispute has not been finally
21 resolved.

22 (b) (1) An applicant for registration as a fund–raising counsel may
23 register and pay a single application fee of [\$200] **\$250** to cover all of the applicant’s
24 officers, agents, members, and employees who work in fund–raising, if the applicant
25 lists in the application the name and address of each of them.

26 (2) An applicant for registration as a professional solicitor may
27 register and pay a single application fee of [\$300] **\$350** to cover all of the applicant’s
28 officers, agents, members, associate solicitors, and employees who work in
29 fund–raising, if the applicant:

30 (i) lists in the application the name of each current officer,
31 agent, member, associate solicitor, and employee who works in fund–raising; and

32 (ii) submits to the Secretary of State the name of each person
33 within 10 days after the person starts employment.

1 **(C) OF THE REVENUES COLLECTED FROM THE APPLICATION FEES**
2 **UNDER SUBSECTIONS (A)(2) AND (B)(1) AND (2) OF THIS SECTION, \$50 OF THE**
3 **APPLICATION FEE PAID BY EACH FUND-RAISING COUNSEL AND PROFESSIONAL**
4 **SOLICITOR SHALL BE DISTRIBUTED TO THE CHARITABLE ENFORCEMENT FUND**
5 **UNDER SUBTITLE 2A OF THIS TITLE, TO BE USED ONLY TO SUPPORT THE**
6 **ACTIONS OF THE SECRETARY OF STATE AND THE ATTORNEY GENERAL IN**
7 **CARRYING OUT THE DUTIES OF THE SECRETARY OF STATE AND THE ATTORNEY**
8 **GENERAL UNDER THIS TITLE AND TITLE 6.5 OF THIS ARTICLE.**

9 6-402.

10 (a) A registration statement shall be on the form that the Secretary of State
11 provides.

12 (b) Except as provided in subsection (c) of this section, the registration
13 statement shall contain or be accompanied by:

14 (1) the name and address of the charitable organization and of any
15 affiliate, branch, or chapter in the State;

16 (2) the name and address of:

17 (i) each officer, including each principal salaried executive staff
18 officer, and each other person with final responsibility for the custody and final
19 distribution of the charitable contributions made to the charitable organization; or

20 (ii) each person who has custody of the financial records of the
21 charitable organization if the charitable organization does not have a local office in the
22 State;

23 (3) a statement of:

24 (i) the purposes for which the charitable organization was
25 organized;

26 (ii) the purposes for which charitable contributions will be used;
27 and

28 (iii) whether the charitable organization intends to solicit
29 directly or to have a professional solicitor or fund-raising counsel solicit charitable
30 contributions on its behalf;

31 (4) [consent in writing to the jurisdiction and venue of the Circuit
32 Court for Anne Arundel County in actions brought under this title;

1 (5)] a copy of the articles of incorporation or other governing
2 instrument of the charitable organization;

3 [(6)] (5) a copy of a letter from the Internal Revenue Service, or other
4 evidence, showing the tax-exempt status of the charitable organization;

5 [(7)] (6) (i) a copy of federal Form 990 that the charitable
6 organization submits to the Internal Revenue Service; or

7 (ii) information that the charitable organization states on a
8 form that the Secretary of State provides;

9 [(8)] (7) (i) an audit by an independent certified public
10 accountant if the gross income from charitable contributions in the most recently
11 completed fiscal year is at least \$500,000; or

12 (ii) a review by an independent certified public accountant if the
13 gross income from charitable contributions in the most recently completed fiscal year
14 is at least \$200,000 but less than \$500,000;

15 [(9)] (8) an affidavit signed by the chairman, president, or other
16 principal officer attesting to the truth of the registration statement and each
17 supporting document;

18 [(10)] (9) (i) a certification that all taxes due from the applicant to
19 the State or to Baltimore City or a county of the State for the preceding fiscal year
20 have been paid, and all taxes the applicant was required to collect and pay over to the
21 State or to Baltimore City or a county of the State for the preceding fiscal year have
22 been collected and paid over; or

23 (ii) a certification that the taxes due from the applicant to the
24 State or to Baltimore City or a county are under dispute and the dispute has not been
25 finally resolved; and

26 [(11)] (10) any other information that the Secretary of State requires
27 by regulation.

28 6-407.

29 (a) A charitable organization that collects less than \$25,000 in charitable
30 contributions from the public in a year need not pay an annual fee, except that, if the
31 charitable organization uses a professional solicitor, it shall pay an annual fee of \$50.

32 (b) (1) Each charitable organization that submits a separate registration
33 statement and collects at least \$25,000 in charitable contributions from the public in a
34 year shall pay an annual fee based on the charitable contributions collected.

1 (2) The annual fee shall be:

2 (i) \$50, if charitable contributions from the public are at least
3 \$25,000 but less than \$50,001;

4 (ii) \$75, if charitable contributions from the public are at least
5 \$50,001 but less than \$75,001;

6 (iii) \$100, if charitable contributions from the public are at least
7 \$75,001 but less than \$100,001; [and]

8 (iv) \$200, if charitable contributions from the public are at least
9 \$100,001; AND

10 (v) **\$300, IF CHARITABLE CONTRIBUTIONS FROM THE**
11 **PUBLIC ARE AT LEAST \$500,001.**

12 **(D) OF THE REVENUES COLLECTED FROM THE ANNUAL FEE UNDER**
13 **SUBSECTION (B)(2)(V) OF THIS SECTION, \$100 OF THE ANNUAL FEE PAID BY**
14 **EACH CHARITABLE ORGANIZATION SHALL BE DISTRIBUTED TO THE**
15 **CHARITABLE ENFORCEMENT FUND UNDER SUBTITLE 2A OF THIS TITLE, TO BE**
16 **USED ONLY TO SUPPORT THE ACTIONS OF THE SECRETARY OF STATE AND THE**
17 **ATTORNEY GENERAL IN CARRYING OUT THE DUTIES OF THE SECRETARY OF**
18 **STATE AND THE ATTORNEY GENERAL UNDER THIS TITLE AND TITLE 6.5 OF**
19 **THIS ARTICLE.**

20 6-5A-02.

21 An applicant for registration as a public safety solicitor shall:

22 (1) submit to the Secretary of State an application under oath on the
23 form the Secretary of State provides for each public safety organization on whose
24 behalf the applicant is soliciting in the State;

25 (2) [consent in writing to the jurisdiction and venue of the Circuit
26 Court for Anne Arundel County in actions brought under this title;

27 (3) pay to the Secretary of State an application fee of \$100 for
28 registration as a public safety solicitor;

29 [(4)] (3) (i) certify that all taxes due from the applicant to the
30 State or to Baltimore City or a county of the State during the preceding fiscal year
31 have been paid, and all taxes the applicant was required to collect and pay over to the
32 State or to Baltimore City or a county of the State during the preceding fiscal year
33 have been collected and paid over; or

1 (ii) certify that the taxes due from the applicant to the State or
2 to Baltimore City or a county are under dispute and the dispute has not been finally
3 resolved; and

4 [(5)] (4) provide any other nonproprietary information that the
5 Secretary of State requires by regulation.

6 6-621.

7 A television or radio broadcasting station or a publisher or printer of a
8 newspaper, magazine, **WEB SITE**, or other form of [printed] advertising that
9 broadcasts, publishes, or prints a charitable solicitation that violates this title is not
10 liable for the violation, unless the station, publisher, or printer has knowledge that the
11 charitable solicitation violates this title.

12 **6-622.**

13 **A PERSON MAY NOT KNOWINGLY, WITH THE INTENT TO RETALIATE, TAKE**
14 **ANY ACTION HARMFUL TO ANY INDIVIDUAL, INCLUDING INTERFERENCE WITH**
15 **THE LAWFUL EMPLOYMENT OR LIVELIHOOD OF THE INDIVIDUAL, BECAUSE THE**
16 **INDIVIDUAL PROVIDED TO A LAW ENFORCEMENT OFFICER, THE SECRETARY OF**
17 **STATE, OR THE ATTORNEY GENERAL ANY TRUTHFUL INFORMATION RELATING**
18 **TO THE COMMISSION OR POSSIBLE COMMISSION OF ANY FEDERAL OR STATE**
19 **OFFENSE.**

20 **TITLE 6.5. PROTECTION OF CHARITABLE ASSETS.**

21 **6.5-101.**

22 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 **(B) (1) "CHARITABLE ASSET" MEANS PROPERTY THAT IS GIVEN,**
25 **RECEIVED, OR HELD FOR A CHARITABLE PURPOSE, INCLUDING ALL INTEREST**
26 **IN:**

27 **(I) REAL PROPERTY; OR**

28 **(II) TANGIBLE OR INTANGIBLE PERSONAL PROPERTY.**

29 **(2) "CHARITABLE ASSET" INCLUDES:**

30 **(I) CASH;**

1 (II) REMAINDER INTERESTS;

2 (III) CONSERVATION OR PRESERVATION EASEMENTS OR
3 RESTRICTIONS; AND

4 (IV) CHARITABLE CONTRIBUTIONS.

5 (3) "CHARITABLE ASSET" DOES NOT INCLUDE PROPERTY
6 ACQUIRED OR HELD FOR A FOR-PROFIT PURPOSE.

7 (C) "CHARITABLE PURPOSE" MEANS THE RELIEF OF POVERTY, THE
8 ADVANCEMENT OF EDUCATION OR RELIGION, THE PROMOTION OF HEALTH, THE
9 PROMOTION OF A GOVERNMENTAL PURPOSE, OR ANY OTHER PURPOSE WHOSE
10 ACHIEVEMENT IS BENEFICIAL TO THE COMMUNITY.

11 **6.5-102.**

12 (A) THE ATTORNEY GENERAL SHALL REPRESENT THE PUBLIC
13 INTEREST IN THE PROTECTION OF CHARITABLE ASSETS AND MAY:

14 (1) ENFORCE THE APPLICATION OF A CHARITABLE ASSET IN
15 ACCORDANCE WITH:

16 (I) THE LAW AND TERMS GOVERNING THE USE,
17 MANAGEMENT, INVESTMENT, DISTRIBUTION, AND EXPENDITURE OF THE
18 CHARITABLE ASSET; AND

19 (II) THE CHARITABLE PURPOSE OF THE PERSON HOLDING
20 THE CHARITABLE ASSET;

21 (2) ACT TO PREVENT OR REMEDY:

22 (I) THE MISAPPLICATION, DIVERSION, OR WASTE OF A
23 CHARITABLE ASSET; OR

24 (II) A BREACH OF FIDUCIARY OR OTHER LEGAL DUTY IN THE
25 GOVERNANCE, MANAGEMENT, OR ADMINISTRATION OF A CHARITABLE ASSET;
26 AND

27 (3) COMMENCE OR INTERVENE IN AN ACTION TO:

28 (I) PREVENT, REMEDY, OR OBTAIN DAMAGES FOR:

1 1. THE MISAPPLICATION, DIVERSION, OR WASTE OF
2 A CHARITABLE ASSET; OR

3 2. A BREACH OF FIDUCIARY OR OTHER LEGAL DUTY
4 IN THE GOVERNANCE, MANAGEMENT, OR ADMINISTRATION OF A CHARITABLE
5 ASSET;

6 (II) ENFORCE THIS TITLE; OR

7 (III) DETERMINE THAT AN ASSET IS A CHARITABLE ASSET.

8 (B) IF THE ATTORNEY GENERAL HAS REASON TO BELIEVE AN
9 INVESTIGATION IS NECESSARY TO DETERMINE WHETHER ACTION MAY BE
10 ADVISABLE UNDER THIS SECTION, THE ATTORNEY GENERAL MAY CONDUCT AN
11 INVESTIGATION, INCLUDING EXERCISING SUBPOENA POWER.

12 **6.5-103.**

13 (A) IF THE SECRETARY OF STATE OR THE ATTORNEY GENERAL FINDS
14 OR HAS REASONABLE GROUNDS TO BELIEVE THAT A CHARITABLE
15 ORGANIZATION, CHARITABLE REPRESENTATIVE, OR PUBLIC SAFETY SOLICITOR
16 HAS MISAPPLIED, DIVERTED, OR WASTED A CHARITABLE ASSET OR BREACHED A
17 FIDUCIARY OR OTHER LEGAL DUTY IN THE GOVERNANCE, MANAGEMENT, OR
18 ADMINISTRATION OF A CHARITABLE ASSET, THE SECRETARY OF STATE OR THE
19 ATTORNEY GENERAL MAY ENTER INTO A SETTLEMENT AGREEMENT THAT
20 INCLUDES:

21 (1) PAYMENT BY THE RESPONSIBLE PARTY OF THE VALUE BY
22 WHICH THE CHARITABLE ASSET HAS BEEN DIMINISHED; OR

23 (2) TRANSFER OF THE CHARITABLE ASSET TO ANOTHER
24 CHARITABLE ORGANIZATION CONSISTENT WITH THE CHARITABLE ASSET'S
25 CHARITABLE PURPOSE.

26 (B) THE ATTORNEY GENERAL MAY SUE IN THE CIRCUIT COURT FOR
27 THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED FOR AN ORDER
28 THAT:

29 (1) RESTRAINS THE RESPONSIBLE PARTY FROM MISAPPLYING,
30 DIVERTING, OR WASTING A CHARITABLE ASSET IN THE STATE; AND

31 (2) SECURES:

1 **(I) PAYMENT OF THE VALUE BY WHICH THE CHARITABLE**
 2 **ASSET HAS BEEN DIMINISHED; OR**

3 **(II) TRANSFER OF THE CHARITABLE ASSET TO ANOTHER**
 4 **CHARITABLE ORGANIZATION CONSISTENT WITH THE CHARITABLE ASSET'S**
 5 **CHARITABLE PURPOSE.**

6 **(C) THE REMEDIES UNDER THIS SECTION ARE IN ADDITION TO AND DO**
 7 **NOT LIMIT THE POWERS AND DUTIES OF THE SECRETARY OF STATE AND THE**
 8 **ATTORNEY GENERAL UNDER § 6-205 OF THIS ARTICLE.**

9 **Article – State Finance and Procurement**

10 6-226.

11 (a) (2) (i) Notwithstanding any other provision of law, and unless
 12 inconsistent with a federal law, grant agreement, or other federal requirement or with
 13 the terms of a gift or settlement agreement, net interest on all State money allocated
 14 by the State Treasurer under this section to special funds or accounts, and otherwise
 15 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue
 16 to the General Fund of the State.

17 (ii) The provisions of subparagraph (i) of this paragraph do not
 18 apply to the following funds:

19 76. the Baltimore City Public School Construction
 20 Financing Fund; [and]

21 77. the Spay/Neuter Fund; AND

22 **78. THE CHARITABLE ENFORCEMENT FUND.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

24 (a) On or before July 1, 2014, the Secretary of State and the Attorney
 25 General, or their designees, shall jointly convene and cochair a workgroup to study:

26 (1) the information that should be reported to the Secretary of State
 27 by charitable organizations, charitable representatives, and fund-raising counsel; and

28 (2) how the information specified in item (1) of this subsection:

29 (i) can be most effectively and efficiently collected without
 30 imposing an unnecessary burden on those subject to reporting; and

1 (ii) should be shared within and among government agencies or
2 made publicly available to promote the goals of:

3 1. protecting the public from unscrupulous solicitations
4 and fraud; and

5 2. facilitating the prevention and correction of any
6 misuse or misapplication of charitable assets.

7 (b) The workgroup shall include representatives of:

8 (1) associations of foundations, nonprofit organizations, and
9 professional fund-raisers and fund-raising counsels in the State;

10 (2) the federal Internal Revenue Service;

11 (3) the National Association of State Charities Officials;

12 (4) the Maryland State Bar Association;

13 (5) the Maryland Association of Certified Public Accountants; and

14 (6) the general public.

15 (c) The Secretary of State and the Attorney General shall submit an interim
16 report on the workgroup study, including any findings and recommendations, to the
17 Governor and, subject to § 2-1246 of the State Government Article, the General
18 Assembly on or before December 1, 2014, and a final report on or before July 1, 2015.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the Secretary of State
20 and the Attorney General jointly shall:

21 (1) review the number of and penalties imposed on charitable
22 organizations that fail to pay an annual fee or file an annual report;

23 (2) make recommendations for ways to bring the charitable
24 organizations that fail to pay an annual fee or file an annual report into compliance;
25 and

26 (3) submit an interim report on or before December 1, 2014, and a
27 final report on or before December 1, 2015, to the Governor and, in accordance with §
28 2-1246 of the State Government Article, the General Assembly regarding their
29 findings and recommendations.

30 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this
31 Act shall take effect June 1, 2014.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
2 Section 4 of this Act, this Act shall take effect October 1, 2014.