

SB 708 S

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 708**

(BY SENATOR KESSLER)

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[Passed March 7, 2007; in effect ninety days from passage.]

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AN ACT to amend and reenact §29-19-5 and §29-19-6 of the Code of West Virginia, 1931, as amended, all relating to the registration of certain charities; and exemptions from registration.

*Be it enacted by the Legislature of West Virginia:*

That §29-19-5 and §29-19-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 19. SOLICITATION OF CHARITABLE FUNDS ACT.**

**§29-19-5. Registration of charitable organizations; fee.**

1 (a) Every charitable organization, except as provided  
2 in section six of this article, which intends to solicit  
3 contributions, donations or grants within this state or to  
4 have funds solicited or received on its behalf shall, prior  
5 to any solicitation, file a registration statement with the  
6 Secretary of State upon forms prescribed by him or her  
7 which shall be good for one full year and which shall be  
8 refiled in the next and each following year in which the  
9 charitable organization is engaged in solicitation  
10 activities. If an organization discontinues solicitation at  
11 any time after its last registration filing, then it shall  
12 file a registration statement reflecting its activities  
13 during its last fiscal year in which solicitation in West  
14 Virginia took place. It is the duty of the president,  
15 chairman or principal officer of the charitable  
16 organization to file the statements required under this  
17 article. The statements shall be sworn to and shall  
18 contain the following information:

19 (1) The name of the organization and the purpose for  
20 which it was organized;

21 (2) The principal address of the organization and the  
22 address of any offices in this state. If the organization  
23 does not maintain an office, the name and address of the  
24 person having custody of its financial records;

25 (3) The names and addresses of any chapters, branches  
26 or affiliates in this state;

27 (4) The place where and the date when the  
28 organization was legally established and the form of its  
29 organization;

30 (5) The names and addresses of the officers, directors,  
31 trustees and the principal salaried executive staff  
32 officer;

33 (6) A copy of a balance sheet and a statement or report  
34 of income and expenses for the organization's  
35 immediately preceding fiscal year or a financial  
36 statement reporting information showing the kind and  
37 amount of funds raised during the preceding fiscal year,  
38 the costs and expenses incidental to the fundraising and  
39 showing how the funds were disbursed or allocated for  
40 the same fiscal year: *Provided*, That for organizations  
41 raising more than one hundred thousand dollars per  
42 year in contributions excluding grants from  
43 governmental agencies or private foundations, the  
44 balance sheet and income and expense statement, or  
45 financial statement provided, shall be audited by an  
46 independent public accountant. Organizations are  
47 required to report the amount of money received in the  
48 state and the amount spent in the state for charitable  
49 purposes;

50 (7) A copy of any determination of the organization's  
51 tax exempt status under the provisions of 26 U. S. C.  
52 §501(c)(3) and a copy of the last filed Internal Revenue  
53 Service Form 990 and Schedule A for every charitable  
54 organization and any parent organization;

55 (8) Whether the organization intends to solicit  
56 contributions, donations or grants from the public  
57 directly or have other solicitation done on its behalf by  
58 others;

59 (9) Whether the organization is authorized by any  
60 other governmental authority to solicit contributions,  
61 donations or grants and whether it is or has ever been

62 enjoined by any court from soliciting contributions;

63 (10) The general purpose or purposes for which the  
64 contributions to be solicited shall be used;

65 (11) The name or names under which it intends to  
66 solicit contributions;

67 (12) The names of the individuals or officers of the  
68 organization who will have final responsibility for the  
69 custody of the contributions;

70 (13) The names of the individuals or officers of the  
71 organization responsible for the final distribution of the  
72 contributions; and

73 (14) Copies of all contract documentation from  
74 professional fund-raising counsels and professional  
75 solicitors as provided in subsection (d), section seven of  
76 this article.

77 (b) Each chapter, branch or affiliate, except an  
78 independent member agency of a federated fund-raising  
79 organization, may separately report the information  
80 required by this section or report the information to its  
81 parent organization which shall then furnish the  
82 information regarding its West Virginia affiliates,  
83 chapters and branches in a consolidated form to the  
84 Secretary of State. An independent member agency of  
85 a federated fund-raising organization, as defined in  
86 section two of this article, shall comply with the  
87 provisions of this article independently. Each  
88 organization shall file a separate registration form for  
89 each name under which funds will be solicited.

90 (c) The registration forms and any other documents  
91 prescribed by the Secretary of State shall be signed by  
92 an authorized officer or by an independent public  
93 accountant and by the chief fiscal officer of the  
94 charitable organization and shall be verified under  
95 oath.

96 (d) Every charitable organization receiving less than  
97 one million dollars during any year which submits an  
98 independent registration to the Secretary of State shall  
99 pay an annual registration fee of fifteen dollars; every  
100 charitable organization collecting more than one million  
101 dollars during one year which submits an independent  
102 registration to the Secretary of State shall pay an  
103 annual registration fee of fifty dollars; and a parent  
104 organization filing on behalf of one or more chapters,  
105 branches or affiliates or a single organization filing  
106 under different names shall pay a single annual  
107 registration fee of fifty dollars for itself and the  
108 chapters, branches or affiliates included in the  
109 registration statement. All fees and moneys collected by  
110 the Secretary of State pursuant to the provisions of this  
111 article shall be deposited by the Secretary of State as  
112 follows: One-half shall be deposited in the state General  
113 Revenue Fund and one-half shall be deposited in the  
114 services fees and collections account established by  
115 section two, article one, chapter fifty-nine of this code  
116 for the operation of the office of the Secretary of State.  
117 The Secretary of State shall dedicate sufficient  
118 resources from that fund or other funds to provide the  
119 services required in this article.

120 (e) For good cause shown, the Secretary of State may  
121 extend the due date for the annual filing of a  
122 registration statement or report by a charitable

123 organization or a professional fundraiser for a period  
124 not to exceed ninety days. During that period, the  
125 previously filed registration statement or report of the  
126 charitable organization which has been granted the  
127 extension remains in effect.

128 (f) In addition to the registration fee required by this  
129 section, a charitable organization or professional  
130 fundraiser, or both, which fails to file a registration  
131 statement or report by the original or extended due date  
132 for filing as required by this section shall, for each  
133 month or part of the month thereafter in which the  
134 registration statement or report is not filed, pay an  
135 additional fee of twenty-five dollars: *Provided*, That the  
136 total amount of the additional fees for a registration  
137 statement or report required to be filed in any one year  
138 shall not exceed five hundred dollars. All fees and  
139 moneys collected by the Secretary of State pursuant to  
140 the provisions of this article shall be deposited by the  
141 Secretary of State as follows: One-half shall be  
142 deposited in the State General Revenue Fund and  
143 one-half shall be deposited in the service fees and  
144 collections account established by section two, article  
145 one, chapter fifty-nine of this code for the operation of  
146 the Office of the Secretary of State. The Secretary of  
147 State shall dedicate sufficient resources from that fund  
148 or other funds to provide the services required in this  
149 article.

**§29-19-6. Certain persons and organizations exempt from  
registration.**

1 The following charitable organizations are not  
2 required to file an annual registration statement with  
3 the Secretary of State:

4 (1) Educational institutions, the curriculums of which,  
5 in whole or in part, are registered or approved by the  
6 State Board of Education, either directly or by  
7 acceptance of accreditation by an accrediting body  
8 recognized by the State Board of Education; and any  
9 auxiliary associations, foundations and support groups  
10 which are directly responsible to any such educational  
11 institutions;

12 (2) Persons requesting contributions for the relief of  
13 any individual specified by name at the time of the  
14 solicitation when all of the contributions collected  
15 without any deductions whatsoever are turned over to  
16 the named beneficiary for his or her use;

17 (3) Hospitals and licensed nursing homes which are  
18 nonprofit and charitable;

19 (4) Organizations which solicit only within the  
20 membership of the organization by the members  
21 thereof: *Provided*, That the term "membership" does  
22 not include those persons who are granted a  
23 membership upon making a contribution as the result of  
24 solicitation. For the purpose of this section, "member"  
25 means a person having membership in a nonprofit  
26 corporation, or other organization, in accordance with  
27 the provisions of its articles of incorporation, bylaws or  
28 other instruments creating its form and organization;  
29 and having bona fide rights and privileges in the  
30 organization, such as the right to vote, to elect officers,  
31 directors and issues, to hold office or otherwise as  
32 ordinarily conferred on members of such organizations;

33 (5) Churches, synagogues, associations or conventions  
34 of churches, religious orders or religious organizations

35 that are an integral part of a church which qualifies as  
36 tax exempt under the provisions of 26 U. S. C. §501(c)(3)  
37 and which qualifies as being exempt from filing an  
38 annual return under the provisions of 26 U. S. C. §6033;

39 (6) Any person, firm, corporation or organization that  
40 sponsors a single fund-raising event for the benefit of a  
41 named charitable organization where all or part of the  
42 funds collected are donated to the named charitable  
43 organization: *Provided*, That the named charitable  
44 organization receiving the funds is registered pursuant  
45 to this article, reports each of these donations  
46 individually and certifies that no funds were withheld  
47 by the organization that solicited the funds;

48 (7) Any charitable organization that does not employ  
49 a professional solicitor or fundraiser and does not  
50 intend to solicit and receive and does not actually raise  
51 or receive contributions, donations or grants from the  
52 public in excess of twenty-five thousand dollars during  
53 a calendar year.

54 Charitable organizations which do not intend to  
55 solicit and receive contributions, donations or grants in  
56 excess of twenty-five thousand dollars, but do receive in  
57 excess of that amount from the public, shall file the  
58 annual registration statement within thirty days after  
59 contributions are in excess of twenty-five thousand  
60 dollars.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this  
the *28<sup>th</sup>* Day of *March* ....., 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 20 2007

Time 4:10