

Charities & Legal Services Division
Town Hall Meeting
Professional Solicitor and Fundraising Counsel
Registration Requirements
Date: September 20, 2021

Kathy Smith, Assistant Secretary of State
Michael Schlein, Division Administrator

Charities & Legal Services Division

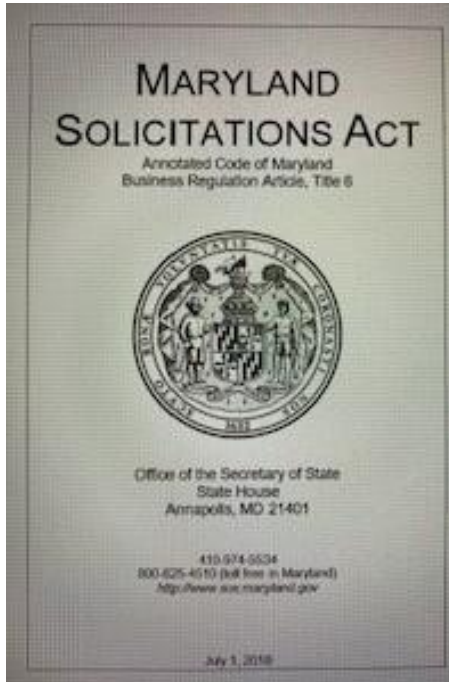
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MARYLAND LAW REGULATING CHARITABLE ORGANIZATIONS...



Maryland Solicitations Act, Business Regulation Article,
Title 6 MARYLAND ANNOTATED CODE
CODE OF MARYLAND REGULATIONS TITLE 01, SUBTITLE 02, CHAPTERS 04, 05

- WHERE TO FIND IT...

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

PROFESSIONAL SOLICITOR OR A FUND-RAISING COUNSEL REGISTRATION REQUIREMENTS

REGISTER NOW!

WHAT DO
I DO?

FUND-RAISING COUNSEL REGISTRATION

Per Business Regulation Article, §6-101(h) Fund-Raising Counsel: is a person who is compensated for advising a charity about a solicitation in Maryland or holding, planning, or managing a solicitation in Maryland. The Fund-Raising Counsel is prohibited from directly soliciting or receiving charitable contributions. **The registration must be filed annually.**

Application to Register as a Fund-Raising Counsel (put)

- Fund-Raising Counsel are required to register prior to providing services to a charitable organization.
- Registration includes submission of an application to register as a Fund-Raising Counsel
- Registration fee of \$250.00 payable to the Secretary of State
- Copies of all current fund-raising agreements.
 - If Fund-Raising Counsel does not have current fund-raising contracts, a sample contract should be submitted with the application to register.
- Fund-Raising Counsel must submit the names of each current officer and employee.
- Names of new officers and employees must be submitted within ten days after employee begins work.

FUND-RAISING COUNSEL'S FUNDRAISING AGREEMENTS

Submission of Fund-Raising Agreements

- A Fund-Raising Counsel is required to submit a copy of each fund-raising agreement by the tenth day after the agreement is made or the start of the charitable solicitation, whichever is earlier.
- All agreements between Fund-Raising Counsel and charitable organizations shall include the names and addresses of the parties, the services to be provided, the number of persons to be involved in providing the services, the time when the services are to be provided, and the method and formula for compensation.
- Fund-Raising Counsel is prohibited from receiving compensation based upon a percentage of the contributions received as a result of the services provided.

PROFESSIONAL SOLICITOR REGISTRATION

A Professional Solicitor is compensated for advising a charity about a charitable solicitation, holding, planning, or managing a solicitation in Maryland, or soliciting or receiving contributions for a charitable organization. The solicitation or receipt of contributions is the distinction between a fund-raising counsel and Professional Solicitor.

Application to Register

- Professional Solicitors are required to register prior to soliciting in Maryland or receiving contributions from Maryland.
- Registration includes submitting an application to register and a surety bond,
- Registration fee of \$350.00 payable to the Secretary of State, and if applicable, accounting reports.
- Submit a sample fund-raising agreement if the solicitor does not currently have any agreements.

PROFESSIONAL SOLICITOR REGISTRATION CONT'D

Application to Register

- A Professional Solicitor must submit a surety bond. The bond must be for \$25,000 and run to the State of Maryland.
 - In lieu of surety bond, the Act authorizes the submission of a \$25,000 irrevocable letter of credit.
 - Solicitor must have either surety bond or irrevocable letter of credit in force as long as the registration is in effect.
- An application to register must list the name of each current officer, agent, member, associate solicitor, and employee who works in fund-raising.
- Names of new officers, agents, associate solicitors, and employees must be submitted within ten days after the individual begins employment.

ANNUAL REGISTRATION OF PROFESSIONAL SOLICITOR

Annual Registration Must Include:

- An application to register and a surety bond (or irrevocable letter of credit).
- Registration fee of \$350.00 payable to the Secretary of State, and if applicable, accounting reports.
- A list containing the names of each current officer, agent, member, associate solicitor, and employee who works in fundraising.
- Names of new officers, agents, associate solicitors, and employees must be submitted within ten days after the individual begins employment.
- An Interim Accounting Reports for every active fundraising agreement.
- Any addendums to fundraising agreements that were not previously submitted.

COMMON REGISTRATION MISTAKES OF PROFESSIONAL SOLICITORS

These are the most common registration mistakes:

- Failing to timely submit the contracts;
- Not submitting all required attachments or addendums;
- Not providing the scripts, or text of the charitable solicitations, with copies of the contracts (agreements) provided for registration. Section 6-501(c) of the Business Regulation Article, Annotated Code of Maryland, requires the text that a professional solicitor or associate solicitor uses in a charitable solicitation to be attached to the agreements.

PROFESSIONAL SOLICITOR'S FUNDRAISING AGREEMENTS

Submission of Fund-Raising Agreements

- A Professional Solicitor is required to submit a copy of each fund-raising agreement by the tenth day after the agreement is made or the start of the charitable solicitation, whichever is earlier.
- The text that a professional solicitor or associate solicitor uses in a charitable solicitation shall be attached to the agreement and shall include:
 - The name of the charitable organization for which the charitable solicitation is made;
 - The specific charitable purpose that is to be advanced with the charitable contributions as show in the registration statement; and
 - A statement that the person who solicits charitable contributions is a paid fund-raiser and on request, will provide a copy of the charitable organization's financial statement.

PROFESSIONAL SOLICITOR'S FUNDRAISING AGREEMENTS CONT'D

Submission of Fund-Raising Agreements

- An agreement between a Professional Solicitor and a person engaged to receive or hold contributions resulting from a professional solicitor's fundraising agreement with a charity shall be attached to the fundraising agreement submitted to the Secretary of State.
- All agreements between Professional Solicitors and charitable organizations include the names and addresses of the parties, the minimum percentage of the gross receipts from charitable solicitations that will be used by the charitable organization exclusively to advance its charitable purposes; and the text that the professional solicitor or associate solicitor will use in each charitable solicitation.

PROFESSIONAL SOLICITOR FUND-RAISING NOTICES AND FUND-RAISING AGREEMENTS

Submission of Fund-Raising Notice and Fund-Raising Agreements

- Before starting a public solicitation for a charitable organization, a professional solicitor must submit a Fund-Raising Notice for each fund-raising campaign. The Fund-Raising Notice requests information about the type of fund-raising method to be used and dates for each fund-raising campaign.
- Required to submit a copy of the fund-raising agreement with the notice.
- Submit copies of subcontracts or other contracts in furtherance of the agreement between the charity and professional solicitor.
- Includes submission of caging agreements, generally defined as agreement between a solicitor or charity and a person engaged to receive or hold contributions resulting from an agreement between a charity and solicitor.

PROFESSIONAL SOLICITOR ACCOUNTING REPORTS

Accounting Reports

- Professional Solicitors are required to submit final and interim accounting reports.
- These reports account for funds received and disbursed during certain time periods of the fund-raising campaign. The same accounting report form is used for interim and final reports, the solicitor should indicate whether the accounting report is a final or interim report.
- A final accounting report is required within three months after the end of the fund-raising campaign and must account for all funds received and disbursed during the entire fund-raising campaign.
- The Professional Solicitor **and** authorized representative of the charity must sign and certify the accounting report.
- Interim accounting reports must be submitted with an application to register as a Professional Solicitor for each on-going fund-raising campaign. The interim report accounts for all funds received and disbursed from the beginning of the campaign through a date within three months before the solicitor's current registration expires.
- Interim accounting reports must be signed and certified by the solicitor and authorized representative of the charity.

CHARITABLE SOLICITATION RECORDS FOR PROFESSIONAL SOLICITOR

For each fund-raising drive, campaign, or event, a professional solicitor shall keep the following records:

- All compensation received for services rendered and expenses incurred;
- The name and address of each associate solicitor;
- The amount of compensation paid to each associate solicitor and the dates when payments were made;
- The name, address, and telephone number of each person solicited who made a pledge or charitable contribution;
- The date of each charitable solicitation;
- Each amount pledged or contributed; and
- If a refund was requested, the date the refund was made.

These records shall be kept for at least 3 years after the end of the fund-raising drive, campaign, or event.

PUBLIC SAFETY SOLICITOR

Those raising money on behalf of public safety organizations are required to register and disclose certain information. A Public Safety Solicitor is a person who, for pay, solicits or receives public safety contributions, personally or through another.

Application to Register

- Registration includes:
 - An application to register as a Public Safety Solicitor.
 - Surety Bond in the amount of \$25,000 that shall run to the State for use of the State and each person who may have a cause of action against the Public Safety Solicitor. In lieu of a surety bond, the Act authorizes the submission of a \$25,000 irrevocable letter of credit.
 - Copy of the fund-raising agreement with the public safety organization.
 - Application fee of \$100 for each application.
 - Separate application must be filed for each Public Safety organization with which it has a fundraising agreement.
- Public Safety Solicitor with current registration is not required to execute and submit an additional surety bond or irrevocable letter of credit for each public safety organization, provided a separate application is submitted for each public safety organization.
- ***Each registration expires on the first anniversary of its approval date.***

Bus. Reg. § § 6-5A-01, 6-5A-02, 6-5A-03, and 6-5A-05

PUBLIC SAFETY SOLICITATIONS

A public safety solicit shall include in all written solicitations and receipts for public safety contributions:

- A toll free telephone number of the public safety solicitor within the local area code in which the public safety contribution is solicited for individuals or businesses solicited to obtain verification of authenticity or make complaints;
- A statement that, for the cost of copies and postage, the information submitted under the Maryland Solicitations Act is available from the Secretary of State; and
- The address and the telephone number of the Secretary of State.

A public safety solicitor may not solicit public safety contributions unless the script of an oral solicitation and copy of a written solicitation:

- Is approved by the public safety organization on whose behalf the public safety contribution is solicited; and
- Includes:
 - The specific purpose that is to be advanced with public safety contributions; and
 - A statement that the person is soliciting on behalf of a public safety organization.

A copy of the approved script of an oral solicitation and a copy of a written solicitation shall be made available to the Secretary of State upon request.

FOR LEGAL ADVICE OR COUNSEL ON COMPLIANCE WITH THESE REQUIREMENTS, ORGANIZATIONS MAY CONTACT THEIR OWN COUNSEL OR 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



CONTACT INFORMATION

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