

# HOUSE BILL 72

C2

(3lr0307)

## ENROLLED BILL

— Economic Matters/Judicial Proceedings —

Introduced by **Delegate Watson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Business Regulation – Charitable ~~Contribution~~ – Definition Organizations**

3 FOR the purpose of altering the definition of “charitable contribution” to exclude ~~donations~~  
4 ~~of property made with a certain intent and~~ an authorization for or a discount on the  
5 use of certain services or materials, equipment, or facilities for purposes of provisions  
6 of law regulating charitable organizations and charitable representatives;  
7 authorizing the Maryland Secretary of State to accept certain documentation in place  
8 of an audit or review in connection with a charitable organization’s registration  
9 statement; and generally relating to charitable ~~contributions~~ organizations.

10 BY repealing and reenacting, without amendments,  
11 Article – Business Regulation  
12 Section 6–101(a)  
13 Annotated Code of Maryland  
14 (2015 Replacement Volume and 2022 Supplement)

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 BY repealing and reenacting, with amendments,  
 2 Article – Business Regulation  
 3 Section 6–101(c) and 6–402  
 4 Annotated Code of Maryland  
 5 (2015 Replacement Volume and 2022 Supplement)

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

8 **Article – Business Regulation**

9 6–101.

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

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

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

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

16 (i) an unsolicited gift;

17 (ii) a government grant or government money;

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

19 (iv) a payment for property sold or services rendered by a charitable  
 20 organization, unless the property is sold or the services are rendered in connection with a  
 21 charitable solicitation; [and]

22 (v) a public safety contribution as defined in subsection (j) of this  
 23 section; AND

24 ~~(VI) A DONATION OF PROPERTY THAT IS INTENDED TO BE~~  
 25 ~~REDISTRIBUTED WITHOUT CHARGE FOR A BENEVOLENT, EDUCATIONAL,~~  
 26 ~~ELEEMOSYNARY, HUMANE, PATRIOTIC, PHILANTHROPIC, OR RELIGIOUS PURPOSE;~~  
 27 ~~AND~~

28 ~~(VII) AN AUTHORIZATION FOR OR A DISCOUNT ON THE USE OF~~  
 29 ~~SERVICES OR MATERIALS, EQUIPMENT, OR FACILITIES, INCLUDING THOSE~~  
 30 ~~RELATING TO:~~

1                   **1.     ADVERTISING; AND**2                   **2.     BROADCAST AIRTIME, INCLUDING PUBLIC SERVICE**3 **ANNOUNCEMENTS.**4 6-402.5           (a)   A registration statement shall be on the form that the Secretary of State  
6 provides.7           (b)   Except as provided in subsection (c) of this section, the registration statement  
8 shall contain or be accompanied by:9                   (1)   the name and address of the charitable organization and of any affiliate,  
10 branch, or chapter in the State;11                   (2)   the name and address of:12                           (i)   each officer, including each principal salaried executive staff  
13 officer, and each other person with final responsibility for the custody and final distribution  
14 of the charitable contributions made to the charitable organization; or15                           (ii)   each person who has custody of the financial records of the  
16 charitable organization if the charitable organization does not have a local office in the  
17 State;18                   (3)   a statement of:19                           (i)   the purposes for which the charitable organization was  
20 organized;21                           (ii)   the purposes for which charitable contributions will be used; and22                           (iii)   whether the charitable organization intends to solicit directly or  
23 to have a professional solicitor or fund-raising counsel solicit charitable contributions on  
24 its behalf;25                   (4)   a copy of the articles of incorporation or other governing instrument of  
26 the charitable organization;27                   (5)   a copy of a letter from the Internal Revenue Service, or other evidence,  
28 showing the tax-exempt status of the charitable organization;29                   (6)   (i)   a copy of federal Form 990 that the charitable organization  
30 submits to the Internal Revenue Service; or

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

3 (7) (i) an audit by an independent certified public accountant if the  
 4 gross income from charitable contributions in the most recently completed fiscal year is at  
 5 least \$750,000; or

6 (ii) a review by an independent certified public accountant if the  
 7 gross income from charitable contributions in the most recently completed fiscal year is at  
 8 least \$300,000 but less than \$750,000;

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

11 (9) (i) a certification that all taxes due from the applicant to the State  
 12 or to Baltimore City or a county of the State for the preceding fiscal year have been paid,  
 13 and all taxes the applicant was required to collect and pay over to the State or to Baltimore  
 14 City or a county of the State for the preceding fiscal year have been collected and paid over;  
 15 or

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

19 (10) any other information that the Secretary of State requires by  
 20 regulation.

21 (c) The Secretary of State may accept other documentation in place of any item  
 22 required under subsection (b) of this section, INCLUDING, IN PLACE OF THE AUDIT OR  
 23 REVIEW REQUIRED BY SUBSECTION (B)(7) OF THIS SECTION, SUPPORTING  
 24 DOCUMENTS INDICATING, AND AN AFFIDAVIT ATTESTING, THAT:

25 **(1) THE CHARITABLE ORGANIZATION:**

26 **(I) PRIMARILY SOLICITS IN-KIND CONTRIBUTIONS;**

27 **~~(II)~~ RECEIVES DONATIONS OF PROPERTY, INCLUDING**  
 28 **HOUSEHOLD GOODS, FURNITURE, APPLIANCES, AND CLOTHING, THAT ARE**  
 29 **INTENDED TO BE REDISTRIBUTED TO INDIVIDUALS RESIDING IN THE STATE**  
 30 **WITHOUT CHARGE;**

31 **~~(III)~~ DOES NOT EMPLOY A PROFESSIONAL SOLICITOR OR**  
 32 **FUND-RAISING COUNSEL;**

1 ~~(III)~~ (IV) USED GENERALLY ACCEPTED ACCOUNTING  
2 PRINCIPLES TO DETERMINE THE VALUE OF PROPERTY RECEIVED AS CHARITABLE  
3 CONTRIBUTIONS DURING THE IMMEDIATELY PRECEDING FISCAL YEAR;

4 ~~(IV)~~ (V) HAS CASH RECEIPTS FROM CHARITABLE  
5 CONTRIBUTIONS NOT EXCEEDING \$300,000 AND AMOUNTING TO 20% OR LESS OF  
6 THE CHARITABLE ORGANIZATION'S GROSS INCOME DURING THE IMMEDIATELY  
7 PRECEDING FISCAL YEAR THAT ARE USED FOR PROGRAM SERVICES OR  
8 MANAGEMENT AND GENERAL EXPENSES OF THE CHARITABLE ORGANIZATION, AS  
9 SET FORTH UNDER COMAR 01.02.04.04.A AND C;

10 ~~(V)~~ (VI) IS CURRENT AND UP TO DATE IN ALL REGISTRATION  
11 AND REPORTING REQUIREMENTS UNDER THIS TITLE;

12 ~~(VI)~~ (VII) IS IN GOOD STANDING WITH THE STATE DEPARTMENT  
13 OF ASSESSMENTS AND TAXATION, IF APPLICABLE; AND

14 ~~(VII)~~ (VIII) HAS TAX-EXEMPT STATUS UNDER § 501(C)(3) OF THE  
15 INTERNAL REVENUE CODE;

16 (2) THE CHARITABLE CONTRIBUTIONS OF PROPERTY ARE:

17 (I) DIRECTLY RELATED TO THE PURPOSES FOR WHICH THE  
18 CHARITABLE ORGANIZATION WAS ORGANIZED; AND

19 (II) WILL BE USED IN CONDUCTING THE CHARITABLE  
20 ORGANIZATION'S PROGRAMS; AND

21 (3) THE GOVERNING BODY OF THE CHARITABLE ORGANIZATION:

22 (I) IS COMPOSED OF AT LEAST THREE INDEPENDENT AND  
23 UNRELATED DIRECTORS; AND

24 (II) COMPLETED AN ONBOARDING AND TRAINING PROGRAM  
25 DURING THE IMMEDIATELY PRECEDING FISCAL YEAR, PROVIDED INTERNALLY OR  
26 EXTERNALLY, THAT COVERED:

27 1. THE CHARITABLE ORGANIZATION'S MISSION;

28 2. THE POLICIES, PROCEDURES, AND OPERATIONS OF  
29 THE CHARITABLE ORGANIZATION; AND

