

Charities & Legal Services Division
Town Hall Meeting

Registration Requirements for Charitable Organizations
Date: March 15, 2021

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Charities & Legal Services Division

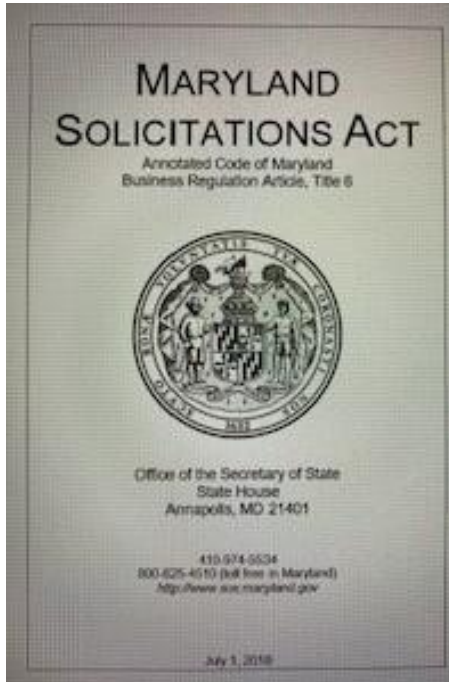
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MARYLAND LAW REGULATING CHARITABLE ORGANIZATIONS...



Maryland Solicitations Act, Business Regulation Article,
Title 6 MARYLAND ANNOTATED CODE
CODE OF MARYLAND REGULATIONS TITLE 01, SUBTITLE 02, CHAPTER 04

- WHERE TO FIND IT...

<https://sos.maryland.gov/Documents/MarylandSolicitationAct.pdf>

DOES MY ORGANIZATION HAVE TO REGISTER? IF SO, WHEN?

A charitable organization shall register and receive a registration letter from the Secretary of State before the charitable organization:

1. Solicits charitable contributions in Maryland;
2. Has charitable contributions solicited on its behalf in Maryland; or
3. Solicits charitable contributions outside of Maryland, if the charitable organization is in Maryland.

If your organization is located in Maryland and has a donate button on a website or asks for donations on social media, that is considered soliciting charitable contributions in Maryland.

WHAT IS A CHARITABLE CONTRIBUTION?

- A charitable contribution means a contribution made on a representation that it will be used for a charitable purpose.
- Charitable Contributions includes the payment, transfer, or enforceable pledge of financial help, including money, credit, property, or services.
- Charitable contributions do not include:
 - An unsolicited gift
 - A government grant or government money
 - Membership assessments, dues, or fines
 - Payment for property sold or services rendered by a charitable organization, unless the property is sold or the services are rendered in connection with a charitable solicitation; and
 - A public safety contribution as defined by the Maryland Solicitations Act.

WHAT IS CHARITABLE SOLICITATION?

- Charitable solicitation means an oral or written request for a charitable contribution, regardless of whether the person who makes the request receives the charitable contribution.
- Charitable solicitation includes:
 - A fundraising drive, event, campaign, or other activity;
 - An announcement to the news media seeking charitable contributions;
 - The distribution of a written advertisement or other publication that directly or implicitly, seeks charitable contributions; and
 - The sale of, or offer or attempt to sell an admission, advertisement, advertising space, book card, chance, coupon, device, magazine, membership, merchandise, patron listing, subscription, tag, ticket, or other tangible item in connection with which:
 - An appeal is made for charitable contributions
 - The name of the charitable organization is used expressly or implicitly to induce a purchase; or
 - A statement is made that some or all of the proceeds from the sale are to be used for a charitable purpose

REGISTRATION REQUIREMENTS

REGISTER NOW!

WHAT DO
I DO?

INITIAL REGISTRATION PROCESS & REQUIREMENTS

You are Required to Submit these Items:

- Registration Statement (Form COR-92)
- A current copy of the organization's articles of incorporation or other governing instruments (bylaws/charter)
- IRS tax documentation confirming tax exempt status
- Signed Copy of IRS Form 990 or 990-EZ
- The Office of the Secretary of State's Form COF-85 may be filed in lieu of 990 or 990-EZ if exempt from IRS filing requirements or if filing 990-N
- List of Board of Directors

REGISTRATION PROCESS & REQUIREMENTS CONT'D

You may be Required to Submit these Additional Items:

- Financial Review or Audit Requirement:
 - If charitable contributions are \$300k but <\$750K, a financial review performed by independent CPA, or
 - If charitable contributions are at least \$750k, an audit performed by an independent CPA
- Copies of all contracts w/professional solicitor(s) or fundraising counsel(s), if applicable
- Disclose if affiliated w/Maryland State Agency and if charitable contributions are at least \$750k, submit an Agreed Upon Procedures Report
- Registration Fee, if contributions received are \$25k or more
 - Registration fees range from \$50 to \$300
 - Charitable orgs that collect <\$25k in contributions are required to pay an annual fee of \$50 IF they use a professional solicitor

ANNUAL REGISTRATION REQUIREMENTS

You are Required to Submit these Items Annually:

- Annual Update of Registration form
- Signed Copy of IRS Form 990 or 990-EZ
- The Office of the Secretary of State's Form COF-85 may be filed in lieu of 990 or 990-EZ if exempt from IRS filing requirements or if filing 990-N
- List of Board of Directors
- A current copy the organization's Articles of Incorporation and/or Bylaws, IF they have been changed since the last time they were submitted

This is due annually within 10.5 months of the end of the organization's fiscal year.

ANNUAL REGISTRATION REQUIREMENTS CONT'D

You may be Required to Submit these Additional Items Annually:

- Financial Review or Audit Requirement:
 - If charitable contributions are \$300k but <\$750K, a financial review performed by independent CPA, or
 - If charitable contributions are at least \$750k, an audit performed by an independent CPA
- Copies of all contracts w/professional solicitor(s) or fundraising counsel(s), if applicable
- Disclose if affiliated w/Maryland State Agency and if charitable contributions are at least \$750k, submit an Agreed Upon Procedures Report
- Registration Fee, if contributions received are \$25k or more
 - Registration fees range from \$50 to \$300
 - Charitable orgs that collect <\$25k in contributions are required to pay an annual fee of \$50 IF they use a professional solicitor

IF UNDER \$25K IN CONTRIBUTIONS YOU MAY FILE THE FOLLOWING ITEMS TO INITIALLY REGISTER

- Exempt Organization Fund-Raising Notice Form
- IRS Determination Letter
- 990 or 990-EZ, if one is completed for the IRS (do not send a copy of the Form 990-N)

Charities that have a contract with a professional solicitor cannot file an Exempt Organization Fund-Raising Notice and must instead complete and file a Registration Statement (Form COR-92) as set forth in Slides 7-8.

IF UNDER \$25K IN CONTRIBUTIONS YOU MAY ANNUALLY FILE THE FOLLOWING ITEMS TO MAINTAIN REGISTRATION

- Exempt Organization Fund-Raising Notice Form
- 990 or 990-EZ, if one is completed for the IRS (do not send a copy of the Form 990-N)

This is due annually within 8 months of the end of the organization's fiscal year.

Charities that have a contract with a professional solicitor cannot file an annual Exempt Organization Fund-Raising Notice and must instead complete and file an Annual Update of Registration Form and other disclosures set forth in Slides 9-10.

EXEMPTIONS FROM REGISTRATION

You can apply for exemption if you do not use a professional solicitor, and you also are one of the following:

- Religious organization
- An organization that only solicits its membership
- An organization that only receives contributions from for-profit corporations and private foundations as determined by the IRS
- Parent-Teacher organizations or a youth sports organizations that receive less than \$25K in contributions
- Public Safety Organizations that solicit contributions only for the public safety purposes (police organizations and fire departments)

COMMON REGISTRATION MISTAKES

These are the most common registration mistakes:

- Not submitting all required documentation
- Submitting unsigned 990s and registration forms
- Not providing an email address on the registration forms
- Miscalculating the amount of charitable contributions for the fiscal year being reported (can lead to payment of an incorrect fee or not submitting an audit or financial review)

RECENT CHANGES TO MARYLAND'S REGISTRATION REQUIREMENTS

- Automatic Extensions - correspond with IRS guidelines (Charities w/current Registrations) <https://www.irs.gov/pub/irs-pdf/f8868.pdf>
- Audit threshold increased from \$500k to \$750k in revenue
- Financial review threshold increased from \$200k to \$300k
- Board of Directors address requirements - home address no longer required

FOR LEGAL ADVICE OR COUNSEL ON COMPLIANCE WITH THESE REQUIREMENTS, ORGANIZATIONS MAY CONTACT THE FOLLOWING RESOURCES:

- Community Law Center (<http://communitylaw.org>)
- Maryland Nonprofits (<https://www.marylandnonprofits.org>)
- Maryland Nonprofit Development Center
(<https://www.marylandnonprofits.org/nonprofits-get-help/nonprofit-development-center>)
- Local Bar Associations

NOTE: The content and presentation provided is for informational purposes only, it is not intended to be legal advice.

Questions



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