

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978




ENROLLED

Committee Substitute for
SENATE BILL NO. 484

(By Mr. *Benson, original sponsor.*)



PASSED March 7, 1978

In Effect July 1, 1978 ~~Passage~~


116: 107

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 484

(MR. BENSON, *original sponsor*)

[Passed March 7, 1978; in effect July 1, 1978.]

AN ACT to amend and reenact section two, article nineteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to solicitation of charitable funds; adding to definition of "charitable organization" any person who employs an appeal for contributions which may be interpreted to suggest that contributions will be used for charitable purposes.

Be it enacted by the Legislature of West Virginia:

That section two, article nineteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 19. SOLICITATION OF CHARITABLE FUNDS ACT.

§29-19-2. Definitions.

- 1 As used in this article:
- 2 (1) "Charitable organization" means a person which is
- 3 or holds itself out to be a benevolent, educational, philan-
- 4 thropic, humane, patriotic, religious or eleemosynary
- 5 organization, or any person which solicits or obtains con-
- 6 tributions solicited from the public for charitable purposes
- 7 or any person who in any manner employs any appeal
- 8 for contributions which may be reasonably interpreted
- 9 to suggest that such contributions will be used for chari-
- 10 table purposes. A chapter, branch, area, office or similar
- 11 affiliate or any person soliciting contributions within the
- 12 state for a charitable organization which has its principal

13 place of business outside the state is a charitable organi-
14 zation for the purposes of this article. This definition shall
15 not be deemed to include religious organizations or any
16 group affiliated with and forming an integral part of said
17 organization no part of the net income of which inures to
18 direct benefit of any individual and which have received
19 a declaration of current tax exempt status from the gov-
20 ernment of the United States nor shall this definition
21 include any single church congregation located in the
22 county or local congregation of any religious affiliation or
23 any municipal-wide or county-wide little league or simi-
24 lar youth athletic organization or any service club. No
25 such affiliated group may be required to obtain such
26 declaration if the parent or principal organization shall
27 have obtained same.

28 (2) "Contributions" means the promise or grant of any
29 money or property of any kind or value.

30 (3) "Federated fund-raising organization" means a
31 federation of independent charitable organizations which
32 have voluntarily joined together, including, but not
33 limited to, a united fund or community chest, for purposes
34 of raising and distributing money for and among them-
35 selves and where membership does not confer operating
36 authority and control of the individual agencies upon the
37 federated group organization.

38 (4) "Parent organization" is that part of a charitable
39 organization which coordinates, supervises or exercises
40 control over policy, fund raising and expenditures, or
41 assists or advises one or more chapters, branches or
42 affiliates in the state.

43 (5) "Person" means any individual, organization, trust,
44 foundation, group, association, partnership, corporation,
45 society or any combination of them.

46 (6) "Professional fund-raising counsel" means any
47 person who for a flat fixed fee under a written agreement
48 plans, conducts, manages, carries on, advises or acts as a
49 consultant, whether directly or indirectly, in connection
50 with soliciting contributions for, or on behalf of any
51 charitable organization but who actually solicits no con-
52 tributions as a part of such services. A bona fide salaried
53 officer or employee of a charitable organization maintain-

54 ing a permanent establishment within the state shall not
55 be deemed to be a professional fund-raising counsel.

56 (7) "Professional solicitor" means any person who, for
57 a financial or other consideration, solicits contributions
58 for, or on behalf of a charitable organization, whether
59 such solicitation is performed personally or through their
60 agents, servants or employees specially employed by, or
61 for a charitable organization, who are engaged in the
62 solicitation of contributions under the direction of such
63 person, or a person who plans, conducts, manages, carries
64 on, advises or acts as a consultant to a charitable organi-
65 zation in connection with the solicitation of contributions
66 but does not qualify as "professional fund-raising counsel"
67 within the meaning of this act. A bona fide salaried officer
68 or employee of a charitable organization maintaining a
69 permanent establishment within the state shall not be
70 deemed to be a professional solicitor.

71 No attorney, investment counselor or banker, who
72 advises any person to make a contribution to a charitable
73 organization, shall be deemed, as the result of such advice,
74 to be a professional fund-raising counsel or a professional
75 solicitor.

76 (8) "Commission" means the commission on charitable
77 organizations herein created.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

James E. Chestnut
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

J. C. Dillinger Jr
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

W. W. Bullock
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 24
day of March, 1978.

John D. Ralston
Governor

APPROVED AND SIGNED BY THE GOVERNOR

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MAR 10 10 02 AM '78
OFFICE OF THE GOVERNOR

Date March 24, 1978
Time 9:20 A.M.

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SECY. OF STATE