

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 104

An Act to amend and reenact §§ 57-60 and 57-63 of the Code of Virginia, relating to solicitation of contributions; exemptions.

[H 1269]

Approved March 13, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 57-60 and 57-63 of the Code of Virginia are amended and reenacted as follows:

§ 57-60. Exemptions.

(a) A. The following persons shall be exempt from the registration requirements of § 57-49 and the requirements of § 57-53, but shall otherwise be subject to the provisions of this chapter:

(1) 1. Educational institutions that are accredited by the Board of Education, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, the Association Montessori Internationale, the American Montessori Society, the Virginia Independent Schools Association, or the Virginia Association of Independent Schools, any foundation having an established identity with any of the aforementioned educational institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

(2) 2. Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

(3) 3. Charitable organizations which do not intend to solicit and receive, during a calendar year, and have not actually raised or received, during any of the three next preceding calendar years, contributions from the public in excess of \$5,000, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public, whether all of such is or is not received by any charitable organization during any calendar year, shall be in excess of \$5,000, it shall, within thirty days after the date it has received total contributions in excess of \$5,000, register with and report to the Commissioner as required by this chapter.

(4) 4. Organizations which solicit only within the membership of the organization by the members thereof.

(5) 5. Organizations which have no office within the Commonwealth, which solicit in the Commonwealth from without the Commonwealth solely by means of telephone or telegraph, direct mail or advertising in national media, and which have a chapter, branch, or affiliate within the Commonwealth which has registered with the Commissioner.

(6) 6. Health care institutions *defined herein as any facility which have has been (i) granted tax exempt status under § 501 (c) (3) of the Internal Revenue Code, (ii) designated by the Health Care Financing Administration (HCFA) as a federally qualified health center, or (iii) certified by the HCFA as a rural health clinic*, and any supporting organization which exists solely to support any such health care institutions.

(7) 7. Civic organizations as defined herein.

(8) 8. Nonprofit debt counseling agencies licensed pursuant to § 6.1-363.1.

(9) 9. Agencies designated by the Virginia Department for the Aging pursuant to subdivision (a) (7) of § 2.1-373 as area agencies on aging.

(10) 10. Labor unions, labor associations and labor organizations that have been granted tax-exempt status under § 501 (c) (5) of the Internal Revenue Code.

(11) 11. Trade associations that have been granted tax-exempt status under § 501 (c) (6) of the Internal Revenue Code.

(b) B. A charitable organization shall be subject to the provisions of §§ 57-57 and 57-59, but shall otherwise be exempt from the provisions of this chapter for any year in which it confines its solicitations in ~~this~~ the Commonwealth to five or fewer contiguous cities and counties, and in which it has registered under the charitable solicitations ordinance, if any, of each such city and county. No organization shall be exempt under this subsection if, during its next preceding fiscal year, more than ten percent of its gross receipts were paid to any person or combination of persons, located outside the boundaries of such cities and counties, other than for the purchase of real property, or tangible personal property or personal services to be used within such localities. An organization which is otherwise qualified for exemption under this subsection which solicits by means of a local publication, or radio or television station, shall not be disqualified solely because the circulation or range of such medium extends beyond the boundaries of such cities or counties.

(e) C. No charitable or civic organization shall be exempt under this section unless it submits to the Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for good cause shown, on forms to be prescribed by him, the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. Parent organizations may file consolidated applications for exemptions for any chapters, branches, or affiliates which they believe to be exempt from the registration provisions of this chapter. If the organization is exempted, the Commissioner shall issue a letter of exemption which may be exhibited to the public. A registration fee of ten dollars shall be required of every organization requesting an exemption after June 30, 1984. The letter of exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

(d) D. Nothing in this chapter shall be construed as being applicable to the American Red Cross or any of its local chapters.

§ 57-63. Local ordinances.

(a) A. The governing body of any city, town or county may by ordinance not inconsistent with this chapter provide for the regulation and licensing of charitable or civic organizations soliciting within the city, town or county, and for penalties for violation thereof, subject to the following limitations:

(1) 1. No local license tax or fee in excess of ten dollars shall be required of any charitable organization.

(2) 2. No charitable organization exempt from registration under *subsection A 1, A 4, or A 6 of § 57-60* (a) (1) ~~or (4) or (6)~~ shall be required to be licensed. Any such organization may obtain a local license, without payment of any license tax or fee, upon compliance with all such requirements of the local ordinance as would have been applicable had it been registered with the Commissioner during each year in which it obtained an exemption letter under *subsection C of § 57-60* (e).

(3) 3. No charitable organization which has registered with the Commissioner for the current and next preceding three years, or exempt for such years under § 57-50, shall be required to provide any financial information.

(4) 4. No charitable or civic organization which solicits within ~~this the~~ the Commonwealth from a place outside the Commonwealth solely by telephone, telegraph, direct mail or advertising in national media, and having no chapter, branch, area or office within ~~this the~~ the Commonwealth, shall be required to be licensed.

(5) 5. No museum which has registered with the Commissioner as required by § 57-49 and which has been granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code shall be required to comply with the regulation or licensing provisions of any local charitable solicitations ordinance.

(6) 6. If a charitable or civic organization shall designate by power of attorney filed with the Commissioner one or more persons authorized to sign on its behalf, the signature, verification or affirmation of any such persons shall be sufficient for all purposes of any local charitable solicitations ordinance.

(b) B. Any ordinance adopted pursuant to this section may provide, inter alia, for procedures whereby charitable organizations may, for valid reasons, after an administrative hearing, be denied a local license or whereby a license may be revoked. Valid reasons for denial or revocation of a local license may be defined to include, without limitation, the expenditure of charitable assets for noncharitable purposes, any misrepresentation to the public or to any prospective donor, and any violation of state or local law. Any charitable organization which is denied a license may, within fifteen days from the date of such denial, apply for relief to the circuit court of such city or county or of the county in which such town is located. If the court is satisfied that the denial was for any reason erroneous, it shall provide such relief as may be appropriate.

(c) C. No ordinance, or amendment thereto, adopted pursuant to this section shall be valid for any calendar year beginning after December 31, 1978, unless, before September 1 of that year, there shall have been filed with the Commissioner, on forms to be prescribed by him, information deemed by him to be sufficient for the purpose of advising charitable or civic organizations of the necessity for them to be licensed by such city, town or county.

(d) D. No charitable organization shall be required to comply with the provisions of local ordinances if such organization has registered with the Commissioner or if such organization is a chapter, branch or affiliate included in the consolidated report of an organization or federated organization registered with the Commissioner, except that such charitable organization shall not be exempted from that portion of any local ordinance which requires such organization to register its name, the names of its solicitors and the dates and times that they will be soliciting in the locality.