
DC's New General Business License Requirement Applies to Associations and Other Nonprofit Organizations

Starting December 31, 2008, the District of Columbia began requiring all businesses to have a valid General Business License issued by the DC Department of Consumer and Regulatory Affairs. Under the Business Licensing Processing Adjustment Act of 2008 passed by the DC Council, an estimated 10,000 previously unlicensed businesses will have to obtain a General Business License. This new requirement is essentially an all-encompassing category under the existing DC Basic Business License Program, which previously focused only on very specific types of businesses.

One may file for a new General Business License by either mailing in an application or filling out the requisite forms in person at the Business License Center. The deadlines for applying for the license are rolling, and depend on the organization's billing address Zip code (if incorporated in DC), or state of incorporation (if not incorporated in DC). Certain application deadlines have already passed. The General Business License is valid for two years and costs \$295. Failure to obtain it may result in a penalty of \$2,000. However, the Department of Consumer and Regulatory Affairs has not yet opted to enforce this penalty, presumably due to the short notice and lack of awareness surrounding the new license requirement.

If an organization is conducting business in DC, is registered with the Office of Tax and Revenue to do business in DC, and is not otherwise licensed, it is required to have the license. In other words, all organizations that are either incorporated or operating in DC must acquire the license. It is widely understood that if an organization has an office in DC, regardless of where it is incorporated, it needs to obtain a General Business License.

Although the new law states that the licensing requirement applies to any business engaging in "any business transaction" in the District, the Department of Consumer and Regulatory Affairs has made it informally known that only organizations with physical offices/locations in DC are required to be licensed. There are a few other exceptions, including businesses:

- having at least one principal who is required to maintain licenses granted or regulated by a local, state, or national certification board or body; or
- not having a Federal Employer Identification Number (FEIN); or
- having a basic business license whose endorsements authorize all current business activities; or
- having a current occupational or professional license for business activities.

If an organization believes it is exempt from the new requirement because of one or more of these exceptions, a General Business License exemption request certificate should be completed and mailed to the DC Business License Center at the Department of Consumer and Regulatory Affairs to confirm the same and avoid imposition of any penalties due to potential confusion.

With respect to nonprofit organizations, they will need to acquire either a General Business License or a Charitable Solicitation License, depending on their funding sources. According to information from the DC government, if an organization seeks funds from its members only, such as dues, then it needs to have a General Business License. Thus, Section 501(c)(4) and (c)(6) organizations would generally be required to obtain the new General Business License.

However, if an organization seeks funds outside of its membership, such as through charitable fundraising campaigns or grants, then the information provided by the DC government states that such organization will instead need to have the Charitable Solicitation License, which costs approximately \$300. According to the Department of Consumer and Regulatory Affairs website, “charitable solicitation” means “the request directly or indirectly for any contribution...for any charitable purpose.” Therefore, Section 501(c)(3) organizations generally are not impacted by the new General Business License requirement, as long as they have a valid, up-to-date Charitable Solicitation License. Further, organizations with a valid Charitable Solicitation License need not submit a General Business License exemption request certificate, as that certificate is designed solely for organizations who feel that they satisfy one or more of the exceptions listed above.

All requisite forms, as well as more guidance, can be found at the DC Department of Consumer and Regulatory Affairs Business Licensing website at: <http://dcra.dc.gov/dcra/cwp/view,a,1343,q,641497.asp>.

As this is a new requirement, we expect further details to be forthcoming.

For further information, please contact:

Jerry Jacobs **(bio)**
Washington, DC
+ 1.202.663.8011
jerry.jacobs@pillsburylaw.com

Jeff Glassie **(bio)**
Washington, DC
+ 1.202.663.8036
jeff.glassie@pillsburylaw.com

Megan Thorsen **(bio)**
Washington, DC
+ 1.202.663.9242
megan.thorsen@pillsburylaw.com

Audra Heagney **(bio)**
Washington, DC
+ 1.202.663.9376
audra.heagney@pillsburylaw.com

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