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HOUSE BILL NO. 2392

Offered January 21, 1999

A BILL to amend and reenact § 57-59 of the Code of Virginia, relating to solicitations and contributions; enforcement; penalties.

Patrons—Cantor, Cox, Nixon, Spruill and Wagner; Senator: Hanger

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 57-59 of the Code of Virginia is amended and reenacted as follows:

§ 57-59. Enforcement of chapter; penalties.

A. Any person who willfully and knowingly violates or causes to be violated any provision of this chapter, or who willfully and knowingly gives false or incorrect information to the Commissioner in filing statements or reports required by this chapter, whether such report or statement is verified or not, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished for the first offense by a fine of not less than \$100 and not more than \$1,000 or by confinement in jail for not more than six months, or both, and for the second and any subsequent offense by a fine of not less than \$500 and not more than \$2,500 or by confinement in jail for not more than one year, or both.

B. Whenever the Commissioner has reasonable cause to believe that a violation of this chapter may have occurred, the Commissioner, upon his own motion or upon complaint of any person, may investigate any charitable or civic organization, professional fund-raising counsel or professional solicitor to determine whether such charitable or civic organization, professional fund-raising counsel or professional solicitor has violated the provisions of this chapter. In the conduct of such investigation, the Commissioner may:

1. Require or permit any person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all facts and circumstances concerning the matter to be investigated.

2. Administer oaths or affirmations and, upon his motion or upon request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangibles and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

Any proceedings or hearings by the Commissioner under this chapter, where witnesses are subpoenaed and their attendance is required for evidence to be taken or any matter is to be produced to ascertain material evidence, shall take place within the City of Richmond.

Upon failure to obey a subpoena and upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of the City of Richmond for an order imposing punishment for contempt of the subpoena or compelling compliance.

C. Whenever the Attorney General, or any attorney for the Commonwealth or the attorney for any city, county or town has reason to believe that any charitable or civic organization, professional fund-raising counsel or professional solicitor has operated, is operating or is about to operate in violation of the provisions of this chapter, the Attorney General, attorney for the Commonwealth or the attorney for any city, county or town, in addition to all other actions authorized by law, may bring an action in the name of the Commonwealth against such charitable or civic organization, professional fund-raising counsel or professional solicitor, or their officers, directors, or other agents to enjoin the continuation of such violation, solicitation or collection, or the engaging therein, or the conducting of any acts in furtherance thereof and for such other relief as the court deems appropriate.

D. In any action brought under subsection C of this section, the court may also award to the Commonwealth a civil penalty of not more than \$5,000 per violation, to be paid to the Literary Fund, and reasonable expenses incurred by the state or local agency in investigating and preparing the case, not to exceed \$250 per violation, and such attorney's fees. Such expenses and attorney's fees shall be paid into the general fund of the Commonwealth or of the county, city, or town which such attorney represented.

INTRODUCED

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