

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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DEC 31 11 12 AM '92

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Secretary of State TITLE NUMBER: 153

RULE TYPE: Interp.; CITE AUTHORITY 29-19-3(c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Submission of other Documents
for Approval to Solicit Contributions for a Charitable
Organization

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Feb 1, 1993 AT 12 noon

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

CATHERINE Frerotte
Secretary of State
State Capitol
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Catherine Frerotte

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2.60

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TITLE 153
INTERPRETIVE RULE
SECRETARY OF STATE

OFFICE OF WEST VIRGINIA
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. -- October 5, 1990

1.4. Effective Date. -- November 3, 1990

§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.

§153-7-3. Examination of Applications.

3.1. 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:

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

a. Board decides major expenditures for programs

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

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

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

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

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

~~3.3.2.~~ 3.1.2. 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.

~~3.3.3.~~ 3.1.3. 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.

3.1.4. Organizations are exempt under §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.

~~3.3.4~~ 3.1.5. 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.

§153-7-4. Contracts to be Filed.

4.1. 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.