

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 41, § 3-207(e) and items (1) and (3) and the introductory language of item (2) of the third sentence.

In item (1) of this section, the former word "programmatic" is deleted as surplusage.

In item (2) of this section, the former phrase "oral or written" is deleted because it is included in the defined term "charitable solicitation".

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that item (2) of this section, which requires a professional solicitor to show in the agreement with a charitable organization text that is submitted to the Secretary of State before the text is used in a charitable solicitation, may be unconstitutional. The Fourth Circuit of the United States Court of Appeals has ruled that a Virginia law requiring solicitors to submit the script of an oral solicitation to the Virginia Office of Consumer Affairs at least 10 days before the start of a solicitation campaign is unconstitutional prior restraint. See Telco Communications v. Carbaugh, 885 F.2d 1225 (4th Cir. 1989).

Defined terms: "Associate solicitor" § 6-101

"Charitable organization" § 6-101

"Charitable solicitation" § 6-101

"Person" § 1-101

"Professional solicitor" § 6-101

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.