

THE SECRETARY OF STATE SHALL NOTIFY THE CHARITABLE ORGANIZATION IN WRITING OF THE SECRETARY OF STATE'S DECISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 3-202(d)(6).

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section may be unconstitutional because it prohibits a charitable organization from soliciting charitable contributions until and unless the denial is reversed by the Secretary of State or implicitly overturned by court order. The Fourth Circuit of the United States Court of Appeals has ruled that a similar West Virginia law is unconstitutional because the procedures constitute a prior restraint on a charitable organization's speech. See Famine Relief Fund v. West Virginia, 905 F. 2d 747 (4th Cir. 1990).

Defined terms: "Charitable organization" § 6-101

"Charitable solicitation" § 6-101

6-406. 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.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 3-202(g).