

Chairman Linda W. Cropp
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Linda W. Cropp, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To facilitate investigation of possible violations of the laws governing nonprofit corporations and charitable solicitations, to clarify that nonprofit corporations are to be organized only for nonprofit purposes, to expressly authorize alternatives to corporate dissolution in cases involving nonprofit corporations that have acted contrary to their nonprofit purposes, and to eliminate the judicially-created exemption to the Consumer Protection Procedures Act for nonprofit organizations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Nonprofit Organizations Oversight Improvement Act of 2006”.

Sec. 2. The District of Columbia Nonprofit Corporation Act (Public Law 87-569; D.C. Official Code § 29-301.01 *et seq.*) is amended to read as follows:

(a) Section 2 (D.C. Official Code § 29-301.02) is amended by inserting at the end:

“(12) ‘Nonprofit purpose’ means a purpose other than to generate income, profit, or an increase in monetary value.”

(b) Section 4 (D.C. Official Code § 29-301.04) is amended by inserting “, nonprofit” after “lawful”.

(c) Subsection 53(a) (D.C. Official Code § 29-301.53(a)) is amended by striking “instituted by the Mayor” and inserting “brought by the Attorney General” in its place, and by striking “when it is made to appear to the court that” and inserting “when the court finds that” in its place.

(d) Subsection 53(b) (D.C. Official Code § 29-301.53(b)) is amended by striking “filed by the Mayor” and inserting “filed by the Attorney General” in its place, and by striking “the Mayor shall not file” and inserting “the Attorney General shall not file” in its place.

(e) New subsections (c) and (d) are added to section 53 (D.C. Official Code § 29-301.53) to read as follows:

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

“(1) The corporation has acted or would act in a manner that does not serve, directly or indirectly, or that is inconsistent with, the nonprofit purposes for which the corporation was organized;

“(2) The corporation has used, maintained, or transferred, or would use, maintain, or transfer, substantial assets of the corporation in a manner that does not serve, directly or indirectly, or that is inconsistent with, the nonprofit purposes for which the corporation was organized;

“(3) The corporation has paid or would pay unreasonable and excessive compensation to a director, officer, or manager; or

“(4) The corporation has made or would make expenditures whose extravagance, under the circumstances, is inconsistent with the nonprofit purposes for which the corporation was organized.

“(d) In the course of an investigation to determine whether there is reason to bring a court action under this section, the Attorney General may subpoena witnesses, administer oaths, examine an individual under oath, and compel production of records, books, papers, contracts, and other documents. Information obtained pursuant to this authority to subpoena is not admissible in a later criminal proceeding against the person who provides the evidence.”

Sec. 3. The District of Columbia Charitable Solicitation Act (Public Law 85-87; D.C. Official Code § 44-1701 *et seq.*) is amended by amending subsection 13(c) to read as follows:

“(c) The Attorney General for the District of Columbia or any of his assistants is hereby empowered to bring an action or actions in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin any person from soliciting in violation of this Act or in violation of any regulation made pursuant to this Act. In the course of an investigation to determine whether there is reason to bring an action under this subsection, the Attorney General may subpoena witnesses, administer oaths, examine an individual under oath, and compel production of records, books, papers, contracts, and other documents. Information obtained pursuant to this authority to subpoena is not admissible in a later criminal proceeding against the person who provides the evidence.”

Sec. 4. Subsection 28-3901(a)(3) of Title 28 of the District of Columbia Official Code is amended to read as follows:

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

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 a 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 24, 1973 (87 Stat. 813; D.C. Official Code § 1-233(c)(1)), and publication in the District of Columbia Register.