

HOUSE BILL 1182

C2

6lr2326

By: **Delegate Sydnor**

Introduced and read first time: February 12, 2016

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 9, 2016

CHAPTER _____

1 AN ACT concerning

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

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

10 BY repealing and reenacting, without amendments,
11 Article – Business Regulation
12 Section 6–101(a), (c), (d), and (f)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Regulation
17 Section 6–101(h)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2015 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Business Regulation

1
2 6–101.

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

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

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

8 (3) “Charitable contribution” does not include:

9 (i) an unsolicited gift;

10 (ii) a government grant or government money;

11 (iii) membership assessments, dues, or fines;

12 (iv) a payment for property sold or services rendered by a charitable
13 organization, unless the property is sold or the services are rendered in connection with a
14 charitable solicitation; and

15 (v) a public safety contribution as defined in subsection (j) of this
16 section.

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

18 (i) a person that:

19 1. is or holds itself out to be a benevolent, educational,
20 eleemosynary, humane, patriotic, philanthropic, or religious organization; and

21 2. solicits or receives charitable contributions from the
22 public; or

23 (ii) an ambulance, firefighting, fraternal, rescue, or police or other
24 law enforcement organization when it solicits charitable contributions from the public.

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

29 (3) “Charitable organization” does not include:

1 (i) an agency of the State government or of a political subdivision;
2 or

3 (ii) a political club, committee, or party.

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

7 (2) "Charitable solicitation" includes:

8 (i) a fund-raising drive, event, campaign, or other activity;

9 (ii) an announcement to the news media seeking charitable
10 contributions;

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

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

18 1. an appeal is made for charitable contributions;

19 2. the name of a charitable organization is used expressly or
20 implicitly to induce a purchase; or

21 3. a statement is made that some or all of the proceeds from
22 the sale are to be used for a charitable purpose.

23 (h) (1) "Fund-raising counsel" means a person who, for pay:

24 (i) advises a charitable organization about a charitable solicitation
25 in Maryland or holds, plans, or manages a charitable solicitation in Maryland; but

26 (ii) does not directly solicit or receive charitable contributions from
27 the public.

28 (2) "Fund-raising counsel" does not include:

29 (i) an attorney because of giving legal advice;

30 (ii) an attorney, investment counselor, or banker because of advising
31 a client or customer to contribute to a charitable organization;

1 (iii) a salaried officer or employee of a charitable organization that
2 keeps a permanent office in the State; [or]

3 (iv) a person who prepares a grant proposal for submission to a
4 specific charitable organization, corporation, or foundation; OR

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

7 1. PRINTS, REPRODUCES, OR DISTRIBUTES WRITTEN
8 MATERIALS PREPARED BY A CHARITABLE ORGANIZATION OR AN EMPLOYEE OF THE
9 CHARITABLE ORGANIZATION;

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.