

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 313

An Act to amend and reenact § 57-49 of the Code of Virginia, relating to solicitation of contributions; registration of charitable organizations.

[S 86]

Approved March 21, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 57-49 of the Code of Virginia is amended and reenacted as follows:

§ 57-49. Registration of charitable organizations; prohibition against support of terrorists.

A. Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file an initial registration statement with the Commissioner upon forms acceptable to him. Each registration statement shall thereafter be refiled on or before the fifteenth day of the fifth calendar month of the next and each following fiscal year in which such charitable organization is engaged in solicitation activities within the Commonwealth. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this chapter. A charitable organization's registration statement may alternatively be filed online on a website approved by the Commissioner. Such statement shall contain the following information:

1. The name of the organization and the purpose for which it was organized.
2. The principal address of the organization, the address of any offices in the Commonwealth and its designated agent for process within the Commonwealth. If no such agent is designated, the organization shall be deemed to have designated the Secretary of the Commonwealth. If the organization does not maintain an office, the name and address of the person having custody of its financial records.
3. The names and addresses of any chapters, branches or affiliates in the Commonwealth.
4. The place where and the date when the organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
5. The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer.
6. A copy of a balance sheet and income and expense statement, with the opinion of any independent public accountant, for the organization's immediately preceding fiscal year; a copy of a financial statement certified by an independent public accountant covering, in a consolidated report, complete information as to all the preceding year's fund-raising activities of the charitable organization, showing kind and amount of funds raised, fund-raising expenses and allocation of disbursement of funds raised; or a copy of Internal Revenue Service Form 990. The report required by this subdivision shall comply with the accounting standards prescribed pursuant to § 57-53. Any organization ~~with whose annual gross revenue of less than \$25,000 qualifies such organization to file Form 990-N (also referred to as the e-Postcard)~~ with the Internal Revenue Service may submit a balance sheet and income and expense statement verified under oath or affirmation by the treasurer of the organization.
7. A statement showing the computation of the percentages provided for in § 57-58.
8. A statement indicating whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.
9. A statement indicating whether the organization is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raiser or professional solicitor thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction.
10. The general purpose or purposes for which the contributions to be solicited shall be used.
11. The name or names under which it intends to solicit contributions.
12. The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.
13. The names of the individuals or officers of the organization responsible for the final distribution of the contributions.
14. A statement indicating whether the organization, or any officer, professional fund-raiser or professional solicitor thereof, has ever been convicted of a felony and, if so, a description of the pertinent facts.
15. A copy of the current articles of incorporation, bylaws, or other governing documents. If current copies are already on file with the Commissioner, only amendments, if any, shall be filed in years after the initial registration.
16. A description of the types of solicitation to be undertaken.

A1. Every registration statement shall include the following language:

"No funds have been or will knowingly be used, directly or indirectly, to benefit or provide support, in cash or in kind, to terrorists, terrorist organizations, terrorist activities, or the family members of any terrorist."

A2. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support terrorists, terrorist organizations or terrorist activities. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support a family member of any terrorist, unless a court of competent jurisdiction within the Commonwealth, upon petition of an interested person, finds by clear and convincing evidence that, for a period of at least three years next preceding any act of terrorism committed by such terrorist or terrorist organization, the family members to whom the benefit of the contributions shall inure have been living separate and apart from the terrorist or terrorist organization, and the family members have not provided any financial support, in cash or in kind, to the terrorist or terrorist organization for the same period of time.

B. Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, shall separately report the information required by this section or report the information to its parent organization which shall then furnish such information as to itself and all of its state affiliates, chapters and branches in a consolidated form. All affiliated organizations included in a consolidated registration statement shall be considered as one charitable organization for all purposes of this chapter. If a consolidated registration statement is filed, all statements thereafter filed shall be upon the same basis unless permission to change is granted by the Commissioner.

C. Each federated fund-raising organization shall report the information required by this section in a consolidated form. Any federated fund-raising organization may elect to exclude from its consolidated report information relating to the separate fund-raising activities of all of its independent member agencies. No member agency of a federated fund-raising organization shall be required to report separately any information contained in such a consolidated report. Any separate solicitations campaign conducted by, or on behalf of, any such member agency shall nevertheless be subject to all other provisions of this chapter.

D. The registration forms shall be signed by the chief fiscal officer and by another authorized officer of the charitable organization. If the registration forms are filed online using a website approved by the Commissioner, the charitable organization shall follow the procedures on that website for signing the forms.

E. Every charitable organization which submits an independent registration to the Commissioner shall pay an annual registration fee of (i) \$30 if its gross contributions for the preceding year do not exceed \$25,000; (ii) \$50 if its gross contributions exceed \$25,000 but do not exceed \$50,000; (iii) \$100 if its gross contributions exceed \$50,000 but do not exceed \$100,000; (iv) \$200 if its gross contributions exceed \$100,000 but do not exceed \$500,000; (v) \$250 if its gross contributions exceed \$500,000 but do not exceed \$1 million; and (vi) \$325 if its gross contributions exceed \$1 million. A parent organization filing on behalf of one or more chapters, branches or affiliates or a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and such chapters, branches, affiliates or member agencies included in the registration statement. Organizations with no prior financial history filing an initial registration shall be required to pay an initial fee of \$100. Organizations with prior financial history filing an initial registration shall be required to pay an initial fee of \$100 in addition to the annual registration fee. Any organization which allows its registration to lapse, without requesting an extension of time to file, shall be required to resubmit an initial registration. An extension may be granted upon receipt of a written request.