

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Summer
Supp.

West Group
Publisher

To amend Chapter 39 of Title 28 of the District of Columbia Official Code to eliminate the judicially-created exemption for nonprofit organizations, and to provide that actions brought by a person against a nonprofit organization may not be based on a transaction, interaction, or dispute not arising from the purchase or sale of consumer goods or services in the ordinary course of business; to amend the District of Columbia Nonprofit Corporation Act to clarify that nonprofit corporations are to be organized only for nonprofit purposes, to facilitate investigation by the Attorney General into whether nonprofit corporations are acting contrary to their authority or purposes, and to expressly authorize alternatives to corporate dissolution in cases involving nonprofit corporations that have exceeded or abused their authority or have acted contrary to their nonprofit purposes; and to amend the District of Columbia Charitable Solicitation Act to facilitate investigation by the Attorney General into suspected violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Nonprofit Organizations Oversight Improvement Amendment Act of 2007”.

Sec. 2. Chapter 39 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) Section 28-3901(a)(3) is amended to read as follows:

“(3) “merchant” means a person, whether organized or operating for profit or for a nonprofit purpose, who in the ordinary course of business does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice;”.

(b) Section 28-3905(k) is amended by adding a new paragraph (5) to read as follows:

“(5) An action brought by a person under this subsection against a nonprofit organization shall not be based on membership in such organization, membership services, training or credentialing activities, sale of publications of the nonprofit organization, medical or

Note,
§ 28-3901

Note,
§ 28-3905

legal malpractice, or any other transaction, interaction, or dispute not arising from the purchase or sale of consumer goods or services in the ordinary course of business.”.

Sec. 3. The District of Columbia Nonprofit Corporation Act, approved August 6, 1972 (76 Stat. 266; D.C. Official Code § 29-301.01 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 29-301.04) is amended by striking the phrase “lawful purpose or purposes” and inserting the phrase “lawful, nonprofit purpose or purposes” in its place.

Note,
§ 29-301.04

(b) Section 53 (D.C. Official Code § 29-301.53) is amended as follows:

Note,
§ 29-301.53

(1) Subsection (a) is amended to read as follows:

“(a) A court may order the involuntary dissolution of a corporation, place a corporation in receivership, impose a constructive trust on compensation paid to a corporation’s director, officer, or manager, or grant other injunctive or equitable relief with respect to a corporation, in an action brought by the Attorney General in the name of the District of Columbia when the court finds by a preponderance of the evidence that:

“(1) The franchise of the corporation was procured through fraud;

“(2) The corporation has continued to exceed or abuse the authority conferred upon it by this act;

“(3) The corporation has failed for 90 days to appoint and maintain a registered agent as provided in this act;

“(4) The corporation has failed for 90 days after a change of its registered office or registered agent to deliver to the Mayor a statement of such change; or

“(5) The corporation has continued to act contrary to its nonprofit purposes.”.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “before any action for the involuntary dissolution of a corporation shall be filed by the Mayor,” and insert the phrase “before any action based on subsection (a) of this section shall be filed against a corporation by the Attorney General,” in its place.

(B) Strike the phrase “the Mayor shall not file” and insert the phrase “the Attorney General shall not file” in its place.

(3) A new subsection (c) is added to read as follows:

“(c)(1) If the Attorney General, in the course of an investigation to determine whether to bring a court action under this section, has reason to believe that a person may have information, or may be in possession, custody, or control of documentary material, relevant to the investigation, the Attorney General may issue in writing and cause to be served upon the person, a subpoena or subpoenas requiring the person to give oral testimony under oath, or to produce records, books, papers, contracts, electronically-stored data and other documentary material for inspection and copying.

“(2) Information obtained pursuant to this authority to subpoena is not admissible in a later criminal proceeding against the person who provided the information.

“(3) The Attorney General may petition the Superior Court of the District of Columbia for an order compelling compliance with a subpoena issued pursuant to this authority to subpoena.”.

Sec. 4. Section 13(c) of the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (71 Stat. 281; D.C. Official Code § 44-1712(c)), is amended as follows:

**Note,
§ 44-1712**

(a) Designate the existing text as paragraph (1).

(b) New paragraphs (2), (3), and (4) are added to read as follows:

“(2) If the Attorney General, in the course of an investigation to determine whether to bring a court action under this section, has reason to believe that a person may have information, or may be in possession, custody, or control of documentary material, relevant to the investigation, the Attorney General may issue in writing and cause to be served upon the person, a subpoena or subpoenas requiring the person to give oral testimony under oath, or to produce records, books, papers, contracts, electronically-stored data and other documentary material for inspection and copying.

“(3) Information obtained pursuant to this authority to subpoena is not admissible in a later criminal proceeding against the person who provided the information.

“(4) The Attorney General may petition the Superior Court of the District of Columbia for an order compelling compliance with a subpoena issued pursuant to this authority to subpoena.”.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia