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Regulation Watch

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Uniform Law: Commission Approves Charitable Assets Model Act

The Model Protection of Charitable Assets Act (MPCAA) received approval from the Uniform Law Commission (ULC) July 13 during the ULC's annual meeting in Vail, Colorado. Approval means that individual states can use the act or any part of it as a model for regulation of nonprofit organizations, though they are not required to use any of it. The new act replaces the Uniform Supervision of Trustees Charitable Purposes Act, passed in 1954.

In a statement released after the vote, the ULC said the goal of the MPCAA is to "protect the role of the states with respect to charitable assets, by clarifying the role of the attorney general."

"The attorney general's authority in most states is broad and this act will not limit or narrow that authority, while providing many states the first clear statutory articulation of that authority."

The act would require anyone who holds or administers more than \$5,000 in charitable assets to register basic information about the organization and file an annual report with the state, as well as notify the state of any "life events" such as a merger, dissolution, or disposition of assets.

One of the nation's leading critics of charity regulators, Mark Fitzgibbons, fears that the act is too vague and could lead to abuses by regulators. "It would allow charity regulators to conduct investigations of covered entities under vague and very poorly defined standards, and without court supervision or guaranteed First Amendment protections of speech and Fourth Amendment protections against unreasonable searches and seizures," said Fitzgibbons, who is president of corporate and legal affairs at Manassas, Virginia-based American Target Advertising.

According to the ULC, the Internal Revenue Service (IRS) has continued to enhance its role in the regulation of charitable organizations, even though it "neither has the authority, the resources, or the ability to protect the assets of charitable entities."

The law seeks to clarify the role of attorney general with an inventory of basic information without "overburdening" charities with reporting requirements.

“The Model Act will articulate and confirm the role of the state attorney general in protecting charitable assets,” according to the ULC. The act asks the tax-exempt organizations to report transactions and legal proceedings while providing registration and annual reports of charities.”

“Public confidence in charities helps maintain the strength of the charitable sector,” according to the ULC. “If potential donors worry that charities will misuse contributed funds, donors are unlikely to contribute. The good work charities do will suffer if reports of abuse, fraud, or other types of misbehavior reduce public confidence in the sector.”

In a post on his blog, Charity Regular Watch, Fitzgibbons predicts that charity regulators will soon begin the process of increasing their own budgets. “Charity regulators will now begin their insider lobbying at taxpayer expense for states to adopt this law. Undoubtedly they would soon lobby to increase their staff and budgets to pay for the extra paper shuffling” that the act will require, he said. With states facing serious budget crises that could mean funding cuts for nonprofits, he instead suggested reducing the budgets of charity regulators themselves.