

STATE OF MARYLAND
EXECUTIVE DEPARTMENT

MARTIN O'MALLEY
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JOHN P. MCDONOUGH
SECRETARY OF STATE

December 1, 2014

Sarah T. Albert
Mandated Reports Specialist
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

RE: HB1352 / Ch. 654, Sec. 3, 2014 – MSAR # 10110

Dear Ms. Albert:

Please find enclosed the interim report required under Ch. 654 – Secretary of State and Attorney General – Charitable Enforcement and Protection of Charitable Assets, Section 3. The report details the number of, and penalties imposed on, charitable organizations that fail to pay an annual fee or file an annual report and to make recommendations for ways to bring the charitable organizations that neglect to pay an annual fee or file an annual report into compliance.

If you have any questions or concerns, please feel free to contact me at peter.fosselman@maryland.gov or 410-974-5521.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter C. Fosselman".

Peter C. Fosselman
Deputy Secretary of State

Enclosure

cc: Martin J. O'Malley, Governor
Thomas V. Mike Miller, President of the Senate
Michael E. Busch, Speaker of the House of Delegates
Kisha A. Brown, Director of Legislative Affairs & Civil Rights
Richard A. Tabuteau, Deputy Director of Legislative Affairs & Civil Rights
Michael P. Schlein, SOS Investigator & Extradition Coordinator

Introduction

The Secretary of State and the Attorney General submit this interim report as required by House Bill 1352, signed into law during the 2014 legislative session. House Bill 1352 requires the Secretary of State and the Attorney General to jointly review the number of, and penalties imposed on, charitable organizations that fail to pay an annual fee or file an annual report and to make recommendations for ways to bring the charitable organizations that neglect to pay an annual fee or file an annual report into compliance. This interim report submitted to the General Assembly by December 1, 2014, provides the review and recommendations required. A final report will be submitted by December 1, 2015.

Number of, and Penalties Imposed on, Charitable Organizations that Fail to Pay an Annual Fee or File an Annual Report

As of November 24, 2014, there are 9,669 charitable organizations registered with the Office of the Secretary of State to solicit charitable contributions in Maryland. Of those, 2,311 organizations have a delinquent registration (23.9% of total registrants). Ordinarily, between 20%-30% of charitable organizations have a delinquent registration. In addition, there are another 957 charitable organizations that have filed, but have not yet completed their registration. According to a search on the IRS website, as of November 25, 2014, there are 20,075 organizations in Maryland classified as a 501(c)(3), a public charity, but not all of these organizations have to register with the Secretary of State. A charitable organization only has to register with the Secretary of State if it solicits charitable contributions from the public. Religious organizations and public safety organizations are exempt from registration requirements.

Organizations that receive less than \$25,000 per year in charitable contributions do not have to register either but do have to file a fund-raising notice. There are 3,154 organizations that file a fundraising notice with the Secretary of State because they receive less than \$25,000 in charitable contributions and are not required to file the full charitable registration. The Office of the Secretary of State does not categorize these organizations as current or late filers. However, the percentage of these organizations that have not filed the fundraising notice is comparable to that of charitable organizations filing a full registration (i.e. 20%-30%).

In order to promote compliance, the Office of the Secretary of State sends out annual registration reminder letters to organizations with current registration. These reminder letters are sent two months prior to each organization's registration deadline and they explain what must be filed. An annual registration form is enclosed as well. If an organization only files part of the documentation required, a follow-up letter is sent in response to their filing explaining what is still needed. If nothing is received, the Office of the Secretary of State sends a letter to the organization, explaining that its registration is late, and listing the documentation needed to bring the organization into compliance. Additional attempts to follow up with delinquent organizations may be made via letter, phone call, and/or email, though the time between those follow-ups varies. The current backlog of unprocessed registration documents limits the Office of the Secretary of State's ability to spend more time following up with delinquent organizations.

The Office of the Secretary of State cannot determine the exact number of charities that still owe late fees, but it should be comparable to the number of delinquent charitable organizations noted above (i.e. 2,311). Many of these organizations will end up paying a late fee. In 2014, the Office of the Secretary of State has collected \$44,405 (as of September 30th) in late fees from delinquencies. Since charity registration deadlines are based on the end of the organization's fiscal year, filing times vary by organization.

Recommendations for Ways to Bring the Charitable Organizations that Fail to Pay an Annual Fee or File an Annual Report into Compliance

The Secretary of State and Attorney General believe once there are monies in the Charitable Enforcement Fund, they will be better able to bring charitable organizations into compliance with the requirements of Maryland law. For example, one of the goals of the Charitable Enforcement Fund, created by HB 1352, is to make the registration process for charities and solicitors simpler and more efficient. The Office of the Secretary of State is moving towards electronic filing for charitable registrations. Staff has already had a preliminary meeting with an IT contractor and the Charity Database is being revamped. Electronic filing will allow organizations to file their documentation electronically, eliminating the need for submitting voluminous paper filings which must be scanned in order to be stored electronically.

Scanning documents takes up a significant amount of time that could otherwise be spent on reviewing filings and following up with delinquent registrants.

Electronic filing will also allow for a quicker review of the documents submitted and if constructed properly, allow the filer to ensure that all required documents are submitted. This should decrease the number of times the Office of the Secretary of State must follow up with organizations about incomplete filings. In addition, electronic filing will allow for online credit card payments. Currently, only cash and checks are accepted.

In addition, one of the initial purposes of the Charitable Enforcement Fund is to hire an Assistant Attorney General dedicated to enforcement of the Maryland Solicitations Act and Protection of Charitable Assets. As noted in the fiscal note, an Assistant Attorney General will allow for better enforcement of the law and provide additional avenues to pursue delinquent filers. Having an Assistant Attorney General to enforce administrative actions will allow the Office to be more forceful in bringing frequent delinquent or non-filers into compliance or to end their ability to solicit in Maryland altogether. An Assistant Attorney General enables the Secretary of State to actively pursue violations of the Maryland Solicitations Act and laws relating to the protection of charitable assets.

Conclusion

While much work remains, the goal over the next year is to capitalize on the future resources allocated to the Office of the Secretary of State and the Attorney General by the Charitable Enforcement Fund, through the hiring of an Assistant Attorney General and the implementation of an electronic filing system. A more sophisticated and user-friendly electronic system, combined with at least one Assistant Attorney General dedicated to enforcement of the Maryland Solicitations Act and Protection of Charitable Assets, will better equip the Office of the Secretary of State and Attorney General to pursue delinquent filers and impose necessary penalties with the goal of bringing all charitable organizations into compliance with Maryland law.