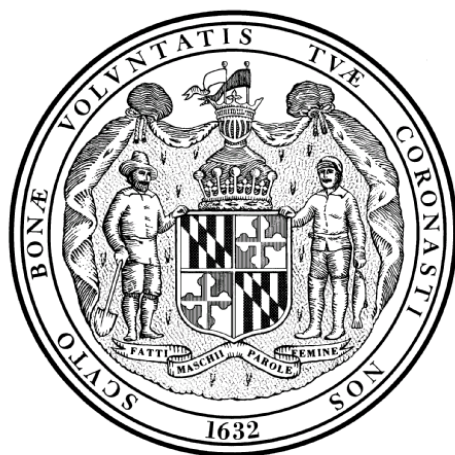


# MARYLAND SOLICITATIONS ACT

Annotated Code of Maryland  
Business Regulation Article, Title 6



Office of the Secretary of State  
State House  
Annapolis, MD 21401

410-974-5534  
800-825-4510 (toll free in Maryland)  
<http://www.sos.state.md.us>

October 2009

TABLE OF CONTENTS

Subtitle 1. Definitions; General Provisions. .... 1

    § 6-101 Definitions. .... 1

    § 6-102 Scope of title. .... 4

Subtitle 2. Powers and Duties of the Secretary of State. .... 5

    § 6-201 Charitable Giving Information Program. .... 5

    § 6-202 Service on foreign charitable organizations or  
representatives. .... 6

    § 6-203 Public records. .... 7

    § 6-204 Duty to adopt regulations. .... 7

    § 6-205 Power to investigate and take action against alleged  
violations. .... 8

    § 6-206 Reciprocal agreements. .... 10

    § 6-207 Disposition of money. .... 10

Subtitle 3. Charitable Representatives. .... 10

    § 6-301 Registration required. .... 10

    § 6-302 Applications for registration. .... 11

    § 6-303 Surety bond; irrevocable letter of credit. .... 12

    § 6-304 Issuance of registration. .... 13

    § 6-305 Term of registration. .... 13

    § 6-306 Registration before accounting. .... 13

    § 6-307 Acting as charitable representative after application for  
registration. .... 14

    § 6-308 Acting as charitable representative after application for  
registration. .... 14

Subtitle 4. Charitable Organizations. .... 15

    § 6-401 Registration required. .... 15

    § 6-402 Registration statements. .... 16

    § 6-403 Duty of officers. .... 17

    § 6-404 Approval of application; reasons for noncompliance. .... 17

    § 6-405 Requirements of exempt person. .... 18

    § 6-406 Soliciting after application for registration. .... 19

    § 6-407 Annual fees. .... 19

    § 6-408 Annual report. .... 20

    § 6-409 Duty of officers. .... 21

    § 6-410 Financial statement. .... 21

    § 6-411 Disclosure statement. .... 21

    § 6-412 Financial records. .... 22

    § 6-413 Exemption from submission requirement. .... 22

    § 6-414 Credit cards. .... 23

    § 6-415 Restrictions on voting. .... 23

    § 6-416 Restrictions on soliciting and spending money. .... 23

    § 6-417 End of soliciting. .... 23

Subtitle 5. Charitable Solicitations. .... 24

§ 6-501 Agreements. ....	24
§ 6-502 Fund-raising notice. ....	25
§ 6-503 Required disclosures when awarding prizes. ....	25
§ 6-504 Receipt required after telephone solicitation. ....	26
§ 6-505 Charitable contributions to be deposited into bank account. 26	
§ 6-506 Accounting required. ....	27
§ 6-507 Charitable solicitation records. ....	27
§ 6-508 Fiduciaries. ....	28
§ 6-509 Failure to comply with charitable contribution requirements. ....	28
Subtitle 5A. Public Safety Solicitors. ....	29
§ 6-5A-01 Public safety solicitors. ....	29
§ 6-5A-02 Registration requirements. ....	29
§ 6-5A-03 Same — Bond amount and surety. ....	29
§ 6-5A-04 Approval of application. ....	30
§ 6-5A-05 Expiration. ....	31
§ 6-5A-06 Requirements of solicitations. ....	31
§ 6-5A-07 Limitations of solicitations. ....	31
§ 6-5A-08 Same — Actions of solicitor. ....	32
§ 6-5A-09 Same — Willful or gross negligence. ....	32
§ 6-5A-10 Penalty for unregistered solicitor. ....	33
§ 6-5A-11 Penalty for willful violation; gross negligence; bond forfeiture; fines. ....	33
Subtitle 6. Prohibited Acts; Penalties. ....	34
§ 6-601 Acting as associate solicitor, professional solicitor, or fund- raising counsel without application for registration. ....	34
§ 6-602 Use of services of unregistered individual. ....	34
§ 6-603 Agreement with unregistered charitable organization. ....	34
§ 6-604 Misuse of registration. ....	35
§ 6-605 Compensation dependent on number or value of charitable contributions. ....	35
§ 6-606 Application of charitable contribution. ....	35
§ 6-607 False or misleading material. ....	35
§ 6-608 Deceptive act. ....	36
§ 6-609 Misrepresentation — Marks or printed matter. ....	36
§ 6-610 Same — Charitable organizations or use of proceeds. ....	36
§ 6-611 Same — Sponsorship or endorsement. ....	37
§ 6-612 Soliciting after cancellation of contract. ....	37
§ 6-613 Willful violations. ....	37
§ 6-614 Grossly negligent violations. ....	37
§ 6-615 Contents of agreement — Between charitable organization and fund-raising counsel. ....	38
§ 6-616 Same — Between charitable organizations and professional solicitors. ....	38

§ 6-617 Charitable solicitation without authorization. ....	39
§ 6-618 Promotions for charitable organizations. ....	39
§ 6-619 Criminal penalty.....	39
§ 6-620 Public containers for deposit of money reflecting name of charitable organization.....	40
§ 6-621 Liability for broadcast, publication, or printing of solicitations in violation of title.....	40
Subtitle 7. Short Title.....	41
§ 6-701 Short title. ....	41

**MARYLAND SOLICITATION ACT  
BUSINESS REGULATION ARTICLE, TITLE 6**

**Subtitle 1. Definitions; General Provisions.**

**§ 6-101. Definitions.**

(a) *In general.* — In this title the following words have the meanings indicated.

(b) *Associate solicitor.* — "Associate solicitor" means a person who, for pay, solicits or receives charitable contributions for a professional solicitor.

(c) *Charitable contribution.* — (1) "Charitable contribution" means a contribution made on a representation that it will be used for a charitable purpose.

(2) "Charitable contribution" includes the payment, transfer, or enforceable pledge of financial help, including money, credit, property, or services.

(3) "Charitable contribution" does not include:

- (i) an unsolicited gift;
- (ii) a government grant or government money;
- (iii) membership assessments, dues, or fines;
- (iv) a 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
- (v) a public safety contribution as defined in subsection (j) of this section.

(d) *Charitable organization.* — (1) "Charitable organization" means:

- (i) a person that:
  - 1. is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization; and
  - 2. solicits or receives charitable contributions from the public; or
- (ii) an ambulance, fire fighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public.

(2) "Charitable organization" includes an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization that is organized or has its principal place of business outside the State.

(3) "Charitable organization" does not include:

(i) an agency of the State government or of a political subdivision; or

(ii) a political club, committee, or party.

(e) *Charitable representative*.— "Charitable representative" means a professional solicitor, associate solicitor, or fund-raising counsel.

(f) *Charitable solicitation*. — (1) "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.

(2) "Charitable solicitation" includes:

(i) a fund-raising drive, event, campaign, or other activity;

(ii) an announcement to the news media seeking charitable contributions;

(iii) except as provided in § 6-621 of this title, the distribution of a written advertisement or other publication that, directly or implicitly, seeks charitable contributions; and

(iv) 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:

1. an appeal is made for charitable contributions;

2. the name of a charitable organization is used expressly or implicitly to induce a purchase; or

3. a statement is made that some or all of the proceeds from the sale are to be used for a charitable purpose.

(g) *Disclosure statement*. — "Disclosure statement" means a written statement that includes the following information:

(1) a statement that a copy of the current financial statement of the charitable organization is available on request;

(2) the name of the charitable organization and the address and telephone number where requests for a copy of the financial statement should be directed; and

(3) a statement that, for the cost of copies and postage, documents and information submitted under this title are available from the Secretary of State.

(h) *Fund-raising counsel*. — (1) "Fund-raising counsel" means a person who, for pay:

(i) advises a charitable organization about a charitable solicitation in Maryland or holds, plans, or manages a charitable solicitation in Maryland; but

(ii) does not directly solicit or receive charitable contributions from the public.

(2) "Fund-raising counsel" does not include:

(i) an attorney because of giving legal advice;

(ii) an attorney, investment counselor, or banker because of advising a client or customer to contribute to a charitable organization;

(iii) a salaried officer or employee of a charitable organization that keeps a permanent office in the State; or

(iv) a person who prepares a grant proposal for submission to a specific charitable organization, corporation, or foundation.

(i) *Professional solicitor*. — (1) "Professional solicitor" means a person who, for pay:

(i) advises a charitable organization about a charitable solicitation;

(ii) holds, plans, or manages a charitable solicitation; or

(iii) solicits or receives charitable contributions for a charitable organization, personally or through an associate solicitor.

(2) "Professional solicitor" does not include:

(i) an attorney, investment counselor, or banker because of advising a client or customer to contribute to a charitable organization;

(ii) a salaried officer or employee of a charitable organization that keeps a permanent office in the State; or

(iii) a person who solicits, receives, or collects used personal property, including household goods, furniture, appliances, or clothing, if the property is displayed or resold to the public at a retail establishment.

(j) *Public safety contribution*. — "Public safety contribution" means a contribution made on a representation that it will be used for the purposes of a public safety organization.

(k) *Public safety organization.* — "Public safety organization" means a person who is or purports to be a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement organization.

(1) *Public safety solicitor.* — (1) "Public safety solicitor" means a person who, for pay, solicits or receives public safety contributions, personally or through another.

(2) "Public safety solicitor" does not include:

(i) an attorney, investment counselor, or banker because of advising a client or customer to make a public safety contribution; or

(ii) an individual who is a member, salaried officer, or employee of a public safety organization that is affiliated with a State or local agency and keeps a permanent office in the State.

#### **§ 6-102. Scope of title.**

(a) *"Member" defined.* — (1) In this section, "member" includes a student, former student, parent of a student or former student, present or former board member, and staff member of an accredited school, college, or university.

(2) In this section, "member" does not include an individual who is granted membership on making a charitable contribution as the result of a charitable solicitation.

(b) *Exclusion.* — (1) Except as provided in paragraph (2) of this subsection, this title does not apply to fund-raising by a volunteer organization of firefighters or rescue or ambulance personnel for its ambulance, fire fighting, or rescue operations.

(2) This title applies to a public safety solicitor employed by a volunteer organization of firefighters or rescue or ambulance personnel.

(c) *Exemptions.* — (1) Except as provided in paragraph (2) of this subsection, a charitable organization is exempt from the registration and disclosure requirements of this title if the charitable organization:

(i) does not employ a professional solicitor; and

(ii) 1. solicits charitable contributions for a named individual and the gross amount is delivered to the individual;

2. A. is a religious organization, a parent organization of a religious organization, or a school affiliated with a religious organization; and

B. has in effect a declaration of tax-exempt status from the government of the United States;

3. solicits charitable contributions only from its members;

4. does not receive more than \$25,000 in charitable contributions from the public during the year for which a registration statement and annual report otherwise would be required; or

5. only receives contributions from for-profit corporations and organizations determined to be private foundations by the government of the United States.

(2) (i) A charitable organization claiming exemption under paragraph (1) of this subsection shall submit evidence of its entitlement to an exemption upon request of the Secretary of State.

(ii) A charitable organization that fails to submit evidence satisfactory to the Secretary of State under subparagraph (i) of this paragraph is not exempt from the requirements of this title.

## **Subtitle 2. Powers and Duties of the Secretary of State.**

### **§ 6-201. Charitable Giving Information Program.**

(a) *"Program" defined.* — In this section, "Program" means the Charitable Giving Information Program.

(b) *Established.* — There is a Charitable Giving Information Program in the Office of the Secretary of State.

(c) *Purpose.* — The purpose of the Program is to educate the public about charitable organizations and charitable solicitations so that members of the public can:

(1) recognize unlawful or misleading charitable solicitations; and

(2) make informed decisions about charitable contributions to charitable organizations.

(d) *Program information.* — The Program shall inform the public of:

(1) the laws and regulations about charitable organizations and charitable solicitations, including registration requirements, prohibited acts and penalties, and the availability of information through the Office of the Secretary of State;

(2) the importance of reporting alleged unlawful or misleading charitable solicitations to the Office of the Secretary of State;

(3) an address and toll-free telephone number through which the public can get information about charitable organizations and charitable solicitations and can report alleged violations of this title;

(4) precautions an individual may take before making a charitable contribution to a charitable organization; and

(5) any other information the Secretary of State believes will help the public make informed decisions about charitable contributions to charitable organizations.

(e) *Materials available to the public.* — The Program shall make available:

(1) written materials, in places easily accessible to the public, including libraries, schools, and other public buildings;

(2) on request, individuals to speak to community groups or other groups; and

(3) material for broad distribution to the public or for use by the news media.

(f) *Availability of computerized data on disk.* — (1) The program may make available a disk containing computerized data if:

(i) the Secretary of State determines that making the disk available serves the purposes of the program; and

(ii) the person agrees in writing to use the disk only for purposes approved by the Secretary of State, and not to copy the disk, or permit the disk to be copied, without the prior written consent of the Secretary of State.

(2) (i) The Secretary of State may charge a reasonable fee for a disk under this section.

(ii) The fee may not exceed the actual cost of purchasing and preparing the disk.

**§ 6-202. Service on foreign charitable organizations or representatives.**

(a) *"Foreign charitable organization or representative" defined.* — In this section, "foreign charitable organization or representative" means a charitable organization or charitable representative who:

(1) has its principal place of business out of State; or

(2) is organized under the laws of another state.

(b) *Secretary of State as agent.* — By soliciting a charitable contribution in the State, a foreign charitable organization or representative irrevocably appoints the Secretary of State as agent to receive a subpoena, summons, or other process that is:

(1) issued in an action brought under this title; and

(2) directed to:

(i) the foreign charitable organization or representative; or

(ii) a partner, principal officer, or director of the foreign charitable organization or representative.

(c) *Service of process.* — Service of process is sufficient service on a foreign charitable organization or representative if:

(1) service is made by the personal delivery and leaving of a copy of the process with the Secretary of State or the authorized representative of the Secretary of State; and

(2) the Secretary of State sends a copy of the process by certified mail to the foreign charitable organization or representative at its last known address.

#### **§ 6-203. Public records.**

Each document submitted to the Secretary of State under this title is a public record and shall be:

(1) kept in the Office of the Secretary of State for at least 2 years; and

(2) made available to the public during the normal business hours of the Secretary of State for inspection and for photocopying at a reasonable price.

#### **§ 6-204. Duty to adopt regulations.**

The Secretary of State shall adopt regulations to carry out this title.

**§ 6-205. Power to investigate and take action against alleged violations.**

(a) *Investigation.* — (1) The Secretary of State or the Secretary's designee may investigate an alleged violation of this title.

(2) (i) In the course of any examination, investigation, or hearing, the Secretary of State may subpoena witnesses, administer oaths, examine an individual under oath, serve written interrogatories, and compel production of records, books, papers, and other documents.

(ii) In the course of any examination, investigation, or hearing, the legal counsel for the Office of the Secretary of State may administer oaths and examine an individual under oath.

(iii) Information obtained under this subsection is not admissible in a subsequent criminal proceeding against the person who provided the information.

(b) *Action.* — If the Secretary of State finds or has reasonable grounds to believe that a charitable organization, charitable representative, or public safety solicitor has violated this title, the Secretary of State may take 1 or more of the following actions:

(1) by mediation with the apparent violators and any representatives they may choose to assist them, enter into a written assurance of discontinuance, written assurance of voluntary compliance, or other settlement agreement with the apparent violators, in accordance with subsection (c) of this section;

(2) summarily issue a cease and desist order to the violator, if the Secretary of State:

(i) finds that this title has been violated and that the public health, safety, or welfare requires emergency action; and

(ii) gives the violator written notice of the order, the reasons for the order, and the right of the violator to request a hearing under subsection (g) of this section; or

(3) refer the matter to:

(i) the Attorney General for civil enforcement; or

(ii) the appropriate State's Attorney for prosecution.

(c) *Settlement agreements — Stipulations or conditions.*— A settlement agreement under subsection (b) (1) of this section may include one or more of the following stipulations or conditions:

(1) payment by the apparent violator of the cost of the investigation;

(2) payment by the apparent violator of civil penalties a court could order under this title;

(3) payment by the apparent violator of refunds to donors a court could order under this title;

(4) payment by the apparent violator of contributions received to charitable or public safety beneficiaries or for charitable or public safety purposes consistent with the beneficiaries named or purposes represented in the charitable or public safety solicitations which generated the contributions; or

(5) any other stipulation, condition, or remedy that will correct a violation of this title.

(d) *Same — Effect.* — An agreement under this section is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

(e) *Same — Failure to adhere to provisions; failure to enforce.*—

(1) It is a violation of this title to fail to adhere to any provision contained in a settlement agreement.

(2) A failure of the Secretary of State to enforce a violation of any provision of a settlement agreement does not constitute a waiver of that or any other provision, or of any right of the Secretary of State.

(f) *Restraining order; civil penalties; other relief.*— On referral by the Secretary of State, the Attorney General may sue in the Circuit Court for Anne Arundel County for an order that:

(1) restrains further violation of this title;

(2) restrains the defendant from making further charitable or public safety solicitations in the State;

(3) except as provided under § 6-5A-11 of this title, recovers for the State a civil penalty not to exceed \$5,000 for each willful violation of this title;

(4) except as provided under § 6-5A-11 of this title, recovers for the State a civil penalty not to exceed \$3,000 for each grossly negligent violation of this title;

(5) enforces compliance with this title; or

(6) secures any other appropriate relief, including:

(i) refunds to donors; and

(ii) payment of the charitable or public safety contributions received by the solicitor to charitable or public safety purposes or beneficiaries consistent with the purposes represented or beneficiar-

ies named in the charitable or public safety solicitations which generated the contributions.

(g) *Hearing on cease and desist order.* — (1) If the Secretary of State issues a cease and desist order to a person, the person may request a hearing from the Secretary of State.

(2) Within 30 days after a request is submitted, the Secretary of State shall hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

#### **§ 6-206. Reciprocal agreements.**

The Secretary of State may make reciprocal agreements with other states to:

(1) exchange information about charitable organizations or charitable representatives; or

(2) accept substantially similar information submitted to those states by charitable organizations or charitable representatives instead of the information required to be submitted under this title.

#### **§ 6-207. Disposition of money.**

Except as otherwise provided in this title, the Secretary of State shall pay all money collected under this title into the General Fund of the State.

### **Subtitle 3. Charitable Representatives**

#### **§ 6-301. Registration required.**

(a) *In general.* — A person must have applied to register appropriately with the Secretary of State whenever the person acts as:

(1) an associate solicitor;

(2) a professional solicitor; or

(3) a fund-raising counsel.

(b) *Grace period for associate solicitor.* — If, within 10 days after a person starts employment as an associate solicitor, the person's name is submitted to the Secretary of State in accordance with this subtitle, the person is deemed to be registered on the first day of employment.

### **§ 6-302. Applications for registration.**

(a) *In general.* — An applicant for registration as a professional solicitor or fund-raising counsel shall:

(1) submit to the Secretary of State an application under oath on the form that the Secretary of State provides;

(2) consent in writing to the jurisdiction and venue of the Circuit Court for Anne Arundel County in actions brought under this title;

(3) pay to the Secretary of State an application fee of:

(i) \$200 for registration as a fund-raising counsel; or

(ii) \$300 for registration as a professional solicitor; and

(4) (i) certify that all taxes due from the applicant to the State or to Baltimore City or a county of the State during the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State during the preceding fiscal year have been collected and paid over; or

(ii) certify that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally resolved.

(b) *Single fees for fund-raising counsel and professional solicitors.* — (1) An applicant for registration as a fund-raising counsel may register and pay a single application fee of \$200 to cover all of the applicant's officers, agents, members, and employees who work in fund-raising, if the applicant lists in the application the name and address of each of them.

(2) An applicant for registration as a professional solicitor may register and pay a single application fee of \$300 to cover all of the applicant's officers, agents, members, associate solicitors, and employees who work in fund-raising, if the applicant:

(i) lists in the application the name of each current officer, agent, member, associate solicitor, and employee who works in fund-raising; and

(ii) submits to the Secretary of State the name of each person within 10 days after the person starts employment.

**§ 6-303. Surety bond; irrevocable letter of credit.**

(a) *\$25,000 bond required.* — (1) Except as provided in subsection (c) of this section, on applying for registration as a professional solicitor, an applicant shall execute and submit to the Secretary of State a bond in the sum of \$25,000, with surety that the Secretary of State approves.

(2) The bond shall run to the State for the use of the State and each person who may have a cause of action against the applicant for loss resulting from malfeasance, nonfeasance, or misfeasance in the applicant's charitable solicitation.

(3) The applicant shall keep the bond in force as long as the registration is in effect.

(b) *Consolidated bond allowed.* — An applicant for registration as a professional solicitor shall submit a consolidated bond for all of the officers, agents, members, associate solicitors, subcontractors, and employees of the professional solicitor.

(c) *Irrevocable letters of credit.* — An applicant for registration as a professional solicitor that submits a \$25,000 irrevocable letter of credit to the Secretary of State is not required to submit a surety bond under subsection (a) of this section.

(d) *Return of bond or irrevocable letter of credit.* — The Secretary of State may return a bond or irrevocable letter of credit filed under this section only if:

(1) 3 years have passed since the registration period to which the bond or letter applies, and there is no pending claim against the bond or letter; or

(2) the registration period to which the bond or letter applies is over, all required accounting reports have been properly completed and filed, and it appears to the satisfaction of the Secretary of State that the person is not in violation of the Maryland Charitable Solicitations Act.

(e) *Notice that person may apply after registration period.* — The Secretary of State shall include with an application for registration as a professional solicitor a notice that a person may apply for return of a bond or irrevocable letter of credit after the registration period to which the bond or letter applies.

**§ 6-304. Issuance of registration.**

(a) *For qualified applicants.* — If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) *Notice of noncompliance.* — If the Secretary of State finds that an applicant for registration has not complied with this title and the regulations adopted under it applicable to registration, the Secretary of State shall notify the applicant of the reasons the applicant is not in compliance.

**§ 6-305. Term of registration.**

Each registration expires on the first anniversary of its effective date.

**§ 6-306. Registration before accounting.**

(a) *Currently registered professional solicitor.* — If a currently registered professional solicitor applies for a new registration and has not yet submitted the accounting required by § 6-506 of this title, the professional solicitor shall submit with the new application:

(1) that accounting; or

(2) an interim accounting, under oath and in a form that the Secretary of State requires, that accounts for all money received and disbursed for each fund-raising drive, campaign, or event through a date within 3 months before the professional solicitor's current registration expires.

(b) *Applicant for registration as professional solicitor.* — A person that acts as a professional solicitor before applying to register as a professional solicitor that has not submitted an accounting under § 6-506 of this title, shall submit with the professional solicitor application:

(1) that accounting; or

(2) an interim accounting, under oath, and in a form that the Secretary of State requires, that accounts for all money received and disbursed for each fund-raising drive, campaign, or event through a

date within 3 months before the person filed a professional solicitor application.

**§ 6-307. Acting as charitable representative after application for registration.**

(a) *Acting as charitable representative authorized.* — A person who has applied to register as an associate solicitor, professional solicitor, or fund-raising counsel may act as such unless and until the Circuit Court for Anne Arundel County or other court of competent jurisdiction orders the applicant to stop.

(b) *Burden of proof.* — The Secretary of State has the burden of proof in any proceeding to restrain or enjoin a person from acting as an associate solicitor, professional solicitor, or fund-raising counsel.

(c) *Stop order.* — The Circuit Court for Anne Arundel County or other court of competent jurisdiction may order a person to stop acting as a fund-raising counsel, associate solicitor, or professional solicitor if the applicant:

- (1) has not applied to register;
- (2) has not applied to register in the appropriate category;
- (3) has not met the registration requirements of the category for which the person has applied; or
- (4) has otherwise violated the Maryland Charitable Solicitations Act.

**§ 6-308. Acting as charitable representative after application for registration.**

Transferred.

## Subtitle 4. Charitable Organizations.

### § 6-401. Registration required.

(a) *In general.* — A charitable organization shall register and receive a registration letter from the Secretary of State before the charitable organization:

- (1) solicits charitable contributions in the State;
- (2) has charitable contributions solicited on its behalf in the State; or
- (3) solicits charitable contributions outside of the State, if the charitable organization is in the State.

(b) *For federated, member — agency, and parent organizations.* — A separate registration statement and a registration letter is necessary before any of the following charitable organizations can solicit:

- (1) a federated fund-raising organization consisting of independent charitable organizations, including a united fund and a community chest, that:
  - (i) have joined to solicit charitable contributions and distribute them among themselves; but
  - (ii) keep their own operating authority and control; or
- (2) an independent charitable organization, including one that is a member of a federated fund-raising organization, unless it is specifically exempted or it does not solicit charitable contributions other than as a member of a federated fund-raising organization.

(c) *For affiliates, branches, and chapters.* — (1) A parent organization shall submit a consolidated registration statement for the affiliates, branches, or chapters in the State that it coordinates, controls, or supervises.

- (2) An affiliate, branch, or chapter of a charitable organization shall:
  - (i) report information needed for a consolidated registration statement to its parent organization;
  - (ii) submit a separate registration statement; and
  - (iii) receive a registration letter from the Secretary of State prior to soliciting.

(3) For purposes of this subsection, an independent member agency of a federated fund-raising organization is not an affiliate, branch, or chapter.

**§ 6-402. Registration statements.**

(a) *Form.* — A registration statement shall be on the form that the Secretary of State provides.

(b) *Contents — In general.* — Except as provided in subsection (c) of this section, the registration statement shall contain or be accompanied by:

(1) the name and address of the charitable organization and of any affiliate, branch, or chapter in the State;

(2) the name and address of:

(i) each officer, including each principal salaried executive staff officer, and each other person with final responsibility for the custody and final distribution of the charitable contributions made to the charitable organization; or

(ii) each person who has custody of the financial records of the charitable organization if the charitable organization does not have a local office in the State;

(3) a statement of:

(i) the purposes for which the charitable organization was organized;

(ii) the purposes for which charitable contributions will be used; and

(iii) whether the charitable organization intends to solicit directly or to have a professional solicitor or fund-raising counsel solicit charitable contributions on its behalf;

(4) consent in writing to the jurisdiction and venue of the Circuit Court for Anne Arundel County in actions brought under this title;

(5) a copy of the articles of incorporation or other governing instrument of the charitable organization;

(6) a copy of a letter from the Internal Revenue Service, or other evidence, showing the tax exempt status of the charitable organization;

(7) (i) a copy of federal Form 990 that the charitable organization submits to the Internal Revenue Service; or

(ii) information that the charitable organization states on a form that the Secretary of State provides;

(8) (i) an audit by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least \$500,000; or

(ii) a review by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least \$200,000 but less than \$500,000;

(9) an affidavit signed by the chairman, president, or other principal officer attesting to the truth of the registration statement and each supporting document;

(10) (i) a certification that all taxes due from the applicant to the State or to Baltimore City or a county of the State for the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State for the preceding fiscal year have been collected and paid over; or

(ii) a certification that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally resolved; and

(11) any other information that the Secretary of State requires by regulation.

(c) *Contents — Exception.* — The Secretary of State may accept other documentation in place of any item required under subsection (b) of this section.

(d) *Audit or review for income less than \$500,000.* — The Secretary of State may require an audit or review if the amount of gross income is less than \$500,000.

#### **§ 6-403. Duty of officers.**

The chairman, president, or other principal officer of a charitable organization is personally responsible for the timely submission of the registration statement.

#### **§ 6-404. Approval of application; reasons for noncompliance.**

(a) *Approval.* — If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) *Notice and fees.* — (1) If the Secretary of State finds that an applicant for registration has not complied with this title and the

regulations adopted under it applicable to registration, the Secretary of State:

(i) shall notify the applicant of the reasons the applicant is not in compliance; and

(ii) for each month or part of a month that the applicant is not in compliance, may assess a fee of \$25 30 days after a second notice is sent, by regular mail, to the applicant at the address on file with the Secretary of State.

(2) If the Secretary of State fails to notify the applicant of a noncompliant application within 10 business days as required by paragraph (1) of this subsection, the applicant shall be deemed registered.

(c) *Hearing.* — (1) An applicant for registration who receives notice of a noncompliant application under subsection (b) of this section may request a hearing with the Secretary of State within 7 business days after receiving the notice.

(2) The Secretary of State shall:

(i) hold a hearing within 7 business days after a request for a hearing from an applicant; and

(ii) make a final decision within 3 business days after the hearing.

#### **§ 6-405. Requirements of exempt person.**

(a) *Fund-raising notice.* — Except for parent-teacher organizations and youth sports organizations soliciting charitable contributions for programs for minors, a person exempt under § 6-102(c)(1)(ii)1 or 4 of this title shall submit annually a fund-raising notice to the Secretary of State on the form that the Secretary requires.

(b) *IRS Form 990.* — A person exempt under § 6-102(c)(1)(ii)2 of this title shall submit an IRS Form 990 to the Secretary of State if required to file one with the Internal Revenue Service.

**§ 6-406. Soliciting after application for registration.**

(a) *Soliciting after application for registration.* — (1) Unless exempted from registration under § 6-413 of this subtitle, a person may not solicit the public as a charitable organization prior to registration.

(2) The Circuit Court of Anne Arundel County or other court of competent jurisdiction may restrain or enjoin a person from soliciting in violation of paragraph (1) of this subsection.

(b) *Burden of proof; burden of production.* — (1) Except as provided in paragraph (2) of this subsection, the Secretary of State has the burden of proof in any court proceeding:

(i) to restrain or enjoin a charitable organization from soliciting the public; or

(ii) based on an appeal by a charitable organization of a final decision of the Secretary of State under § 6-404(c) of this subtitle.

(2) A charitable organization claiming to be exempt from the requirements of this title has the burden of production of evidence on that issue.

(c) *Stop order.* — The Circuit Court for Anne Arundel County or other court of competent jurisdiction may order a charitable organization to stop soliciting the public if the charitable organization:

(1) is required to be registered but has not applied to be registered; or

(2) has otherwise violated the Maryland Charitable Solicitations Act.

**§ 6-407. Annual fees.**

(a) *For charitable contributions below \$25,000.* — A charitable organization that collects less than \$25,000 in charitable contributions from the public in a year need not pay an annual fee, except that, if the charitable organization uses a professional solicitor, it shall pay an annual fee of \$50.

(b) *For charitable contributions of at least \$25,000.* — (1) Each charitable organization that submits a separate registration statement and collects at least \$25,000 in charitable contributions from the public in a year shall pay an annual fee based on the charitable contributions collected.

(2) The annual fee shall be:

(i) \$50, if charitable contributions from the public are at least \$25,000 but less than \$50,001;

(ii) \$75, if charitable contributions from the public are at least \$50,001 but less than \$75,001;

(iii) \$100, if charitable contributions from the public are at least \$75,001 but less than \$100,001; and

(iv) \$200, if charitable contributions from the public are at least \$100,001.

(c) *Failure to file annual report.* — (1) An organization failing to file an annual report either by the end of the 6-month period after the end of the charitable organization's fiscal year or within any period of extension granted shall pay, in addition to the annual fee, \$25 for each month or part thereof after the date on which the annual report was due to be filed or after the period of extension granted for such filing.

(2) The late fee shall be assessed 60 days after:

(i) the end of the 6th month after the end of the fiscal year;

or

(ii) the period of extension.

(3) Failure to remit an assessed late fee is a violation of this title.

#### **§ 6-408. Annual report.**

(a) *Required.* — A charitable organization that solicits or intends to solicit charitable contributions after it submits a registration statement to the Secretary of State shall submit an annual report in accordance with this section.

(b) *Submission deadline.* — A charitable organization shall submit an annual report to the Secretary of State:

(1) within 6 months after the end of the charitable organization's fiscal year; or

(2) by any later date that the Secretary of State sets.

(c) *Contents.* — The annual report shall contain:

(1) any change to the registration statement and to a previous annual report;

(2) the financial information and any supporting audit or review that the Secretary of State requires; and

(3) an affidavit signed by the chairman, president, or other principal officer attesting to the truth of the annual report and all supporting documents.

**§ 6-409. Duty of officers.**

The chairman, president, or other principal officer of a charitable organization is personally responsible for the timely submission of the annual report.

**§ 6-410. Financial statement.**

(a) *Request for financial statement.* — Within 30 days after receiving a request, a charitable organization shall mail a current financial statement at no charge to the person who requested it.

(b) *Contents.* — The financial statement shall contain:

(1) the name, address, and telephone number of the charitable organization;

(2) (i) the amount of total revenue, the amount of total revenue received from charitable contributions, and the amount and percentage of total revenue used by the charitable organization for its management and general expenses, fund-raising expenses, and program service expenses during the preceding fiscal year; or

(ii) if the charitable organization is newly organized, the estimated percentage of charitable contributions being sought that will be used for its management and general expenses, fund-raising expenses, and program service expenses; and

(3) if the charitable organization is registered with the Secretary of State, a declaration that the charitable organization is registered, but that registration is not and does not imply endorsement of any charitable solicitation.

**§ 6-411. Disclosure statement.**

(a) *Scope of section.* — This section does not apply to:

(1) a charitable solicitation by an accredited school, college, or university to its students, former students, parents of students or former students, board members, or staff; or

(2) a formal grant application prepared for and submitted to a specific corporation or foundation.

(b) *Required.* — (1) A charitable solicitation that is a specific written request to the public for a charitable contribution shall contain a disclosure statement.

(2) A written receipt for a charitable contribution shall contain a disclosure statement.

(c) *Conspicuous display.* — The disclosure statement shall be displayed conspicuously on a charitable solicitation and on a receipt for a charitable contribution.

#### **§ 6-412. Financial records.**

(a) *In general.* — A charitable organization shall keep accurate financial records about its activities in the State in a form that will enable it to provide the information required under this title.

(b) *Availability of records.* — On request, a charitable organization shall make its financial records available to the Secretary of State for inspection.

(c) *Records to be kept for 3 years.* — A charitable organization shall keep its financial records for at least 3 years after the end of the period of registration to which they relate.

#### **§ 6-413. Exemption from submission requirement.**

The Secretary of State may exempt from the requirement of a registration statement or annual report a charitable organization that:

(1) is organized under the laws of another state that has a statute substantially similar to this title;

(2) has been exempted from the submission of a registration statement by that other state;

(3) has its principal place of business outside this State; and

(4) gets its money principally from sources outside this State.

**§ 6-414. Credit cards.**

A charitable organization may honor a credit card that the board of directors or executive officer of the charitable organization accepts for payment of charitable contributions.

**§ 6-415. Restrictions on voting.**

An individual who is a director, officer, partner, or trustee of a charitable organization may not vote to authorize, approve, or ratify a contract or transaction related to charitable solicitations if the individual has a material financial interest or a material conflicting interest in the contract or transaction.

**§ 6-416. Restrictions on soliciting and spending money.**

(a) *In general.* — A charitable organization may solicit charitable contributions or spend them only for a charitable purpose that is stated in its registration statement and most recent annual report.

(b) *Donor request.* — On the request of a donor, a charitable organization shall provide the donor with a statement of the programs and uses for which the funds are requested.

(c) *Controls over fund-raising activities.* — A charitable organization shall establish and exercise controls over fund-raising activities conducted for its benefit, by itself or by a professional solicitor or fund-raising counsel.

(d) *Misrepresentation prohibited.* — A charitable organization may not misrepresent the purpose for which funds are solicited.

**§ 6-417. End of soliciting.**

A charitable organization that intends to end soliciting shall submit to the Secretary of State:

- (1) a statement of its intent; and

(2) a final annual report within 6 months after the end of its fiscal year.

## Subtitle 5. Charitable Solicitations.

### § 6-501. Agreements.

(a) *Written agreement.* — An agreement between a charitable organization and a fund-raising counsel or professional solicitor and any subcontract or other contract in furtherance of such an agreement shall be in writing.

(b) *Copy to Secretary of State.* — A fund-raising counsel or professional solicitor shall submit to the Secretary of State a copy of all agreements under subsection (a) on or before the earlier of:

- (1) the tenth day after the agreement is made; or
- (2) the start of a charitable solicitation.

(c) *Contents of text used in charitable solicitation.* — The text that a professional solicitor or associate solicitor uses in a charitable solicitation shall be attached to the agreement and shall include:

- (1) the name of the charitable organization for which the charitable solicitation is made;
- (2) the specific charitable purpose that is to be advanced with charitable contributions as shown in the registration statement; and
- (3) a statement that the person who solicits charitable contributions:
  - (i) is a paid fund-raiser; and
  - (ii) on request, will provide a copy of the charitable organization's financial statement.

(d) *Agreement with person engaged to receive or hold contributions.* — An agreement between a professional solicitor, fund-raising counsel, or charitable organization and a person engaged to receive or hold contributions resulting from a professional solicitor or fund-raising counsel agreement shall be attached to the professional solicitor or fund-raising counsel agreement filed with the Secretary of State.

(e) *Prohibited provisions.* — An agreement between a charitable organization and a fund-raising counsel or professional solicitor may not contain a provision that states:

(1) that the charitable organization may not use contributions from a solicitation for its charitable purposes until some or all fund-raising expenses have been paid; or

(2) that the professional solicitor or fund-raising counsel may engage in a direct mail or other solicitation in the charity's name for the purpose of paying or offsetting preexisting fund-raising expenses.

**§ 6-502. Fund-raising notice.**

(a) *To be submitted to Secretary of State.* — (1) A professional solicitor shall submit a fund-raising notice to the Secretary of State before starting a public solicitation.

(2) The notice shall be submitted on the form that the Secretary of State provides.

(b) *Contents.* — The notice shall contain the information that the Secretary of State requires, including each fund-raising method to be used and the dates set for each fund-raising drive, event, or campaign of the charitable solicitation.

**§ 6-503. Required disclosures when awarding prizes.**

(a) *Scope of section.* — This section does not apply to a raffle or other game of chance that a charitable organization holds in a county under the laws applicable to the county.

(b) *In general.* — (1) If a person, in connection with a written charitable solicitation, offers a contest, sweepstakes, or other promotion, the person shall disclose in writing to each offeree:

(i) the manufacturer's suggested retail price or comparable retail price of each prize offered;

(ii) the conditions to be met to receive a prize; and

(iii) that to receive the prize offered in the promotion the offeree may not be required to:

1. buy goods or services;
2. pay money; or
3. submit to a promotion.

(2) If the contest, sweepstakes, or other promotion involves awarding prizes by chance, the person shall also disclose in writing to each offeree:

- (i) the exact number of prizes offered in each category;
- (ii) how to get a list of winners, if a prize with a retail price or monetary value of more than \$100 is offered;
- (iii) whether each prize offered will be awarded;
- (iv) the date when winners will be determined; and
- (v) 1. the odds of winning each prize, if they can be calculated in advance; or  
2. that the odds of winning will be determined by the number of entries, if the odds cannot be calculated in advance.

(c) *Disclosures to appear on first page.* — Each disclosure required under this section shall appear on the first page of the prize notification document.

**§ 6-504. Receipt required after telephone solicitation.**

Within 30 days after receiving a charitable contribution as a result of a charitable solicitation by telephone, a professional solicitor shall send the contributor a written receipt that contains:

- (1) the name and address of the professional solicitor;
- (2) a disclosure statement; and
- (3) other information that the Secretary of State requires.

**§ 6-505. Charitable contributions to be deposited into bank account.**

(a) *Professional solicitor to deposit charitable contributions.* — A professional solicitor shall deposit each charitable contribution that the professional solicitor receives into a bank account established by the charitable organization.

(b) *Withdrawals prohibited.* — A professional solicitor may not be authorized to withdraw money from the bank account of the charitable organization.

**§ 6-506. Accounting required.**

(a) *Three-month limitations.* — Within 3 months after the end of each fund-raising drive, campaign, or event, a professional solicitor shall submit to the Secretary of State, on the form that the Secretary of State provides, an accounting under oath of all money received and disbursed on a gross basis.

(b) *Professional solicitor and official to sign accounting.* — The professional solicitor and an authorized official of the charitable organization for which the professional solicitor acts shall sign the accounting and certify that it is true to the best of their knowledge.

**§ 6-507. Charitable solicitation records.**

(a) *Contents.* — For each fund-raising drive, campaign, or event, a professional solicitor shall keep records that show:

- (1) all compensation received for services rendered and expenses incurred;
- (2) the name and address of each associate solicitor;
- (3) the amount of compensation paid to each associate solicitor and the dates when payments were made;
- (4) the name, address, and telephone number of each person solicited who made a pledge or charitable contribution;
- (5) the date of each charitable solicitation;
- (6) each amount pledged or contributed; and
- (7) if a refund was requested, the date the refund was made.

(b) *Records to be kept for 3 years.* — The professional solicitor shall keep the records for at least 3 years after the end of fund-raising drive, campaign, or event.

(c) *Availability.* — (1) A professional solicitor shall make the records available to the Secretary of State for inspection and copying upon reasonable notice and at any hearing that the Secretary of State holds.

(2) If the records of an organization are maintained outside the State, upon reasonable notice, the organization shall make the records or certified copies of the records available at the Office of the Secretary of State.

**§ 6-508. Fiduciaries.**

Charitable organizations and charitable representatives and the directors, officers, partners, and trustees of charitable organizations and charitable representatives are fiduciaries as to the charitable contributions they collect or spend.

**§ 6-509. Failure to comply with charitable contribution requirements.**

(a) *Scope of section.* — The only persons liable under this section are:

- (1) charitable organizations;
- (2) charitable representatives; and
- (3) officers, directors, partners, or trustees of charitable organizations or charitable representatives.

(b) *Willful failure.* — Except as provided in subsection (d) of this section, a person who willfully fails to comply with a requirement of this title as to a charitable contribution made because of a charitable solicitation is liable to the donor of the charitable contribution for:

- (1) actual damages that the donor sustains because of the failure;
- (2) punitive damages that the court allows, not exceeding 3 times the actual damages; and
- (3) reasonable attorney's fees and costs of the action, if damages are awarded.

(c) *Grossly negligent failure.* — Except as provided in subsection (d) of this section, a person who is grossly negligent in failing to comply with a requirement of this title as to a charitable contribution made because of a charitable solicitation is liable to the donor of the charitable contribution for:

- (1) actual damages that the donor sustains because of the failure; and
- (2) reasonable attorney's fees and costs of the action, if damages are awarded.

(d) *Defense against liability.* — A person is not liable under this section if the person establishes by a preponderance of the evidence that, at the time of the failure to comply with a requirement under this title, the person followed reasonable procedures to comply.

## **Subtitle 5A. Public Safety Solicitors.**

### **§ 6-5A-01. Public safety solicitors.**

A person is prohibited from acting as a public safety solicitor unless the person has applied to register with the Secretary of State.

### **§ 6-5A-02. Registration requirements.**

An applicant for registration as a public safety solicitor shall:

(1) submit to the Secretary of State an application under oath on the form the Secretary of State provides for each public safety organization on whose behalf the applicant is soliciting in the State;

(2) consent in writing to the jurisdiction and venue of the Circuit Court for Anne Arundel County in actions brought under this title;

(3) pay to the Secretary of State an application fee of \$100 for registration as a public safety solicitor;

(4) (i) certify that all taxes due from the applicant to the State or to Baltimore City or a county of the State during the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State during the preceding fiscal year have been collected and paid over; or

(ii) certify that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally resolved; and

(5) provide any other nonproprietary information that the Secretary of State requires by regulation.

### **§ 6-5A-03. Same — Bond amount and surety.**

(a) *In general.* — (1) Except as provided in subsections (c) and (f) of this section, on applying for registration as a public safety solicitor, an applicant shall execute and submit to the Secretary of State a bond in the sum of \$25,000, with surety that the Secretary of State approves.

(2) The bond shall run to the State for the use of the State and each person who may have a cause of action against the applicant for loss resulting from malfeasance, nonfeasance, or misfeasance in the applicant's public safety solicitation.

(b) *Consolidated bond.* — An applicant for registration as a public safety solicitor shall submit a consolidated bond for all of the officers, agents, members, subcontractors, and employees of the public safety solicitor.

(c) *Irrevocable letter of credit.* — An applicant for registration as a public safety solicitor that submits a \$25,000 irrevocable letter of credit to the Secretary of State is not required to submit a surety bond under subsection (a) of this section.

(d) *Return of bond or irrevocable letter of credit.* — The Secretary of State may return a bond or irrevocable letter of credit filed under this section only if:

(1) 3 years have passed since the registration period to which the bond or letter applies, and there is no pending claim against the bond or letter; or

(2) the registration period to which the bond or letter applies expires and it appears to the satisfaction of the Secretary of State that the person is not in violation of this subtitle.

(e) *Same — Notice.* — The Secretary of State shall include with an application for registration as a public safety solicitor a notice that a person may apply for return of a bond or irrevocable letter of credit after the registration period to which the bond or letter applies.

(f) *Additional bond or irrevocable letter of credit not required.* — A public safety solicitor with a current registration shall not be required to execute and submit to the Secretary of State an additional bond or irrevocable letter of credit for each public safety organization on whose behalf public safety contributions will be solicited, provided that a separate application is submitted for each organization.

#### **§ 6-5A-04. Approval of application.**

(a) *In general.* — If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) *Notice of noncompliance.* — If the Secretary of State finds that an applicant for registration has not complied with this title and the regulations adopted under it applicable to registration, the Secretary

of State shall notify the applicant of the reasons the applicant is not in compliance.

**§ 6-5A-05. Expiration.**

Each registration expires on the first anniversary of its approval date.

**§ 6-5A-06. Requirements of solicitations.**

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

(1) 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;

(2) a statement that, for the cost of copying and postage, information submitted under this title is available from the Secretary of State; and

(3) the address and the telephone number of the Secretary of State.

**§ 6-5A-07. Limitations of solicitations.**

(a) *Records required.* — A public safety solicitor may not solicit public safety contributions unless the script of an oral solicitation and a copy of a written solicitation:

(1) is approved by the public safety organization on whose behalf the public safety contribution is solicited; and

(2) includes:

(i) the specific purpose that is to be advanced with public safety contributions; and

(ii) a statement that the person is soliciting on behalf of a public safety organization.

(b) *Copies to be made available on request.* — 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.

**§ 6-5A-08. Same — Actions of solicitor.**

A public safety solicitor may not:

(1) falsely state, imply, or mislead, directly or indirectly, the person solicited for a public safety contribution that the public safety solicitor is a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement employee or member;

(2) send an individual to personally pick up a public safety contribution from a private residence, business, or any other location, unless the individual presents at the time of the solicitation, collection, or attempt to collect:

(i) photo identification; and

(ii) correspondence from the public safety organization authorizing the public safety solicitor to solicit on behalf of the public safety organization for a stated period of time;

(3) solicit in the State using an alias, fictitious, or false name other than the full name of the public safety organization on whose behalf the public safety contribution is solicited as stated in the application for registration as a public safety solicitor; or

(4) promise, directly or indirectly, or imply that the individual or business being solicited will receive any additional or different law enforcement services or treatment by a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement organization or employee as a result of a pledge or refusal to make a public safety contribution.

**§ 6-5A-09. Same — Willful or gross negligence.**

(a) *In general.* — An applicant for registration as a public safety solicitor or a registered public safety solicitor may not willfully or in a grossly negligent way:

(1) submit to the Secretary of State a registration statement or other information that is materially false; or

(2) commit a violation of this subtitle.

(b) *Principal owner or employee.* — A principal owner or employee of the public safety solicitor may not willfully or in a grossly negligent way commit or cause to commit a violation of this subtitle.

**§ 6-5A-10. Penalty for unregistered solicitor.**

(a) *In general.* — A person that engages in soliciting public safety contributions without prior application for registration as a public safety solicitor is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding 10 times the value of the total amount of funds improperly solicited or imprisonment not exceeding 1 year or both.

(b) *Ten year bar upon conviction.* — A person convicted of a violation of this section may:

(1) be prohibited from acting as a public safety solicitor for a period up to 10 years beginning on the date of the conviction; and

(2) be ordered to refund all improperly solicited public safety contributions to the donors who made such contributions.

**§ 6-5A-11. Penalty for willful violation; gross negligence; bond forfeiture; fines.**

(a) *Willful violation.* — A person who commits a willful violation of this subtitle:

(1) is guilty of a misdemeanor;

(2) is subject, on conviction, to a fine not exceeding three times the value of the total gross amount of funds solicited by the public safety solicitor or imprisonment not exceeding 1 year or both; and

(3) shall forfeit to the Secretary of State the bond required in § 6-5A-03 of this subtitle.

(b) *Grossly negligent violation.* — A person who commits a grossly negligent violation of this subtitle:

(1) is guilty of a misdemeanor;

(2) is subject, on conviction, to a fine not exceeding the gross amount of funds solicited by the public safety solicitor or liability for restitution that the court determines or both; and

(3) shall forfeit to the Secretary of State the bond required in § 6-5A-03 of this subtitle.

## **Subtitle 6. Prohibited Acts; Penalties.**

### **§ 6-601. Acting as associate solicitor, professional solicitor, or fund-raising counsel without application for registration.**

(a) *In general.* — A person may not act as an associate solicitor, professional solicitor, or fund-raising counsel unless the person has applied to register appropriately with the Secretary of State.

(b) *Associate solicitor.* — An associate solicitor may not solicit money from the public for a professional solicitor unless the professional solicitor has applied to register with the Secretary of State and can show evidence of the application.

### **§ 6-602. Use of services of unregistered individual.**

A professional solicitor may not employ, pay, agree to pay, or otherwise use the services of a person to make a charitable solicitation unless the person:

(1) is registered with the Secretary of State as an associate solicitor; or

(2) becomes registered with the Secretary of State within 10 days after the person starts acting as an associate solicitor.

### **§ 6-603. Agreement with unregistered charitable organization.**

(a) *In general.* — A professional solicitor or fund-raising counsel may not make an agreement with a charitable organization unless the charitable organization has applied to register with the Secretary of State or is otherwise exempt.

(b) *Other limitations.* — A charitable organization may not make an agreement with a professional solicitor or fund-raising counsel

unless the professional solicitor or fund-raising counsel has applied to register with the Secretary of State or is otherwise exempt.

**§ 6-604. Misuse of registration.**

(a) *In general.*— A charitable representative or a charitable organization may not lead the public to believe that registration is an endorsement or approval by the State.

(b) *Statement allowed.*— Use of the following statement is allowed: "Registered with the Secretary of State of Maryland as required by law. Registration is not an endorsement of a public solicitation for contributions".

**§ 6-605. Compensation dependent on number or value of charitable contributions.**

A fund-raising counsel may not receive compensation from a charitable organization if the compensation depends wholly or partly on the number or value of charitable contributions that result from the effort of the fund-raising counsel.

**§ 6-606. Application of charitable contribution.**

A person may not apply a charitable contribution in a way substantially inconsistent with the charitable solicitation.

**§ 6-607. False or misleading material.**

A person may not use false or materially misleading advertising or promotional material in connection with a charitable solicitation.

**§ 6-608. Deceptive act.**

(a) *In general.* — In connection with a charitable solicitation, a charitable organization or charitable representative may not commit an act or engage in a practice that by affirmative representation or by omission is misleading about anything important to, or likely to affect, another person's decision to make a charitable contribution.

(b) *Consequences of act irrelevant.* — An act or practice prohibited by this section is a violation of this section, whether or not a person has been misled, deceived, or damaged.

**§ 6-609. Misrepresentation — Marks or printed matter.**

(a) *Authorization required.* — Unless authorized by a charitable organization, a person may not:

(1) represent that a charitable contribution is requested for the charitable organization; or

(2) use a name, symbol, emblem, device, service mark or printed matter that belongs to or is associated with the charitable organization to solicit charitable contributions.

(b) *Use of similar marks or printed matter.* — In soliciting charitable contributions for a charitable organization, a person may not use a name, symbol, emblem, device, service mark, or printed matter so similar to that of another established charitable organization that the use might confuse or mislead the public.

**§ 6-610. Same — Charitable organizations or use of proceeds.**

A person may not falsely represent that:

(1) the person on whose behalf a solicitation or sale is made is a charitable organization; or

(2) the proceeds of a solicitation or sale will be used for a charitable purpose.

**§ 6-611. Same — Sponsorship or endorsement.**

(a) *In general.*— A person may not represent that another person sponsors, endorses, or approves of a charitable solicitation, the sale of goods or services for a charitable purpose, a charitable purpose, or a charitable organization without the consent of the other person.

(b) *Consent to use of name.* — A member of the board of directors or trustee of a charitable organization or a person who volunteers to participate in a charitable solicitation is deemed to have consented to the use of the person's name in the charitable solicitation.

**§ 6-612. Soliciting after cancellation of contract.**

A person may not continue to solicit charitable contributions for a charitable organization after the contract between the person and the charitable organization is canceled.

**§ 6-613. Willful violations.**

(a) *Failure to submit information; false information.* — A charitable organization or a charitable representative may not willfully:

(1) fail to submit to the Secretary of State when required a registration statement, annual report, or other information; or

(2) submit to the Secretary of State a registration statement, report, or other information that is materially false.

(b) *Causing willful violation.* — A director, officer, partner, or trustee of a charitable organization or charitable representative may not cause the charitable organization or charitable representative to violate this title willfully.

**§ 6-614. Grossly negligent violations.**

(a) *Failure to submit information; false information.* — A charitable organization or a charitable representative may not in a grossly negligent way:

(1) fail to submit to the Secretary of State when required a registration statement, annual report, or other information; or

(2) submit to the Secretary of State a registration statement, report, or other information that is materially false.

(b) Causing grossly negligent violation.- A director, officer, partner, or trustee of a charitable organization or charitable representative may not cause the charitable organization or charitable representative to violate this title in a grossly negligent way.

**§ 6-615. Contents of agreement — Between charitable organization and fund-raising counsel.**

A person may not act as a fund-raising counsel unless the person's agreement with the charitable organization states:

(1) the names and addresses of the parties;

(2) the services to be provided;

(3) the number of persons to be involved in providing the services;

(4) the time when the services are to be provided; and

(5) the method and formula for compensation.

**§ 6-616. Same — Between charitable organizations and professional solicitors.**

A person may not act as a professional solicitor unless the person's agreement with the charitable organization states:

(1) the names and addresses of the parties;

(2) the minimum percentage of the gross receipts from charitable solicitations that will be used by the charitable organization exclusively to advance its charitable purposes;

(3) the text that the professional solicitor or associate solicitor will use in each charitable solicitation; and

(4) any other information that the Secretary of State requires by regulation.

**§ 6-617. Charitable solicitation without authorization.**

A professional solicitor or associate solicitor may not solicit charitable contributions for or in the name of a charitable organization unless the professional solicitor or associate solicitor:

- (1) has written authorization that contains:
  - (i) the consent of 2 officers of the charitable organization;
  - (ii) the signature of the professional solicitor; and
  - (iii) an express statement of the term of the authorization;
- (2) submits a copy of the authorization to the Secretary of State; and
- (3) on request, shows a copy of the authorization and personal identification to a person who is solicited.

**§ 6-618. Promotions for charitable organizations.**

(a) *Scope of section.* — This section does not apply to a raffle or other game of chance that a charitable organization holds in a county under the laws applicable to the county.

(b) *Participation may not be required.* — As part of an advertising plan in connection with a charitable solicitation, a person may not notify another person that the other person has won a prize, has received an award, or has been chosen or is eligible to receive a thing of value if the other person is required to:

- (1) buy goods or services;
- (2) pay money; or
- (3) submit to a promotion.

**§ 6-619. Criminal penalty.**

(a) *Willful violation.* — A person who commits a willful violation of this title or who causes a person to commit a willful violation of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

(b) *Grossly negligent violation.* — A person who commits a grossly negligent violation of this title or who causes a person to commit a grossly negligent violation of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$3,000 or liability for restitution that the court determines or both.

**§ 6-620. Public containers for deposit of money reflecting name of charitable organization.**

A person who places in an establishment or other location open to the public a vending machine, canister, or other device or container for the deposit of money that reflects the name of a charitable organization or a charitable purpose shall:

(1) state on the device or container:

(i) the address of the charitable organization named; and

(ii) the name and address of the business placing the device or container, if not the charitable organization; and

(2) state on the device or container and to the person who grants permission for the placement of the device or container that a portion of the money deposited is retained by the business placing the device or container and that the remainder is given to a charitable organization or used for charitable purposes, if less than all of the money deposited is given to a charitable organization or used for charitable purposes.

**§ 6-621. Liability for broadcast, publication, or printing of solicitations in violation of title.**

A television or radio broadcasting station or a publisher or printer of a newspaper, magazine, or other form of printed advertising that broadcasts, publishes, or prints a charitable solicitation that violates this title is not liable for the violation, unless the station, publisher, or printer has knowledge that the charitable solicitation violates this title.

**Subtitle 7. Short Title.**

**§ 6-701. Short title.**

This title is the Maryland Solicitations Act.