



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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5/21/2021 12:11 PM

Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

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 Document for Approval to
Solicit Charitable Contributions for Charitable
Organizations

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

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 20, 2021

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. -- May 21, 2021.

1.4. Effective Date. -- June 20, 2021.

§153-7-2. Examination of Applications.

2.1. 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:

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

2.1.1.a. Board decides major expenditures for programs.

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

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

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

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

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

2.1.2. 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.

2.1.3. 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.

2.1.4. 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.

2.1.5. 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.

§153-7-3. Contracts to be Filed.

3.1. 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.