

## **Proposed Action on Regulations**

### **Title 01**

### **EXECUTIVE DEPARTMENT**

#### **Subtitle 02 SECRETARY OF STATE**

#### **01.02.03 Charitable Organizations: Procedural Regulations**

Authority: Authority: Business Regulation Article, §6-204; State Government Article, §§10-123 and 10-204; Annotated Code of Maryland

#### **Notice of Proposed Action**

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The Secretary of State proposes to amend Regulations .02--.05, .07, and .10--.12 under COMAR 01.02.03 Charitable Organizations: Procedural Regulations.

#### **Statement of Purpose**

The purpose of this action is to update regulations to conform to current procedures and practices followed by the Secretary of State in the administration of the Maryland Solicitations Act. This action clarifies who may request a hearing and the timelines within which a hearing must be held before the Secretary of State. This action also informs the administrative agency hearing process and makes certain technical changes.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

#### **Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows:  
The proposed action impacts individuals with disabilities by clarifying the process for handling requests for reasonable accommodations in the administrative agency hearings held before the Secretary of State.

## Opportunity for Public Comment

Comments may be sent to Michael P. Schlein, Division Administrator, Charitable Organizations Division, Office of the Secretary of State, 16 Francis Street, Annapolis, MD 21401, or call 410-260-3863, or email to michael.schlein @maryland.gov, or fax to . Comments will be accepted through June 21, 2022. A public hearing has not been scheduled.

### Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2023

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are necessary for the implementation of these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The proposed changes to the regulations have no economic impact because they simply updated the previous regulations to align them with our business practices.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The proposed changes to the regulations have no economic impact on small businesses because they simply updated the previous regulations to align them with our business practices..

G. Small Business Worksheet:

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

Businesses, specifically charitable organizations.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Households will not be affected by the proposed action.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate

the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

Neither charities nor for profit businesses will be affected by the proposed action.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

None.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

None.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

There is no long-term economic impact.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

## Attached Document:

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### **.02 Definitions.**

A. "Act" means the Maryland [Charitable] Solicitations Act, Business Regulation Article, Title 6, Annotated Code of Maryland.

B.—C. (text unchanged)

D. "Petitioner" means any person requesting [a hearing,] a regulation change[,] or a declaratory ruling.

E. "*Respondent*" means any person requesting a hearing from the Secretary of State pursuant to Business Regulation Article, §6-205(g)(1), Annotated Code of Maryland, and following receipt of a cease and desist order issued by the Secretary of State or Attorney General as authorized by Business Regulation Article, §6-205(b)(2), Annotated Code of Maryland.

### **.03 Petition for Adoption of Regulations.**

A.—B. (text unchanged)

C. Submission, Consideration, and Disposition. The petition shall be filed with the Secretary for [his] *their* consideration and disposition. The Secretary shall mail promptly to each person requesting the promulgation, amendment, or repeal of any regulation a notice of filing indicating the date of receipt of the petition. Within 60 days of the receipt, the Secretary shall either deny the petition in writing and state the reasons for [his] *their* denial, or institute appropriate regulation-promulgation procedures in accordance with the Administrative Procedure Act, and notify the petitioner in writing of this action.

### **.04 Petition for Declaratory Ruling.**

A.—B. (text unchanged)

C. Submission, Consideration, and Disposition. The petition shall be filed with the Secretary for [his] *their* consideration and disposition. The Secretary shall mail promptly to each person requesting a declaratory ruling a notice of filing indicating the date of receipt of the petition. The Secretary shall consider the petition and may issue the declaratory ruling requested. The Secretary shall notify the petitioner in writing within 30 days of the date of receipt of the petition of whatever action [he decides] *they decide* to take and state the reasons for [his] *their* decision.

### **.05 Right to a Hearing.**

A. (text unchanged)

B. Notice.

(1) (text unchanged)

(2) This written notice shall:

(a) (text unchanged)

(b) *Advise the person of the right to request a reasonable accommodation for a party, witness, or representative who cannot hear, speak, or understand the spoken or written English language;*

[(b)] (c)—[(c)] (d) (text unchanged)

C. *Request for Accommodations.*

(1) *Upon receipt of a request for accommodation, the Secretary of State's Office shall provide a qualified interpreter during the proceeding in which the party, witness, or representative is participating.*

(2) *An interpreter shall take an oath or affirmation that the interpreter will accurately interpret the proceedings.*

(3) *If a party, witness, or representative requests an accommodation, the Office shall provide a reasonable accommodation as required by the Americans with Disabilities Act.*

### **.07 Date of Hearing — Timing.**

[The Secretary shall hold the hearing within 60 days of the date a request for a hearing is received.]

A. *Within 30 days after a request is submitted by a respondent, the Secretary of State shall hold a hearing in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.*

B. *For all other hearing requests, the Secretary shall hold the hearing as promptly as possible and within a reasonable time of the date a request for a hearing is received.*

**.10 Prehearing Procedure.**

A. Notice of Hearings. [At least 30 days before the hearing date, the Secretary shall send each party a notice designating the date, time, and place of the hearing.] *The Secretary shall provide reasonable notice to a party of the date, time and place of a hearing.* If the petitioner notifies the Secretary that the date designated is not convenient, the Secretary may designate another date which is convenient to the petitioner.

B.—C. (text unchanged)

**.11 Hearing Procedure.**

A.—D. (text unchanged)

E. Oath. All testimony taken by the Secretary shall be under oath. The oath shall be in the following form: "Do you solemnly [promise and] *swear or* affirm under the penalties of perjury that the testimony you are about to give in the matter now pending before the Secretary shall be the truth, the whole truth, and nothing but the truth?"

F. (text unchanged)

**.12 Withdrawn or Abandoned Requests for Hearings.**

A. Withdrawn Requests for Hearings. A request for a hearing may be withdrawn in writing by the petitioner or [his] *their* counsel at any time.

B.—C. (text unchanged)

JOHN C. WOBENSMITH  
Secretary of State