



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Secretary Of State

TITLE-SERIES: 153-07

RULE TYPE: Interpretive Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Submission of Other Documents to Solicit
Contributions for Charitable Organizations

CITE STATUTORY AUTHORITY: W. Va. Code 29-19-3(c), 5(a), 5(c), 8, 15(d), and 9; W. Va. Code 29A-1(c).

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 01/08/2021 3:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Donald Kersey

ADDRESS: State Capitol, Bldg. 1, Ste. 157-K

EMAIL: dkersey@wvsos.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This interpretive rule establishes the conditions for approval for charitable organizations to solicit contributions under the West Virginia Solicitation of Charitable Funds Act.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Removing the requirement for applicants to submit a copy of printed solicitation materials or any scripts to be used for solicitation activities pursuant to State ex rel. Hechler v. Christian Action Network, 201 W.Va. 71, 491 S.E.2d 618 (1997).

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/a.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/a.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/a.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/a.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Donald Kersey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 153
INTERPRETIVE RULE
SECRETARY OF STATE

SERIES 7
SUBMISSION OF OTHER DOCUMENTS FOR APPROVAL TO
SOLICIT CONTRIBUTIONS FOR CHARITABLE ORGANIZATIONS

~~'§153-7-1.~~ General.

1.1. Scope. -- This interpretive rule established the conditions for the exercise of the discretion empowered within the Secretary of State to approve or disapprove solicitation activities.

1.2. Authority. -- W. Va. Code ~~"§§~~29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-15(d); 29-19-9 and 29A-1(c)

1.3. Filing Date. -- ~~December 31, 1992.~~

1.4. Effective Date. -- ~~March 26, 1993.~~

~~'153-7-2. Other Documents Prescribed by the Secretary of State.~~

~~2.1. Each charitable organization shall submit to the Secretary of State a copy of the printed solicitation material and a copy of any script to be used in door to door or person to person or telephone, radio or television solicitation activities.~~

~~'153-7-32.~~ Examination of Applications.

~~32.1.~~ The Secretary of State shall examine each application to insure conformity with the Solicitation of Charitable Funds Act. Such examination may include the following areas:

~~32.1.1.~~ Governing structure as expressed in the minutes of board meetings showing that the:

~~32.1.1.a.~~ Board decides major expenditures for programs.

~~32.1.1.b.~~ Board decides whether new programs/directions will become part of a major purpose of charity.

~~32.1.1.c.~~ Board gets a full report on financial condition of charity at each meeting.

~~32.1.1.d.~~ Board meets no less than three (3) times a year.

~~32.1.1.e.~~ Board receives and approves reports on budget and financial reports.

~~32.1.1.f.~~ Majority of board members are not employees of the charity.

~~32.1.2.~~ Purpose of the charity as reflected in the financial and annual reports should demonstrate that the majority of the money collected is applied to the purposes expressed in the solicitation materials.

32.1.3. Information may be requested to determine the selection method used to contract for services by the board to insure board members or their families do not receive an unfair advantage from their position on the board. This may include examination of those companies contracted; with regard to ownership and relationship with board members.

32.1.4. Organizations are exempt under W. Va. Code '29 19 6(b) only if they do not collect more than \$10,000 or do not contract with a professional fund-raiser. If they collect more than \$10,000 in a year or if they hire a professional fund raiser, they must register with the Secretary of State.

32.1.5. It is the intent of the Secretary of State to administer the Solicitation of Charitable Funds Act as a license to solicit subject to the primary purpose of protecting the public from deceptive and dishonest practices.

§153-7-43. Contracts to be Filed.

43.1. Whenever a contract is required to be sent to the Secretary of State by either a charitable organization, professional fund-raising counsel or professional solicitor, such contract shall not be deemed complete unless it includes, either within the body of the contract or attached, the name, address and phone number of the principle contact person for each of the parties to the contract.

§153-10-1. General.