

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, February 10, 2014
TIME: 4:00 —6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|--|---|---|
| 1 | SB 484 Braynon (Similar CS/H 343) | Rental Car Sales and Use Tax Surcharges; Providing that the surcharge for car-sharing services shall be imposed on an hourly basis rather than a daily basis; defining the term "car-sharing service", etc. CM 02/10/2014 Fav/CS AFT AP | Fav/CS Yeas 7 Nays 3 |
| 2 | SB 638 Brandes (Identical H 629) | Charities; Excluding charitable organizations or sponsors disqualified by the Department of Agriculture and Consumer Services from receiving certain tax exemptions; requiring that the financial statements of certain charitable organizations or sponsors be audited or reviewed; requiring each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor that conducts telephone solicitations to obtain a solicitor license from the department; increasing administrative fines for violations of the Solicitation of Contributions Act, etc. CM 02/10/2014 Fav/CS AFT AP | Fav/CS Yeas 8 Nays 2 |
| Consideration of proposed committee bill: | | | |
| 3 | SPB 7032 | OGSR/Scripps Florida Funding Corporation; Repealing provisions which provide an exemption from public record and public meeting requirements for certain records and meetings of the Scripps Florida Funding Corporation, etc. | Submitted as Committee Bill Yeas 10 Nays 0 |
| 4 | Presentation on Fiscal Year 2013-2014 appropriations spending by VISIT Florida | | Presented |
| Other Related Meeting Documents | | | |

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, February 10, 2014, 4:00 —6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|-------------------------|--|------------------|
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An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, www.flsenate.gov

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 484

INTRODUCER: Commerce and Tourism Committee and Senator Braynon

SUBJECT: Rental Car Sales and Use Tax Surcharges

DATE: February 10, 2014

REVISED: 02/12/2014

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------|------------|---------------|
| 1. | <u>Askey</u> | <u>Hrdlicka</u> | <u>CM</u> | <u>Fav/CS</u> |
| 2. | <u></u> | <u></u> | <u>AFT</u> | <u></u> |
| 3. | <u></u> | <u></u> | <u>AP</u> | <u></u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 484 sets forth the manner in which the rental car surcharge under s. 212.0606, F.S., shall be imposed on car-sharing services. A member of a car-sharing service who uses a motor vehicle for less than 24 hours shall pay a surcharge of 8 cents (\$0.08) per hour of usage rounded up to the nearest hour. A member of a car-sharing service who uses the same motor vehicle for at least 24 consecutive hours shall pay a surcharge of \$2.00 per day or any part of a day.

The bill provides that the surcharge does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, leased by, or for the benefit of an airport or airport authority.

The revenue Estimating Conference estimated a recurring negative impact of \$100,000 to General Revenue; a recurring negative impact to state trust funds, for FY 2014-15 of \$600,000 and increasing in outlying years; and a recurring insignificant negative impact to local governments.

II. Present Situation:

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether such vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the

invoice. Businesses that collect the rental car surcharge are required to report surcharge collections by county, attributing the surcharge to the county where the rental agreement was made.

The surcharge applies to only the first 30 days of the term of any lease or rental, whether or not the vehicle is licensed in Florida. If the rental or lease of a vehicle is for longer than 30 days, only the first 30 days are subject to the surcharge. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies.

The surcharge is not imposed on leases or rentals to tax-exempt entities holding a valid Consumer's Certificate of Exemption.¹ Section 212.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees, the rental car surcharge is distributed as follows:

- 80 percent of the surcharge to the State Transportation Trust Fund (STTF);
- 15.75 percent of the surcharge to the Tourism Promotional Trust Fund; and
- 4.25 percent of the surcharge to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Florida Department of Transportation (FDOT) district for transportation projects, except the Turnpike District, based on the amount of proceeds collected in the counties within each respective district.

For-Hire Vehicles

With limited exception, offering for lease or rent any motor vehicle in the State of Florida qualifies the vehicle as a "for-hire vehicle" under s. 320.01(15)(a), F.S.:

"For-hire vehicle" means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is "for hire." The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for hire."

Rental Car Industry

¹ Section 212.08, F.S.; Rule 12A-1.1038, F.A.C.

In recent years there has been a growing sub-industry of rental cars known as “car-sharing” services. Companies, or programs, like “Zipcar”², “car2go”³, and “Hertz 24/7”⁴ allow members to reserve the use of a car without visiting a rental car location. This model is seen as an alternative to the traditional rental car business model as well as an alternative to owning a car in a major metropolitan area. As a new and developing industry, car-sharing services are facing the challenge of varying regulations and taxes across different local and state governments. The CarSharing Association (CSA) represents several car-sharing companies and “works with shared-use mobility operators to advance industry standards, best practices and public policy advocacy.”⁵ Car-sharing services are promoted by some organizations as a form of “collaborative consumption,” which is described as a “shift in consumer values from ownership to access.”⁶

Three major varieties of car-sharing models exist currently:⁷

- Peer to Peer: “A fleet of cars is owned by a community. The marketplace matches owners of cars that are available to other drivers to rent.”
- Business to Consumer: “A company owns a fleet of cars and facilitates the sharing among members.”
- Not-For-Profit or Co-Op: “A local organization or community that facilitates car sharing with the goal of changing driving habits over making a profit.”

A 2006 study conducted by Travelocity⁸ (an online travel agency) found that taxes imposed by state and local governments accounted for an average of 28 percent of the total cost of renting a motor vehicle at airport locations and an average of almost 15 percent at neighborhood locations. Many rental companies also charge additional fees for drivers under 25 years of age, additional drivers, airport concession fees, refueling charges, loss and damage waivers, drop-off charges, partial days, mileage limits, frequent flyer fees, child safety seats, and GPS rental.

Rental Car Surcharge and Car-Sharing Services

On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 which answered the question of whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate

² Zipcar website, <http://www.zipcar.com/> (last visited February 3, 2014).

³ car2go website, <https://www.car2go.com/en/austin/> (last visited February 3, 2014).

⁴ Hertz website, <https://www.hertz.com/rentacar/productservice/index.jsp?targetPage=hertzondemand.jsp> (last visited February 4, 2014).

⁵ CSA website, <http://carsharing.org/> (last visited February 3, 2014).

⁶ Collaborative Consumption website, <http://www.collaborativeconsumption.com/> (last visited February 3, 2014).

⁷ Collaborative Fund and Hyperakt, *The Bright Future of CarSharing*, <http://futureofcarsharing.com/> (last visited February 3, 2014).

⁸ Travelocity, *2006/2007 Study Rates U.S. Airports in Terms of Sticker Shock and Compares Taxes When Renting at On-Airport vs. Neighborhood Locations*, December 12, 2006, <http://news.travelocity.com/phoenix.zhtml?c=75787&p=irol-newsArticle&ID=941259> (last visited February 3, 2014).

one and access it. Each use is labeled as a “trip” and can last up to four consecutive days. A unique feature of Taxpayer’s car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to forty minutes, costing between \$7 and \$10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice.⁹

Despite the taxpayer’s assertion that it is not engaged in the “traditional” rental of cars, DOR concluded that the taxpayer is renting cars and, therefore, the rental car surcharge does apply. The DOR further concluded that because the taxpayer’s members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and because members are charged for every trip within the same 24-hour period on a single daily invoice, the rental car “surcharge is due from Taxpayer’s members once a day, regardless of the number of trips taken by a member in a twenty-four hour period.”¹⁰

III. Effect of Proposed Changes:

CS/SB 484 sets forth the manner in which the rental car surcharge under s. 212.0606, F.S., shall be imposed on car-sharing services. A member of a car-sharing service who uses a motor vehicle for less than 24 hours shall pay a surcharge of 8 cents (\$0.08) per hour of usage rounded up to the nearest hour. A member of a car-sharing service who uses the same motor vehicle for at least 24 consecutive hours shall pay a surcharge of \$2.00 per day or any part of a day.

The bill defines a “car-sharing service” as a membership-based organization or business which requires payment of a membership fee and provides the member with access to motor vehicles:

- Only at locations that are not staffed by service personnel employed solely for the purpose of interacting with members;
- Twenty-four hours per day, 7 days per week;
- Only through automated means;
- On an hourly basis or shorter period of time;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car-sharing service or its affiliates.

The bill provides that the surcharge does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, leased by, or for the benefit of an airport or airport authority.

The bill provides an effective date of January 1, 2015.

⁹ DOR Technical Assistance Advisement 12A-022, [https://revenue.law.state.fl.us/LawLibraryDocuments/2012/09/TAA-111870_deleted%20with%20summary%2012A-022.pdf#search="technical assistance advisement 12A-022"](https://revenue.law.state.fl.us/LawLibraryDocuments/2012/09/TAA-111870_deleted%20with%20summary%2012A-022.pdf#search=technical%20assistance%20advisement%2012A-022) (last visited February 3, 2014).

¹⁰ To support its finding, DOR cited Rule Code 12A-16.002(3)(b), F.A.C.: “When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or that limit their ability to raise revenue or receive state tax revenue unless certain conditions are met.

Subsection (d) provides an exemption from the prohibitions. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10, are exempt (April 1, 2013, statewide population estimate was about 19.3 million).¹¹

The Revenue Estimating Conference estimated that the provisions of this bill will have an insignificant negative fiscal impact at the local level.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on January 10, 2014, and made the following assessment of the impact of this bill:¹²

| | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 |
|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| General Revenue | (0.1) | (0.1) | (0.1) | (0.2) | (0.2) |
| State Trust | (0.6) | (0.7) | (0.9) | (1.1) | (1.2) |

| | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 |
|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Total Local Impact | (Insignificant) | (Insignificant) | (Insignificant) | (Insignificant) | (Insignificant) |

¹¹ Office of Economic and Demographic Research, *Florida Population Estimates for Counties and Municipalities*, April 1, 2013, available at http://edr.state.fl.us/Content/population-demographics/data/2013_Pop_Estimates.pdf (last visited February 4, 2014).

¹² Revenue Estimating Conference, *Analysis: SB 484*, (January 10, 2014), <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page66-67.pdf> (last visited February 3, 2014).

| | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 |
|---------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Total Impact | (0.7) | (0.8) | (1.0) | (1.3) | (1.4) |

B. Private Sector Impact:

Indeterminate. The impact of this bill on the “traditional” rental car industry is unknown.

The bill will likely decrease costs for car-sharing service members to utilize motor vehicles in a car-sharing program.

C. Government Sector Impact:

See Tax/Fee Issues. The Department of Revenue esimated an insignificant operational impact.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.0606, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 10, 2014

The committee substitute changes the bill’s effective date to January 1, 2015.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹³ Department of Revenue, *Analysis SB 484*, (January 13, 2014).



430832

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 02/10/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Commerce and Tourism (Abruzzo) recommended the following:

Senate Amendment

Delete line 94

and insert:

Section 2. This act shall take effect January 1, 2015.

By Senator Braynon

36-00610-14

2014484__

A bill to be entitled

An act relating to rental car sales and use tax surcharges; amending s. 212.0606, F.S.; providing that the surcharge for car-sharing services shall be imposed on an hourly basis rather than a daily basis; defining the term "car-sharing service"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1) Except as provided under subsection (2), a surcharge of ~~\$2~~ ~~\$2.00~~ per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether ~~the~~ ~~such~~ motor vehicle is licensed in this state Florida. The surcharge applies to only the first 30 days of the term of a ~~any~~ lease or rental. The surcharge is subject to all applicable taxes imposed under ~~by~~ this chapter.

(2) A member of a car-sharing service who uses a motor vehicle as described in subsection (1) pursuant to an agreement with the car-sharing service for less than 24 hours shall pay a surcharge of 8 cents per hour of usage, with portions of an hour rounded up to the nearest hour. A member of a car-sharing service who uses the same motor vehicle for at least 24 consecutive hours shall pay a surcharge of \$2 per day or any part of a day as provided under subsection (1).

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-00610-14

2014484__

(a) For purposes of this subsection, a "car-sharing service" is a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:

1. Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with members;

2. Twenty-four hours per day, 7 days per week;

3. Only through automated means, including, but not limited to, smartphone applications and electronic membership cards;

4. On an hourly basis or for a shorter increment of time;

5. Without a separate fee for refueling the motor vehicle;

6. Without a separate fee for minimum financial responsibility liability insurance; and

7. Owned or controlled by the car-sharing service or its affiliates.

(b) The surcharge described in this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

(3)(2)(a) Notwithstanding s. ~~the provisions of section~~ 212.20, and less ~~the~~ costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund.

(a) For the purposes of this subsection, "proceeds" of the

Page 2 of 4

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36-00610-14

2014484__

59 surcharge means all funds collected and received by the
60 department under this section, including interest and penalties
61 on delinquent surcharges. The department shall provide the
62 Department of Transportation rental car surcharge revenue
63 information for the previous state fiscal year by September 1 of
64 each year.

65 (b) Notwithstanding any other provision of law, ~~in fiscal~~
66 ~~year 2007-2008 and each year thereafter~~, the proceeds deposited
67 in the State Transportation Trust Fund shall be allocated on an
68 annual basis in the Department of Transportation's work program
69 to each department district, except the Turnpike District. The
70 amount allocated to for each district shall be based on ~~upon~~ the
71 amount of proceeds attributed to the counties within each
72 respective district.

73 ~~(4)(3)(a)~~ Except as provided in this section, the
74 department shall administer, collect, and enforce the surcharge
75 as provided in this chapter.

76 ~~(a)(b)~~ The department shall require dealers to report
77 surcharge collections according to the county to which the
78 surcharge was attributed. For purposes of this section, the
79 surcharge shall be attributed to the county where the rental
80 agreement was entered into.

81 ~~(b)(c)~~ Dealers who collect the rental car surcharge shall
82 report to the department all surcharge revenues attributed to
83 the county where the rental agreement was entered into on a
84 timely filed return for each required reporting period. The
85 provisions of this chapter which apply to interest and penalties
86 on delinquent taxes ~~shall~~ apply to the surcharge. The surcharge
87 is ~~shall~~ not be included in the calculation of estimated taxes

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-00610-14

2014484__

88 pursuant to s. 212.11. The dealer's credit provided in s. 212.12
89 ~~does shall~~ not apply to any amount collected under this section.
90 ~~(5)(4)~~ The surcharge imposed by this section does not apply
91 to a motor vehicle provided at no charge to a person whose motor
92 vehicle is being repaired, adjusted, or serviced by the entity
93 providing the replacement motor vehicle.

94 Section 2. This act shall take effect July 1, 2014.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Regulated Industries, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Health Policy

SENATOR OSCAR BRAYNON II

Democratic Whip
36th District

December 19, 2013

Senator Nancy Detert, Chair
Commerce and Tourism,
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Detert:

This letter is to request that **Senate Bill # 484**, relating to ***Rental Car Sales and Use Tax Surcharges*** be placed on the agenda of the next scheduled meeting of the committee.

SB 484 Defining the term "car-sharing service;" exempting the provision of vehicles by such services from the rental car surcharge, etc

Thank you for consideration of this request.

Sincerely,

Senator Braynon
District 36

cc. *Jennifer Hrdlicka, Staff Director,*
Patty Blackburn, Committee Administrative Assistant, Room 310K

RECEIVED DEC 30 2013

REPLY TO:

- 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
- 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)



Meeting Date _____

Topic Car Sharing

Bill Number 484
(if applicable)

Name Doug Bell

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S Monroe St.

Phone 850-222-3533

Street

Tall

FL

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Avis Budget Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD



2-10-14

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

Car Sharing

Bill Number

484

(if applicable)

Name

Nelson Diaz

Amendment Barcode

(if applicable)

Job Title

Address

999 Ponce de Leon

Phone

Street

E-mail

City

State

Zip

Speaking:

For

Against

Information

Representing

Zip Car

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 638

INTRODUCER: Commerce and Tourism Committee and Senator Brandes

SUBJECT: Charities

DATE: February 10, 2014 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Malcolm | Hrdlicka | CM | Fav/CS |
| 2. | _____ | _____ | AFT | _____ |
| 3. | _____ | _____ | AP | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 638 updates the Solicitation of Contributions Act to provide increased oversight by the Department of Agriculture and Consumer Services (DACS) for charitable organizations and sponsors, professional fundraising consultants, and professional solicitors.

The bill generally:

- Requires that any changes to information in a registration statement be submitted to DACS within 10 days of the change;
- Requires automatic suspension of a registration for failure to disclose any information related to certain criminal or administrative actions;
- Permits increased processing times for DACS if the applicant discloses any information related to certain criminal or administrative actions against it;
- Authorizes DACS to deny or revoke an application if the applicant or its agent has had certain criminal or administrative action taken against it;
- Prohibits the employment of persons with certain criminal history;¹
- Requires notices to be provided for all solicitations and confirmations; and
- Requires professional fundraising consultants and professional solicitors to only enter into contract with charitable organizations and sponsors registered under ch. 496, F.S.

¹ Disqualifying crimes include fraud, theft, larceny, embezzlement, fraudulent conversion, and misappropriation of property.

Specifically, the bill:

Charitable Organizations and Sponsors

- Authorizes DACS to enter a disqualification order for certain charities not meeting expense requirements, which disqualifies the charity from receiving sales tax exempt status for at least a year;
- Clarifies the requirements related to financial statements;
- Requires certain charities to adopt conflict of interest policies; and
- Requires certain charities to file supplemental financial disclosures and quarterly disaster relief statements.

Professional Solicitors

- Creates a new, annual license for officers, directors, trustees, and owners of a professional solicitor and any employee of the solicitor conducting telephone solicitations;
- Updates the definition of “professional solicitor” to include solicitors located in Florida that solicit outside of Florida;
- Creates a license fee of \$100 and a \$10 fee, similar to telemarketers, for application updates for the professional solicitors license;
- Requires professional solicitation businesses to include additional application information, such as all the telephone numbers the solicitor will use and a copy of any script, presentation, or sales literature used;
- Requires professional solicitors to include additional information in the notice required before beginning a solicitation campaign, such as a statement of the minimum percentage of gross receipts from contributions that will be remitted to the charity; and
- Prohibits a professional solicitor from failing to remit to a charity the disclosed guaranteed minimum percentage of gross receipts from the solicitation campaign.

Donation Collection Receptacles

- Requires collection receptacles operated by charities to display a permanent sign that provides the name, address, telephone number, and registration number of the charity; and
- Requires collection receptacles operated by other organizations (such as for-profit businesses) to display a permanent sign on the receptacle that provides the organization’s name, address, and telephone number, and the statement: “This is not a charity. Donations made here support a for-profit business and are not tax deductible.”

Prohibited Acts and Penalties

- Prohibits a person from submitting false, misleading, or inaccurate information regardless of whether the person knows it is false, misleading, or inaccurate;
- Increases from \$1,000 to \$5,000 the fine DACS may levy for violations of the chapter and makes the fine applicable to 501(c)(3) organizations; and
- Authorizes a fine up to \$10,000 for any violation that involves fraud or deception.

The bill updates the definition of “religious institution” to bring it in line with federal tax laws, and it provides a severability clause.

Lastly, the bill appropriates \$235,352 in recurring funds and \$239,357 in nonrecurring funds to DACS and authorizes 4 full-time equivalent positions to DACS to implement this act.

II. Present Situation:

In Florida, the solicitation of contributions by charitable organizations and sponsors is regulated by the Solicitation of Contributions Act (the SCA).² There are currently over 18,000 charitable organizations and sponsors, 404 professional fundraising consultants, and 87 professional solicitors registered in Florida. Of those 87 professional solicitors, 54 are headquartered outside Florida.³

The SCA contains basic registration, financial disclosure, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. Recent news reports suggest current regulations under the SCA may be insufficient to effectively monitor and regulate these entities to ensure they are fulfilling their purpose as charitable entities.⁴

III. Effect of Proposed Changes:

Charitable Organizations and Sponsors⁵

Registration Statements

Currently, under s. 495.405, F.S., any charitable organization or sponsor⁶ that intends to solicit donations in Florida must annually register with DACS and pay a registration fee⁷ before soliciting donations.⁸ Registration includes a financial report,⁹ a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must also include a statement related to the charity's activity in other states, including whether the charity is

² Chapter 496, F.S. The majority of the provisions in the SCA “do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as professional fundraising consultants solely on their behalf.” Section 496.403, F.S. Nor do the majority of the provisions in the SCA apply to political contributions solicited in accordance with election laws. *Id.*

³ Conversation with Amy Topol, Assistant Director, Division of Consumer Services, DACS, Jan. 4, 2014.

⁴ The Tampa Bay Times, in conjunction with the CNN and The Center for Investigative Reporting, recently published a number of articles related to charities. *America's Worst Charities*, Tampa Bay Times website, available at <http://www.tampabay.com/topics/specials/worst-charities.page> (last visited Feb. 4, 2014).

⁵ A “sponsor” is “a group or person which is or holds itself out to be soliciting contributions by the use of any name which implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and which is not a charitable organization.” Section 496.404(21), F.S. For a sponsor to solicit contributions in this state, it must be a membership organization that, among other things, has a membership that consists of at least 10 percent or 100 members, whichever is less, who are employed as law enforcement officers or emergency services employees. Section 496.426, F.S.

⁶ As used in this analysis, the term “charity” or “charities” refers to both charitable organizations and sponsors, unless otherwise indicated.

⁷ The registration fee varies from \$10 to \$400 based on the amount of contributions received by the charity. Section 496.405(4), F.S.

⁸ *Id.* at (1)(a) and (c), F.S. Certain small charities are exempt from the registration and financial reporting requirements in ss. 496.405 and 496.407, F.S. *See id.*; s. 496.406, F.S.

⁹ The information that must be included in the financial report is identified in s. 496.407, F.S. *See “Financial Statements”* section below.

authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.¹⁰

Each affiliate of a parent charity required to register under s. 495.405, F.S., must either file a separate registration and financial report or provide the information to the parent organization to file a consolidated registration. The consolidated registration must include financial reports for the parent organization and each of its Florida affiliates. However, if all contributions received by the affiliates are remitted directly into a single account with the parent organization, the parent organization may submit one consolidated financial report.¹¹

A charity must renew its registration annually; if any information submitted on the original registration statement changes, the charity must update that information on its renewal registration. DACS may extend the time for filing an annual renewal statement or financial report for up to 60 days, during which time the charity's previous registration remains in effect. However, a charity's registration may not continue in effect after the date the charity should have filed its financial report, the charity may not file its renewal statement until it has filed its financial report.¹² Failure to file a renewal statement by the date on which the statement and financial report were due may result in a late filing fee of \$25 per month.¹³

After receiving a registration statement, DACS has 15 business days to either approve, deny, or notify the charity that it must provide additional information. If, after 15 days, no additional information is requested, and DACS has not approved or denied the registration, it is deemed approved. If additional information is requested, DACS has 15 days after the information is received to either approve or deny the registration.¹⁴

Section 4 amends s. 496.405, F.S., to require that any changes to the information in a charity's registration statement related to the charity's activity in other states, including criminal, administrative, or other actions against the charity, must be reported to DACS within 10 days of the change occurring. If the charity discloses any information related to criminal, administrative, or other actions against the charity in its initial registration statement or annual renewal statement, the bill gives DACS additional time to process the applications under the processing time limits in ch. 120, F.S.¹⁵ Additionally, if a charity fails to disclose any information related to criminal, administrative, or other actions against the charity, its registration will be automatically suspended until the charity submits the required information related to those actions to DACS.

¹⁰ Section 496.405(2), F.S.

¹¹ *Id.*

¹² *Id.* at (1).

¹³ *Id.* at (4)(b).

¹⁴ *Id.* at (7).

¹⁵ The time limits for processing a registration under ch. 120, F.S., are longer than those in ch. 496, F.S. For example, under ch. 120, F.S., an agency has 30 days to request additional information from an application, and the agency has 90 days after receipt of a completed application to approve or deny a registration.

The bill also requires that the consolidated financial statements filed by charities with affiliates must reflect the activities of each affiliate, including all contributions received by each entity, all payments made to each entity, and all administrative fees assessed to each entity.

The bill repeals DACS' authority to extend the time for filing an annual renewal statement or financial statement. The bill also provides that a charity's registration will expire with no further action required by DACS if the charity fails to timely file its renewal statement or it fails to provide a financial statement within the extension periods under s. 496.407, F.S.,¹⁶. Additionally, DACS will have the authority to deny or revoke a charity's registration if the charity or any of its officers, directors, or trustees, has agreed with another state to cease soliciting contributions within that state or has been ordered by any court or agency to cease contributions in any state.

Lastly, the bill requires a charity to immediately notify DACS in writing when it ceases solicitation activities or participation in charitable sales promotions in Florida.

Fundraising restrictions for individuals with criminal records

Currently, under s. 496.405(8), F.S., charities are prohibited from allowing any of its officers, directors, trustees, or employees to solicit contributions on behalf of the charity if he or she has, within the last 10 years, been convicted of or pled guilty to any felony or any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or any crime arising from the conduct of a solicitation for a charity, or has been enjoined from violating any law relating to a charitable solicitation.

Section 4 of the bill also amends s. 496.405(8), F.S., to clarify that in addition to the charity, no officer, director, trustee, or employee of the charity may allow any of its officers, directors, trustees, or employees to solicit contributions on behalf of the charity if he or she has a criminal history as described above. The bill also clarifies that the applicable criminal history includes crimes or events that occurred in other states and any misdemeanor in another state that constitutes a disqualifying felony in Florida.

Conflict of Interest Transactions

Currently, ch. 496, F.S., does not regulate conflict of interest transactions involving charities.

Section 5 creates s. 496.4055, F.S., to require the board of directors, or a board committee, of a charity required to register with DACS pursuant to s. 496.405, F.S., to adopt a policy regarding conflict of interest transactions. A "conflict of interest" is defined as a transaction between a charity and another party in which a director, officer, or trustee of the charity has a direct or indirect interest. The term includes the sale, lease, or exchange of property to or from the charity; the lending to or borrowing of money from the charity; and the payment for services provided to or from the charity.

Financial Statements

Currently, under s. 496.407, F.S., a charity that is required to register with DACS must file an annual financial report for the preceding year with DACS. The report must include the following: a balance sheet; a statement of support, revenue, and expenses; identification of any

¹⁶ See "Financial Statements" section below.

charities, professional fundraising consultants, professional solicitors, and commercial co-venturers used and the amounts received from each of them; and a statement of functional expenses that must include program expenses, management and general expenses, and fundraising expenses.¹⁷ A charity may choose to include a financial report that has been audited by an independent certified public accountant (CPA) or an audit with an opinion by an independent CPA. In lieu of the financial report a charity may submit a copy of its IRS Form 990 or Form 990-EZ.

Section 6 amends s. 496.407, F.S., to change the name of the financial reporting document required by DACS from “financial report” to “financial statement.”¹⁸ The bill clarifies and adds new information that must be included in the required financial statement. Specifically, the financial statement must include a statement of functional expenses that must include program service costs, management and general costs, and fundraising costs.¹⁹ “Management and general costs” are defined in the bill as all costs of a charity that are not identifiable with a single program or fundraising activity but which are necessary to conducting the charity’s programs and activities and necessary to the charity’s existence. The term includes expenses for business management, salaries, and overhead. “Program service costs” are defined in the bill to mean all expenses incurred primarily to accomplish the charity’s purposes; however, the term does not include fundraising costs.

The bill also limits the option for charities to submit a copy of its IRS Form 990 or Form 990-EZ in lieu of a financial statement to only those charities that receive less than \$500,000 in annual contributions. The bill also repeals the option for charities to include an audited financial report and replaces it with a requirement that financial statements be audited or reviewed. The type of audit or review required varies based on the amount of annual contributions received by the charity: for charities that receive less than \$500,000 in annual contributions, an audit or review is optional; for charities that receive at least \$500,00 but less than \$1 million in annual contributions, the financial statement must be reviewed or audited by an independent CPA; and for charities that receive \$1 million or more in annual contributions, the financial statement must be audited by an independent CPA. The bill also requires that audits must be performed by an independent CPA in accordance with generally accepted auditing standards and that reviews must be performed by an independent CPA in accordance with the Statements on Standards for Accounting and Review Services. Audited and reviewed financial statements must be accompanied by a report signed and prepared by the independent CPA that performed the audit or review.

¹⁷ “Fundraising costs” are defined in current law as “those costs incurred in inducing others to make contributions to a charitable organization or sponsor for which the contributors will receive no direct economic benefit. Fundraising costs include, but are not limited to, salaries, rent, acquiring and obtaining mailing lists, printing, mailing, and all direct and indirect costs of soliciting, as well as the cost of unsolicited merchandise sent to encourage contributions.” Section 496.404(11), F.S. However, ch. 496, F.S., currently does not define “program expenses” or “management and general expenses.”

¹⁸ Section 4 of the bill updates the phrase “financial report” to “financial statement” in s. 496.405, F.S., to reflect the changes made to s. 496.407, F.S., in section 6 of the bill.

¹⁹ Definitions of “program service costs” and “management and general costs” are added to s. 496.404, F.S., in Section 3 of the bill.

Lastly, the bill authorizes DACS, upon a showing of good cause by a charity, to extend the time for filing a financial statement up to 180 days. DACS is also authorized to require that an audit or review be conducted for any financial statement submitted by a charity.

Section 7 creates s. 496.4071, F.S., to require charities with more than \$1 million in total revenue that spent less than 25 percent of the charity's total annual functional expenses on program service costs to file a supplemental financial disclosure in addition to the financial statement required under s. 496.407, F.S. The supplemental financial disclosure must be filed within 30 days of receiving a request by DACS to provide such information and must include:

- The dollar amount and the percentage of total revenue and charitable contributions allocated to administrative functions related to managing and administering the charity.
- The name of and amount earned by or paid to all employees or consultants who earned or were paid more than \$100,000.
- The name of and amount paid to all service providers who were paid \$100,000 or more and a description of the services provided.
- The amount and percentage of total revenue and charitable contributions allocated to programs.
- The details of any transactions between the charity and an officer, trustee, or director of the charity or his or her immediate family; any entity controlled by an officer, trustee, or director of the charity or his or her the immediate family; and any entity that employed or engaged for consultation an officer, trustee, or director the charity or his or her immediate family.²⁰

Section 8 creates s. 497.4072, F.S., to require charities that solicit donations related to a specific disaster or crisis and receive at least \$100,000 in donations in response to such solicitations to file quarterly disaster relief statements with DACS. A "crisis" is defined in the bill as an event that garners widespread national or global media coverage due to an actual or perceived threat of harm to an individual, a group, or a community. Likewise, a "disaster" is defined in the bill as a natural, technological, or civil event, including an explosion, chemical spill, wildfire, tornado, hurricane, drought, or flood, which affects one or more countries and causes sufficient damage to result in an official declaration of a state of emergency or an official request for international assistance.²¹ The bill requires DACS to provide a list on its website of disasters and crises that are subject to the quarterly disaster relief statement within 10 days of the disaster or crisis occurring.

The quarterly statement must detail the donations received and how the funds were expended. A charity must file the first quarterly statement 3 months after it has received at least \$100,000 in donations following commencement of solicitations for the specific disaster or crisis, and the charity must continue to file quarterly statements until the quarter after all donations raised in response to the solicitation are expended.

Notice statements

²⁰ The term "immediate family" is defined in section 7 of the bill to mean a parent, spouse, child, sibling, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

²¹ Definitions of "disaster" and "crisis" are added to s. 496.404, F.S., in Section 3 of the bill.

Currently, s. 496.411(3), F.S., requires every charity that is required to register under s. 496.405, F.S., to conspicuously display the following statement in capital letters on every printed solicitation, written confirmation, receipt, or reminder of a contribution: “A copy of the official registration and financial information may be obtained from the Division of Consumer Services by calling toll-free within the state. Registration does not imply endorsement, approval, or recommendation by the state.” The statement must also include a toll-free number for DACS.

Section 12 amends s. 496.411(3), F.S., to require charities that are exempt from registration under s. 496.406(1)(d), F.S., to provide a notice statement. Additionally, the notice statement must be included with all solicitations and confirmations regardless of form. The notice statement must also include a DACS website address where registration information can be obtained. If the solicitation is done through a website, the notice statement must be conspicuously displayed on the webpage where donations are requested.

Tax-Exempt Status and Disqualifying Events

Currently, organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, such as charities, are exempt from Florida’s sales and use tax.²² To receive an exemption, the organization must submit to the Florida Department of Revenue (DOR) a copy of the Internal Revenue Service’s (the IRS) letter determining the organizations 501(c)(3) status.²³ After receiving the IRS determination letter and making a determination that the organization is actively engaged in an exempt endeavor, DOR issues a certificate of exemption to the organization. Under current law, DACS is not part of determining whether a charity operating in Florida should be exempt from sales tax. Specifically, DACS does not have authority to disqualify a charity from receiving any sales tax exemption based on the charity’s allocation of expenses to accomplish the charity’s stated purpose.

Section 18 creates s. 496.430, F.S., to give DACS authority to disqualify a charity from receiving a sales tax exemption certificate from DOR. DACS may issue the disqualification order if it determines, based upon the average of functional expenses and program service costs for the 3 most recent years, that the charity has failed to expend at least 25 percent of its total annual functional expenses on program service costs. DACS may decline to issue a disqualification order if the charity establishes that payments were made to affiliates that should be considered in calculating the program service costs, that revenue was accumulated for a specific program purpose consistent with the representations it made in solicitations, or any other mitigating circumstances. Additionally, charities that are not required to register under ch. 496, F.S., or have been in existence less than 4 years are exempt from the disqualification provisions of s. 496.30, F.S.

A disqualification order must remain in effect for at least 1 year and until DACS receives sufficient evidence from the charity that demonstrates it expends at least 25 percent of its total annual functional expenses on program service costs. The charity may not submit such evidence to DACS earlier than 1 year after the disqualification order becomes final and may not submit such information to DACS more than once a year. DACS must also consider any financial

²² Section 212.08(7)(p), F.S.

²³ Section 212.084, F.S.

statement that was submitted by the charity pursuant to s. 496.407, F.S., after the disqualification order became final.

DACS must submit a disqualification order to DOR within 30 days after the order becomes final, and DOR must revoke or refuse to grant a sales tax exemption certificate within 30 days after receiving the final order. A final disqualification order is conclusive as to the charity's entitlement to any sales tax exemption, and a charity may not appeal the revocation or denial of a sales tax exemption certificate by DOR if the revocation or denial is based upon a final disqualification order from DACS. A charity may appeal a disqualification order from DACS by requesting a hearing within 21 days of being notified the order has been issued. The hearing will be conducted pursuant to ch. 120, F.S.

Sections 1 and 2 of the bill amend ss. 218.08 and 218.084, F.S., to exclude from the sales and use tax exemption for 501(c)(3) organizations, any charity that is subject to a final disqualification order issued by DACS. DOR's revocation or denial of a tax exempt certificate may be challenged under ch. 120, F.S., only as to whether a disqualification order is in effect. If a charitable organization wishes to challenge the validity of a disqualification order issued by DACS, it must do so pursuant to the procedures under s. 496.430(2), F.S.

Professional Fundraising Consultants

Registration

Currently, professional fundraising consultants are required to annually register and pay a \$300 fee to DACS pursuant to s. 496.409, F.S., before operating in Florida.²⁴ In addition to name and address information, the registration must also indicate whether any of the owners, directors, officers, or employees of the consultant are related to any other directors, officers, owners, or employees, any charity under contract to the consultant, or any supplier or vendor providing goods or services to any charity under contract with the consultant. Additionally, the registration must indicate and explain whether the consultant or any of its officers, directors, trustees, or employees have been convicted or pled guilty within the past 10 years to any felony or a crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charity. Finally, the registration must indicate and explain whether the consultant or any of its officers, directors, trustees, or employees have been enjoined from violating any law relating to a charitable solicitation.²⁵

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days DACS has not notified the consultant, the registration is deemed approved.²⁶

In addition to the registration requirement, every agreement between a fundraising consultant and a charity must be in writing and signed by two authorized officials of the charity and must be filed with DACS at least 5 days before the consultant begins providing services.²⁷

²⁴ Section 496.409(1)(3), F.S.

²⁵ *Id.* at (2).

²⁶ *Id.* at (6).

²⁷ *Id.* at (4).

Sections 9 amends s. 496.409, F.S., to provide that professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with ch. 496, F.S. If the consultant discloses in its initial registration or renewal application any information related to criminal, administrative, or other actions against the consultant, its officers, directors, trustees, or employees, the bill gives DACS additional time to process the application under the processing time limits in ch. 120, F.S.²⁸ Additionally, if a consultant fails to disclose any information related to criminal, administrative, or other actions against the consultant, its officers, directors, trustees, or employees, its registration will be automatically suspended until the consultant submits required information to DACS. DACS will also have the authority to deny or revoke a consultant's registration if the consultant or any of its officers, directors, or trustees, has had the right to solicit contributions revoked in any state, has entered into an agreement with any state to cease soliciting contributions within that state, or has been ordered by any court or agency to cease soliciting contributions.

Restrictions on individuals with criminal records

Currently, under s. 495.409(9), F.S., a person may not act as a professional fundraising consultant, and a professional fundraising consultant may not employ any person, if, within the last 10 years, the person has been convicted of or pled guilty to any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charity, or has been enjoined from violating any law relating to a charitable solicitation.²⁹

Section 9 also amends s. 495.409(9), F.S., to clarify that in addition to the consultant, no officer, director, trustee, or employee of the consultant may employ anyone with a criminal history as described above. The bill also clarifies that the applicable criminal history includes crimes or events that occurred in other states.

Professional Solicitor

Registration

Currently, s. 496.410, F.S., requires professional solicitors to annually register and pay a \$300 fee to DACS before operating in Florida.³⁰ Information that must be provided for registration includes the address of the business, the names and addresses of owners, officers, and directors, and the names of anyone in charge of any solicitation activity. The registration must also indicate whether any of the owners, directors, officers, or employees of the solicitor are related to any other directors, officers, owners, or employees of the solicitor, any charity under contract to the solicitor, or any supplier or vendor providing goods or services to any charity under contract with the solicitor. Additionally, the registration must indicate and explain whether the solicitor or any of its officers, directors, trustees, or employees or agents involved in solicitation have been convicted or pled guilty within the past 10 years to any felony or a crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or any crime arising from the conduct of a solicitation for a charity. Finally, the registration must indicate and explain, if applicable, whether the solicitor or any of its officers, directors, trustees, or employees

²⁸ *Supra* note 15.

²⁹ Section 496.409(9), F.S.

³⁰ "A professional solicitor that is a partnership or corporation may register for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees." Section 496.410(3), F.S. Additionally, professional solicitors are required to maintain a \$50,000 bond. *Id.* at (4).

or agents involved in solicitation have been enjoined from violating any law relating to a charitable solicitation.³¹

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days DACS has not notified the solicitor, the registration is deemed approved.³²

In addition to being required to register, solicitors must also file a solicitation notice with DACS at least 15 days before beginning a solicitation campaign or event.³³ Section 496.410(6), F.S., requires the notice to include a description of the solicitation campaign; each location and telephone number from which the solicitation will be conducted; the name and address of each person responsible for supervising the campaign; a statement as to whether the solicitor will have custody of donations; the account information for each account where receipts from the campaign are to be deposited; a description of the charity for which the campaign is being carried; the fundraising methods to be used; and copy of the contract between the solicitor and charity.

Section 3 of the bill amends s. 496.404, F.S., to update the definition of “professional solicitor” to include professional solicitors located in Florida that solicit outside of Florida.

Section 10 amends s. 495.410, F.S., to require professional solicitors to include the following additional information in its registration: a list of all telephone numbers the solicitor will use to solicit contributions and the address associated with each telephone number and any fictitious names associated with such address; a copy of any script, outline, or presentation used by the solicitor; and a copy of sales information or literature provided to a donor or potential donor.

The bill also clarifies that under s. 496.410(3), F.S., a solicitor’s registration and fee is not completed or paid by a professional solicitor on behalf of all of the solicitors partners, members, officers, directors, agents, and employees. Instead of falling under the solicitor’s registration, these individuals will now be required to obtain a solicitor’s license under s. 496.4101, F.S., which is created in section 11 of the bill.³⁴

If a solicitor discloses in its initial registration or renewal application any information related to criminal, administrative, or other actions against the solicitor, its officers, directors, trustees, or employees or agents, the bill gives DACS additional time to process the application under the processing time limits in ch. 120, F.S.³⁵ If a solicitor fails to disclose any information related to criminal, administrative, or other actions against the solicitor, its officers, directors, trustees, employees, or agents, its registration will be automatically suspended until the solicitor submits the required information to DACS. DACS will also have the authority to deny or revoke a solicitor’s registration if the solicitor or any of its officers, directors, trustees, or agents has had the right to solicit contributions revoked in any state, has entered into an agreement with any

³¹ *Id.* at (2).

³² *Id.* at (5).

³³ *Id.* at (6).

³⁴ Conversation with Amy Topol, Assistant Director, Division of Consumer Services, DACS, Jan. 5, 2014.

³⁵ *Supra* note 15.

state to cease soliciting contributions within that state, or has been ordered by any court or agency to cease soliciting contributions.

The bill requires professional solicitors to include the following additional information in the solicitation notice required under s. 495.410(6), F.S., before beginning a solicitation campaign:

- A statement of the guaranteed minimum percentage of the gross receipts from contributions which will be remitted to the charity, or, if the solicitation involves the sale of goods, services, or tickets to a fundraising event, the percentage of the purchase price which will be remitted to the charity.
- The percentage of a contribution that may be tax-deductible.
- A statement as to whether any owner, director, officer, trustee, or employee of the solicitor is related to another officer, director, owner, trustee, or employee of the solicitor, a charity under contract with the solicitor, or any supplier or vendor providing goods or services to a charity under contract with the solicitor.
- The beginning and ending dates of the campaign.
- A copy of any script, outline, or presentation used by the solicitor.
- A copy of sales information or literature provided to a donor or potential donor.

The bill provides that professional solicitors who enter into agreements with charities may do so only if the charity has complied with ch. 496, F.S.

Restrictions on individuals with criminal records

Under s. 496.410(14), F.S, a person may not act as a professional solicitor, and a solicitor may not employ any person, who has been convicted or pled guilty within the last 10 years to a felony involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charity, or has been enjoined from violating any law relating to a charitable solicitation.

Section 10 also amends s. 495.410(14), F.S., to clarify that in addition to the solicitor, no officer, director, trustee, or employee of the solicitor may employ anyone with a criminal history as described above. The bill also clarifies that the applicable criminal history includes crimes or events that occurred in other states and any misdemeanor in another state that constitutes a disqualifying felony in Florida.

Licensure of professional solicitors

Beyond the registration and notice provisions for professional solicitors in s. 496.410, F.S., current law does not require solicitors or their employees to be licensed to operate in Florida.

Section 11 creates s. 496.4101, F.S., to establish a licensing scheme for professional solicitors. The bill requires each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting telephonic solicitations to obtain a solicitor license from DACS. A license can be obtained by paying a \$100 application fee and completing an application that includes the following information:

- The name, address, date of birth, and identification number of a government-issued ID of the applicant.

- Indicate whether the applicant has been convicted of or pled guilty in any state to any crime within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charitable organization or sponsor, or has been enjoined from violating any law relating to a charitable solicitation.
- Indicate whether the applicant is involved in pending litigation in any state or has had entered against her or him an injunction, a temporary restraining order, a final judgment or order, or any similar document, in any civil or administrative action involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property.

Applicants must also submit a set of fingerprints along with payment of a fee equal to the federal and state fingerprint processing costs for a criminal background check and fingerprint retention.³⁶ The Florida Department of Law Enforcement (FDLE) must retain the fingerprints and enroll them in the Federal Bureau of Investigation's (FBI) national retained print arrest notification program once FDLE begins participating in the program. DACS is required to screen background results to determine if an applicant meets licensure requirements. When a person is no longer licensed, DACS must notify FDLE. Additionally, DACS must adopt rules that allow applicants to temporarily engage in solicitation activities while the solicitor license is being processed.

Any material change to the information submitted in the licensing application must be reported to DACS within 10 days of the change along with payment of a \$10 fee.³⁷ A license must be renewed annually; an un-renewed license automatically expires. The annual renewal fee is \$100. All fees, less administrative costs, will be deposited into the General Inspection Trust Fund. Fingerprint fees are forwarded by DACS to FDLE for fingerprint processing and retention.

The bill also makes it a violation of ch. 496, F.S., to provide inaccurate or incomplete information in the initial or renewal application for a solicitor license; for any person to fail to maintain a license; and for a solicitor to allow, require, permit, or authorize an employee without an active license to conduct telephonic solicitations.

Additionally, DACS may deny or revoke a solicitor's license if the solicitor has had the right to solicit contributions revoked in any state, has entered into an agreement with any state to cease soliciting contributions, or is subject to any disqualification specified in s. 496.410(14), F.S., which relates to the solicitor's criminal history.

Notice statements and requested information

Currently, s. 496.412(1), F.S., requires that in the course of requesting a donation, a solicitor must clearly disclose the name of the solicitor, the name and state of the principal place of business of the charity, and a description of how the contributions raised by the solicitation will be used. Like charities, solicitors are also required to conspicuously state the following in capital letters on every written solicitation, written confirmation, receipt, or reminder of a contribution: "A copy of the official registration and financial information may be obtained from the Division of Consumer Services by calling toll-free within the state. Registration does not imply

³⁶ The fee for fingerprint processing is \$24. Section 943.053(3)(b), F.S.

³⁷ The \$10 change fee is also charged to telemarketers under s. 501.609(2), F.S.

endorsement, approval, or recommendation by the state.” The statement must include a toll-free number for DACS.³⁸

Additionally, if a person being solicited requests the percentage of the gross revenue that the charity will receive from the solicitation campaign or requests the percentage of the contribution which may be tax-deductible, the solicitor must provide the requested information in writing within 14 days of the request.³⁹

Section 13 amends s. 496.412(1), F.S., to expand the use of notice statements by solicitors to all solicitations rather than only on written solicitations and confirmations. The notice statement must also include a DACS website where registration information can be obtained. If the solicitation is done through a website, the notice statement must be conspicuously displayed on the webpage where donations are requested.

The bill also provides an alternate to the written response required when a person being solicited requests the percentage of the gross revenue that the charity will receive from the solicitation campaign or requests the percentage of the contribution which may be tax-deductible as a charitable contribution. The solicitor may immediately notify the person that the information is available on DACS’ website or by calling the division’s toll-free number.

Collection Receptacles Used for Donations

Some charities utilize collection receptacles located in parking lots or along roads as a place for people to donate clothing and other goods. Recent reports indicate that for-profit businesses have begun using collection receptacles that look similar to those used by charities.⁴⁰ The business uses the receptacles to collect clothes and sell them at a profit. Current law does not regulate the use of collection receptacles either by charities or by for-profit businesses.⁴¹

Section 14 creates s. 496.4121, F.S., to regulate the use of collection receptacles. The bill defines a “collection receptacle” as a receptacle used to collect donated clothing, household items, or other goods for resale. The bill requires all collection receptacles to display a permanent sign on each side of the receptacle. The information on the sign must be printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity. For receptacles placed by an organization not required to register under ch. 496, F.S., or not claiming an exemption pursuant to s. 496.406, F.S., the sign must include the name, telephone

³⁸ Section 496.412(1)(c), F.S.

³⁹ *Id.* at (d)-(e).

⁴⁰ See Evan Williams, *Recycling companies co-opt the look of charity for profit*, FORT MYERS FLORIDA WEEKLY, Jan. 23, 2013, available at http://fortmyers.floridaweekly.com/news/2013-01-23/Top_News/Recycling_companies_coopt_the_look_of_charity_for_.html (last visited Jan 30, 2014).

⁴¹ In response to the rapid increase in the number of collection receptacles used by for-profit businesses, some Florida cities have enacted restrictions on their use. See Ariel Barkhurst, *Deerfield Beach passed a law allowing nonprofit clothing bins*, SUN SENTINEL, Feb. 22, 2013, available at http://articles.sun-sentinel.com/2013-02-22/news/fl-deerfield-donation-bins-20130218_1_donation-bins-salvation-army-commissioner-bill-ganz (last visited Jan. 30, 2014); Heather Carney, *Miramar cracks down on clothing donations bins*, SUN SENTINEL, Nov. 11, 2013, available at http://articles.sun-sentinel.com/2013-11-11/news/fl-miramar-regulates-clothing-donations-bins-20131110_1_for-profit-bins-reuse-clothes-donations (last visited Jan. 30, 2014).

number, and address of the business and the statement: “This is not a charity. Donations made here support a for-profit business and are not tax deductible.” The bill also requires a charity using a collection receptacle to provide a donor with documentation of its tax-exempt status and registration, if requested.

Prohibited Acts and Penalties

Prohibited Acts

Currently, s. 496.415, F.S., contains a list of seventeen acts that are prohibited for any person when done in connection with any solicitation or charity sales promotion. Examples of prohibited acts include: violating any of the requirements in ch. 496, F.S.; knowingly submitting false, misleading, or inaccurate information in a document that is filed with DACS, provided to the public, or offered in response to a request or investigation by DACS, the Department of Legal Affairs, or the state attorney; and representing that a charity will receive a fixed or estimated percentage of the gross revenue from a solicitation campaign greater than that identified in filings with the department, or that a charity will receive an actual or estimated dollar amount or percentage of goods or services purchased or used in the charity sales promotion that is greater than that agreed to with a vendor.

Civil and Criminal Penalties

Any violation of ch. 496, F.S., including engaging in any of the prohibited acts identified in s. 496.415, F.S., is a violation of the Florida Deceptive and Unfair Practices Act⁴² and may also result in a civil action by DACS.⁴³ Additionally, any willful and knowing violation of ch. 496, F.S., is a third-degree felony punishable by up to 5 years in prison and a fine of up to \$5,000, and any subsequent conviction is a second-degree felony punishable by up to 15 years in prison and a fine of up to \$10,000.⁴⁴

Section 15 amends s. 496.415, F.S., to prohibit a person from submitting false, misleading, or inaccurate information in a document that is filed with DACS, provided to the public, or offered in response to a request or investigation by DACS, the Department of Legal Affairs, or the state attorney regardless of whether the person knows he or she is submitting false, misleading, or inaccurate information. The bill also prohibits a person from failing to remit to a charity the disclosed guaranteed minimum percentage of gross receipts from contributions as indicated with its agreement with a charity, or, if the solicitation involved the sale of goods, services, or tickets to a fundraising event, the percentage of the purchase price as agreed to in the agreement.

Administrative Penalties

Currently, under s. 496.419, F.S., after DACS has investigated and found that a person or entity has violated ch. 496, F.S., it can enter an order imposing a range of administrative penalties, including imposing an administrative fine up to \$1,000 for each act or omission. However, for 501(c)(3) organizations, the maximum penalty is limited to \$500 per violation.

Section 16 amends s. 496.419, F.S., to increase the fine DACS may levy to \$5,000 for each act or omission and makes this fine applicable to 501(c)(3) organizations. The bill limits the fine for

⁴² Chapter 501, part II, F.S.; Section 496.416, F.S.

⁴³ Section 496.420, F.S.

⁴⁴ Section 496.417, F.S.

501(c)(3) organizations that fail to register under s. 496.405, F.S., or file an exemption under s. 496.406(2), F.S., to \$500 per violation. DACS may also levy a fine up to \$10,000 for any violation of ch. 496, F.S., that involves fraud or deception.

Section 17 creates. s. 496.4191, F.S., to require DACS to immediately suspend the registration or the processing of a registration of any organization if DACS receives written notification and verification by law enforcement, a court, a state attorney, or the FDLE, that the registrant, applicant, or any officer or director of the registrant or applicant is charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor. The suspension will remain in effect until final disposition of the case or removal or resignation of the officer or director.

Section 3 of the bill amends s. 496.404, F.S., to updates the definition of “religious institution” to include any separate group or corporation that is an integral part of a religious institution so long as the religious institution is a 501(c)(3) organization, is exempt from filing an annual tax return under 26 U.S.C. s. 6003,⁴⁵ and is primarily supported by funds from its own membership or congregation. This provision brings the definition of “religious institution” into line with federal law.

Section 19 amends s. 741.0305, F.S., to correct a cross-reference due to the amendments to s. 496.404, F.S., in section 3 of the bill.

Section 20 creates s. 496.431, F.S., to provide a severability clause for ch. 496, F.S.

Section 21 appropriates \$235,352 in recurring funds and \$239,357 in nonrecurring funds from the General Inspection Trust Fund to DACS, and authorizes 4 full-time equivalent positions with associated salary rate of \$143,264 to DACS to implement this act.

Section 22 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴⁵ 26 U.S.C. s. 6003 regulates which organizations are exempt from filing income tax returns, including churches and religious organizations.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill creates a \$100 application fee for a professional solicitor license and a \$10 fee to report material changes. DACS estimates that the \$100 application and renewal fee for a professional solicitor license will result in an estimated recurring revenue increase of \$250,000 annually.⁴⁶ DACS did not estimate the revenue impact from the \$10 change fee.

The cost for a state and national criminal history record check is \$40.50, which goes into the FDLE Operating Trust Fund. From that amount, \$16.50 is transferred from the trust fund to the FBI, the remaining \$24 stays in the trust fund for state processing. Additionally, the fee for lifetime federal fingerprint retention is \$13.⁴⁷ FDLE estimates that 2,500 people per year will apply for a professional solicitor's license; accordingly, FDLE believes the fees for criminal record checks and federal lifetime finger print retention fees will cost \$133,750 per year from first-time licensure applicants.⁴⁸

Applicants for licensure renewal will only have to pay an annual state fingerprint retention fee of \$6. This fee is not charged for the initial license. FDLE estimates that after the first year the solicitor licensure requirement is enacted, there will be 2,500 solicitors seeking license renewal; accordingly, FDLE believes the fee for state fingerprint retention will cost \$15,000 per year for license renewals, with each subsequent year's cost expected to increase due to the growth in renewal applications.⁴⁹

The impact of losing sales tax exempt status by a charity is unknown at this time.

The bill has not been evaluated by the Revenue Estimating Conference.

B. Private Sector Impact:

Charities may likely incur increased administrative and record keeping costs to comply with the provisions of the bill including the updated requirements for reporting, notice, registration, financial statement, auditing and review, and establishment a conflict of interest policy. Similarly, some charities that raise funds in response to a specific disaster or crisis will incur additional administrative costs associated with filing quarterly relief statements. Additionally, charities and for-profit entities may incur increased costs to comply with the signage requirement for collection receptacles.

Professional fundraising consultants may incur minimal administrative and record keeping costs to comply with the updated registration and reporting requirements.

⁴⁶ DACS Analysis, SB 638, 5, Feb. 5, 2014, on file with the Committee on Commerce and Tourism. DACS estimates 2,500 licenses at \$100 per license, but did not provide a breakdown of renewal applicants versus new applicants in outlying years. DACS has not yet submitted an analysis of the CS at this time.

⁴⁷ FDLE Analysis, SB 638, 6, Feb. 11, 2014, on file with the Committee on Commerce and Tourism.

⁴⁸ *Id.* 2,500 applicants at \$40.50 per background check and \$13.00 per lifetime federal fingerprint retention fee.

⁴⁹ *Id.* 2,500 license renewals at \$6 per state fingerprint retention fee.

Officers, directors, trustees, or owners of a professional solicitor and any employee of a solicitor conducting telephonic solicitations will have to annually apply and pay a \$100 fee for a solicitors license. Additionally, solicitors may likely incur increased administrative and record keeping costs to comply with the updated reporting and disclosure requirements, to comply with updated financial statement requirements, and to comply with the updated notice statement requirements.

A new applicant for licensure as a professional solicitor will pay \$53.50 in total; for annual renewal of a license, an applicant will only have to pay the \$6 state fingerprint retention fee.

Charities, consultants, and solicitors may also incur greater costs due to any fines levied by DACS and any violations prosecuted by the Attorney General or the State Attorney.

C. Government Sector Impact:

Expenditures

DACS anticipates the additional regulations and licensing required in the bill will necessitate the hiring of two Regulatory Consultant FTEs and the development of new software in the Division of Consumer Services.⁵⁰ Similarly, DACS anticipates the bill will result in an additional 500 cases that will be referred to the department’s Office of Agriculture Law Enforcement (OALE) for regulatory investigation.⁵¹ To meet the increased workload, OALE estimates it will require two additional Senior Financial Investigator FTEs as well as vehicles for each investigator.⁵² DACS projects it will need \$474,709 in additional funding in FY 2014-2015.

| Expenditures – General Inspection Trust Fund | <u>FY 14-15</u> | <u>FY 15-16</u> |
|---|-----------------|-----------------|
| 1. Recurring – Consumer Services | | |
| a. Salaries and Benefits | | |
| Regulatory Consultant (2) | 97,606 | 97,606 |
| b. Expenses | | |
| Professional Expense Package (2) | 12,522 | 12,522 |
| c. Special Category | | |
| Human Resources Allocation (2) | 688 | 688 |
| 2. Recurring – Agricultural Law Enforcement | | |
| a. Salaries and Benefits | | |
| Senior Financial Investigator (2) | 111,326 | 111,326 |
| b. Expenses | | |

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

| | | |
|--|----------------|----------------|
| Professional Expense Package (2) | 12,522 | 12,522 |
| c. Special Category | | |
| Human Resources Allocation (2) | <u>688</u> | <u>688</u> |
| TOTAL RECURRING COST | 235,352 | 235,352 |
| 3. Non-Recurring – Consumer Services | | |
| a. Expenses | | |
| Professional Expense Package (2) | 7,546 | 0 |
| b. Contracted Services | | |
| Software – develop, test, deploy | | |
| 2,059 hrs @ \$85 | 175,015 | 0 |
| 4. Non-Recurring – Agricultural Law Enforcement | | |
| a. Expenses | | |
| Professional Expense Package (2) | 7,546 | 0 |
| b. Special Categories | | |
| Acquisition of Motor Vehicles (2) | <u>49,250</u> | <u>0</u> |
| TOTAL NONRECURRING COST | 239,357 | 0 |
| TOTAL RECURRING/NONRECURRING COST | 474,709 | 235,352 |
| 5. Non-Operating Cost | | |
| a. Information Technology Support | 4,845 | 4,845 |
| b. Administrative/Indirect Cost | 12,972 | 12,972 |
| c. General Revenue Service Charge | <u>20,000</u> | <u>20,000</u> |
| TOTAL NON-OPERATING COST | 37,817 | 37,817 |
| EXPENDITURES GRAND TOTAL | 512,526 | 273,169 |

The Criminal Justice Impact Conference has not yet determined the impact of this bill on prison beds.

Revenues

DACS states that it expects annual revenues of an additional \$112,000 due to the increase in administrative fines from \$1,000 to \$5,000.⁵³ DACS did not provide information

⁵³ *Id.* This amount was calculated by multiplying the number of administrative fines (28) levied in FY 2013 by the \$4,000 increase fines.

related to revenue impacts for the \$10,000 fine or for fines from increased criminal prosecutions or FDUTPA actions. See Tax/Fee Issues.

According to FDLE, it expects annual revenues in year 1 of \$60,000 from the collection of the \$24 fee for state criminal history record checks. The amount does not include the \$6 state fingerprint retention fee because it is only paid for by annual license renewals. FDLE expects annual revenues in years 2 and 3 to increase to \$75,000 and \$90,000, respectively to account for the payment of the state fingerprint retention fee by licensure renewal applicants.⁵⁴

Total FDLE Estimated Revenue:

- Year 1: \$60,000
- Year 2: \$75,000
- Year 3: \$90,000

The impact of this bill on the Attorney General or State Attorney has not been determined; however, it may increase caseloads for these agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

FDLE recommended in its bill analysis that the fingerprinting provisions be amended to required that the fingerprints be taken by an authorized entity and clarify that fingerprint fees are paid by the applicant.⁵⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 212.084, 496.404, 496.405, 496.407, 496.409, 496.410, 496.411, 496.412, 496.415, 496.419, 741.0305.

This bill creates the following sections of the Florida Statutes: 496.4055, 496.4071, 496.4072, 496.4101, 496.4121, 496.4191, 496.430, 496.431.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism Committee on February 10, 2014:

The committee substitute:

- Updates the definition of a professional solicitor regulated by ch. 496, F.S., to include professional solicitors located in Florida that solicit outside of Florida.

⁵⁴ FDLE Analysis at 6.

⁵⁵ *Id.* at 7.

- Provides that only those charities that are required to register under s. 496.405, F.S., must enact a conflict of interest policy.
- Requires that audits and reviews of a charity's financial statement be prepared by an independent CPA.
- Clarifies that a charity must show good cause before DACS can grant an extension of time to file a financial statement.
- Authorizes DACS to require a charity to have its financial statement audited or reviewed.
- Replaces the words "ancestor" and "descendant" with "grandparent" and "grandchild."
- Requires DACS to provide a list of disasters and crises that are subject to the additional financial reporting requirement.
- Updates the fingerprinting requirements for professional solicitor licenses to:
 - Specify that the state cost for fingerprinting paid by the applicant is the statutory cost of \$24;
 - Require FDLE to retain the fingerprints and enroll them in the FBI's national arrest notification program once FDLE begins participating in the program;
 - Require DACS to notify FDLE when a person loses his or her license; and
 - Require DACS to screen background results to determine if an applicant meets licensure requirements.
- Clarifies that the signage requirement for collection receptacles operated by for-profit businesses does not apply to charities.
- Clarifies that a sales tax exemption certificate is issued by DOR.
- Adds a severability clause.
- Updates the amount appropriated to DACS to implement the bill.
- Makes technical corrections.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 02/10/2014 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (p) of subsection (7) of section
212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and
storage tax; specified exemptions.—The sale at retail, the
rental, the use, the consumption, the distribution, and the
storage to be used or consumed in this state of the following



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11 are hereby specifically exempt from the tax imposed by this
12 chapter.

13 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
14 entity by this chapter do not inure to any transaction that is
15 otherwise taxable under this chapter when payment is made by a
16 representative or employee of the entity by any means,
17 including, but not limited to, cash, check, or credit card, even
18 when that representative or employee is subsequently reimbursed
19 by the entity. In addition, exemptions provided to any entity by
20 this subsection do not inure to any transaction that is
21 otherwise taxable under this chapter unless the entity has
22 obtained a sales tax exemption certificate from the department
23 or the entity obtains or provides other documentation as
24 required by the department. Eligible purchases or leases made
25 with such a certificate must be in strict compliance with this
26 subsection and departmental rules, and any person who makes an
27 exempt purchase with a certificate that is not in strict
28 compliance with this subsection and the rules is liable for and
29 shall pay the tax. The department may adopt rules to administer
30 this subsection.

31 (p) *Section 501(c)(3) organizations.*—Also exempt from the
32 tax imposed by this chapter are sales or leases to organizations
33 determined by the Internal Revenue Service to be currently
34 exempt from federal income tax pursuant to s. 501(c)(3) of the
35 Internal Revenue Code of 1986, as amended, if when such leases
36 or purchases are used in carrying on their customary nonprofit
37 activities, unless such organizations are subject to a final
38 disqualification order issued by the Department of Agriculture
39 and Consumer Services pursuant to s. 496.430.



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40 Section 2. Subsection (3) of section 212.084, Florida
41 Statutes, is amended, and subsection (7) is added to that
42 section, to read:

43 212.084 Review of exemption certificates; reissuance;
44 specified expiration date; temporary exemption certificates.—

45 (3) After review is completed and it has been determined
46 that an institution, organization, or individual is actively
47 engaged in a bona fide exempt endeavor and is not subject to a
48 final disqualification order issued by the Department of
49 Agriculture and Consumer Services pursuant to s. 496.430, the
50 department shall reissue an exemption certificate to the entity.
51 However, each certificate so reissued is valid for 5 consecutive
52 years, at which time the review and reissuance procedure
53 provided by this section apply again. If the department
54 determines that an entity no longer qualifies for an exemption,
55 it shall revoke the tax exemption certificate of the entity.

56 (7) The department shall revoke or refuse to grant a sales
57 tax exemption certificate to an institution, organization, or
58 individual that is the subject of a final disqualification order
59 issued by the Department of Agriculture and Consumer Services
60 pursuant to s. 496.430. A revocation or denial under this
61 subsection is subject to challenge under chapter 120 only as to
62 whether a disqualification order is in effect. The institution,
63 organization, or individual must appeal or challenge the
64 validity of the disqualification order pursuant to s.
65 496.430(2).

66 Section 3. Section 496.404, Florida Statutes, is amended to
67 read:

68 496.404 Definitions.—As used in ss. 496.401-496.424, the



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69 term:

70 (1) "Charitable organization" means a ~~any~~ person who is or
71 holds herself or himself out to be established for any
72 benevolent, educational, philanthropic, humane, scientific,
73 artistic, patriotic, social welfare or advocacy, public health,
74 environmental conservation, civic, or other eleemosynary
75 purpose, or a ~~any~~ person who in any manner employs a charitable
76 appeal as the basis for any solicitation or an appeal that
77 suggests that there is a charitable purpose to any solicitation.
78 The term ~~It~~ includes a chapter, branch, area office, or similar
79 affiliate soliciting contributions within the state for a
80 charitable organization that ~~which~~ has its principal place of
81 business outside the state.

82 (2) "Charitable purpose" means any benevolent,
83 philanthropic, patriotic, educational, humane, scientific,
84 artistic, public health, social welfare or advocacy,
85 environmental conservation, civic, or other eleemosynary
86 objective.

87 (3) "Charitable sales promotion" means an advertising or
88 sales campaign conducted by a commercial co-venturer which
89 represents that the purchase or use of goods or services offered
90 by the commercial co-venturer ~~are to~~ benefit a charitable
91 organization. The provision of advertising services to a
92 charitable organization does not, in itself, constitute a
93 charitable sales promotion.

94 (4) "Commercial co-venturer" means a ~~any~~ person who, for
95 profit, regularly and primarily is engaged in trade or commerce
96 other than in connection with solicitation of contributions and
97 who conducts a charitable sales promotion or a sponsor sales



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98 promotion.

99 (5) "Contribution" means the promise, pledge, or grant of
100 any money or property, financial assistance, or any other thing
101 of value in response to a solicitation. The term "Contribution"
102 includes, in the case of a charitable organization or sponsor
103 offering goods and services to the public, the difference
104 between the direct cost of the goods and services to the
105 charitable organization or sponsor and the price at which the
106 charitable organization or sponsor or any person acting on
107 behalf of the charitable organization or sponsor resells those
108 goods or services to the public. The term "Contribution" does
109 not include bona fide fees, dues, or assessments paid by
110 members, if provided that membership is not conferred solely as
111 consideration for making a contribution in response to a
112 solicitation; ~~"Contribution" also does not include funds~~
113 obtained by a charitable organization or sponsor pursuant to
114 government grants or contracts; funds, or obtained as an
115 allocation from a United Way organization that is duly
116 registered with the department; or funds received from an
117 organization that is exempt from federal income taxation under
118 s. 501(a) of the Internal Revenue Code and described in s.
119 501(c) of the Internal Revenue Code which that is duly
120 registered with the department.

121 (6) "Crisis" means an event that garners widespread
122 national or global media coverage due to an actual or perceived
123 threat of harm to an individual, a group, or a community.

124 (7) ~~(6)~~ "Department" means the Department of Agriculture and
125 Consumer Services.

126 (8) "Disaster" means a natural, technological, or civil



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127 event, including, but not limited to, an explosion, chemical
128 spill, earthquake, tsunami, landslide, volcanic activity,
129 avalanche, wildfire, tornado, hurricane, drought, or flood,
130 which affects one or more countries and causes damage of
131 sufficient severity and magnitude to result in:

132 (a) An official declaration of a state of emergency; or

133 (b) An official request for international assistance.

134 (9)~~(7)~~ "Division" means the Division of Consumer Services
135 of the Department of Agriculture and Consumer Services.

136 (10)~~(8)~~ "Educational institutions" means those institutions
137 and organizations described in s. 212.08(7)(cc)8.a. The term
138 includes private nonprofit organizations, the purpose of which
139 is to raise funds for schools teaching grades kindergarten
140 through grade 12, colleges, and universities, including any
141 nonprofit newspaper of free or paid circulation primarily on
142 university or college campuses which holds a current exemption
143 from federal income tax under s. 501(c)(3) of the Internal
144 Revenue Code, any educational television network or system
145 established pursuant to s. 1001.25 or s. 1001.26, and any
146 nonprofit television or radio station that is a part of such
147 network or system and that holds a current exemption from
148 federal income tax under s. 501(c)(3) of the Internal Revenue
149 Code. The term also includes a nonprofit educational cable
150 consortium that holds a current exemption from federal income
151 tax under s. 501(c)(3) of the Internal Revenue Code, whose
152 primary purpose is the delivery of educational and instructional
153 cable television programming and whose members are composed
154 exclusively of educational organizations that hold a valid
155 consumer certificate of exemption and that are either an



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156 educational institution as defined in this subsection or
157 qualified as a nonprofit organization pursuant to s. 501(c)(3)
158 of the Internal Revenue Code.

159 (11)~~(9)~~ "Emergency service employee" means an ~~any~~ employee
160 who is a firefighter, as defined in s. 633.102, or ambulance
161 driver, emergency medical technician, or paramedic, as defined
162 in s. 401.23.

163 (12)~~(10)~~ "Federated fundraising organization" means a
164 federation of independent charitable organizations that ~~which~~
165 have voluntarily joined together, including, but not limited to,
166 a united way or community chest, for purposes of raising and
167 distributing contributions for and among themselves and where
168 membership does not confer operating authority and control of
169 the individual organization upon the federated group
170 organization.

171 (13)~~(11)~~ "Fundraising costs" means those costs incurred in
172 inducing others to make contributions to a charitable
173 organization or sponsor for which the contributors will receive
174 no direct economic benefit. Fundraising costs include, but are
175 not limited to, salaries, rent, acquiring and obtaining mailing
176 lists, printing, mailing, and all direct and indirect costs of
177 soliciting, as well as the cost of unsolicited merchandise sent
178 to encourage contributions.

179 (14)~~(12)~~ "Law enforcement officer" means a ~~any~~ person who
180 is elected, appointed, or employed by any municipality or the
181 state or any political subdivision thereof and:

182 (a) Who is vested with authority to bear arms and make
183 arrests and whose primary responsibility is the prevention and
184 detection of crime or the enforcement of the criminal, traffic,



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185 or highway laws of the state; or

186 (b) Whose responsibility includes supervision, protection,
187 care, custody, or control of inmates within a correctional
188 institution.

189 (15) "Management and general costs" means all such costs of
190 a charitable organization or sponsor which are not identifiable
191 with a single program or fundraising activity but which are
192 indispensable to the conduct of such programs and activities and
193 the charitable organization's or sponsor's existence. The term
194 includes, but is not limited to, expenses for:

195 (a) The overall direction of the organization.

196 (b) Business management.

197 (c) General recordkeeping.

198 (d) Budgeting.

199 (e) Financial reporting and related expenses.

200 (f) Salaries.

201 (g) Rent.

202 (h) Supplies.

203 (i) Equipment.

204 (j) General overhead.

205 (16)-(13) "Membership" means the relationship of a person to
206 an organization which ~~that~~ entitles her or him to the
207 privileges, professional standing, honors, or other direct
208 benefit of the organization in addition to the right to vote,
209 elect officers, and hold office in the organization.

210 (17)-(14) "Owner" means a any person who has a direct or
211 indirect interest in any professional fundraising consultant or
212 professional solicitor.

213 (18)-(15) "Parent organization" means that part of a



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214 charitable organization or sponsor which coordinates,
215 supervises, or exercises control over policy, fundraising, and
216 expenditures or assists or advises one or more of the
217 organization's chapters, branches, or affiliates in this state.

218 ~~(19)-(16)~~ "Person" means an ~~any~~ individual, organization,
219 trust, foundation, group, association, entity, partnership,
220 corporation, society, or any combination thereof ~~of them~~.

221 ~~(20)-(17)~~ "Professional fundraising consultant" means a ~~any~~
222 person who is retained by a charitable organization or sponsor
223 for a fixed fee or rate under a written agreement to plan,
224 manage, conduct, carry on, advise, consult, or prepare material
225 for a solicitation of contributions in this state, but who does
226 not solicit contributions or employ, procure, or engage any
227 compensated person to solicit contributions and who does not at
228 any time have custody or control of contributions. A bona fide
229 volunteer or bona fide employee or salaried officer of a
230 charitable organization or sponsor maintaining a permanent
231 establishment in this state is not a professional fundraising
232 consultant. An attorney, investment counselor, or banker who
233 advises an individual, corporation, or association to make a
234 charitable contribution is not a professional fundraising
235 consultant as the result of such advice.

236 ~~(21)-(18)~~ "Professional solicitor" means a ~~any~~ person who,
237 for compensation, performs for a charitable organization or
238 sponsor any service in connection with which contributions are
239 or will be solicited in, or from a location in, this state by
240 the compensated person or by any person it employs, procures, or
241 otherwise engages, directly or indirectly, to solicit
242 contributions, or a person who plans, conducts, manages, carries



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243 on, advises, consults, ~~whether~~ directly or indirectly, in
244 connection with the solicitation of contributions for or on
245 behalf of a charitable organization or sponsor, but who does not
246 qualify as a professional fundraising consultant. A bona fide
247 volunteer or bona fide employee or salaried officer of a
248 charitable organization or sponsor maintaining a permanent
249 establishment in this state is not a professional solicitor. An
250 attorney, investment counselor, or banker who advises an
251 individual, corporation, or association to make a charitable
252 contribution is not a professional solicitor as the result of
253 such advice.

254 (22) "Program service costs" means all expenses incurred
255 primarily to accomplish the charitable organization or sponsor's
256 stated purposes. The term does not include fundraising costs.

257 (23)~~(19)~~ "Religious institution" means any church,
258 ecclesiastical or denominational organization, or established
259 physical place for worship in this state at which nonprofit
260 religious services and activities are regularly conducted and
261 carried on, and includes those bona fide religious groups which
262 do not maintain specific places of worship. The term "Religious
263 institution" also includes any separate group or corporation
264 that ~~which~~ forms an integral part of a religious institution
265 that ~~which~~ is exempt from federal income tax under the
266 provisions of s. 501(c)(3) of the Internal Revenue Code, that is
267 or qualifies as being exempt from filing an annual tax return
268 under the provisions of 26 U.S.C. s. 6033, and that ~~which~~ is not
269 primarily supported by funds solicited outside its own
270 membership or congregation.

271 (24)~~(20)~~ "Solicitation" means a request, directly or



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272 indirectly, for money, property, financial assistance, or any
273 other thing of value on the plea or representation that such
274 money, property, financial assistance, or other thing of value
275 or a portion of it will be used for a charitable or sponsor
276 purpose or will benefit a charitable organization or sponsor.
277 The term "Solicitation" includes, but is not limited to, the
278 following methods of requesting or securing the promise, pledge,
279 or grant of money, property, financial assistance, or any other
280 thing of value:
281 (a) Making any oral or written request;
282 (b) Making any announcement to the press, on radio or
283 television, by telephone or telegraph, or by any other
284 communication device concerning an appeal or campaign by or for
285 any charitable organization or sponsor or for any charitable or
286 sponsor purpose;
287 (c) Distributing, circulating, posting, or publishing any
288 handbill, written advertisement, or other publication that
289 directly or by implication seeks to obtain any contribution; or
290 (d) Selling or offering or attempting to sell any
291 advertisement, advertising space, book, card, coupon, chance,
292 device, magazine, membership, merchandise, subscription,
293 sponsorship, flower, admission, ticket, food, or other service
294 or tangible good, item, or thing of value, or any right of any
295 description in connection with which any appeal is made for any
296 charitable organization or sponsor or charitable or sponsor
297 purpose, or when the name of any charitable organization or
298 sponsor is used or referred to in any such appeal as an
299 inducement or reason for making the sale or when, in connection
300 with the sale or offer or attempt to sell, any statement is made



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301 that all or part of the proceeds from the sale will be used for
302 any charitable or sponsor purpose or will benefit any charitable
303 organization or sponsor.

304

305 A solicitation is considered as having taken place whether or
306 not the person making the solicitation receives any
307 contribution. A solicitation does not occur when a person
308 applies for a grant or an award to the government or to an
309 organization that is exempt from federal income taxation under
310 s. 501(a) of the Internal Revenue Code and described in s.
311 501(c) of the Internal Revenue Code and is duly registered with
312 the department.

313 ~~(25)-(21)~~ "Sponsor" means a group or person that ~~which~~ is or
314 holds itself out to be soliciting contributions by the use of
315 any name that ~~which~~ implies that the group or person is in any
316 way affiliated with or organized for the benefit of emergency
317 service employees or law enforcement officers and the group or
318 person ~~which~~ is not a charitable organization. The term includes
319 a chapter, branch, or affiliate that ~~which~~ has its principal
320 place of business outside the state, if such chapter, branch, or
321 affiliate solicits or holds itself out to be soliciting
322 contributions in this state.

323 ~~(26)-(22)~~ "Sponsor purpose" means any program or endeavor
324 performed to benefit emergency service employees or law
325 enforcement officers.

326 ~~(27)-(23)~~ "Sponsor sales promotion" means an advertising or
327 sales campaign conducted by a commercial co-venturer who
328 represents that the purchase or use of goods or services offered
329 by the commercial co-venturer will be used for a sponsor purpose



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330 or donated to a sponsor. The provision of advertising services
331 to a sponsor does not, in itself, constitute a sponsor sales
332 promotion.

333 Section 4. Subsection (1), paragraphs (a) and (g) of
334 subsection (2), subsection (3), paragraph (b) of subsection (4),
335 and subsections (7) and (8) of section 496.405, Florida
336 Statutes, are amended, and subsections (9) and (10) are added to
337 that section, to read:

338 496.405 Registration statements by charitable organizations
339 and sponsors.—

340 (1)~~(a)~~ A charitable organization or sponsor, unless
341 exempted pursuant to s. 496.406, which intends to solicit
342 contributions in this state by any means or have funds solicited
343 on its behalf by any other person, charitable organization,
344 sponsor, commercial co-venturer, or professional solicitor, or
345 that participates in a charitable sales promotion or sponsor
346 sales promotion, must, before ~~prior to~~ engaging in any of these
347 activities, file an initial registration statement, and a
348 renewal statement annually thereafter, with the department.

349 (a)~~(b)~~ Except as provided in paragraph (b), any changes in
350 the information submitted on the initial registration statement
351 or the last renewal statement must be updated annually on a
352 renewal statement provided by the department on or before the
353 date that marks 1 year after the date the department approved
354 the initial registration statement as provided in this section.
355 The department shall annually provide a renewal statement to
356 each registrant by mail or by electronic mail at least 30 days
357 before the renewal date.

358 (b) Any changes to the information submitted to the



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359 department pursuant to paragraph (2)(d) on the initial
360 registration statement or the last renewal statement must be
361 reported to the department on a form prescribed by the
362 department within 10 days after the change occurs.

363 (c) A charitable organization or sponsor that is required
364 to file an initial registration statement or annual renewal
365 statement may not, before ~~prior to~~ approval of its statement by
366 the department in accordance with subsection (7), solicit
367 contributions or have contributions solicited on its behalf by
368 any other person, charitable organization, sponsor, commercial
369 co-venturer, or professional solicitor, or participate in a
370 charitable sales promotion or sponsor sales promotion.

371 ~~(d) For good cause shown, the department may extend the~~
372 ~~time for the filing of an annual renewal statement or financial~~
373 ~~report for a period not to exceed 60 days, during which time the~~
374 ~~previous registration remains in effect.~~

375 ~~(d)(e) In no event shall~~ The registration of a charitable
376 organization or sponsor may not continue in effect and shall
377 expire without further action of the department:

378 1. After the date the charitable organization or sponsor
379 should have filed, but failed to file, its renewal statement
380 ~~financial report~~ in accordance with this section.

381 2. For failure to provide a financial statement within any
382 extension period provided under and s. 496.407. ~~The organization~~
383 ~~may not file a renewal statement until it has filed the required~~
384 ~~financial report with the department.~~

385 (2) The initial registration statement must be submitted on
386 a form prescribed by the department, signed by an authorized
387 official of the charitable organization or sponsor who shall



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388 certify that the registration statement is true and correct, and
389 include the following information or material:

390 (a) A copy of the financial statement ~~report~~ or Internal
391 Revenue Service Form 990 and all attached schedules or Internal
392 Revenue Service Form 990-EZ and Schedule O required under s.
393 496.407 for the immediately preceding fiscal year. A newly
394 organized charitable organization or sponsor with no financial
395 history must file a budget for the current fiscal year.

396 (g) The following information must be filed with the
397 initial registration statement and must be updated when any
398 change occurs in the information that was previously filed with
399 the initial registration statement:

400 1. The principal street address and telephone number of the
401 charitable organization or sponsor and the street address and
402 telephone numbers of any offices in this state or, if the
403 charitable organization or sponsor does not maintain an office
404 in this state, the name, street address, and telephone number of
405 the person who ~~that~~ has custody of its financial records. The
406 parent organization that files a consolidated registration
407 statement on behalf of its chapters, branches, or affiliates
408 must additionally provide the street addresses and telephone
409 numbers of all such locations in this state.

410 2. The names and street addresses of the officers,
411 directors, trustees, and the principal salaried executive
412 personnel.

413 3. The date when the charitable organization's or sponsor's
414 fiscal year ends.

415 4. A list or description of the major program activities.

416 5. The names, street addresses, and telephone numbers of



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417 the individuals or officers who have final responsibility for
418 the custody of the contributions and who will be responsible for
419 the final distribution of the contributions.

420 (3) Each chapter, branch, or affiliate of a parent
421 organization that is required to register under this section
422 must ~~either~~ file a separate registration statement and financial
423 statement report or ~~must~~ report the required information to its
424 parent organization, which shall then file, on a form prescribed
425 by the department, a consolidated registration statement for the
426 parent organization and its Florida chapters, branches, and
427 affiliates. A consolidated registration statement filed by a
428 parent organization must include or be accompanied by financial
429 statements reports as specified in s. 496.407 for the parent
430 organization and each of its Florida chapters, branches, and
431 affiliates that solicited or received contributions during the
432 preceding fiscal year. However, if all contributions received by
433 chapters, branches, or affiliates are remitted directly into a
434 depository account that ~~which~~ feeds directly into the parent
435 organization's centralized accounting system from which all
436 disbursements are made, the parent organization may submit one
437 consolidated financial statement report on a form prescribed by
438 the department. The consolidated financial statement must
439 reflect the activities of each chapter, branch, or affiliate of
440 the parent organization, including all contributions received in
441 the name of each chapter, branch, or affiliate; all payments
442 made to each chapter, branch, or affiliate; and all
443 administrative fees assessed to each chapter, branch, or
444 affiliate.

445 (4)



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446 (b) A charitable organization or sponsor that ~~which~~ fails
447 to file a registration statement by the due date may be assessed
448 an additional fee for such late filing. The late filing fee is
449 ~~shall be~~ \$25 for each month or part of a month after the date on
450 which the annual renewal statement was ~~and financial report were~~
451 due to be filed with the department.

452 (7) (a) The department must examine each initial
453 registration statement or annual renewal statement and the
454 supporting documents filed by a charitable organization or
455 sponsor and shall determine whether the registration
456 requirements are satisfied. Within 15 business ~~working~~ days
457 after its receipt of a statement, the department must examine
458 the statement, notify the applicant of any apparent errors or
459 omissions, and request any additional information the department
460 is allowed by law to require. Failure to correct an error or
461 omission or to supply additional information is not grounds for
462 denial of the initial registration or annual renewal statement
463 unless the department has notified the applicant within such
464 period of 15 business days ~~the 15-working-day period~~. The
465 department must approve or deny each statement, or must notify
466 the applicant that the activity for which she or he seeks
467 registration is exempt from the registration requirement, within
468 15 business ~~working~~ days after receipt of the initial
469 registration or annual renewal statement or the requested
470 additional information or correction of errors or omissions. Any
471 statement that is not approved or denied within 15 business
472 ~~working~~ days after receipt of the requested additional
473 information or correction of errors or omissions is approved.
474 Within 7 business ~~working~~ days after receipt of a notification



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475 that the registration requirements are not satisfied, the
476 charitable organization or sponsor may request a hearing. The
477 hearing must be held within 7 business ~~working~~ days after
478 receipt of the request, and any recommended order, if one is
479 issued, must be rendered within 3 business ~~working~~ days of the
480 hearing. The final order must then be issued within 2 business
481 ~~working~~ days after the recommended order. If a recommended order
482 is not issued, the final order must be issued within 5 business
483 ~~working~~ days after the hearing. The proceedings must be
484 conducted in accordance with chapter 120, except that the time
485 limits and provisions set forth in this subsection prevail to
486 the extent of any conflict.

487 (b) If a charitable organization or sponsor discloses
488 information specified in subparagraphs (2)(d)2.-7. in the
489 initial registration statement or annual renewal statement, the
490 time limits of this subsection are waived, and the department
491 shall process such initial registration statement or annual
492 renewal statement in accordance with the time limits in chapter
493 120. The registration of a charitable organization or sponsor
494 shall be automatically suspended for failure to disclose any
495 information specified in subparagraphs (2)(d)2.-7. until such
496 time as the required information is submitted to the department.

497 (8) A ~~No~~ charitable organization or sponsor, or any
498 officer, director, trustee, or employee thereof, may not ~~shall~~
499 knowingly allow any officer, director, trustee, or employee of
500 the charitable organization or sponsor ~~of its officers,~~
501 ~~directors, trustees, or employees~~ to solicit contributions on
502 behalf of such charitable organization or sponsor if such
503 officer, director, trustee, or employee has, in any state,



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504 regardless of adjudication, been convicted of, or found guilty
505 of, or pled guilty or nolo contendere to, or has been
506 incarcerated within the last 10 years as a result of having
507 previously been convicted of, or found guilty of, or pled guilty
508 or nolo contendere to, any felony within the last 10 years or
509 any crime within the last 10 years involving fraud, theft,
510 larceny, embezzlement, fraudulent conversion, misappropriation
511 of property, or any crime arising from the conduct of a
512 solicitation for a charitable organization or sponsor, or has
513 been enjoined, in any state, from violating any law relating to
514 a charitable solicitation. The prohibitions in this subsection
515 also apply to any misdemeanor in another state which constitutes
516 a disqualifying felony in this state.

517 (9) The department may deny or revoke the registration of a
518 charitable organization or sponsor if the charitable
519 organization or sponsor, or any officer, director, or trustee
520 thereof, has had the right to solicit contributions revoked in
521 any state, has entered into an agreement with any state to cease
522 soliciting contributions within that state, or has been ordered
523 by any court or governmental agency to cease soliciting
524 contributions within any state.

525 (10) A charitable organization or sponsor registered under
526 this section which ends solicitation activities or participation
527 in charitable sales promotions in this state shall immediately
528 notify the department in writing of the date such activities
529 ceased.

530 Section 5. Section 496.4055, Florida Statutes, is created
531 to read:

532 496.4055 Charitable organization or sponsor board duties.-



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533 (1) As used in this section, the term "conflict of interest
534 transaction" means a transaction between a charitable
535 organization or sponsor and another party in which a director,
536 officer, or trustee of the charitable organization or sponsor
537 has a direct or indirect interest. The term includes, but is not
538 limited to, the sale, lease, or exchange of property to or from
539 the charitable organization or sponsor; the lending of moneys to
540 or borrowing of moneys from the charitable organization or
541 sponsor; and the payment of compensation for services provided
542 to or from the charitable organization or sponsor.

543 (2) The board of directors, or an authorized committee
544 thereof, of a charitable organization or sponsor required to
545 register with the department under s. 496.405 shall adopt a
546 policy regarding conflict of interest transactions.

547 Section 6. Section 496.407, Florida Statutes, is amended to
548 read:

549 496.407 Financial statement ~~report~~.—

550 (1) A charitable organization or sponsor that is required
551 to initially register or annually renew registration must file
552 an annual financial statement ~~report~~ for the immediately
553 preceding fiscal year on ~~upon~~ a form prescribed by the
554 department.

555 (a) The statement ~~report~~ must include the following:

556 1.~~(a)~~ A balance sheet.

557 2.~~(b)~~ A statement of support, revenue and expenses, and any
558 change in the fund balance.

559 3.~~(c)~~ The names and addresses of the charitable
560 organizations or sponsors, professional fundraising consultant,
561 professional solicitors, and commercial co-venturers used, if



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562 any, and the amounts received from each of them, if any.
563 4.~~(d)~~ A statement of functional expenses that must include,
564 but not be limited to, expenses in the following categories:
565 a.~~1~~. Program service costs.
566 b.~~2~~. Management and general costs.
567 c.~~3~~. Fundraising costs.
568 (b) The financial statement must be audited or reviewed as
569 follows:
570 1. For a charitable organization or sponsor that receives
571 less than \$500,000 in annual contributions, a compilation,
572 audit, or review of the financial statement is optional.
573 2. For a charitable organization or sponsor that receives
574 at least \$500,000 but less than \$1 million in annual
575 contributions, the financial statement shall be reviewed or
576 audited by an independent certified public accountant.
577 3. For a charitable organization or sponsor that receives
578 \$1 million or more in annual contributions, the financial
579 statement shall be audited by an independent certified public
580 accountant.
581 (c) Audits and reviews shall be prepared in accordance with
582 the following standards:
583 1. Audits shall be prepared by an independent certified
584 public account in accordance with generally accepted auditing
585 standards, including the Statements on Auditing Standards.
586 2. Reviews shall be prepared by an independent certified
587 public accountant in accordance with the Statements on Standards
588 for Accounting and Review Services.
589 (d) Audited and reviewed financial statements must be
590 accompanied by a report signed and prepared by the independent



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591 certified public accountant performing such audit or review.

592 (2) In lieu of the financial statement ~~report~~ described in
593 subsection (1), a charitable organization or sponsor that
594 receives less than \$500,000 in annual contributions may submit a
595 copy of its Internal Revenue Service Form 990 and all attached
596 schedules filed for the preceding fiscal year, or a copy of its
597 Internal Revenue Service Form 990-EZ and Schedule O filed for
598 the preceding fiscal year.

599 (3) Upon a showing of good cause by a charitable
600 organization or sponsor, the department may extend the time for
601 the filing of a financial statement required under this section
602 by up to 180 days, during which time the previous registration
603 shall remain active. The registration shall be automatically
604 suspended for failure to file the financial statement within the
605 extension period.

606 (4) The department may require that an audit or review be
607 conducted for any financial statement submitted by any
608 charitable organization or sponsor. ~~A charitable organization or~~
609 ~~sponsor may elect to also include a financial report that has~~
610 ~~been audited by an independent certified public accountant or an~~
611 ~~audit with opinion by an independent certified public~~
612 ~~accountant. In the event that a charitable organization or~~
613 ~~sponsor elects to file an audited financial report, this~~
614 ~~optional filing must be noted in the department's annual report~~
615 ~~submitted pursuant to s. 496.423.~~

616 Section 7. Section 496.4071, Florida Statutes, is created
617 to read:

618 496.4071 Supplemental financial disclosure.-

619 (1) If, for the immediately preceding fiscal year, a



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620 charitable organization or sponsor had more than \$1 million in
621 total revenue and spent less than 25 percent of the
622 organization's total annual functional expenses on program
623 service costs, in addition to any financial statement required
624 under s. 496.407, the charitable organization or sponsor shall
625 file the following supplemental financial information on a form
626 prescribed by the department:

627 (a) The dollar amount and the percentage of total revenue
628 and charitable contributions allocated to funding each of the
629 following administrative functions:

630 1. Total salaries of all persons employed by the charitable
631 organization or sponsor.

632 2. Fundraising.

633 3. Travel expenses.

634 4. Overhead and other expenses related to managing and
635 administering the charitable organization or sponsor.

636 (b) The name of and specific sum earned by or paid to all
637 employees or consultants who earned or were paid more than
638 \$100,000 during the immediately preceding fiscal year.

639 (c) The name of and specific sum paid to all service
640 providers who were paid \$100,000 or more during the immediately
641 preceding fiscal year and a brief description of the services
642 provided.

643 (d) The dollar amount and percentage of total revenue and
644 charitable contributions allocated to programs.

645 (e) The details of any economic or business transactions
646 between the charitable organization or sponsor and an officer,
647 trustee, or director of the charitable organization or sponsor;
648 the immediate family of an officer, trustee, or director of the



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649 charitable organization or sponsor; any entity controlled by an
650 officer, trustee, or director of the charitable organization or
651 sponsor; any entity controlled by the immediate family of an
652 officer, trustee, or director of the charitable organization or
653 sponsor; any entity that employed or engaged for consultation an
654 officer, trustee, or director of the charitable organization or
655 sponsor; and any entity that employed or engaged for
656 consultation the immediate family of an officer, trustee, or
657 director of the charitable organization or sponsor. As used in
658 this paragraph, the term "immediate family" means a parent,
659 spouse, child, sibling, grandparent, grandchild, brother-in-law,
660 sister-in-law, son-in-law, daughter-in-law, mother-in-law, or
661 father-in-law.

662 (2) The supplemental financial information required under
663 subsection (1) must be filed with the department by the
664 charitable organization or sponsor within 30 days after
665 receiving a request for such information from the department.

666 Section 8. Section 496.4072, Florida Statutes, is created
667 to read:

668 496.4072 Financial statements for specific disaster relief
669 solicitations.—

670 (1) A charitable organization or sponsor that solicits
671 contributions in this state for a charitable purpose related to
672 a specific disaster or crisis and receives at least \$100,000 in
673 contributions in response to such solicitation shall file
674 quarterly disaster relief financial statements with the
675 department on a form prescribed by the department. The quarterly
676 statements must detail the contributions secured as a result of
677 the solicitation and the manner in which such contributions were



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678 expended. The department shall post notice on its website of the
679 disasters and crises subject to the additional reporting
680 requirements in this section within ten days of the disaster or
681 crisis.

682 (2) The first quarterly statement shall be filed on the
683 last day of the third month following the accrual of at least
684 \$100,000 in contributions after the commencement of
685 solicitations for the specific disaster or crisis. The
686 charitable organization or sponsor shall continue to file
687 quarterly statements with the department until the quarter after
688 all contributions raised in response to the solicitation are
689 expended.

690 Section 9. Subsections (4), (6), and (9) of section
691 496.409, Florida Statutes, are amended, and subsection (10) is
692 added to that section, to read:

693 496.409 Registration and duties of professional fundraising
694 consultant.—

695 (4) A professional fundraising consultant may enter into a
696 contract or agreement with a charitable organization or sponsor
697 only if the charitable organization or sponsor has complied with
698 all applicable provisions of this chapter. A ~~Every~~ contract or
699 agreement between a professional fundraising consultant and a
700 charitable organization or sponsor must be in writing, signed by
701 two authorized officials of the charitable organization or
702 sponsor, and filed by the professional fundraising consultant
703 with the department at least 5 days before ~~prior to~~ the
704 performance of any material service by the professional
705 fundraising consultant. Solicitation under the contract or
706 agreement may not begin before the filing of the contract or



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707 agreement.

708 (6) (a) The department shall examine each registration
709 statement and all supporting documents filed by a professional
710 fundraising consultant and determine whether the registration
711 requirements are satisfied. If the department determines that
712 the registration requirements are not satisfied, the department
713 must notify the professional fundraising consultant within 15
714 business working days after its receipt of the registration
715 statement; otherwise the registration statement is approved.
716 Within 7 business working days after receipt of a notification
717 that the registration requirements are not satisfied, the
718 applicant may request a hearing. The hearing must be held within
719 7 business working days after receipt of the request, and any
720 recommended order, if one is issued, must be rendered within 3
721 business working days after the hearing. The final order must
722 then be issued within 2 business working days after the
723 recommended order. If there is no recommended order, the final
724 order must be issued within 5 business working days after the
725 hearing. The proceedings must be conducted in accordance with
726 chapter 120, except that the time limits and provisions ~~set~~
727 ~~forth~~ in this subsection prevail to the extent of any conflict.

728 (b) If a professional fundraising consultant discloses
729 information specified in paragraphs (2) (e)-(g) in the initial
730 application for registration or renewal application, the
731 processing time limits of this subsection are waived and the
732 department shall process the initial application for
733 registration or the renewal application in accordance with the
734 time limits in chapter 120. The registration of a professional
735 consultant shall be automatically suspended for failure to



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736 disclose any information specified in paragraphs (2) (e)-(g)
737 until such time as the required information is submitted to the
738 department.

739 (9) A ~~no~~ person may not act as a professional fundraising
740 consultant, and a ~~no~~ professional fundraising consultant, or any
741 officer, director, trustee, or employee thereof, may not ~~shall~~
742 knowingly employ any officer, trustee, director, or employee, if
743 such person has, in any state, regardless of adjudication, been
744 convicted of, or found guilty of, or pled guilty or nolo
745 contendere to, or has been incarcerated within the last 10 years
746 as a result of having previously been convicted of, or found
747 guilty of, or pled guilty or nolo contendere to, any crime
748 within the last 10 years involving fraud, theft, larceny,
749 embezzlement, fraudulent conversion, or misappropriation of
750 property, or any crime arising from the conduct of a
751 solicitation for a charitable organization or sponsor, or has
752 been enjoined in any state from violating any law relating to a
753 charitable solicitation.

754 (10) The department may deny or revoke the registration of
755 a professional fundraising consultant if the professional
756 fundraising consultant, or any of its officers, directors, or
757 trustees, has had the right to solicit contributions revoked in
758 any state, has entered into an agreement with any state to cease
759 soliciting contributions within that state, or has been ordered
760 by any court or governmental agency to cease soliciting
761 contributions within any state.

762 Section 10. Present subsections (3), (5), (7), (14), and
763 (15) of section 496.410, Florida Statutes, are amended,
764 paragraphs (j), (k), and (l) are added to subsection (2) of that



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765 section, paragraphs (i) through (n) are added to subsection (6)
766 of that section, and a new subsection (15) is added to that
767 section, to read:

768 496.410 Registration and duties of professional
769 solicitors.—

770 (2) Applications for registration or renewal of
771 registration must be submitted on a form prescribed by rule of
772 the department, signed by an authorized official of the
773 professional solicitor who shall certify that the report is true
774 and correct, and must include the following information:

775 (j) A list of all telephone numbers the applicant will use
776 to solicit contributions as well as the actual physical address
777 associated with each telephone number and any fictitious names
778 associated with such address.

779 (k) A copy of any script, outline, or presentation used by
780 the applicant to solicit contributions or, if such solicitation
781 aids are not used, written confirmation thereof.

782 (l) A copy of sales information or literature provided to a
783 donor or potential donor by the applicant in connection with a
784 solicitation.

785 (3) The application for registration must be accompanied by
786 a fee of \$300. ~~A professional solicitor that is a partnership or~~
787 ~~corporation may register for and pay a single fee on behalf of~~
788 ~~all of its partners, members, officers, directors, agents, and~~
789 ~~employees. In that case,~~ The names and street addresses of all
790 the officers, employees, and agents of the professional
791 solicitor and all other persons with whom the professional
792 solicitor has contracted to work under its direction, including
793 solicitors, must be listed in the application or furnished to



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794 the department within 5 days after the date of employment or
795 contractual arrangement. Each registration is valid for 1 year
796 and. ~~The registration~~ may be renewed for an additional 1-year
797 period upon application to the department and payment of the
798 registration fee.

799 (5) (a) The department must examine each registration
800 statement and supporting documents filed by a professional
801 solicitor. If the department determines that the registration
802 requirements are not satisfied, the department must notify the
803 professional solicitor within 15 business ~~working~~ days after its
804 receipt of the registration statement; otherwise the
805 registration statement is approved. Within 7 business ~~working~~
806 days after receipt of a notification that the registration
807 requirements are not satisfied, the applicant may request a
808 hearing. The hearing must be held within 7 business ~~working~~ days
809 after receipt of the request, and any recommended order, if one
810 is issued, must be rendered within 3 business ~~working~~ days after
811 the hearing. The final order must then be issued within 2
812 business ~~working~~ days after the recommended order. If there is
813 no recommended order, the final order must be issued within 5
814 business ~~working~~ days after the hearing. The proceedings must be
815 conducted in accordance with chapter 120, except that the time
816 limits and provisions ~~set forth~~ in this subsection prevail to
817 the extent of any conflict.

818 (b) If a professional solicitor makes a disclosure
819 specified in paragraphs (2) (f)-(h) in the initial application
820 for registration or the renewal application, the processing time
821 limits of this subsection are waived and the department shall
822 process the initial application for registration or renewal



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823 application in accordance with the time limits in chapter 120.
824 The registration of a professional solicitor shall be
825 automatically suspended for failure to disclose any information
826 specified in paragraphs (2)(f)-(h) until such time as the
827 required information is submitted to the department.

828 (6) No less than 15 days before commencing any solicitation
829 campaign or event, the professional solicitor must file with the
830 department a solicitation notice on a form prescribed by the
831 department. The notice must be signed and sworn to by the
832 contracting officer of the professional solicitor and must
833 include:

834 (i) A statement of the guaranteed minimum percentage of the
835 gross receipts from contributions which will be remitted to the
836 charitable organization or sponsor, if any, or, if the
837 solicitation involves the sale of goods, services, or tickets to
838 a fundraising event, the percentage of the purchase price which
839 will be remitted to the charitable organization or sponsor, if
840 any.

841 (j) The percentage of a contribution which may be deducted
842 as a charitable contribution under federal income tax laws.

843 (k) A statement as to whether any owner, director, officer,
844 trustee, or employee of the professional solicitor is related as
845 a parent, spouse, child, sibling, grandparent, grandchild,
846 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
847 mother-in-law, or father-in-law to:

848 1. Another officer, director, owner, trustee, or employee
849 of the professional solicitor.

850 2. Any officer, director, owner, trustee, or employee of a
851 charitable organization or sponsor under contract to the



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852 professional solicitor.

853 3. Any supplier or vendor providing goods or services to a
854 charitable organization or sponsor under contract to the
855 professional solicitor.

856 (l) The beginning and ending dates of the solicitation
857 campaign.

858 (m) A copy of any script, outline, or presentation used by
859 the professional solicitor to solicit contributions for the
860 solicitation campaign. If such aids are not used, written
861 confirmation thereof.

862 (n) A copy of sales information or literature provided to a
863 donor or potential donor by the professional solicitor in
864 connection with the solicitation campaign.

865 (7) A professional solicitor may enter into a contract or
866 agreement with a charitable organization or sponsor only if the
867 charitable organization or sponsor has complied with all
868 applicable provisions of this chapter. A ~~Each~~ contract or
869 agreement between a professional solicitor and a charitable
870 organization or sponsor for each solicitation campaign must be
871 in writing, signed by two authorized officials of the charitable
872 organization or sponsor, one of whom must be a member of the
873 organization's governing body and one of whom must be the
874 authorized contracting officer for the professional solicitor,
875 and contain all of the following provisions:

876 (a) A statement of the charitable or sponsor purpose and
877 program for which the solicitation campaign is being conducted.

878 (b) A statement of the respective obligations of the
879 professional solicitor and the charitable organization or
880 sponsor.



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881 (c) A statement of the guaranteed minimum percentage of the
882 gross receipts from contributions which will be remitted to the
883 charitable organization or sponsor, if any, or, if the
884 solicitation involves the sale of goods, services, or tickets to
885 a fundraising event, the percentage of the purchase price which
886 will be remitted to the charitable organization or sponsor, if
887 any. Any stated percentage shall exclude any amount which the
888 charitable organization or sponsor is to pay as fundraising
889 costs.

890 (d) A statement of the percentage of the gross revenue
891 which the professional solicitor will be compensated. If the
892 compensation of the professional solicitor is not contingent
893 upon the number of contributions or the amount of revenue
894 received, his or her compensation shall be expressed as a
895 reasonable estimate of the percentage of the gross revenue, and
896 the contract must clearly disclose the assumptions upon which
897 the estimate is based. The stated assumptions must be based upon
898 all of the relevant facts known to the professional solicitor
899 regarding the solicitation to be conducted by the professional
900 solicitor.

901 (e) The effective and termination dates of the contract.

902 (14) A ~~Ne~~ person may not act as a professional solicitor,
903 and a ~~ne~~ professional solicitor, or any officer, director,
904 trustee, or employee thereof, may not shall, to solicit for
905 compensation, knowingly employ any officer, trustee, director,
906 employee, or any person with a controlling interest therein, who
907 has, in any state, regardless of adjudication, been convicted
908 of, or found guilty of, or pled guilty or nolo contendere to, or
909 has been incarcerated within the last 10 years as a result of



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910 having previously been convicted of, or found guilty of, or pled
911 guilty or nolo contendere to, a felony within the last 10 years
912 involving fraud, theft, larceny, embezzlement, fraudulent
913 conversion, or misappropriation of property, or any crime
914 arising from the conduct of a solicitation for a charitable
915 organization or sponsor, or has been enjoined in any state from
916 violating any law relating to a charitable solicitation. The
917 prohibitions in this subsection also apply to any misdemeanor in
918 another state which constitutes a disqualifying felony in this
919 state.

920 (15) The department may deny or revoke the registration of
921 a professional solicitor if the professional solicitor, or any
922 of its officers, directors, trustees, or agents, has had the
923 right to solicit contributions revoked in any state, has entered
924 into an agreement with any state to cease soliciting
925 contributions within that state, or has been ordered by any
926 court or governmental agency to cease soliciting contributions
927 within any state.

928 (16)~~(15)~~ All registration fees must be paid to the
929 department and deposited into the General Inspection Trust Fund.

930 Section 11. Section 496.4101, Florida Statutes, is created
931 to read:

932 496.4101 Licensure of professional solicitors and certain
933 employees thereof.—

934 (1) Each officer, director, trustee, or owner of a
935 professional solicitor and any employee of a professional
936 solicitor conducting telephonic solicitations must, before
937 engaging in solicitation activities, obtain a solicitor license
938 from the department.



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939 (2) Persons required to obtain a solicitor license under
940 subsection (1) shall submit to the department, in such form as
941 the department prescribes, an application for a solicitor
942 license. The application must include the following information:

943 (a) The true name, date of birth, unique identification
944 number of a driver license or other valid form of
945 identification, and home address of the applicant.

946 (b) If the applicant, in any state, regardless of
947 adjudication, has previously been convicted of, or found guilty
948 of, or pled guilty or nolo contendere to, or has been
949 incarcerated within the last 10 years as a result of having
950 previously been convicted of, or found guilty of, or pled guilty
951 or nolo contendere to, any crime within the last 10 years
952 involving fraud, theft, larceny, embezzlement, fraudulent
953 conversion, or misappropriation of property, or any crime
954 arising from the conduct of a solicitation for a charitable
955 organization or sponsor, or has been enjoined, in any state,
956 from violating any law relating to a charitable solicitation.

957 (c) If the applicant, in any state, is involved in pending
958 litigation or has had entered against her or him an injunction,
959 a temporary restraining order, or a final judgment or order,
960 including a stipulated judgment or order, an assurance of
961 voluntary compliance, cease and desist, or any similar document,
962 in any civil or administrative action involving fraud, theft,
963 larceny, embezzlement, fraudulent conversion, or
964 misappropriation of property, or has been enjoined from
965 violating any law relating to a charitable solicitation.

966 (3) (a) °Each applicant shall submit a complete set of his or
967 her fingerprints with the initial application for a solicitor



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968 license and a fee equal to the federal and state costs for
969 fingerprint processing and fingerprint retention. The state cost
970 for fingerprint processing is that authorized in s.
971 943.053(3) (b) for records provided to persons or entities other
972 than those specified as exceptions therein.

973 (b)°The department shall forward the fingerprints to the
974 Department of Law Enforcement for state processing, and the
975 Department of Law Enforcement shall forward them to the Federal
976 Bureau of Investigation for national processing.

977 (c)°All fingerprints submitted to the Department of Law
978 Enforcement as required under this subsection shall be retained
979 by the Department of Law Enforcement as provided under s.
980 943.05(2) (g) and (h) and enrolled in the Federal Bureau of
981 Investigation's national retained print arrest notification
982 program. Fingerprints shall not be enrolled in the national
983 retained print arrest notification program until the Department
984 of Law Enforcement begins participation with the Federal Bureau
985 of Investigation. Arrest fingerprints will be searched against
986 the retained prints by the Department of Law Enforcement and the
987 Federal Bureau of Investigation.

988 (d)°For any renewal of the applicant's license, the
989 department shall request the Department of Law Enforcement to
990 forward the retained fingerprints of the applicant to the
991 Federal Bureau of Investigation unless the applicant is enrolled
992 in the national retained print arrest notification program
993 described in paragraph (c). The fee for the national criminal
994 history check will be paid as part of the renewal fee to the
995 department and forwarded by the department to Department of Law
996 Enforcement. If the applicant's fingerprints are retained in the



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997 national retained print arrest notification program, the
998 applicant shall pay the state and national retention fee to the
999 department which will forward the fee to the Department of Law
1000 Enforcement.

1001 (e)°The department shall notify the Department of Law
1002 Enforcement regarding any person whose fingerprints have been
1003 retained but who is no longer licensed under this chapter.

1004 (f)°The department shall screen background results to
1005 determine if an applicant meets licensure requirements.

1006 (4) A solicitor license must be renewed annually by the
1007 submission of a renewal application. A solicitor license that is
1008 not renewed expires without further action by the department.

1009 (5) Each applicant for a solicitor license shall remit a
1010 license fee of \$100 to the department at the time the initial
1011 application is filed with the department and an annual renewal
1012 fee of \$100 thereafter. All fees collected, less the cost of
1013 administration, shall be deposited into the General Inspection
1014 Trust Fund.

1015 (6) Any material change to the information submitted to the
1016 department in the initial application or renewal application for
1017 a solicitor license shall be reported to the department by the
1018 applicant or licensee within 10 days after the change occurs.
1019 The applicant or licensee shall also remit a fee in the amount
1020 of \$10 for processing the change to the initial or renewal
1021 application.

1022 (7) It is a violation of this chapter:

1023 (a) For an applicant to provide inaccurate or incomplete
1024 information to the department in the initial or renewal
1025 application for a solicitor license.



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1026 (b) For any person specified in subsection (1) to fail to
1027 maintain a solicitor license as required by this section.

1028 (c) For a professional solicitor to allow, require, permit,
1029 or authorize an employee without an active solicitor license
1030 issued under this section to conduct telephonic solicitations.

1031 (8) The department shall adopt rules that allow certain
1032 applicants to engage in solicitation activities on an interim
1033 basis until such time as a solicitor license is granted or
1034 denied.

1035 (9) The department may deny or revoke any solicitor license
1036 if the applicant or licensee has had the right to solicit
1037 contributions revoked in any state, has entered into an
1038 agreement with any state to cease soliciting contributions
1039 within that state, has been ordered by any court or governmental
1040 agency to cease soliciting contributions within any state, or is
1041 subject to any disqualification specified in s. 496.410(14).

1042 Section 12. Subsections (2) and (3) of section 496.411,
1043 Florida Statutes, are amended to read:

1044 496.411 Disclosure requirements and duties of charitable
1045 organizations and sponsors.—

1046 (2) A charitable organization or sponsor soliciting in this
1047 state must include all of the following disclosures at the point
1048 of solicitation:

1049 (a) The name of the charitable organization or sponsor and
1050 state of the principal place of business of the charitable
1051 organization or sponsor;

1052 (b) A description of the purpose or purposes for which the
1053 solicitation is being made;

1054 (c) Upon request, the name and either the address or



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1055 telephone number of a representative to whom inquiries could be
1056 addressed;

1057 (d) Upon request, the amount of the contribution which may
1058 be deducted as a charitable contribution under federal income
1059 tax laws;

1060 (e) Upon request, the source from which a written financial
1061 statement may be obtained. Such financial statement must be for
1062 the immediate preceding ~~past~~ fiscal year and must be consistent
1063 with the annual financial statement ~~report~~ filed under s.
1064 496.407. The written financial statement must be provided within
1065 14 days after the request and must state the purpose for which
1066 funds are raised, the total amount of all contributions raised,
1067 the total costs and expenses incurred in raising contributions,
1068 the total amount of contributions dedicated to the stated
1069 purpose or disbursed for the stated purpose, and whether the
1070 services of another person or organization have been contracted
1071 to conduct solicitation activities.

1072 (3) Every charitable organization or sponsor that ~~which~~ is
1073 required to register under s. 496.405 or is exempt under s.
1074 496.406(1)(d) shall ~~must~~ conspicuously display ~~in capital~~
1075 ~~letters~~ the following statement on every ~~printed~~ solicitation,
1076 ~~written~~ confirmation, receipt, or reminder of a contribution:

1077
1078 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
1079 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1080 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1081 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1082 APPROVAL, OR RECOMMENDATION BY THE STATE."
1083



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1084 The statement must include a toll-free number and website for
1085 the division which ~~that~~ can be used to obtain the registration
1086 information. If ~~When~~ the solicitation consists of more than one
1087 piece, the statement must be displayed prominently in the
1088 solicitation materials. If the solicitation occurs through a
1089 website, the statement must be conspicuously displayed on the
1090 webpage where donations are requested.

1091 Section 13. Subsection (1) of section 496.412, Florida
1092 Statutes, is amended to read:

1093 496.412 Disclosure requirements and duties of professional
1094 solicitors.—

1095 (1) A professional solicitor must comply with and be
1096 responsible for complying or causing compliance with the
1097 following disclosures:

1098 (a) Before ~~Prior to~~ orally requesting a contribution, or
1099 contemporaneously with a written request for a contribution, a
1100 professional solicitor must clearly disclose:

1101 1. The name of the professional solicitor as on file with
1102 the department.

1103 2. If the individual acting on behalf of the professional
1104 solicitor identifies himself or herself by name, the
1105 individual's legal name.

1106 3. The name and state of the principal place of business of
1107 the charitable organization or sponsor and a description of how
1108 the contributions raised by the solicitation will be used for a
1109 charitable or sponsor purpose; or, if there is no charitable
1110 organization or sponsor, a description as to how the
1111 contributions raised by the solicitation will be used for a
1112 charitable or sponsor purpose.



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1113 (b) In the case of a solicitation campaign conducted
1114 orally, whether by telephone or otherwise, any written
1115 confirmation, receipt, or reminder sent to any person who has
1116 contributed or has pledged to contribute, shall include a clear
1117 disclosure of the information required by paragraph (a).

1118 (c) In addition to the information required by paragraph
1119 (a), any written confirmation, receipt, or reminder of
1120 contribution made pursuant to an oral solicitation and any
1121 ~~written~~ solicitation shall conspicuously state ~~in capital~~
1122 ~~letters~~:

1123
1124 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
1125 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1126 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1127 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1128 APPROVAL, OR RECOMMENDATION BY THE STATE."
1129

1130 The statement must include a toll-free number and website for
1131 the division which ~~that~~ can be used to obtain the registration
1132 information. If ~~When~~ the solicitation consists of more than one
1133 piece, the statement must be displayed prominently in the
1134 solicitation materials. If the solicitation occurs on a website,
1135 the statement must be conspicuously displayed on the webpage
1136 where donations are requested.

1137 (d) If requested by the person being solicited, the
1138 professional solicitor shall inform that person in writing,
1139 within 14 days after ~~of~~ the request, of the fixed percentage of
1140 the gross revenue or the reasonable estimate of the percentage
1141 of the gross revenue that the charitable organization or sponsor



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1142 will receive as a benefit from the solicitation campaign or
1143 shall immediately notify the person being solicited that the
1144 information is available on the department's website or by
1145 calling the division's toll-free number.

1146 (e) If requested by the person being solicited, the
1147 professional solicitor shall inform that person in writing,
1148 within 14 days after ~~of~~ the request, of the percentage of the
1149 contribution which may be deducted as a charitable contribution
1150 under federal income tax laws or shall immediately notify the
1151 person being solicited that the information is available on the
1152 department's website or by calling the division's toll-free
1153 number.

1154 Section 14. Section 496.4121, Florida Statutes, is created
1155 to read:

1156 496.4121 Collection receptacles used for donations.—

1157 (1) As used in this section, the term "collection
1158 receptacle" means a receptacle used to collect donated clothing,
1159 household items, or other goods for resale.

1160 (2) A collection receptacle must display a permanent sign
1161 or label on each side which contains the following information
1162 printed in letters that are at least 3 inches in height and no
1163 less than one-half inch in width, in a color that contrasts with
1164 the color of the collection receptacle:

1165 (a) For collection receptacles used by a person required to
1166 register under this chapter, the name, business address,
1167 telephone number, and registration number of the charitable
1168 organization or sponsor for whom the solicitation is made.

1169 (b) For collection receptacles placed or maintained in
1170 public view by a person not required to register under this



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1171 chapter or by a person not claiming an exemption pursuant to
1172 496.406, the name, telephone number, and physical address of the
1173 business conducting the solicitation and the statement: "This is
1174 not a charity. Donations made here support a for-profit business
1175 and are not tax deductible."

1176 (3) Upon request, a charitable organization or sponsor
1177 using a collection receptacle must provide the donor with
1178 documentation of its tax-exempt status and the registration
1179 issued under this chapter.

1180 Section 15. Subsection (2) of section 496.415, Florida
1181 Statutes, is amended, and subsection (18) is added to that
1182 section, to read:

1183 496.415 Prohibited acts.—It is unlawful for any person in
1184 connection with the planning, conduct, or execution of any
1185 solicitation or charitable or sponsor sales promotion to:

1186 (2) ~~Knowingly~~ Submit false, misleading, or inaccurate
1187 information in a document that is filed with the department,
1188 provided to the public, or offered in response to a request or
1189 investigation by the department, the Department of Legal
1190 Affairs, or the state attorney.

1191 (18) Fail to remit to a charitable organization or sponsor
1192 the disclosed guaranteed minimum percentage of gross receipts
1193 from contributions as required under s. 496.410(7)(c) or, if the
1194 solicitation involved the sale of goods, services, or tickets to
1195 a fundraising event, the percentage of the purchase price as
1196 agreed in the contract or agreement as required under this
1197 chapter.

1198 Section 16. Subsection (5) of section 496.419, Florida
1199 Statutes, is amended to read:



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1200 496.419 Powers of the department.—
1201 (5) Upon a finding as set forth in subsection (4), the
1202 department may enter an order doing one or more of the
1203 following:
1204 (a) Issuing a notice of noncompliance pursuant to s.
1205 120.695;
1206 (b) Issuing a cease and desist order that directs that the
1207 person cease and desist specified fundraising activities;
1208 (c) Refusing to register or canceling or suspending a
1209 registration;
1210 (d) Placing the registrant on probation for a period of
1211 time, subject to such conditions as the department may specify;
1212 (e) Canceling an exemption granted under s. 496.406; ~~and~~
1213 (f) Except as provided in paragraph (g), imposing an
1214 administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or
1215 omission ~~that~~ ~~which~~ constitutes a violation of ss. 496.401-
1216 496.424 or s. 496.426 or a rule or order. With respect to a s.
1217 501(c)(3) organization, the penalty imposed pursuant to this
1218 subsection ~~may shall~~ not exceed \$500 per violation for failure
1219 to register under s. 496.405 or file for an exemption under s.
1220 496.406(2). The penalty shall be the entire amount per violation
1221 and is not ~~to be interpreted as~~ a daily penalty; and
1222 (g) Imposing an administrative fine not to exceed \$10,000
1223 for a violation of this chapter that involves fraud or
1224 deception.
1225 Section 17. Section 496.4191, Florida Statutes, is created
1226 to read:
1227 496.4191 Additional penalty; immediate suspension.—Upon
1228 notification and subsequent written verification by a law



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1229 enforcement agency, a court, a state attorney, or the Florida
1230 Department of Law Enforcement, the department shall immediately
1231 suspend a registration or the processing of an application for a
1232 registration if the registrant, applicant, or any officer or
1233 director of the registrant or applicant is formally charged with
1234 a crime involving fraud, theft, larceny, embezzlement, or
1235 fraudulent conversion or misappropriation of property or any
1236 crime arising from the conduct of a solicitation for a
1237 charitable organization or sponsor until final disposition of
1238 the case or removal or resignation of that officer or director.

1239 Section 18. Section 496.430, Florida Statutes, is created
1240 to read:

1241 496.430 Disqualification for certain tax exemptions.-

1242 (1) The department may issue an order to disqualify a
1243 charitable organization or sponsor from receiving any sales tax
1244 exemption certificate issued by the Department of Revenue if the
1245 department finds, based up on the average of functional expenses
1246 and program service costs provided to the department pursuant to
1247 s. 496.407 for the 3 most recent fiscal years, that the
1248 charitable organization or sponsor has failed to expend at least
1249 25 percent of its total annual functional expenses on program
1250 service costs.

1251 (2) A charitable organization or sponsor may appeal a
1252 disqualification order by requesting a hearing within 21 days
1253 after notification from the department that it has issued a
1254 disqualification order under this section. The hearing must be
1255 conducted in accordance with chapter 120.

1256 (3) Notwithstanding a finding under subsection (1) that a
1257 charitable organization or sponsor has failed to expend at least



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1258 25 percent of its total annual functional expenses on program
1259 service costs, the department may decline to issue a
1260 disqualification order if the charitable organization or sponsor
1261 establishes:

1262 (a) That payments were made to affiliates which should be
1263 considered in calculating the program service costs;

1264 (b) That revenue was accumulated for a specific program
1265 purpose consistent with representations in solicitations; or

1266 (c) Such other mitigating circumstances as are defined by
1267 rule of the department.

1268 (4) A disqualification order issued by the department
1269 pursuant to this section is effective for at least 1 year after
1270 such order becomes final and shall remain effective until such
1271 time as the department receives sufficient evidence from the
1272 disqualified charitable organization or sponsor which
1273 demonstrates it expends at least 25 percent of its total annual
1274 functional expenses on program service costs.

1275 (a) The charitable organization or sponsor may not submit
1276 such evidence to the department sooner than 1 year after the
1277 disqualification order becomes final and may not submit such
1278 information more than once each year for consideration by the
1279 department.

1280 (b) The department shall also consider any financial
1281 statement that was submitted by the charitable organization or
1282 sponsor to the department pursuant to s. 496.407 after the
1283 disqualification order became final.

1284 (5) The department shall provide a disqualification order
1285 to the Department of Revenue within 30 days after such order
1286 becomes final. A final disqualification order is conclusive as



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1287 to the charitable organization's or sponsor's entitlement to any
1288 sales tax exemption. The Department of Revenue shall revoke or
1289 refuse to grant a sales tax exemption certificate to a
1290 charitable organization or sponsor subject to a final
1291 disqualification order within 30 days after receiving such
1292 disqualification order. A charitable organization or sponsor may
1293 not appeal or challenge the revocation or denial of a sales tax
1294 exemption certificate by the Department of Revenue if such
1295 revocation or denial is based upon a final disqualification
1296 order issued pursuant to this section.

1297 (6) This section does not apply to a charitable
1298 organization or sponsor that:

1299 (a) Is not required to register under this chapter with the
1300 department; or

1301 (b) Has been in existence for less than 4 years.

1302 Section 19. Paragraph (a) of subsection (3) of section
1303 741.0305, Florida Statutes, is amended to read:

1304 741.0305 Marriage fee reduction for completion of
1305 premarital preparation course.—

1306 (3) (a) All individuals electing to participate in a
1307 premarital preparation course shall choose from the following
1308 list of qualified instructors:

- 1309 1. A psychologist licensed under chapter 490.
1310 2. A clinical social worker licensed under chapter 491.
1311 3. A marriage and family therapist licensed under chapter
1312 491.

1313 4. A mental health counselor licensed under chapter 491.

1314 5. An official representative of a religious institution
1315 which is recognized under s. 496.404(23) ~~496.404(19)~~, if the



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1316 representative has relevant training.

1317 6. Any other provider designated by a judicial circuit,
1318 including, but not limited to, school counselors who are
1319 certified to offer such courses. Each judicial circuit may
1320 establish a roster of area course providers, including those who
1321 offer the course on a sliding fee scale or for free.

1322 Section 20. Section 496.431, Florida Statutes, is created
1323 to read:

1324 496.431 Severability.—If any provision of this chapter or
1325 its application to any person or circumstance is held invalid,
1326 the invalidity does not affect other provisions or applications
1327 of this chapter which can be given effect without the invalid
1328 provision or application, and to this end the provisions of this
1329 chapter are severable.

1330 Section 21. For the 2014-2015 fiscal year, there is
1331 appropriated to the Department of Agriculture and Consumer
1332 Services, the sums of \$235,352 in recurring and \$239,357 in
1333 nonrecurring funds from the General Inspection Trust Fund, and 4
1334 full-time equivalent positions with associated salary rate of
1335 \$143,264 are authorized for the purpose of implementing this
1336 act.

1337 Section 22. This act shall take effect July 1, 2014.

1338
1339 ===== T I T L E A M E N D M E N T =====

1340 And the title is amended as follows:

1341 Delete everything before the enacting clause
1342 and insert:

1343 A bill to be entitled

1344 An act relating to charities; amending s. 212.08,



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1345 F.S.; excluding charitable organizations or sponsors
1346 disqualified by the Department of Agriculture and
1347 Consumer Services from receiving certain tax
1348 exemptions; amending s. 212.084, F.S.; requiring the
1349 Department of Revenue to revoke or deny a sales tax
1350 exemption to charitable organizations or sponsors
1351 disqualified by the department; providing for a
1352 limited appeal of the denial or revocation of the
1353 sales tax exemption; amending s. 496.404, F.S.;
1354 defining terms; redefining the term "religious
1355 institution"; amending s. 496.405, F.S.; revising the
1356 timeframe within which a charitable organization or
1357 sponsor must report changes to certain information
1358 provided to the department on an initial or renewal
1359 registration statement; providing for the automatic
1360 expiration of a registration for failure to file a
1361 renewal or financial statement by a certain date;
1362 repealing a requirement that the renewal statement be
1363 filed subsequent to the financial statement; repealing
1364 authorization to extend the time to file a renewal
1365 statement; specifying the information that must be
1366 submitted by a parent organization on a consolidated
1367 financial statement; extending the time allowed for
1368 the department to review certain initial or renewal
1369 registration statements; providing that failure of a
1370 charitable organization or sponsor to make certain
1371 disclosures in a registration statement results in the
1372 automatic suspension of an active registration for a
1373 specified period; prohibiting the officers, directors,



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1374 trustees, or employees of a charitable organization or
1375 sponsor from allowing certain persons to solicit
1376 contributions on behalf of the charitable organization
1377 or sponsor; specifying that the prohibition against
1378 certain persons soliciting contributions on behalf of
1379 a charitable organization or sponsor due to the
1380 commission of certain felonies includes those felonies
1381 committed in any state as well as any misdemeanor in
1382 another state which constitutes a disqualifying felony
1383 in this state; authorizing the department to deny or
1384 revoke the registration of a charitable organization
1385 or sponsor under certain circumstances; requiring a
1386 charitable organization or sponsor that has ended
1387 solicitation activities in this state to notify the
1388 department in writing; making technical changes;
1389 creating s. 496.4055, F.S.; defining the term
1390 "conflict of interest transaction"; requiring the
1391 board of directors of a charitable organization or
1392 sponsor, or an authorized committee thereof, to adopt
1393 a policy regarding conflict of interest transactions;
1394 amending s. 496.407, F.S.; requiring that the
1395 financial statements of certain charitable
1396 organizations or sponsors be audited or reviewed;
1397 specifying requirements and standards for the audit or
1398 review of a financial statement; restricting the use
1399 of an existing alternative to the required annual
1400 financial statement to certain charities; authorizing
1401 the department to require an audit or review of any
1402 financial statement and to extend the time to file a



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1403 financial statement under certain circumstances;
1404 providing that the registration of a charitable
1405 organization or sponsor be suspended upon its failure
1406 to file a financial statement within an extension
1407 period; making technical changes; creating s.
1408 496.4071, F.S.; requiring certain charitable
1409 organizations or sponsors to report specified
1410 supplemental financial information to the department
1411 by a certain date; creating s. 496.4072, F.S.;
1412 requiring certain charitable organizations or sponsors
1413 who solicit contributions for a specific disaster
1414 relief effort to submit quarterly financial statements
1415 to the department; specifying information to be
1416 included in the quarterly financial statement and the
1417 length of the required reporting period; amending ss.
1418 496.409 and 496.410, F.S.; prohibiting a professional
1419 fundraising consultant or professional solicitor from
1420 entering into a contract or agreement with a
1421 charitable organization or sponsor that has not
1422 complied with certain requirements; extending the time
1423 that the department may review initial or renewal
1424 registration statements of professional fundraising
1425 consultants or professional solicitors which contain
1426 certain disclosures; providing that the failure of a
1427 professional fundraising consultant or professional
1428 solicitor to make certain disclosures in an initial or
1429 renewal registration statement results in automatic
1430 suspension of an active registration; prohibiting the
1431 officers, trustees, directors, or employees of a



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1432 professional fundraising consultant or a professional
1433 solicitor from allowing certain persons to solicit
1434 contributions on behalf of the professional
1435 fundraising consultant or professional solicitor;
1436 specifying that the prohibition against acting as a
1437 professional solicitor or the employment of certain
1438 persons by a professional solicitor due to the
1439 commission of certain felonies includes those felonies
1440 committed in any state as well as any misdemeanor in
1441 another state which constitutes a disqualifying felony
1442 in this state; authorizing the department to deny or
1443 revoke the registration of a professional fundraising
1444 consultant or professional solicitor under certain
1445 circumstances; revising required information in the
1446 initial or renewal application of a professional
1447 solicitor; repealing a provision authorizing the
1448 payment of a single registration fee for certain
1449 professional solicitors; requiring a professional
1450 solicitor to provide additional specified information
1451 to the department in a solicitation notice; creating
1452 s. 496.4101, F.S.; requiring each officer, director,
1453 trustee, or owner of a professional solicitor and any
1454 employee of a professional solicitor that conducts
1455 telephone solicitations to obtain a solicitor license
1456 from the department; specifying application
1457 information and the application procedure for a
1458 solicitor license; requiring each applicant for a
1459 solicitor license to submit a complete set of his or
1460 her fingerprints and a fee for fingerprint processing



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1461 and retention to the department; requiring the
1462 department to submit the applicant's fingerprints to
1463 the Department of Law Enforcement for a criminal
1464 history background check; providing for retention of
1465 fingerprints; requiring the department to notify the
1466 Department of Law Enforcement of individuals who are
1467 no longer licensed; requiring that a solicitor license
1468 be renewed annually or expire automatically upon
1469 nonrenewal; requiring that an applicant for a
1470 solicitor license pay certain licensing fees;
1471 providing that licensing fees be deposited into the
1472 General Inspection Trust Fund; requiring that an
1473 applicant for a solicitor license report changes in
1474 information submitted to the department in a specified
1475 manner along with a processing fee; specifying
1476 violations; requiring the department to adopt rules
1477 allowing certain persons to engage in solicitation
1478 activities without a solicitor license for a specified
1479 period; authorizing the department to deny or revoke a
1480 solicitor license under specified circumstances;
1481 amending ss. 496.411 and 496.412, F.S.; expanding and
1482 revising required solicitation disclosures of
1483 charitable organizations, sponsors, and professional
1484 solicitors; requiring that certain exempt charitable
1485 organizations or sponsors also provide such
1486 solicitation disclosures; requiring that such
1487 solicitation disclosures be placed online under
1488 certain circumstances; creating s. 496.4121, F.S.;
1489 defining the term "collection receptacle"; requiring



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1490 that collection receptacles display permanent signs or
1491 labels; specifying requirements for the physical
1492 appearance of such labels or signs and information
1493 displayed thereon; requiring that a charitable
1494 organization or sponsor using a collection receptacle
1495 provide certain information to a donor upon request;
1496 amending s. 496.415, F.S.; providing that the
1497 submission of false, misleading, or inaccurate
1498 information in a document connected with a
1499 solicitation or sales promotion is unlawful; providing
1500 that the failure to remit specified funds to a
1501 charitable organization or sponsor is unlawful;
1502 amending s. 496.419, F.S.; increasing administrative
1503 fines for violations of the Solicitation of
1504 Contributions Act; creating s. 496.4191, F.S.;
1505 requiring the department to immediately suspend a
1506 registration or processing of an application for
1507 registration for a specified period if the registrant,
1508 applicant, or any officer or director thereof is
1509 criminally charged with certain offenses; creating s.
1510 496.430, F.S.; authorizing the department to
1511 disqualify a charitable organization or sponsor from
1512 receiving a sales tax exemption under specified
1513 circumstances; providing that a charitable
1514 organization or sponsor may appeal a disqualification
1515 order; specifying appeal procedure; providing
1516 exceptions; providing that a disqualification order
1517 remains effective for a specified period; specifying
1518 the procedure to lift a disqualification order;



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1519 requiring the department to provide a final
1520 disqualification order to the Department of Revenue
1521 within a specified period; providing that a final
1522 disqualification order is conclusive as to a
1523 charitable organization or sponsor's right to a sales
1524 tax exemption; requiring the Department of Revenue to
1525 revoke or deny a sales tax exemption to a charitable
1526 organization or sponsor subject to a final
1527 disqualification order within a specified period;
1528 providing for a limited appeal of the revocation or
1529 denial of the sales tax exemption; providing
1530 applicability; amending s. 741.0305, F.S.; conforming
1531 a cross-reference; creating s. 496.431, F.s.;
1532 providing severability; making an appropriation;
1533 providing an effective date.

By Senator Brandes

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1 A bill to be entitled
 2 An act relating to charities; amending s. 212.08,
 3 F.S.; excluding charitable organizations or sponsors
 4 disqualified by the Department of Agriculture and
 5 Consumer Services from receiving certain tax
 6 exemptions; amending s. 212.084, F.S.; requiring the
 7 Department of Revenue to revoke or deny a sales tax
 8 exemption to charitable organizations or sponsors
 9 disqualified by the department; providing for a
 10 limited appeal of the denial or revocation of the
 11 sales tax exemption; amending s. 496.404, F.S.;
 12 defining terms; redefining the term "religious
 13 institution"; amending s. 496.405, F.S.; revising the
 14 timeframe within which a charitable organization or
 15 sponsor must report changes to certain information
 16 provided to the department on an initial or renewal
 17 registration statement; providing for the automatic
 18 expiration of a registration for failure to file a
 19 renewal or financial statement by a certain date;
 20 repealing a requirement that the renewal statement be
 21 filed subsequent to the financial statement; repealing
 22 authorization to extend the time to file a renewal
 23 statement; specifying the information that must be
 24 submitted by a parent organization on a consolidated
 25 financial statement; extending the time allowed for
 26 the department to review certain initial or renewal
 27 registration statements; providing that failure of a
 28 charitable organization or sponsor to make certain
 29 disclosures in a registration statement results in the

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30 automatic suspension of an active registration for a
 31 specified period; prohibiting the officers, directors,
 32 trustees, or employees of a charitable organization or
 33 sponsor from allowing certain persons to solicit
 34 contributions on behalf of the charitable organization
 35 or sponsor; specifying that the prohibition against
 36 certain persons soliciting contributions on behalf of
 37 a charitable organization or sponsor due to the
 38 commission of certain felonies includes those felonies
 39 committed in any state as well as any misdemeanor in
 40 another state which constitutes a disqualifying felony
 41 in this state; authorizing the department to deny or
 42 revoke the registration of a charitable organization
 43 or sponsor under certain circumstances; requiring a
 44 charitable organization or sponsor that has ended
 45 solicitation activities in this state to notify the
 46 department in writing; making technical changes;
 47 creating s. 496.4055, F.S.; defining the term
 48 "conflict of interest transaction"; requiring the
 49 board of directors of a charitable organization or
 50 sponsor, or an authorized committee thereof, to adopt
 51 a policy regarding conflict of interest transactions;
 52 amending s. 496.407, F.S.; requiring that the
 53 financial statements of certain charitable
 54 organizations or sponsors be audited or reviewed;
 55 specifying requirements and standards for the audit or
 56 review of a financial statement; restricting the use
 57 of an existing alternative to the required annual
 58 financial statement to certain charities; authorizing

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59 the department to require an audit or review of any
 60 financial statement and to extend the time to file a
 61 financial statement under certain circumstances;
 62 providing that the registration of a charitable
 63 organization or sponsor be suspended upon its failure
 64 to file a financial statement within an extension
 65 period; making technical changes; creating s.
 66 496.4071, F.S.; requiring certain charitable
 67 organizations or sponsors to report specified
 68 supplemental financial information to the department
 69 by a certain date; creating s. 496.4072, F.S.;

70 requiring certain charitable organizations or sponsors
 71 who solicit contributions for a specific disaster
 72 relief effort to submit quarterly financial statements
 73 to the department; specifying information to be
 74 included in the quarterly financial statement and the
 75 length of the required reporting period; amending ss.
 76 496.409 and 496.410, F.S.; prohibiting a professional
 77 fundraising consultant or professional solicitor from
 78 entering into a contract or agreement with a
 79 charitable organization or sponsor that has not
 80 complied with certain requirements; extending the time
 81 that the department may review initial or renewal
 82 registration statements of professional fundraising
 83 consultants or professional solicitors which contain
 84 certain disclosures; providing that the failure of a
 85 professional fundraising consultant or professional
 86 solicitor to make certain disclosures in an initial or
 87 renewal registration statement results in automatic

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88 suspension of an active registration; prohibiting the
 89 officers, trustees, directors, or employees of a
 90 professional fundraising consultant or a professional
 91 solicitor from allowing certain persons to solicit
 92 contributions on behalf of the professional
 93 fundraising consultant or professional solicitor;
 94 specifying that the prohibition against acting as a
 95 professional solicitor or the employment of certain
 96 persons by a professional solicitor due to the
 97 commission of certain felonies includes those felonies
 98 committed in any state as well as any misdemeanor in
 99 another state which constitutes a disqualifying felony
 100 in this state; authorizing the department to deny or
 101 revoke the registration of a professional fundraising
 102 consultant or professional solicitor under certain
 103 circumstances; revising required information in the
 104 initial or renewal application of a professional
 105 solicitor; repealing a provision authorizing the
 106 payment of a single registration fee for certain
 107 professional solicitors; requiring a professional
 108 solicitor to provide additional specified information
 109 to the department in a solicitation notice; creating
 110 s. 496.4101, F.S.; requiring each officer, director,
 111 trustee, or owner of a professional solicitor and any
 112 employee of a professional solicitor that conducts
 113 telephone solicitations to obtain a solicitor license
 114 from the department; specifying application
 115 information and the application procedure for a
 116 solicitor license; requiring each applicant for a

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117 solicitor license to submit a complete set of his or
 118 her fingerprints and a fee for fingerprint processing
 119 to the department; requiring that the applicant's
 120 fingerprints be taken by a law enforcement officer or
 121 approved provider; requiring the department to submit
 122 the applicant's fingerprints to the Department of Law
 123 Enforcement for a criminal history background check;
 124 requiring the Department of Law Enforcement to report
 125 findings of the criminal history background check to
 126 the department within a specified period; requiring
 127 that a solicitor license be renewed annually or expire
 128 automatically upon nonrenewal; requiring that an
 129 applicant for a solicitor license pay certain
 130 licensing fees; providing that licensing fees be
 131 deposited into the General Inspection Trust Fund;
 132 requiring that an applicant for a solicitor license
 133 report changes in information submitted to the
 134 department in a specified manner along with a
 135 processing fee; specifying violations; requiring the
 136 department to adopt rules allowing certain persons to
 137 engage in solicitation activities without a solicitor
 138 license for a specified period; authorizing the
 139 department to deny or revoke a solicitor license under
 140 specified circumstances; amending ss. 496.411 and
 141 496.412, F.S.; expanding and revising required
 142 solicitation disclosures of charitable organizations,
 143 sponsors, and professional solicitors; requiring that
 144 certain exempt charitable organizations or sponsors
 145 also provide such solicitation disclosures; requiring

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146 that such solicitation disclosures be placed online
 147 under certain circumstances; creating s. 496.4121,
 148 F.S.; defining the term "collection receptacle";
 149 requiring that collection receptacles display
 150 permanent signs or labels; specifying requirements for
 151 the physical appearance of such labels or signs and
 152 information displayed thereon; requiring that a
 153 charitable organization or sponsor using a collection
 154 receptacle provide certain information to a donor upon
 155 request; amending s. 496.415, F.S.; providing that the
 156 submission of false, misleading, or inaccurate
 157 information in a document connected with a
 158 solicitation or sales promotion is unlawful; providing
 159 that the failure to remit specified funds to a
 160 charitable organization or sponsor is unlawful;
 161 amending s. 496.419, F.S.; increasing administrative
 162 fines for violations of the Solicitation of
 163 Contributions Act; creating s. 496.4191, F.S.;
 164 requiring the department to immediately suspend a
 165 registration or processing of an application for
 166 registration for a specified period if the registrant,
 167 applicant, or any officer or director thereof is
 168 criminally charged with certain offenses; creating s.
 169 496.430, F.S.; authorizing the department to
 170 disqualify a charitable organization or sponsor from
 171 receiving a sales tax exemption under specified
 172 circumstances; providing that a charitable
 173 organization or sponsor may appeal a disqualification
 174 order; specifying appeal procedure; providing

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175 exceptions; providing that a disqualification order
 176 remains effective for a specified period; specifying
 177 the procedure to lift a disqualification order;
 178 requiring the department to provide a final
 179 disqualification order to the Department of Revenue
 180 within a specified period; providing that a final
 181 disqualification order is conclusive as to a
 182 charitable organization or sponsor's right to a sales
 183 tax exemption; requiring the Department of Revenue to
 184 revoke or deny a sales tax exemption to a charitable
 185 organization or sponsor subject to a final
 186 disqualification order within a specified period;
 187 providing for a limited appeal of the revocation or
 188 denial of the sales tax exemption; providing
 189 applicability; amending s. 741.0305, F.S.; conforming
 190 a cross-reference; making an appropriation; providing
 191 an effective date.

192
 193 Be It Enacted by the Legislature of the State of Florida:

194
 195 Section 1. Paragraph (p) of subsection (7) of section
 196 212.08, Florida Statutes, is amended to read:

197 212.08 Sales, rental, use, consumption, distribution, and
 198 storage tax; specified exemptions.—The sale at retail, the
 199 rental, the use, the consumption, the distribution, and the
 200 storage to be used or consumed in this state of the following
 201 are hereby specifically exempt from the tax imposed by this
 202 chapter.

203 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any

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204 entity by this chapter do not inure to any transaction that is
 205 otherwise taxable under this chapter when payment is made by a
 206 representative or employee of the entity by any means,
 207 including, but not limited to, cash, check, or credit card, even
 208 when that representative or employee is subsequently reimbursed
 209 by the entity. In addition, exemptions provided to any entity by
 210 this subsection do not inure to any transaction that is
 211 otherwise taxable under this chapter unless the entity has
 212 obtained a sales tax exemption certificate from the department
 213 or the entity obtains or provides other documentation as
 214 required by the department. Eligible purchases or leases made
 215 with such a certificate must be in strict compliance with this
 216 subsection and departmental rules, and any person who makes an
 217 exempt purchase with a certificate that is not in strict
 218 compliance with this subsection and the rules is liable for and
 219 shall pay the tax. The department may adopt rules to administer
 220 this subsection.

221 (p) *Section 501(c)(3) organizations.*—Also exempt from the
 222 tax imposed by this chapter are sales or leases to organizations
 223 determined by the Internal Revenue Service to be currently
 224 exempt from federal income tax pursuant to s. 501(c)(3) of the
 225 Internal Revenue Code of 1986, as amended, ~~if when~~ such leases
 226 or purchases are used in carrying on their customary nonprofit
 227 activities, unless such organizations are subject to a final
 228 disqualification order issued by the Department of Agriculture
 229 and Consumer Services pursuant to s. 496.430.

230 Section 2. Subsection (3) of section 212.084, Florida
 231 Statutes, is amended, and subsection (7) is added to that
 232 section, to read:

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233 212.084 Review of exemption certificates; reissuance;
 234 specified expiration date; temporary exemption certificates.—
 235 (3) After review is completed and it has been determined
 236 that an institution, organization, or individual is actively
 237 engaged in a bona fide exempt endeavor and is not subject to a
 238 final disqualification order issued by the Department of
 239 Agriculture and Consumer Services pursuant to s. 496.430, the
 240 department shall reissue an exemption certificate to the entity.
 241 However, each certificate so reissued is valid for 5 consecutive
 242 years, at which time the review and reissuance procedure
 243 provided by this section apply again. If the department
 244 determines that an entity no longer qualifies for an exemption,
 245 it shall revoke the tax exemption certificate of the entity.
 246 (7) The department shall revoke or refuse to grant a sales
 247 tax exemption certificate to an institution, organization, or
 248 individual that is the subject of a final disqualification order
 249 issued by the Department of Agriculture and Consumer Services
 250 pursuant to s. 496.430. A revocation or denial under this
 251 subsection is subject to challenge under chapter 120 only as to
 252 whether a disqualification order is in effect. The institution,
 253 organization, or individual must appeal or challenge the
 254 validity of the disqualification order pursuant to s.
 255 496.430(2).
 256 Section 3. Section 496.404, Florida Statutes, is amended to
 257 read:
 258 496.404 Definitions.—As used in ss. 496.401-496.424, the
 259 term:
 260 (1) "Charitable organization" means a any person who is or
 261 holds herself or himself out to be established for any

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262 benevolent, educational, philanthropic, humane, scientific,
 263 artistic, patriotic, social welfare or advocacy, public health,
 264 environmental conservation, civic, or other eleemosynary
 265 purpose, or a any person who in any manner employs a charitable
 266 appeal as the basis for any solicitation or an appeal that
 267 suggests that there is a charitable purpose to any solicitation.
 268 The term ~~It~~ includes a chapter, branch, area office, or similar
 269 affiliate soliciting contributions within the state for a
 270 charitable organization that ~~which~~ has its principal place of
 271 business outside the state.
 272 (2) "Charitable purpose" means any benevolent,
 273 philanthropic, patriotic, educational, humane, scientific,
 274 artistic, public health, social welfare or advocacy,
 275 environmental conservation, civic, or other eleemosynary
 276 objective.
 277 (3) "Charitable sales promotion" means an advertising or
 278 sales campaign conducted by a commercial co-venturer which
 279 represents that the purchase or use of goods or services offered
 280 by the commercial co-venturer ~~are to~~ benefit a charitable
 281 organization. The provision of advertising services to a
 282 charitable organization does not, in itself, constitute a
 283 charitable sales promotion.
 284 (4) "Commercial co-venturer" means a any person who, for
 285 profit, regularly and primarily is engaged in trade or commerce
 286 other than in connection with solicitation of contributions and
 287 who conducts a charitable sales promotion or a sponsor sales
 288 promotion.
 289 (5) "Contribution" means the promise, pledge, or grant of
 290 any money or property, financial assistance, or any other thing

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291 of value in response to a solicitation. The term "Contribution"
 292 includes, in the case of a charitable organization or sponsor
 293 offering goods and services to the public, the difference
 294 between the direct cost of the goods and services to the
 295 charitable organization or sponsor and the price at which the
 296 charitable organization or sponsor or any person acting on
 297 behalf of the charitable organization or sponsor resells those
 298 goods or services to the public. The term "Contribution" does
 299 not include bona fide fees, dues, or assessments paid by
 300 members, if provided that membership is not conferred solely as
 301 consideration for making a contribution in response to a
 302 solicitation; ~~"Contribution" also does not include funds~~
 303 obtained by a charitable organization or sponsor pursuant to
 304 government grants or contracts; funds, or obtained as an
 305 allocation from a United Way organization that is duly
 306 registered with the department; or funds received from an
 307 organization that is exempt from federal income taxation under
 308 s. 501(a) of the Internal Revenue Code and described in s.
 309 501(c) of the Internal Revenue Code which that is duly
 310 registered with the department.

311 (6) "Crisis" means an event that garners widespread
 312 national or global media coverage due to an actual or perceived
 313 threat of harm to an individual, a group, or a community.

314 (7)(6) "Department" means the Department of Agriculture and
 315 Consumer Services.

316 (8) "Disaster" means a natural, technological, or civil
 317 event, including, but not limited to, an explosion, chemical
 318 spill, earthquake, tsunami, landslide, volcanic activity,
 319 avalanche, wildfire, tornado, hurricane, drought, or flood,

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320 which affects one or more countries and causes damage of
 321 sufficient severity and magnitude to result in:
 322 (a) An official declaration of a state of emergency; or
 323 (b) An official request for international assistance.
 324 (9)(7) "Division" means the Division of Consumer Services
 325 of the Department of Agriculture and Consumer Services.
 326 (10)(8) "Educational institutions" means those institutions
 327 and organizations described in s. 212.08(7)(cc)8.a. The term
 328 includes private nonprofit organizations, the purpose of which
 329 is to raise funds for schools teaching grades kindergarten
 330 through grade 12, colleges, and universities, including any
 331 nonprofit newspaper of free or paid circulation primarily on
 332 university or college campuses which holds a current exemption
 333 from federal income tax under s. 501(c)(3) of the Internal
 334 Revenue Code, any educational television network or system
 335 established pursuant to s. 1001.25 or s. 1001.26, and any
 336 nonprofit television or radio station that is a part of such
 337 network or system and that holds a current exemption from
 338 federal income tax under s. 501(c)(3) of the Internal Revenue
 339 Code. The term also includes a nonprofit educational cable
 340 consortium that holds a current exemption from federal income
 341 tax under s. 501(c)(3) of the Internal Revenue Code, whose
 342 primary purpose is the delivery of educational and instructional
 343 cable television programming and whose members are composed
 344 exclusively of educational organizations that hold a valid
 345 consumer certificate of exemption and that are either an
 346 educational institution as defined in this subsection or
 347 qualified as a nonprofit organization pursuant to s. 501(c)(3)
 348 of the Internal Revenue Code.

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349 ~~(11)(9)~~ "Emergency service employee" means an ~~any~~ employee
350 who is a firefighter, as defined in s. 633.102, or ambulance
351 driver, emergency medical technician, or paramedic, as defined
352 in s. 401.23.

353 ~~(12)(10)~~ "Federated fundraising organization" means a
354 federation of independent charitable organizations ~~that which~~
355 have voluntarily joined together, including, but not limited to,
356 a united way or community chest, for purposes of raising and
357 distributing contributions for and among themselves and where
358 membership does not confer operating authority and control of
359 the individual organization upon the federated group
360 organization.

361 ~~(13)(11)~~ "Fundraising costs" means those costs incurred in
362 inducing others to make contributions to a charitable
363 organization or sponsor for which the contributors will receive
364 no direct economic benefit. Fundraising costs include, but are
365 not limited to, salaries, rent, acquiring and obtaining mailing
366 lists, printing, mailing, and all direct and indirect costs of
367 soliciting, as well as the cost of unsolicited merchandise sent
368 to encourage contributions.

369 ~~(14)(12)~~ "Law enforcement officer" means a ~~any~~ person who
370 is elected, appointed, or employed by any municipality or the
371 state or any political subdivision thereof and:

372 (a) Who is vested with authority to bear arms and make
373 arrests and whose primary responsibility is the prevention and
374 detection of crime or the enforcement of the criminal, traffic,
375 or highway laws of the state; or

376 (b) Whose responsibility includes supervision, protection,
377 care, custody, or control of inmates within a correctional

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378 institution.

379 ~~(15)~~ "Management and general costs" means all such costs of
380 a charitable organization or sponsor which are not identifiable
381 with a single program or fundraising activity but which are
382 indispensable to the conduct of such programs and activities and
383 the charitable organization's or sponsor's existence. The term
384 includes, but is not limited to, expenses for:

385 (a) The overall direction of the organization.

386 (b) Business management.

387 (c) General recordkeeping.

388 (d) Budgeting.

389 (e) Financial reporting and related expenses.

390 (f) Salaries.

391 (g) Rent.

392 (h) Supplies.

393 (i) Equipment.

394 (j) General overhead.

395 ~~(16)(13)~~ "Membership" means the relationship of a person to
396 an organization which ~~that~~ entitles her or him to the
397 privileges, professional standing, honors, or other direct
398 benefit of the organization in addition to the right to vote,
399 elect officers, and hold office in the organization.

400 ~~(17)(14)~~ "Owner" means a ~~any~~ person who has a direct or
401 indirect interest in any professional fundraising consultant or
402 professional solicitor.

403 ~~(18)(15)~~ "Parent organization" means that part of a
404 charitable organization or sponsor which coordinates,
405 supervises, or exercises control over policy, fundraising, and
406 expenditures or assists or advises one or more of the

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407 organization's chapters, branches, or affiliates in this state.

408 (19)~~(16)~~ "Person" means an ~~any~~ individual, organization,
409 trust, foundation, group, association, entity, partnership,
410 corporation, society, or any combination ~~thereof~~ ~~of them~~.

411 (20)~~(17)~~ "Professional fundraising consultant" means a ~~any~~
412 person who is retained by a charitable organization or sponsor
413 for a fixed fee or rate under a written agreement to plan,
414 manage, conduct, carry on, advise, consult, or prepare material
415 for a solicitation of contributions in this state, but who does
416 not solicit contributions or employ, procure, or engage any
417 compensated person to solicit contributions and who does not at
418 any time have custody or control of contributions. A bona fide
419 volunteer or bona fide employee or salaried officer of a
420 charitable organization or sponsor maintaining a permanent
421 establishment in this state is not a professional fundraising
422 consultant. An attorney, investment counselor, or banker who
423 advises an individual, corporation, or association to make a
424 charitable contribution is not a professional fundraising
425 consultant as the result of such advice.

426 (21)~~(18)~~ "Professional solicitor" means a ~~any~~ person who,
427 for compensation, performs for a charitable organization or
428 sponsor any service in connection with which contributions are
429 or will be solicited in this state by the compensated person or
430 by any person it employs, procures, or otherwise engages,
431 directly or indirectly, to solicit contributions, or a person
432 who plans, conducts, manages, carries on, advises, consults,
433 ~~whether~~ directly or indirectly, in connection with the
434 solicitation of contributions for or on behalf of a charitable
435 organization or sponsor, but who does not qualify as a

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436 professional fundraising consultant. A bona fide volunteer or
437 bona fide employee or salaried officer of a charitable
438 organization or sponsor maintaining a permanent establishment in
439 this state is not a professional solicitor. An attorney,
440 investment counselor, or banker who advises an individual,
441 corporation, or association to make a charitable contribution is
442 not a professional solicitor as the result of such advice.

443 (22) "Program service costs" means all expenses incurred
444 primarily to accomplish the charitable organization or sponsor's
445 stated purposes. The term does not include fundraising costs.

446 (23)~~(19)~~ "Religious institution" means any church,
447 ecclesiastical or denominational organization, or established
448 physical place for worship in this state at which nonprofit
449 religious services and activities are regularly conducted and
450 carried on, and includes those bona fide religious groups which
451 do not maintain specific places of worship. The term "Religious
452 institution" also includes any separate group or corporation
453 that which forms an integral part of a religious institution
454 that which is exempt from federal income tax under the
455 provisions of s. 501(c)(3) of the Internal Revenue Code, that is
456 or qualifies as being exempt from filing an annual tax return
457 under the provisions of 26 U.S.C. s. 6033, and that which is not
458 primarily supported by funds solicited outside its own
459 membership or congregation.

460 (24)~~(20)~~ "Solicitation" means a request, directly or
461 indirectly, for money, property, financial assistance, or any
462 other thing of value on the plea or representation that such
463 money, property, financial assistance, or other thing of value
464 or a portion of it will be used for a charitable or sponsor

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465 purpose or will benefit a charitable organization or sponsor.
 466 The term "Solicitation" includes, but is not limited to, the
 467 following methods of requesting or securing the promise, pledge,
 468 or grant of money, property, financial assistance, or any other
 469 thing of value:

470 (a) Making any oral or written request;

471 (b) Making any announcement to the press, on radio or
 472 television, by telephone or telegraph, or by any other
 473 communication device concerning an appeal or campaign by or for
 474 any charitable organization or sponsor or for any charitable or
 475 sponsor purpose;

476 (c) Distributing, circulating, posting, or publishing any
 477 handbill, written advertisement, or other publication that
 478 directly or by implication seeks to obtain any contribution; or

479 (d) Selling or offering or attempting to sell any
 480 advertisement, advertising space, book, card, coupon, chance,
 481 device, magazine, membership, merchandise, subscription,
 482 sponsorship, flower, admission, ticket, food, or other service
 483 or tangible good, item, or thing of value, or any right of any
 484 description in connection with which any appeal is made for any
 485 charitable organization or sponsor or charitable or sponsor
 486 purpose, or when the name of any charitable organization or
 487 sponsor is used or referred to in any such appeal as an
 488 inducement or reason for making the sale or when, in connection
 489 with the sale or offer or attempt to sell, any statement is made
 490 that all or part of the proceeds from the sale will be used for
 491 any charitable or sponsor purpose or will benefit any charitable
 492 organization or sponsor.

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494 A solicitation is considered as having taken place whether or
 495 not the person making the solicitation receives any
 496 contribution. A solicitation does not occur when a person
 497 applies for a grant or an award to the government or to an
 498 organization that is exempt from federal income taxation under
 499 s. 501(a) of the Internal Revenue Code and described in s.
 500 501(c) of the Internal Revenue Code and is duly registered with
 501 the department.

502 (25)-(21) "Sponsor" means a group or person that ~~which~~ is or
 503 holds itself out to be soliciting contributions by the use of
 504 any name that ~~which~~ implies that the group or person is in any
 505 way affiliated with or organized for the benefit of emergency
 506 service employees or law enforcement officers and the group or
 507 person ~~which~~ is not a charitable organization. The term includes
 508 a chapter, branch, or affiliate that ~~which~~ has its principal
 509 place of business outside the state, if such chapter, branch, or
 510 affiliate solicits or holds itself out to be soliciting
 511 contributions in this state.

512 (26)-(22) "Sponsor purpose" means any program or endeavor
 513 performed to benefit emergency service employees or law
 514 enforcement officers.

515 (27)-(23) "Sponsor sales promotion" means an advertising or
 516 sales campaign conducted by a commercial co-venturer who
 517 represents that the purchase or use of goods or services offered
 518 by the commercial co-venturer will be used for a sponsor purpose
 519 or donated to a sponsor. The provision of advertising services
 520 to a sponsor does not, in itself, constitute a sponsor sales
 521 promotion.

522 Section 4. Subsection (1), paragraphs (a) and (g) of

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523 subsection (2), subsection (3), paragraph (b) of subsection (4),
 524 and subsections (7) and (8) of section 496.405, Florida
 525 Statutes, are amended, and subsections (9) and (10) are added to
 526 that section, to read:

527 496.405 Registration statements by charitable organizations
 528 and sponsors.—

529 (1)~~(a)~~ A charitable organization or sponsor, unless
 530 exempted pursuant to s. 496.406, which intends to solicit
 531 contributions in this state by any means or have funds solicited
 532 on its behalf by any other person, charitable organization,
 533 sponsor, commercial co-venturer, or professional solicitor, or
 534 that participates in a charitable sales promotion or sponsor
 535 sales promotion, must, ~~before prior to~~ engaging in any of these
 536 activities, file an initial registration statement, and a
 537 renewal statement annually thereafter, with the department.

538 ~~(a)(b)~~ Except as provided in paragraph (b), any changes in
 539 the information submitted on the initial registration statement
 540 or the last renewal statement must be updated annually on a
 541 renewal statement provided by the department on or before the
 542 date that marks 1 year after the date the department approved
 543 the initial registration statement as provided in this section.
 544 The department shall annually provide a renewal statement to
 545 each registrant by mail or by electronic mail at least 30 days
 546 before the renewal date.

547 (b) Any changes to the information submitted to the
 548 department pursuant to paragraph (2) (d) on the initial
 549 registration statement or the last renewal statement must be
 550 reported to the department on a form prescribed by the
 551 department within 10 days after the change occurs.

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552 (c) A charitable organization or sponsor that is required
 553 to file an initial registration statement or annual renewal
 554 statement may not, ~~before prior to~~ approval of its statement by
 555 the department in accordance with subsection (7), solicit
 556 contributions or have contributions solicited on its behalf by
 557 any other person, charitable organization, sponsor, commercial
 558 co-venturer, or professional solicitor, or participate in a
 559 charitable sales promotion or sponsor sales promotion.

560 ~~(d) For good cause shown, the department may extend the~~
 561 ~~time for the filing of an annual renewal statement or financial~~
 562 ~~report for a period not to exceed 60 days, during which time the~~
 563 ~~previous registration remains in effect.~~

564 ~~(d)(e) In no event shall~~ The registration of a charitable
 565 organization or sponsor may not continue in effect and shall
 566 expire without further action of the department:

567 1. After the date the charitable organization or sponsor
 568 should have filed, but failed to file, its renewal statement
 569 ~~financial report~~ in accordance with this section.

570 2. For failure to provide a financial statement within any
 571 extension period provided under and s. 496.407. The organization
 572 ~~may not file a renewal statement until it has filed the required~~
 573 ~~financial report with the department.~~

574 (2) The initial registration statement must be submitted on
 575 a form prescribed by the department, signed by an authorized
 576 official of the charitable organization or sponsor who shall
 577 certify that the registration statement is true and correct, and
 578 include the following information or material:

579 (a) A copy of the financial statement ~~report~~ or Internal
 580 Revenue Service Form 990 and all attached schedules or Internal

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581 Revenue Service Form 990-EZ and Schedule O required under s.
582 496.407 for the immediately preceding fiscal year. A newly
583 organized charitable organization or sponsor with no financial
584 history must file a budget for the current fiscal year.

585 (g) The following information must be filed with the
586 initial registration statement and must be updated when any
587 change occurs in the information that was previously filed with
588 the initial registration statement:

589 1. The principal street address and telephone number of the
590 charitable organization or sponsor and the street address and
591 telephone numbers of any offices in this state or, if the
592 charitable organization or sponsor does not maintain an office
593 in this state, the name, street address, and telephone number of
594 the person who that has custody of its financial records. The
595 parent organization that files a consolidated registration
596 statement on behalf of its chapters, branches, or affiliates
597 must additionally provide the street addresses and telephone
598 numbers of all such locations in this state.

599 2. The names and street addresses of the officers,
600 directors, trustees, and the principal salaried executive
601 personnel.

602 3. The date when the charitable organization's or sponsor's
603 fiscal year ends.

604 4. A list or description of the major program activities.

605 5. The names, street addresses, and telephone numbers of
606 the individuals or officers who have final responsibility for
607 the custody of the contributions and who will be responsible for
608 the final distribution of the contributions.

609 (3) Each chapter, branch, or affiliate of a parent

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610 organization that is required to register under this section
611 must ~~either~~ file a separate registration statement and financial
612 statement report or ~~must~~ report the required information to its
613 parent organization, which shall then file, on a form prescribed
614 by the department, a consolidated registration statement for the
615 parent organization and its Florida chapters, branches, and
616 affiliates. A consolidated registration statement filed by a
617 parent organization must include or be accompanied by financial
618 statements reports as specified in s. 496.407 for the parent
619 organization and each of its Florida chapters, branches, and
620 affiliates that solicited or received contributions during the
621 preceding fiscal year. However, if all contributions received by
622 chapters, branches, or affiliates are remitted directly into a
623 depository account that which feeds directly into the parent
624 organization's centralized accounting system from which all
625 disbursements are made, the parent organization may submit one
626 consolidated financial statement report on a form prescribed by
627 the department. The consolidated financial statement must
628 reflect the activities of each chapter, branch, or affiliate of
629 the parent organization, including all contributions received in
630 the name of each chapter, branch, or affiliate; all payments
631 made to each chapter, branch, or affiliate; and all
632 administrative fees assessed to each chapter, branch, or
633 affiliate.

634 (4)

635 (b) A charitable organization or sponsor that which fails
636 to file a registration statement by the due date may be assessed
637 an additional fee for such late filing. The late filing fee is
638 ~~shall be~~ \$25 for each month or part of a month after the date on

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639 which the annual renewal statement was ~~and financial report were~~
640 due to be filed with the department.

641 (7) (a) The department must examine each initial
642 registration statement or annual renewal statement and the
643 supporting documents filed by a charitable organization or
644 sponsor and shall determine whether the registration
645 requirements are satisfied. Within 15 business working days
646 after its receipt of a statement, the department must examine
647 the statement, notify the applicant of any apparent errors or
648 omissions, and request any additional information the department
649 is allowed by law to require. Failure to correct an error or
650 omission or to supply additional information is not grounds for
651 denial of the initial registration or annual renewal statement
652 unless the department has notified the applicant within such
653 period of 15 business days ~~the 15-working-day period~~. The
654 department must approve or deny each statement, or must notify
655 the applicant that the activity for which she or he seeks
656 registration is exempt from the registration requirement, within
657 15 business working days after receipt of the initial
658 registration or annual renewal statement or the requested
659 additional information or correction of errors or omissions. Any
660 statement that is not approved or denied within 15 business
661 working days after receipt of the requested additional
662 information or correction of errors or omissions is approved.
663 Within 7 business working days after receipt of a notification
664 that the registration requirements are not satisfied, the
665 charitable organization or sponsor may request a hearing. The
666 hearing must be held within 7 business working days after
667 receipt of the request, and any recommended order, if one is

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668 issued, must be rendered within 3 business working days of the
669 hearing. The final order must then be issued within 2 business
670 working days after the recommended order. If a recommended order
671 is not issued, the final order must be issued within 5 business
672 working days after the hearing. The proceedings must be
673 conducted in accordance with chapter 120, except that the time
674 limits and provisions set forth in this subsection prevail to
675 the extent of any conflict.

676 (b) If a charitable organization or sponsor discloses
677 information specified in subparagraphs (2) (d) 2.-7. in the
678 initial registration statement or annual renewal statement, the
679 time limits of this subsection are waived, and the department
680 shall process such initial registration statement or annual
681 renewal statement in accordance with the time limits in chapter
682 120. The registration of a charitable organization or sponsor
683 shall be automatically suspended for failure to disclose any
684 information specified in subparagraphs (2) (d) 2.-7. until such
685 time as the required information is submitted to the department.

686 (8) A ~~No~~ charitable organization or sponsor, or any
687 officer, director, trustee, or employee thereof, may not ~~shall~~
688 knowingly allow any officer, director, trustee, or employee of
689 the charitable organization or sponsor of its officers,
690 directors, trustees, or employees to solicit contributions on
691 behalf of such charitable organization or sponsor if such
692 officer, director, trustee, or employee has, in any state,
693 regardless of adjudication, been convicted of, or found guilty
694 of, or pled guilty or nolo contendere to, or has been
695 incarcerated within the last 10 years as a result of having
696 previously been convicted of, or found guilty of, or pled guilty

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697 or nolo contendere to, any felony within the last 10 years or
 698 any crime within the last 10 years involving fraud, theft,
 699 larceny, embezzlement, fraudulent conversion, misappropriation
 700 of property, or any crime arising from the conduct of a
 701 solicitation for a charitable organization or sponsor, or has
 702 been enjoined, in any state, from violating any law relating to
 703 a charitable solicitation. The prohibitions in this subsection
 704 also apply to any misdemeanor in another state which constitutes
 705 a disqualifying felony in this state.

706 (9) The department may deny or revoke the registration of a
 707 charitable organization or sponsor if the charitable
 708 organization or sponsor, or any officer, director, or trustee
 709 thereof, has had the right to solicit contributions revoked in
 710 any state, has entered into an agreement with any state to cease
 711 soliciting contributions within that state, or has been ordered
 712 by any court or governmental agency to cease soliciting
 713 contributions within any state.

714 (10) A charitable organization or sponsor registered under
 715 this section which ends solicitation activities or participation
 716 in charitable sales promotions in this state shall immediately
 717 notify the department in writing of the date such activities
 718 ceased.

719 Section 5. Section 496.4055, Florida Statutes, is created
 720 to read:

721 496.4055 Charitable organization or sponsor board duties.-

722 (1) As used in this section, the term "conflict of interest
 723 transaction" means a transaction between a charitable
 724 organization or sponsor and another party in which a director,
 725 officer, or trustee of the charitable organization or sponsor

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726 has a direct or indirect interest. The term includes, but is not
 727 limited to, the sale, lease, or exchange of property to or from
 728 the charitable organization or sponsor; the lending of moneys to
 729 or borrowing of moneys from the charitable organization or
 730 sponsor; and the payment of compensation for services provided
 731 to or from the charitable organization or sponsor.

732 (2) The board of directors, or an authorized committee
 733 thereof, of a charitable organization or sponsor required to
 734 register with the department under this chapter shall adopt a
 735 policy regarding conflict of interest transactions.

736 Section 6. Section 496.407, Florida Statutes, is amended to
 737 read:

738 496.407 Financial statement report.-

739 (1) A charitable organization or sponsor that is required
 740 to initially register or annually renew registration must file
 741 an annual financial statement report for the immediately
 742 preceding fiscal year on ~~upon~~ a form prescribed by the
 743 department.

744 (a) The statement report must include the following:

745 1.~~(a)~~ A balance sheet.

746 2.~~(b)~~ A statement of support, revenue and expenses, and any
 747 change in the fund balance.

748 3.~~(c)~~ The names and addresses of the charitable
 749 organizations or sponsors, professional fundraising consultant,
 750 professional solicitors, and commercial co-venturers used, if
 751 any, and the amounts received from each of them, if any.

752 4.~~(d)~~ A statement of functional expenses that must include,
 753 but not be limited to, expenses in the following categories:

754 a.1- Program service costs.

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755 ~~b.2-~~ Management and general costs.

756 ~~c.3-~~ Fundraising costs.

757 (b) The financial statement must be audited or reviewed as

758 follows:

759 1. For a charitable organization or sponsor that receives

760 less than \$500,000 in annual contributions, a compilation,

761 audit, or review of the financial statement is optional.

762 2. For a charitable organization or sponsor that receives

763 at least \$500,000 but less than \$1 million in annual

764 contributions, the financial statement shall be reviewed or

765 audited by an independent certified public accountant.

766 3. For a charitable organization or sponsor that receives

767 \$1 million or more in annual contributions, the financial

768 statement shall be audited by an independent certified public

769 accountant.

770 (c) Audits and reviews shall be performed in accordance

771 with the following standards:

772 1. Audits shall be performed in accordance with generally

773 accepted auditing standards, including the Statements on

774 Auditing Standards of the American Institute of Certified Public

775 Accountants.

776 2. Reviews shall be performed in accordance with the

777 Statements on Standards for Accounting and Review Services of

778 the American Institute of Certified Public Accountants.

779 (d) Audited and reviewed financial statements must be

780 accompanied by a report signed and prepared by the independent

781 certified public accountant performing such audit or review.

782 (2) In lieu of the financial ~~statement~~ report described in

783 subsection (1), a charitable organization or sponsor ~~that~~

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784 receives less than \$500,000 in annual contributions may submit a

785 copy of its Internal Revenue Service Form 990 and all attached

786 schedules filed for the preceding fiscal year, or a copy of its

787 Internal Revenue Service Form 990-EZ and Schedule O filed for

788 the preceding fiscal year.

789 (3) Upon a showing of good cause, the department may:

790 (a) Extend the time for the filing of a financial statement

791 required under this section by up to 180 days, during which time

792 the previous registration shall remain active. The registration

793 shall be automatically suspended for failure to file the

794 financial statement within the extension period.

795 (b) Require that an audit or review be conducted for any

796 financial statement submitted by any charitable organization or

797 sponsor. A charitable organization or sponsor may elect to also

798 include a financial report that has been audited by an

799 independent certified public accountant or an audit with opinion

800 by an independent certified public accountant. In the event that

801 a charitable organization or sponsor elects to file an audited

802 financial report, this optional filing must be noted in the

803 department's annual report submitted pursuant to s. 496.423.

804 Section 7. Section 496.4071, Florida Statutes, is created

805 to read:

806 496.4071 Supplemental financial disclosure.—

807 (1) If, for the immediately preceding fiscal year, a

808 charitable organization or sponsor had more than \$1 million in

809 total revenue and spent less than 25 percent of the

810 organization's total annual functional expenses on program

811 service costs, in addition to any financial statement required

812 under s. 496.407, the charitable organization or sponsor shall

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813 file the following supplemental financial information on a form
 814 prescribed by the department:

815 (a) The dollar amount and the percentage of total revenue
 816 and charitable contributions allocated to funding each of the
 817 following administrative functions:

818 1. Total salaries of all persons employed by the charitable
 819 organization or sponsor.

820 2. Fundraising.

821 3. Travel expenses.

822 4. Overhead and other expenses related to managing and
 823 administering the charitable organization or sponsor.

824 (b) The name of and specific sum earned by or paid to all
 825 employees or consultants who earned or were paid more than
 826 \$100,000 during the immediately preceding fiscal year.

827 (c) The name of and specific sum paid to all service
 828 providers who were paid \$100,000 or more during the immediately
 829 preceding fiscal year and a brief description of the services
 830 provided.

831 (d) The dollar amount and percentage of total revenue and
 832 charitable contributions allocated to programs.

833 (e) The details of any economic or business transactions
 834 between the charitable organization or sponsor and an officer,
 835 trustee, or director of the charitable organization or sponsor;
 836 the immediate family of an officer, trustee, or director of the
 837 charitable organization or sponsor; any entity controlled by an
 838 officer, trustee, or director of the charitable organization or
 839 sponsor; any entity controlled by the immediate family of an
 840 officer, trustee, or director of the charitable organization or
 841 sponsor; any entity that employed or engaged for consultation an

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842 officer, trustee, or director of the charitable organization or
 843 sponsor; and any entity that employed or engaged for
 844 consultation the immediate family of an officer, trustee, or
 845 director of the charitable organization or sponsor. As used in
 846 this paragraph, the term "immediate family" means a parent,
 847 spouse, child, sibling, ancestor, descendant, brother-in-law,
 848 sister-in-law, son-in-law, daughter-in-law, mother-in-law, or
 849 father-in-law.

850 (2) The supplemental financial information required under
 851 subsection (1) must be filed with the department by the
 852 charitable organization or sponsor within 30 days after
 853 receiving a request for such information from the department.

854 Section 8. Section 496.4072, Florida Statutes, is created
 855 to read:

856 496.4072 Financial statements for specific disaster relief
 857 solicitations.—

858 (1) A charitable organization or sponsor that solicits
 859 contributions in this state for a charitable purpose related to
 860 a specific disaster or crisis and receives at least \$100,000 in
 861 contributions in response to such solicitation shall file
 862 quarterly disaster relief financial statements with the
 863 department on a form prescribed by the department. The quarterly
 864 statements must detail the contributions secured as a result of
 865 the solicitation and the manner in which such contributions were
 866 expended.

867 (2) The first quarterly statement shall be filed on the
 868 last day of the third month following the accrual of at least
 869 \$100,000 in contributions after the commencement of
 870 solicitations for the specific disaster or crisis. The

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871 charitable organization or sponsor shall continue to file
 872 quarterly statements with the department until the quarter after
 873 all contributions raised in response to the solicitation are
 874 expended.

875 Section 9. Subsections (4), (6), and (9) of section
 876 496.409, Florida Statutes, are amended, and subsection (10) is
 877 added to that section, to read:

878 496.409 Registration and duties of professional fundraising
 879 consultant.—

880 (4) A professional fundraising consultant may enter into a
 881 contract or agreement with a charitable organization or sponsor
 882 only if the charitable organization or sponsor has complied with
 883 all applicable provisions of this chapter. A ~~Every~~ contract or
 884 agreement between a professional fundraising consultant and a
 885 charitable organization or sponsor must be in writing, signed by
 886 two authorized officials of the charitable organization or
 887 sponsor, and filed by the professional fundraising consultant
 888 with the department at least 5 days ~~before~~ prior to the
 889 performance of any material service by the professional
 890 fundraising consultant. Solicitation under the contract or
 891 agreement may not begin before the filing of the contract or
 892 agreement.

893 (6) (a) The department shall examine each registration
 894 statement and all supporting documents filed by a professional
 895 fundraising consultant and determine whether the registration
 896 requirements are satisfied. If the department determines that
 897 the registration requirements are not satisfied, the department
 898 must notify the professional fundraising consultant within 15
 899 business ~~working~~ days after its receipt of the registration

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900 statement; otherwise the registration statement is approved.
 901 Within 7 business ~~working~~ days after receipt of a notification
 902 that the registration requirements are not satisfied, the
 903 applicant may request a hearing. The hearing must be held within
 904 7 business ~~working~~ days after receipt of the request, and any
 905 recommended order, if one is issued, must be rendered within 3
 906 business ~~working~~ days after the hearing. The final order must
 907 then be issued within 2 business ~~working~~ days after the
 908 recommended order. If there is no recommended order, the final
 909 order must be issued within 5 business ~~working~~ days after the
 910 hearing. The proceedings must be conducted in accordance with
 911 chapter 120, except that the time limits and provisions ~~set~~
 912 ~~forth~~ in this subsection prevail to the extent of any conflict.

913 (b) If a professional fundraising consultant discloses
 914 information specified in paragraphs (2) (e)-(g) in the initial
 915 application for registration or renewal application, the
 916 processing time limits of this subsection are waived and the
 917 department shall process the initial application for
 918 registration or the renewal application in accordance with the
 919 time limits in chapter 120. The registration of a professional
 920 consultant shall be automatically suspended for failure to
 921 disclose any information specified in paragraphs (2) (e)-(g)
 922 until such time as the required information is submitted to the
 923 department.

924 (9) A ~~no~~ person may ~~not~~ act as a professional fundraising
 925 consultant, and a ~~no~~ professional fundraising consultant, or any
 926 officer, director, trustee, or employee thereof, may not ~~shall~~
 927 knowingly employ any officer, trustee, director, or employee, if
 928 such person has, in any state, regardless of adjudication, been

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929 convicted of, or found guilty of, or pled guilty or nolo
 930 contendere to, or has been incarcerated within the last 10 years
 931 as a result of having previously been convicted of, or found
 932 guilty of, or pled guilty or nolo contendere to, any crime
 933 within the last 10 years involving fraud, theft, larceny,
 934 embezzlement, fraudulent conversion, or misappropriation of
 935 property, or any crime arising from the conduct of a
 936 solicitation for a charitable organization or sponsor, or has
 937 been enjoined in any state from violating any law relating to a
 938 charitable solicitation.

939 (10) The department may deny or revoke the registration of
 940 a professional fundraising consultant if the professional
 941 fundraising consultant, or any of its officers, directors, or
 942 trustees, has had the right to solicit contributions revoked in
 943 any state, has entered into an agreement with any state to cease
 944 soliciting contributions within that state, or has been ordered
 945 by any court or governmental agency to cease soliciting
 946 contributions within any state.

947 Section 10. Present subsections (3), (5), (7), (14), and
 948 (15) of section 496.410, Florida Statutes, are amended,
 949 paragraphs (j), (k), and (l) are added to subsection (2) of that
 950 section, paragraphs (i) through (n) are added to subsection (6)
 951 of that section, and a new subsection (15) is added to that
 952 section, to read:

953 496.410 Registration and duties of professional
 954 solicitors.—

955 (2) Applications for registration or renewal of
 956 registration must be submitted on a form prescribed by rule of
 957 the department, signed by an authorized official of the

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958 professional solicitor who shall certify that the report is true
 959 and correct, and must include the following information:
 960 (j) A list of all telephone numbers the applicant will use
 961 to solicit contributions as well as the actual physical address
 962 associated with each telephone number and any fictitious names
 963 associated with such address.
 964 (k) A copy of any script, outline, or presentation used by
 965 the applicant to solicit contributions or, if such solicitation
 966 aids are not used, written confirmation thereof.
 967 (l) A copy of sales information or literature provided to a
 968 donor or potential donor by the applicant in connection with a
 969 solicitation.
 970 (3) The application for registration must be accompanied by
 971 a fee of \$300. ~~A professional solicitor that is a partnership or~~
 972 ~~corporation may register for and pay a single fee on behalf of~~
 973 ~~all of its partners, members, officers, directors, agents, and~~
 974 ~~employees. In that case, The names and street addresses of all~~
 975 ~~the officers, employees, and agents of the professional~~
 976 ~~solicitor and all other persons with whom the professional~~
 977 ~~solicitor has contracted to work under its direction, including~~
 978 ~~solicitors, must be listed in the application or furnished to~~
 979 ~~the department within 5 days after the date of employment or~~
 980 ~~contractual arrangement. Each registration is valid for 1 year~~
 981 ~~and. The registration may be renewed for an additional 1-year~~
 982 ~~period upon application to the department and payment of the~~
 983 ~~registration fee.~~
 984 (5) (a) The department must examine each registration
 985 statement and supporting documents filed by a professional
 986 solicitor. If the department determines that the registration

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987 requirements are not satisfied, the department must notify the
 988 professional solicitor within 15 ~~business working~~ days after its
 989 receipt of the registration statement; otherwise the
 990 registration statement is approved. Within 7 ~~business working~~
 991 days after receipt of a notification that the registration
 992 requirements are not satisfied, the applicant may request a
 993 hearing. The hearing must be held within 7 ~~business working~~ days
 994 after receipt of the request, and any recommended order, if one
 995 is issued, must be rendered within 3 ~~business working~~ days after
 996 the hearing. The final order must then be issued within 2
 997 ~~business working~~ days after the recommended order. If there is
 998 no recommended order, the final order must be issued within 5
 999 ~~business working~~ days after the hearing. The proceedings must be
 1000 conducted in accordance with chapter 120, except that the time
 1001 limits and provisions ~~set forth~~ in this subsection prevail to
 1002 the extent of any conflict.

1003 (b) If a professional solicitor makes a disclosure
 1004 specified in paragraphs (2)(f)-(h) in the initial application
 1005 for registration or the renewal application, the processing time
 1006 limits of this subsection are waived and the department shall
 1007 process the initial application for registration or renewal
 1008 application in accordance with the time limits in chapter 120.
 1009 The registration of a professional solicitor shall be
 1010 automatically suspended for failure to disclose any information
 1011 specified in paragraphs (2)(f)-(h) until such time as the
 1012 required information is submitted to the department.

1013 (6) No less than 15 days before commencing any solicitation
 1014 campaign or event, the professional solicitor must file with the
 1015 department a solicitation notice on a form prescribed by the

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1016 department. The notice must be signed and sworn to by the
 1017 contracting officer of the professional solicitor and must
 1018 include:

1019 (i) A statement of the guaranteed minimum percentage of the
 1020 gross receipts from contributions which will be remitted to the
 1021 charitable organization or sponsor, if any, or, if the
 1022 solicitation involves the sale of goods, services, or tickets to
 1023 a fundraising event, the percentage of the purchase price which
 1024 will be remitted to the charitable organization or sponsor, if
 1025 any.

1026 (j) The percentage of a contribution which may be deducted
 1027 as a charitable contribution under federal income tax laws.

1028 (k) A statement as to whether any owner, director, officer,
 1029 trustee, or employee of the professional solicitor is related as
 1030 a parent, spouse, child, sibling, ancestor, descendant, brother-
 1031 in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-
 1032 law, or father-in-law to:

1033 1. Another officer, director, owner, trustee, or employee
 1034 of the professional solicitor.

1035 2. Any officer, director, owner, trustee, or employee of a
 1036 charitable organization or sponsor under contract to the
 1037 professional solicitor.

1038 3. Any supplier or vendor providing goods or services to a
 1039 charitable organization or sponsor under contract to the
 1040 professional solicitor.

1041 (l) The beginning and ending dates of the solicitation
 1042 campaign.

1043 (m) A copy of any script, outline, or presentation used by
 1044 the professional solicitor to solicit contributions for the

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1045 solicitation campaign. If such aids are not used, written
 1046 confirmation thereof.

1047 (n) A copy of sales information or literature provided to a
 1048 donor or potential donor by the professional solicitor in
 1049 connection with the solicitation campaign.

1050 (7) A professional solicitor may enter into a contract or
 1051 agreement with a charitable organization or sponsor only if the
 1052 charitable organization or sponsor has complied with all
 1053 applicable provisions of this chapter. A ~~Each~~ contract or
 1054 agreement between a professional solicitor and a charitable
 1055 organization or sponsor for each solicitation campaign must be
 1056 in writing, signed by two authorized officials of the charitable
 1057 organization or sponsor, one of whom must be a member of the
 1058 organization's governing body and one of whom must be the
 1059 authorized contracting officer for the professional solicitor,
 1060 and contain all of the following provisions:

1061 (a) A statement of the charitable or sponsor purpose and
 1062 program for which the solicitation campaign is being conducted.

1063 (b) A statement of the respective obligations of the
 1064 professional solicitor and the charitable organization or
 1065 sponsor.

1066 (c) A statement of the guaranteed minimum percentage of the
 1067 gross receipts from contributions which will be remitted to the
 1068 charitable organization or sponsor, if any, or, if the
 1069 solicitation involves the sale of goods, services, or tickets to
 1070 a fundraising event, the percentage of the purchase price which
 1071 will be remitted to the charitable organization or sponsor, if
 1072 any. Any stated percentage shall exclude any amount which the
 1073 charitable organization or sponsor is to pay as fundraising

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1074 costs.

1075 (d) A statement of the percentage of the gross revenue
 1076 which the professional solicitor will be compensated. If the
 1077 compensation of the professional solicitor is not contingent
 1078 upon the number of contributions or the amount of revenue
 1079 received, his or her compensation shall be expressed as a
 1080 reasonable estimate of the percentage of the gross revenue, and
 1081 the contract must clearly disclose the assumptions upon which
 1082 the estimate is based. The stated assumptions must be based upon
 1083 all of the relevant facts known to the professional solicitor
 1084 regarding the solicitation to be conducted by the professional
 1085 solicitor.

1086 (e) The effective and termination dates of the contract.

1087 (14) A ~~no~~ person may not act as a professional solicitor,
 1088 and a ~~no~~ professional solicitor, or any officer, director,
 1089 trustee, or employee thereof, may not ~~shall~~, to solicit for
 1090 compensation, knowingly employ any officer, trustee, director,
 1091 employee, or any person with a controlling interest therein, who
 1092 has, in any state, regardless of adjudication, been convicted
 1093 of, or found guilty of, or pled guilty or nolo contendere to, or
 1094 has been incarcerated within the last 10 years as a result of
 1095 having previously been convicted of, or found guilty of, or pled
 1096 guilty or nolo contendere to, a felony within the last 10 years
 1097 involving fraud, theft, larceny, embezzlement, fraudulent
 1098 conversion, or misappropriation of property, or any crime
 1099 arising from the conduct of a solicitation for a charitable
 1100 organization or sponsor, or has been enjoined in any state from
 1101 violating any law relating to a charitable solicitation. The
 1102 prohibitions in this subsection also apply to any misdemeanor in

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1103 another state which constitutes a disqualifying felony in this
 1104 state.

1105 (15) The department may deny or revoke the registration of
 1106 a professional solicitor if the professional solicitor, or any
 1107 of its officers, directors, trustees, or agents, has had the
 1108 right to solicit contributions revoked in any state, has entered
 1109 into an agreement with any state to cease soliciting
 1110 contributions within that state, or has been ordered by any
 1111 court or governmental agency to cease soliciting contributions
 1112 within any state.

1113 (16)(15) All registration fees must be paid to the
 1114 department and deposited into the General Inspection Trust Fund.

1115 Section 11. Section 496.4101, Florida Statutes, is created
 1116 to read:

1117 496.4101 Licensure of professional solicitors and certain
 1118 employees thereof.-

1119 (1) Each officer, director, trustee, or owner of a
 1120 professional solicitor and any employee of a professional
 1121 solicitor conducting telephonic solicitations must, before
 1122 engaging in solicitation activities, obtain a solicitor license
 1123 from the department.

1124 (2) Persons required to obtain a solicitor license under
 1125 subsection (1) shall submit to the department, in such form as
 1126 the department prescribes, an application for a solicitor
 1127 license. The application must include the following information:

1128 (a) The true name, date of birth, unique identification
 1129 number of a driver license or other valid form of
 1130 identification, and home address of the applicant.

1131 (b) If the applicant, in any state, regardless of

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1132 adjudication, has previously been convicted of, or found guilty
 1133 of, or pled guilty or nolo contendere to, or has been
 1134 incarcerated within the last 10 years as a result of having
 1135 previously been convicted of, or found guilty of, or pled guilty
 1136 or nolo contendere to, any crime within the last 10 years
 1137 involving fraud, theft, larceny, embezzlement, fraudulent
 1138 conversion, or misappropriation of property, or any crime
 1139 arising from the conduct of a solicitation for a charitable
 1140 organization or sponsor, or has been enjoined, in any state,
 1141 from violating any law relating to a charitable solicitation.

1142 (c) If the applicant, in any state, is involved in pending
 1143 litigation or has had entered against her or him an injunction,
 1144 a temporary restraining order, or a final judgment or order,
 1145 including a stipulated judgment or order, an assurance of
 1146 voluntary compliance, cease and desist, or any similar document,
 1147 in any civil or administrative action involving fraud, theft,
 1148 larceny, embezzlement, fraudulent conversion, or
 1149 misappropriation of property, or has been enjoined from
 1150 violating any law relating to a charitable solicitation.

1151 (3) Each applicant shall submit a complete set of his or
 1152 her fingerprints with the initial application for a solicitor
 1153 license and a fee equal to the federal and state costs for
 1154 fingerprint processing.

1155 (a) The applicant's fingerprints must be taken by an
 1156 authorized law enforcement officer or fingerprinting service
 1157 provider approved by the Department of Law Enforcement.

1158 (b) The department shall forward the complete set of
 1159 fingerprints to the Department of Law Enforcement to be
 1160 processed for state and federal criminal justice information as

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1161 defined in s. 943.045. The Department of Law Enforcement shall
 1162 report the findings of the state and national criminal history
 1163 background check to the department within 30 days after the
 1164 fingerprints are submitted to the Department of Law Enforcement
 1165 for criminal justice information.

1166 (4) A solicitor license must be renewed annually by the
 1167 submission of a renewal application. A solicitor license that is
 1168 not renewed expires without further action by the department.

1169 (5) Each applicant for a solicitor license shall remit a
 1170 license fee of \$100 to the department at the time the initial
 1171 application is filed with the department and an annual renewal
 1172 fee of \$100 thereafter. All fees collected, less the cost of
 1173 administration, shall be deposited into the General Inspection
 1174 Trust Fund.

1175 (6) Any material change to the information submitted to the
 1176 department in the initial application or renewal application for
 1177 a solicitor license shall be reported to the department by the
 1178 applicant or licensee within 10 days after the change occurs.
 1179 The applicant or licensee shall also submit a fee in the amount
 1180 of \$10 for processing the change to the initial or renewal
 1181 application.

1182 (7) It is a violation of this chapter:

1183 (a) For an applicant to provide inaccurate or incomplete
 1184 information to the department in the initial or renewal
 1185 application for a solicitor license.

1186 (b) For any person specified in subsection (1) to fail to
 1187 maintain a solicitor license as required by this section.

1188 (c) For a professional solicitor to allow, require, permit,
 1189 or authorize an employee without an active solicitor license

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1190 issued under this section to conduct telephonic solicitations.

1191 (8) The department shall adopt rules that allow certain
 1192 applicants to engage in solicitation activities on an interim
 1193 basis until such time as a solicitor license is granted or
 1194 denied.

1195 (9) The department may deny or revoke any solicitor license
 1196 if the applicant or licensee has had the right to solicit
 1197 contributions revoked in any state, has entered into an
 1198 agreement with any state to cease soliciting contributions
 1199 within that state, has been ordered by any court or governmental
 1200 agency to cease soliciting contributions within any state, or is
 1201 subject to any disqualification specified in s. 496.410(14).

1202 Section 12. Subsections (2) and (3) of section 496.411,
 1203 Florida Statutes, are amended to read:

1204 496.411 Disclosure requirements and duties of charitable
 1205 organizations and sponsors.—

1206 (2) A charitable organization or sponsor soliciting in this
 1207 state must include all of the following disclosures at the point
 1208 of solicitation:

1209 (a) The name of the charitable organization or sponsor and
 1210 state of the principal place of business of the charitable
 1211 organization or sponsor;

1212 (b) A description of the purpose or purposes for which the
 1213 solicitation is being made;

1214 (c) Upon request, the name and either the address or
 1215 telephone number of a representative to whom inquiries could be
 1216 addressed;

1217 (d) Upon request, the amount of the contribution which may
 1218 be deducted as a charitable contribution under federal income

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1219 tax laws;

1220 (e) Upon request, the source from which a written financial
1221 statement may be obtained. Such financial statement must be for
1222 the immediate ~~preceding~~ past fiscal year and must be consistent
1223 with the annual financial ~~statement report~~ filed under s.
1224 496.407. The written financial statement must be provided within
1225 14 days after the request and must state the purpose for which
1226 funds are raised, the total amount of all contributions raised,
1227 the total costs and expenses incurred in raising contributions,
1228 the total amount of contributions dedicated to the stated
1229 purpose or disbursed for the stated purpose, and whether the
1230 services of another person or organization have been contracted
1231 to conduct solicitation activities.

1232 (3) Every charitable organization or sponsor ~~that which~~ is
1233 required to register under s. 496.405 or is exempt under s.
1234 496.406(2)(d) shall ~~must~~ conspicuously display ~~in capital~~
1235 ~~letters~~ the following statement on every ~~printed~~ solicitation,
1236 ~~written~~ confirmation, receipt, or reminder of a contribution:

1237
1238 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
1239 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1240 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1241 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1242 APPROVAL, OR RECOMMENDATION BY THE STATE."
1243

1244 The statement must include a toll-free number and website for
1245 the division ~~which that~~ can be used to obtain the registration
1246 information. If when the solicitation consists of more than one
1247 piece, the statement must be displayed prominently in the

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1248 solicitation materials. If the solicitation occurs through a
1249 website, the statement must be conspicuously displayed on the
1250 webpage where donations are requested.

1251 Section 13. Subsection (1) of section 496.412, Florida
1252 Statutes, is amended to read:

1253 496.412 Disclosure requirements and duties of professional
1254 solicitors.—

1255 (1) A professional solicitor must comply with and be
1256 responsible for complying or causing compliance with the
1257 following disclosures:

1258 (a) ~~Before~~ Prior to orally requesting a contribution, or
1259 contemporaneously with a written request for a contribution, a
1260 professional solicitor must clearly disclose:

1261 1. The name of the professional solicitor as on file with
1262 the department.

1263 2. If the individual acting on behalf of the professional
1264 solicitor identifies himself or herself by name, the
1265 individual's legal name.

1266 3. The name and state of the principal place of business of
1267 the charitable organization or sponsor and a description of how
1268 the contributions raised by the solicitation will be used for a
1269 charitable or sponsor purpose; or, if there is no charitable
1270 organization or sponsor, a description as to how the
1271 contributions raised by the solicitation will be used for a
1272 charitable or sponsor purpose.

1273 (b) In the case of a solicitation campaign conducted
1274 orally, whether by telephone or otherwise, any written
1275 confirmation, receipt, or reminder sent to any person who has
1276 contributed or has pledged to contribute, shall include a clear

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1277 disclosure of the information required by paragraph (a).

1278 (c) In addition to the information required by paragraph
1279 (a), any written confirmation, receipt, or reminder of
1280 contribution made pursuant to an oral solicitation and any
1281 ~~written~~ solicitation shall conspicuously state ~~in capital~~
1282 ~~letters~~:

1283
1284 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
1285 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1286 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1287 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1288 APPROVAL, OR RECOMMENDATION BY THE STATE."

1289
1290 The statement must include a toll-free number and website for
1291 the division ~~which that~~ can be used to obtain the registration
1292 information. If when the solicitation consists of more than one
1293 piece, the statement must be displayed prominently in the
1294 solicitation materials. If the solicitation occurs on a website,
1295 the statement must be conspicuously displayed on the webpage
1296 where donations are requested.

1297 (d) If requested by the person being solicited, the
1298 professional solicitor shall inform that person in writing,
1299 within 14 days after ~~of~~ the request, of the fixed percentage of
1300 the gross revenue or the reasonable estimate of the percentage
1301 of the gross revenue that the charitable organization or sponsor
1302 will receive as a benefit from the solicitation campaign or
1303 shall immediately notify the person being solicited that the
1304 information is available on the department's website or by
1305 calling the division's toll-free number.

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1306 (e) If requested by the person being solicited, the
1307 professional solicitor shall inform that person in writing,
1308 within 14 days after ~~of~~ the request, of the percentage of the
1309 contribution which may be deducted as a charitable contribution
1310 under federal income tax laws or shall immediately notify the
1311 person being solicited that the information is available on the
1312 department's website or by calling the division's toll-free
1313 number.

1314 Section 14. Section 496.4121, Florida Statutes, is created
1315 to read:

1316 496.4121 Collection receptacles used for donations.-

1317 (1) As used in this section, the term "collection
1318 receptacle" means a receptacle used to collect donated clothing,
1319 household items, or other goods for resale.

1320 (2) A collection receptacle must display a permanent sign
1321 or label on each side which contains the following information
1322 printed in letters that are at least 3 inches in height and no
1323 less than one-half inch in width, in a color that contrasts with
1324 the color of the collection receptacle:

1325 (a) For collection receptacles used by a person required to
1326 register under this chapter, the name, business address,
1327 telephone number, and registration number of the charitable
1328 organization or sponsor for whom the solicitation is made.

1329 (b) For collection receptacles placed or maintained in
1330 public view by a person not required to register under this
1331 chapter, the name, telephone number, and physical address of the
1332 business conducting the solicitation and the statement: "This is
1333 not a charity. Donations made here support a for-profit business
1334 and are not tax deductible."

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1335 (3) Upon request, a charitable organization or sponsor
 1336 using a collection receptacle must provide the donor with
 1337 documentation of its tax-exempt status and the registration
 1338 issued under this chapter.

1339 Section 15. Subsection (2) of section 496.415, Florida
 1340 Statutes, is amended, and subsection (18) is added to that
 1341 section, to read:

1342 496.415 Prohibited acts.—It is unlawful for any person in
 1343 connection with the planning, conduct, or execution of any
 1344 solicitation or charitable or sponsor sales promotion to:

1345 (2) ~~Knowingly~~ Submit false, misleading, or inaccurate
 1346 information in a document that is filed with the department,
 1347 provided to the public, or offered in response to a request or
 1348 investigation by the department, the Department of Legal
 1349 Affairs, or the state attorney.

1350 (18) Fail to remit to a charitable organization or sponsor
 1351 the disclosed guaranteed minimum percentage of gross receipts
 1352 from contributions as required under s. 496.410(7)(c) or, if the
 1353 solicitation involved the sale of goods, services, or tickets to
 1354 a fundraising event, the percentage of the purchase price as
 1355 agreed in the contract or agreement as required under this
 1356 chapter.

1357 Section 16. Subsection (5) of section 496.419, Florida
 1358 Statutes, is amended to read:

1359 496.419 Powers of the department.—

1360 (5) Upon a finding as set forth in subsection (4), the
 1361 department may enter an order doing one or more of the
 1362 following:

1363 (a) Issuing a notice of noncompliance pursuant to s.

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1364 120.695;

1365 (b) Issuing a cease and desist order that directs that the
 1366 person cease and desist specified fundraising activities;

1367 (c) Refusing to register or canceling or suspending a
 1368 registration;

1369 (d) Placing the registrant on probation for a period of
 1370 time, subject to such conditions as the department may specify;

1371 (e) Canceling an exemption granted under s. 496.406; ~~and~~

1372 (f) Except as provided in paragraph (g), imposing an
 1373 administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or
 1374 omission that which constitutes a violation of ss. 496.401-
 1375 496.424 or s. 496.426 or a rule or order. With respect to a s.
 1376 501(c)(3) organization, the penalty imposed pursuant to this
 1377 subsection may shall not exceed \$500 per violation for failure
 1378 to register under s. 496.405 or file for an exemption under s.
 1379 496.406(2). The penalty shall be the entire amount per violation
 1380 and is not ~~to be interpreted as~~ a daily penalty; and

1381 (g) Imposing an administrative fine not to exceed \$10,000
 1382 for a violation of this chapter that involves fraud or
 1383 deception.

1384 Section 17. Section 496.4191, Florida Statutes, is created
 1385 to read:

1386 496.4191 Additional penalty; immediate suspension.—Upon
 1387 notification and subsequent written verification by a law
 1388 enforcement agency, a court, a state attorney, or the Florida
 1389 Department of Law Enforcement, the department shall immediately
 1390 suspend a registration or the processing of an application for a
 1391 registration if the registrant, applicant, or any officer or
 1392 director of the registrant or applicant is formally charged with

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1393 a crime involving fraud, theft, larceny, embezzlement, or
 1394 fraudulent conversion or misappropriation of property or any
 1395 crime arising from the conduct of a solicitation for a
 1396 charitable organization or sponsor until final disposition of
 1397 the case or removal or resignation of that officer or director.

1398 Section 18. Section 496.430, Florida Statutes, is created
 1399 to read:

1400 496.430 Disqualification for certain tax exemptions.—

1401 (1) The department may issue an order to disqualify a
 1402 charitable organization or sponsor from receiving any sales tax
 1403 exemption if the department finds, based upon the average of
 1404 functional expenses and program service costs provided to the
 1405 department pursuant to s. 496.407 for the 3 most recent fiscal
 1406 years, that the charitable organization or sponsor has failed to
 1407 expend at least 25 percent of its total annual functional
 1408 expenses on program service costs.

1409 (2) A charitable organization or sponsor may appeal a
 1410 disqualification order by requesting a hearing within 21 days
 1411 after notification from the department that it has issued a
 1412 disqualification order under this section. The hearing must be
 1413 conducted in accordance with chapter 120.

1414 (3) Notwithstanding a finding under subsection (1) that a
 1415 charitable organization or sponsor has failed to expend at least
 1416 25 percent of its total annual functional expenses on program
 1417 service costs, the department may decline to issue a
 1418 disqualification order if the charitable organization or sponsor
 1419 establishes:

1420 (a) That payments were made to affiliates which should be
 1421 considered in calculating the program service costs;

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1422 (b) That revenue was accumulated for a specific program
 1423 purpose consistent with representations in solicitations; or
 1424 (c) Such other mitigating circumstances as are defined by
 1425 rule of the department.

1426 (4) A disqualification order issued by the department
 1427 pursuant to this section is effective for at least 1 year after
 1428 such order becomes final and shall remain effective until such
 1429 time as the department receives sufficient evidence from the
 1430 disqualified charitable organization or sponsor which
 1431 demonstrates it expends at least 25 percent of its total annual
 1432 functional expenses on program service costs.

1433 (a) The charitable organization or sponsor may not submit
 1434 such evidence to the department sooner than 1 year after the
 1435 disqualification order becomes final and may not submit such
 1436 information more than once each year for consideration by the
 1437 department.

1438 (b) The department shall also consider any financial
 1439 statement that was submitted by the charitable organization or
 1440 sponsor to the department pursuant to s. 496.407 after the
 1441 disqualification order became final.

1442 (5) The department shall provide a disqualification order
 1443 to the Department of Revenue within 30 days after such order
 1444 becomes final. A final disqualification order is conclusive as
 1445 to the charitable organization's or sponsor's entitlement to any
 1446 sales tax exemption. The Department of Revenue shall revoke or
 1447 refuse to grant a sales tax exemption certificate to a
 1448 charitable organization or sponsor subject to a final
 1449 disqualification order within 30 days after receiving such
 1450 disqualification order. A charitable organization or sponsor may

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1451 not appeal or challenge the revocation or denial of a sales tax
 1452 exemption certificate by the Department of Revenue if such
 1453 revocation or denial is based upon a final disqualification
 1454 order issued pursuant to this section.

1455 (6) This section does not apply to a charitable
 1456 organization or sponsor that:

1457 (a) Is not required to register under this chapter with the
 1458 department; or

1459 (b) Has been in existence for less than 4 years.

1460 Section 19. Paragraph (a) of subsection (3) of section
 1461 741.0305, Florida Statutes, is amended to read:

1462 741.0305 Marriage fee reduction for completion of
 1463 premarital preparation course.—

1464 (3) (a) All individuals electing to participate in a
 1465 premarital preparation course shall choose from the following
 1466 list of qualified instructors:

1467 1. A psychologist licensed under chapter 490.
 1468 2. A clinical social worker licensed under chapter 491.
 1469 3. A marriage and family therapist licensed under chapter
 1470 491.

1471 4. A mental health counselor licensed under chapter 491.

1472 5. An official representative of a religious institution
 1473 which is recognized under s. ~~496.404(23)~~ 496.404(19), if the
 1474 representative has relevant training.

1475 6. Any other provider designated by a judicial circuit,
 1476 including, but not limited to, school counselors who are
 1477 certified to offer such courses. Each judicial circuit may
 1478 establish a roster of area course providers, including those who
 1479 offer the course on a sliding fee scale or for free.

22-00188-14 2014638__

1480 Section 20. For the 2014-2015 fiscal year, the sum of
 1481 \$175,000 in nonrecurring funds is appropriated from the General
 1482 Inspection Trust Fund of the Department of Agriculture and
 1483 Consumer Services to the Contracted Services appropriation
 1484 category for the purpose of implementing this act. Funds
 1485 remaining unexpended or unencumbered from this appropriation as
 1486 of June 30, 2015, shall revert and be reappropriated for the
 1487 same purpose in the 2015-2016 fiscal year.

1488 Section 21. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

RECEIVED
JAN 23 2014
COMMERCE

To: Senator Nancy Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 23, 2014

I respectfully request that **Senate Bill #638**, relating to Charities, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes".

Senator Jeff Brandes
Florida Senate, District 22

②

✓

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 10, 2014

Meeting Date

Topic Charity Regulation

Bill Number 638
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Director of Legislative Affairs

Address PL 10 The Capitol

Phone 850 617 7700

Street

Tallahassee FL 32399

City

State

Zip

E-mail grace.lovette@freshfromflorida.com

Speaking: For Against Information

Representing Dept. of Agriculture & Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

① ✓

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 10, 2014
Meeting Date

Topic Charities Bill Bill Number 5638
Name Michael E Batts Amendment Barcode _____ (if applicable)
Job Title CPA - Managing Partner
Address Batts Morrison Hayes & Lee, PA Phone 407-716-8818
801 N Orange Ave., Ste 800 E-mail batts@nonprofitcpa.com
Orlando FL 32801
City State Zip

Speaking: For Against Information As drafted
Representing Nonprofit orgs generally - no specific principal
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/10/14

Meeting Date

Topic Religious Charities

Bill Number 638
(if applicable)

Name Sara Johnson

Amendment Barcode _____
(if applicable)

Job Title Legislative Assistant

Address 4853 S. Orange Ave

Phone 850-567-8143

Street

Orlando

FL

32806

City

State

Zip

E-mail saraj@flfamily.org

Speaking: For Against Information

Representing Florida Family Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____
Topic charities bill Bill Number SB 638
Name JIM MOYER Amendment Barcode _____ (if applicable)
Job Title COMMUNITY OUTREACH
Address TSA 1901 W BROWARD BLVD Phone 754 224 2972
Fort Lauderdale FL 33312 E-mail JIM.MOYER@USS.salvationarmy.org
City State Zip
Speaking: For Against Information
Representing The Salvation Army of Broward County Adult Rehab Center
Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic SB 638 - Charities Language

Bill Number _____
(if applicable)

Name Justin Thomas

Amendment Barcode _____
(if applicable)

Job Title Gov. Affairs Manager

Address 325 W. Collyer

Phone _____

Street

E-mail thomasj@ficpa.org

City

State

Zip

Speaking: For Against Information

Representing Florida Institute of CPA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic CHARITZES

Bill Number 638
(if applicable)

Name TED GRANGER

Amendment Barcode ?
(if applicable)

Job Title PRESIDENT

Address 307 E 7th AVE

Phone 850-488-8276

Street
TALLAHASSEE, FL 32303
City State Zip

E-mail TGRANGER@UWF.ORG

Speaking: For Against Information

Representing UNITED WAY OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



**DOING
THE MOST
GOOD™**

William Booth, Founder

André Cox, General

Commissioner David Jeffrey, Territorial Commander

Lt. Colonel Mark Bell, ARC Commander

Major Henry Hudson, Administrator

Major Debby Hudson, Director of Special Services

Proposed Amendments to SB 638 Section 14. Section 496.4121, Florida Statutes:

496.4121 Collection receptacles used for donations.-

(1) no change

(2) A collection receptacle owner must be issued a permit by the local municipality and meet all of the following criteria:

(a) if applicable, provide proof that they are a registered charity under this chapter

(b) provide proof of permission from the property owner allowing them to place the clothing receptacle on their property

(c) for the safety of the public, provide evidence of where on the property the receptacle will be placed

(d) provide proof that they are a federally designated public charity, a statement that employees of their organization are responsible for emptying the receptacle no less than once every two weeks, and more than 50% of the proceeds of the sale of the items placed in the receptacle shall be used for their charitable cause

(e) prominently display the locally issued clothing receptacle permit and disclose on the receptacle in letters at least 3 inches in height and no less than one-half inch in width their name, business address, and telephone number

(f) pay the municipal permit fee which may not exceed \$100 per receptacle per year

(g) the owner of any clothing receptacle found to be unlawfully placed without a municipal permit shall be subject to a \$10,000 fine in the first instance and up to a maximum of \$20,000 per violation thereafter

For more information please contact Jim Moyer at 754 224 2972 or 754 367 4174 or by e-mail at jim_moyer@uss.salvationarmy.org or jm2505@nova.edu

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SPB 7032

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: OGSR/Scripps Florida Funding Corporation

DATE: February 7, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-------------------|-----------------|-----------|--------------------|
| 1. <u>Malcolm</u> | <u>Hrdlicka</u> | _____ | Pre-meeting |

I. Summary:

In 2003, the Legislature appropriated \$310 million for the California-based Scripps Research Institute (SRI) to open a Florida research facility (Scripps Florida),¹ the Legislature also created the Scripps Florida Funding Corporation (the Funding Corporation) to release the funds to Scripps Florida according to a 20-year agreement.² Additionally, the Legislature created public records and public meeting exemptions for certain records and information provided by SRI or Scripps Florida to the Funding Corporation.³ These exemptions are codified in s. 288.9551, F.S., which is set to expire on October 2, 2014.

The bill repeals the public records and public meetings exemptions in s. 288.9551, F.S. because the Funding Corporation has indicated that it operates in the sunshine and does not receive such confidential and exempt information.⁴

¹ Chapter 2003-420, s. 5, L.O.F.

² *Id.* at s. 1.

³ Chapter 2003-419, s. 1, L.O.F. The 2009 reenactment of s. 288.9551, F.S., removed reference to records and meetings held by the former Office of Tourism, Trade, and Economic Development (OTTED). Chapter 2009-236, L.O.F.

⁴ The Funding Corporation's response to the joint Senate and House questionnaire regarding the open government sunset review of s. 288.9551, F.S., response completed by Sara Misselhorn, Project Director, received Sept. 10, 2013, questions 13 and 19. SRI, Scripps Florida, and the Department of Economic Opportunity have also indicated to committee staff that the exemptions are no longer necessary. Telephone conversation with Tom Northrup, General Counsel for SRI and Scripps Florida (Aug. 28, 2013); E-mail from Karl Blischke, Chief, Bureau of Compliance and Accountability, Department of Economic Opportunity, (Nov. 1, 2013) (on file with the Committee on Commerce and Tourism).

II. Present Situation:

Public Records in Florida

Florida has a long history of providing public access to government records. In 1992, the State Constitution was amended to provide the public a broad right to access government records.⁵ Article I, s. 24, provides in part:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.

In addition to the State Constitution, the Public Records Law,⁶ which pre-dates article I, s. 24, specifies conditions under which an agency must grant public access to government records.⁷ It states,

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸

Unless specifically exempt, all agency records are available for public inspection.⁹ The term “public record” is broadly defined to include

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.¹⁰

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to perpetuate, communicate, or formalize knowledge.¹¹ All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.¹²

⁵ Fla. Const. art. I, s. 24.

⁶ Chapter 119, F.S.

⁷ The word “agency” is defined in s. 119.011(2), F.S., to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including . . . the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁸ Section 119.07(1)(a), F.S.

⁹ See Fla. Const. art. I, s. 24(a).

¹⁰ Section 119.011(12), F.S.

¹¹ *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

¹² *Wait v. Florida Power & Light Company*, 372 So.2d 420, 424 (Fla.1979).

Only the Legislature is authorized to create exemptions to open government requirements.¹³ Exemptions must be created by general law, must specifically state the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the law.¹⁴ A bill enacting an exemption¹⁵ may not contain other substantive provisions, but it may contain multiple exemptions that relate to one subject.¹⁶

There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.¹⁷ If a record is simply made exempt from disclosure requirements then an agency is not prohibited from disclosing the record in all circumstances.¹⁸

Open Government Sunset Review Act¹⁹

The Open Government Sunset Review Act (the Sunset Act) provides for the systematic, 5-year review of any exemption from the Public Records Law or the Public Meetings Law.²⁰

Under the Sunset Act, an exemption may be created, expanded, or maintained only if it serves an identifiable public purpose and is no broader than necessary to meet the public purpose it serves.²¹ An identifiable public purpose is served if the exemption meets one of three specified criteria and the Legislature finds the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- (1) Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- (2) Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- (3) Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.²²

¹³ Fla. Const. art. I, s. 24(c); *see Wait*, 372 So.2d at 424.

¹⁴ Fla. Const. art. I, s. 24(c).

¹⁵ Under s. 119.15(4)(b), F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

¹⁶ Fla. Const. art. I, s. 24 (c).

¹⁷ Attorney General Opinion 85-62.

¹⁸ *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).

¹⁹ Section 119.15, F.S.

²⁰ *Id.* at (3).

²¹ *Id.* at (6)(b).

²² *Id.* at (6)(b)1.-3.

The Sunset Act also requires consideration of the following issues:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?²³

Scripps Florida Funding Corporation

In 2003, the Legislature created the Funding Corporation, a nine-member, not-for-profit entity, to enter into and monitor a 20-year agreement with SRI to establish a biomedical research facility in Florida (Scripps Florida) and to disburse state funds on a schedule that coincides with Scripps Florida meeting job-creation and other contractual targets.²⁴

The Legislature provided a one-time appropriation of \$310 million for Scripps Florida with the funds to be disbursed over a 7-year period.²⁵ Due to site-selection and permitting delays, the disbursement period was extended to 10 years.²⁶ As of September 2013, the Funding Corporation had disbursed \$349 million (including \$40.3 million in interest earnings) to Scripps Florida.²⁷ The final disbursement occurred in December 2013.²⁸

Because the Funding Corporation is a public body it would be subject to Florida's public records and open meetings laws but for the public records and public meetings exemptions in s. 288.9551, F.S.

Scripps Florida

Scripps Florida is a division of the California-based, non-profit SRI. State funds provided to Scripps Florida are spent only on approved expenditures. Though it receives public funds, SRI (and by extension, Scripps Florida) is a private, not-for-profit research institute, and is not subject to Florida's public records and open meetings laws.²⁹

²³ *Id.* at 6(a); While the standards in the Sunset Act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another. *See Neu v. Miami Herald Pub. Co.*, 462 So.2d 821, 824 (Fla. 1985). Accordingly, the Legislature is only limited in its review process by constitutional requirements. Moreover, s. 119.15(8), F.S., states that the failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

²⁴ Chapter 2003-420, s. 1, L.O.F.

²⁵ Section 288.955(11)(a), F.S.

²⁶ Amendment to Operating and Funding Agreement, Nov. 28, 2006 (on file with the Committee on Commerce and Tourism).

²⁷ Scripps Florida Funding Corporation, *2013 Annual Report*, 36, available at http://www.scripps.edu/florida/about/scientificreports_pdfs/2013SFFCAnnualReport_20140108133315_659841.pdf (last visited Jan. 16, 2014).

²⁸ *Id.* at 43.

²⁹ *See* s. 288.955(1)(c), F.S.

Scripps Florida is a biomedical research facility located on 30 acres adjoining the Florida Atlantic University campus in Jupiter, Florida. There are 528 scientists, technicians, and administrative staff employed in the 345,000 square-foot, biomedical research facility.³⁰ Scripps Florida research targets include neurobiology (Alzheimer's, Parkinson's, autism, schizophrenia, anxiety/depression and addiction), cancer biology, immune system studies (asthma and rheumatoid arthritis), cardiovascular and metabolic research (heart disease, diabetes, obesity and metabolic syndrome), and infectious diseases (Creutzfeldt-Jakob disease, malaria, tuberculosis, hepatitis C, and HIV/AIDS).³¹

Scripps Florida Public Records Exemption

As part of the establishment of the Funding Corporation, s. 288.9551, F.S., was enacted to provide a public records exemption for certain records and meetings of Scripps Florida that are held by the Funding Corporation.³² In 2009, the exemption was modified and extended for another 5 years.³³ The following records are confidential and exempt from public disclosure:

- Materials that relate to methods of manufacture or production, potential and actual trade secrets,³⁴ patentable material, or proprietary information received, generated, ascertained, or discovered by or through Scripps Florida.
- Agreements and proposals to receive funding, including grant applications.³⁵
- Materials relating to the recruitment of scientists and researchers.
- The identity of donors or potential donors who wish to remain anonymous.
- Any information received from a person or another state or nation or the Federal Government, which is otherwise confidential or exempt pursuant to that state's or nation's laws or pursuant to federal law.
- Personal identifying information of individuals who participate in human trials or experiments.
- Any medical or health records relating to participants in clinical trials.³⁶

³⁰ Funding Corporation 2013 Annual Report at 36. Under the terms of its amended agreement, Scripps Florida is required to hire 545 employees by the end of 2014. Amendment to Operating and Funding Agreement, Nov. 28, 2006 (on file with the Committee on Commerce and Tourism).

³¹ Scripps Florida, *Research Overview – Florida Campus*, <http://www.scripps.edu/florida/research/index.html> (last visited Jan. 21, 2014).

³² The 2009 extension of s. 288.9551, F.S., removed reference to records and meetings held by the former OTTED. Ch. 2009-236, s. 2, L.O.F.

³³ Chapter 2009-236, s. 2, L.O.F.

³⁴ "Trade secret" is defined in s. 688.002, F.S.

³⁵ However, the portions of such agreements and proposals to receive funding, including grant applications, that do not contain information made confidential and exempt by s. 288.9551, F.S., shall not be confidential and exempt upon issuance of the report that is made after the conclusion of the project for which funding was provided. Excluded from this exemption is the agreement between the Funding Corporation and SRI that governs the release of the state funds. Section 288.9551(2)(b), F.S.

³⁶ Section 288.9551(2), F.S.

Additionally, those portions of board meetings by the Funding Corporation's directors during which exempt and confidential information is presented or discussed must be closed to the public, and records of the closed portions of the meetings are exempt and confidential.³⁷

Exempt and confidential information must be released to public employees exclusively for the performance of their duties.³⁸ Violating the exemption is a second-degree misdemeanor³⁹

When originally enacted in 2003, the constitutionally required public necessity statement accompanying the exemptions asserted a number of reasons supporting the confidentiality of certain information that Scripps Florida could provide the Funding Corporation.⁴⁰ For example:

- The state was making a substantial financial investment in the SRI project.
- Disclosure of certain SRI information and records could create an unfair competitive advantage for persons receiving the information, in turn putting SRI at a competitive disadvantage and negatively impacting anticipated benefits to the state, its economy, and its academic community.
- Specifically, disclosure of grant applications and proposals could put SRI at a competitive disadvantage for receiving research funds; disclosure of materials related to staff recruitment could allow competitors to outbid SRI for scientists and researchers; and failure to protect the identities of donors and potential donors could reduce private contributions to SRI.

Originally, the exemptions created under s. 288.9551, F.S., were scheduled for repeal on October 2, 2009, unless reenacted after review by the Legislature under the Sunset Act.⁴¹ In 2009, following review pursuant to the Sunset Act, the Legislature renewed the exemptions for a period of 5 years to October 2, 2014, unless reenacted after legislative review under the Sunset Act.⁴²

The Funding Corporation recommends repealing the public records and public meeting exemptions because the Funding Corporation does not receive or collect the exempt information listed in the statute and does not hold any exempt meetings.⁴³ Scripps Florida, SRI, and DEO are neutral on whether the exemptions are repealed or extended.⁴⁴

III. Effect of Proposed Changes:

Section 1 of the bill repeals s. 299.9551, F.S., which provides a public record exemption for proprietary business information and certain financial and research information held by the

³⁷ *Id.* at (3).

³⁸ *Id.* at (4).

³⁹ *Id.* at (5).

⁴⁰ Chapter 2003-419, s. 2, L.O.F.

⁴¹ *Id.* at s. 1.

⁴² Chapter 2009-236, s. 2, L.O.F.

⁴³ The Funding Corporation's response to the joint Senate and House questionnaire regarding the open government sunset review of s. 288.9551, F.S., response completed by Sara Misselhorn, Project Director, received Sept. 10, 2013, questions 13 and 19 (on file with Committee on Commerce and Tourism).

⁴⁴ Telephone conversation with Tom Northrup, General Counsel for SRI and Scripps Florida (Aug. 28, 2013); E-mail from Karl Blischke, Chief, Bureau of Compliance and Accountability, Department of Economic Opportunity, (Nov. 1, 2013) (on file with Committee on Commerce and Tourism).

Scripps Florida Funding Corporation and provides a public meetings exemption for meetings where such information is discussed.

Section 2 of the bill provides an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill repeals the public records exemption and the public meeting exemption for the Scripps Florida Funding Corporation. The bill complies with the requirement of article I, s. 24 of the State Constitution that public records exemptions may only be addressed in legislation separate from substantive changes to law.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill repeals s. 288.9551, F.S.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-00944A-14

20147032__

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A bill to be entitled

An act relating to a review under the Open Government
Sunset Review Act; repealing s. 288.9551, F.S., which
provides an exemption from public record and public
meeting requirements for certain records and meetings
of the Scripps Florida Funding Corporation; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 288.9551, Florida Statutes, is repealed.
Section 2. This act shall take effect October 1, 2014.

FLORIDA TOURISM INDUSTRY BY THE NUMBERS

Will Seccombe
President & CEO

VISIT FLORIDA

2012-2016 STRATEGIC PLAN

MISSION

To promote travel and drive visitation to and within Florida

VISION

VISIT FLORIDA establishes Florida as the No. 1 travel destination in the world

PURPOSE

To brighten the lives of all

FLORIDA TOURISM HAS MOMENTUM

- Tourism-related employment has seen **45** consecutive months of job growth
- **Two** consecutive years of record visitation
 - **91.5** million visitors in 2012
 - **87.3** million visitors in 2011
- **Record** high visitation for Q1, Q2 & Q3 2013
 - **26** million visitors in Q1
 - **23** million visitors in Q2
 - **22.9** million visitors in Q3

RETURN ON INVESTMENT

For every \$1 invested in tourism advertising, VISIT FLORIDA generates **\$390 in tourism spending** and more than **\$23 in new sales tax collections** – paid by visitors, not residents

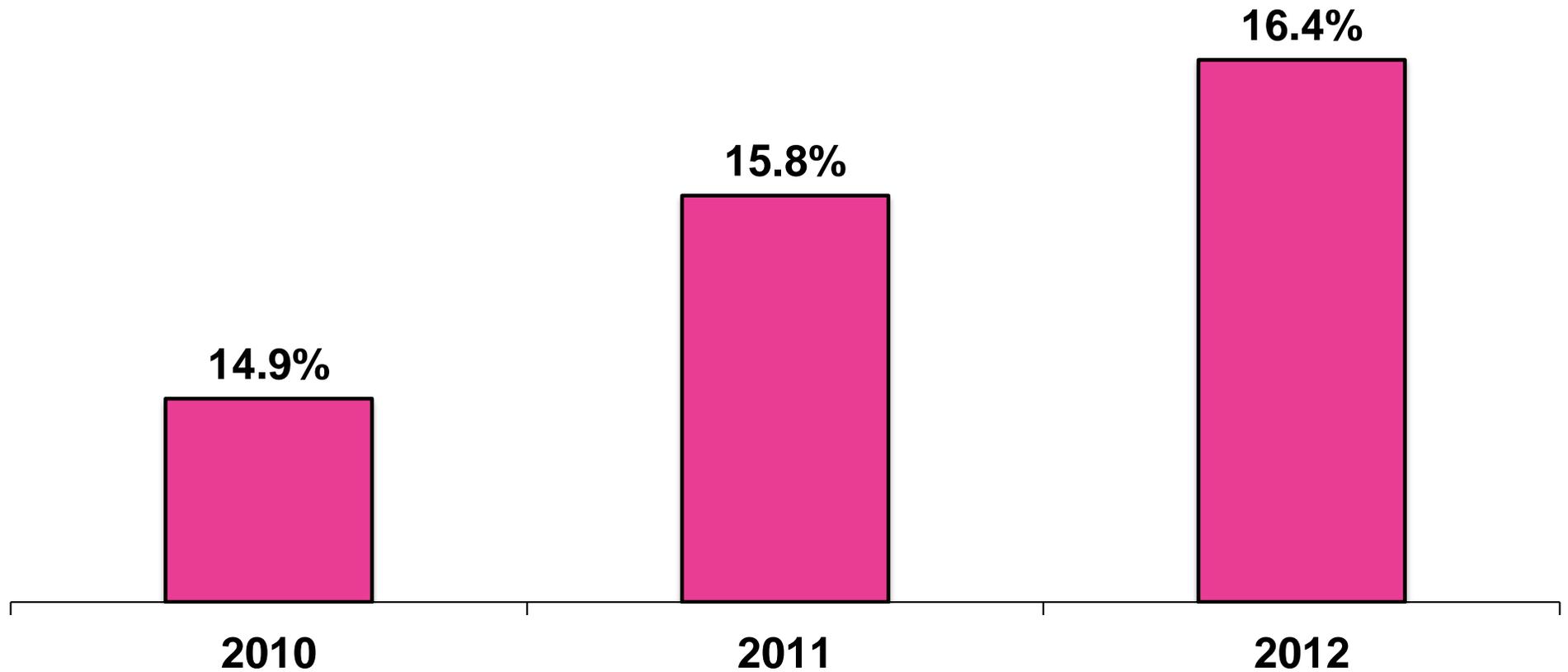
39% of Florida visitors from domestic markets were significantly influenced by VISIT FLORIDA marketing efforts

Every **85 visitors** to the Sunshine State supports **one Florida job**

Florida tourism industry invests **\$2** in marketing programs for every \$1 the state of Florida invests

MARKET SHARE

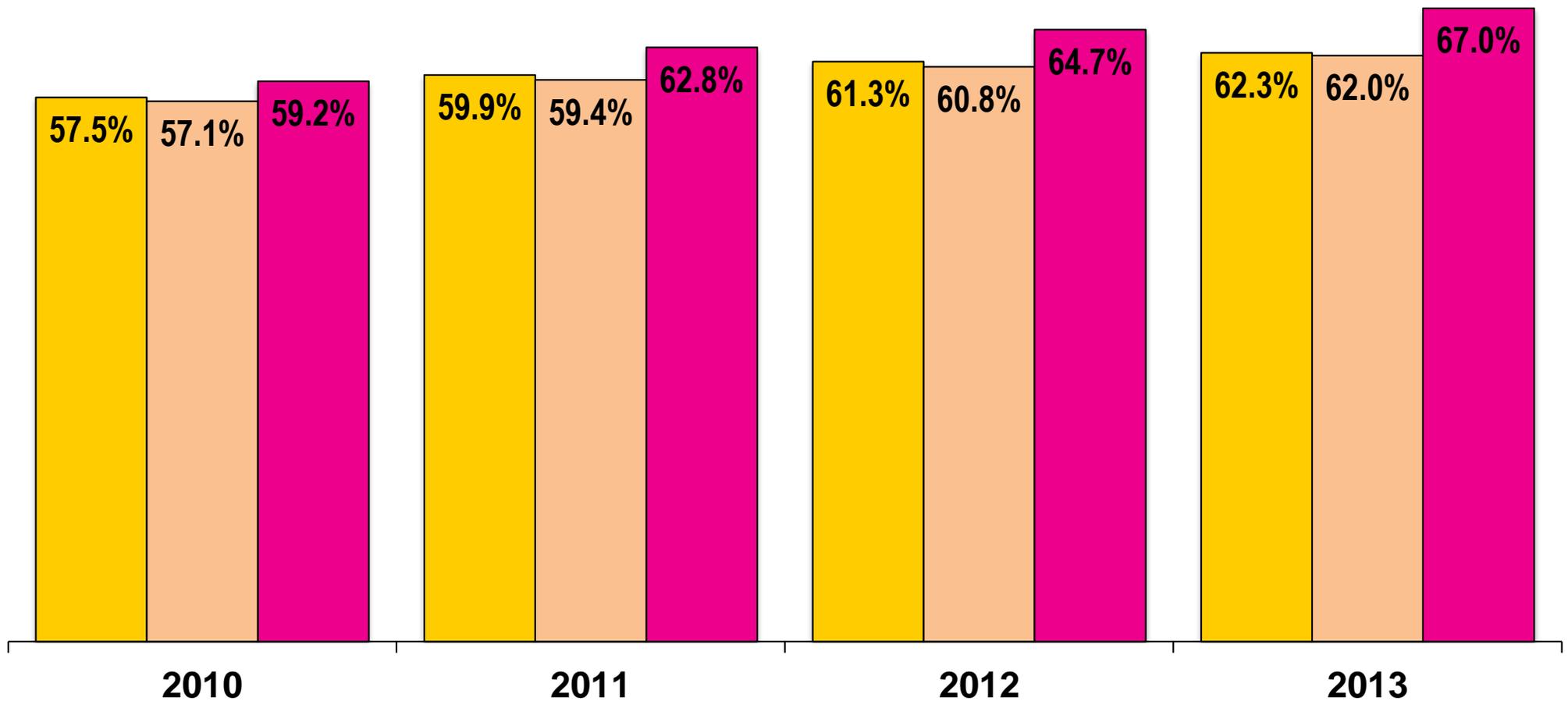
Domestic Out-of-State Visitors who Stay Overnight for a Vacation



OCCUPANCY RATES

CY 2010 – CY 2013

■ U.S. ■ South Atlantic ■ Florida



AVERAGE DAILY RATE

CY 2010 – CY 2013

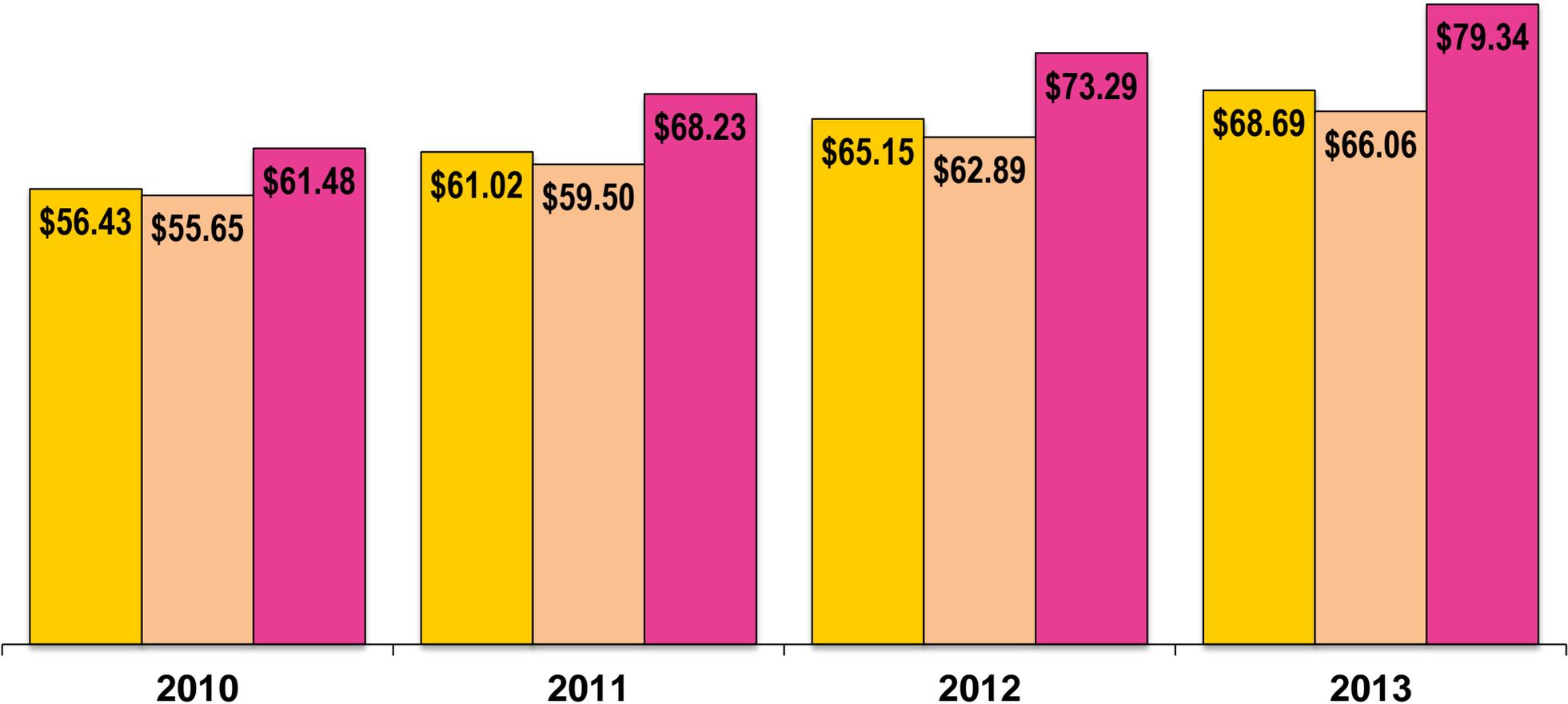
■ U.S. ■ South Atlantic ■ Florida



REVENUE PER AVAILABLE ROOM

CY 2010 – CY 2013

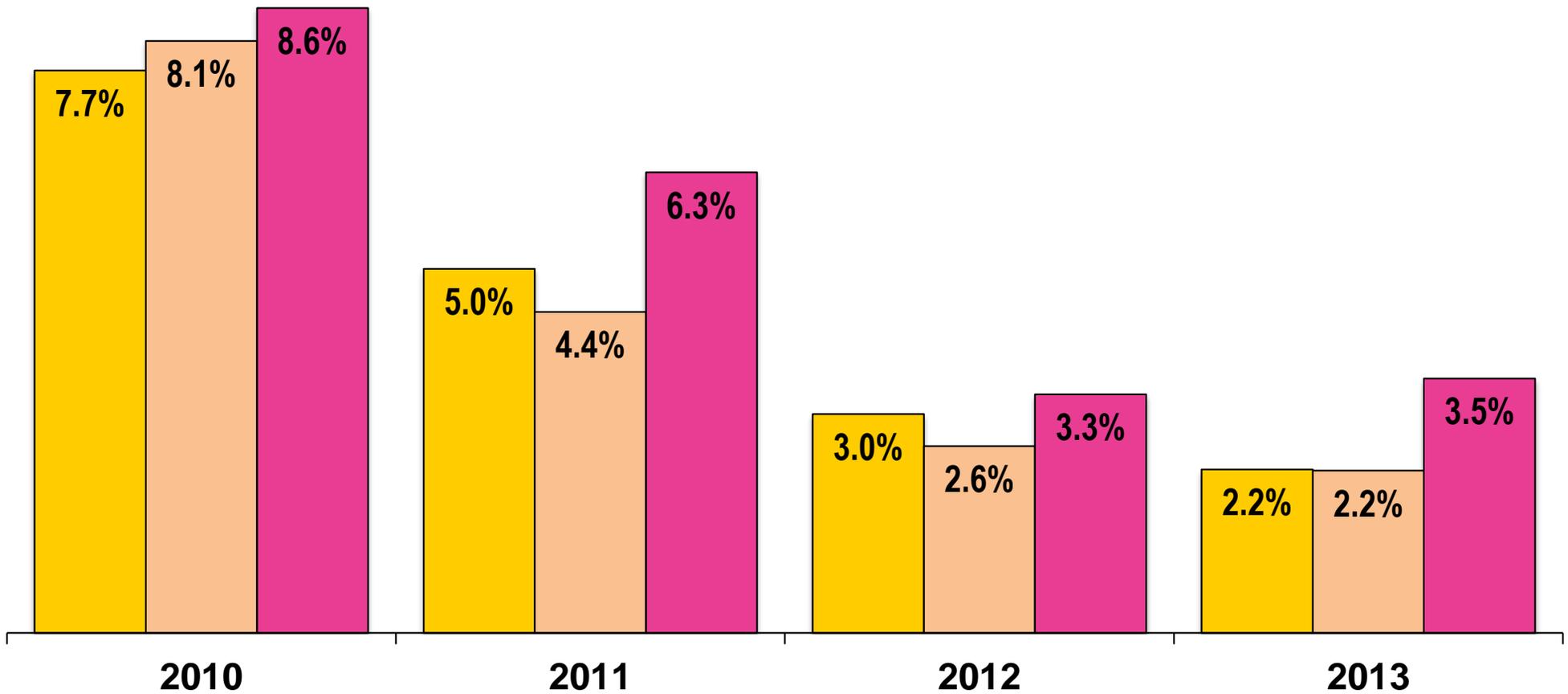
■ U.S. ■ South Atlantic ■ Florida



ROOMS SOLD GROWTH

CY 2010 – CY 2013

■ U.S. ■ South Atlantic ■ Florida



EXPANDED EFFORTS IN 2012/13

- **\$108.6M** private contribution
- **\$54M** public funding
 - **\$19.1M** public funding increase over 2011/12
 - Increased media buys of **\$13.5M**
 - New VISITFLORIDA.com consumer website
 - Increased international marketing
 - Added representation in India
 - Increased funding for Air Team Florida
 - Integrated VIVA Florida marketing efforts
 - New CRM system - partnership/consumer direct marketing
 - Created Small Business Destination marketing grant program

EXPANDED EFFORTS IN 2013/14

- **\$111.9M** budgeted private contribution
- **\$63.5M** public funding
 - **\$9.5M** public funding increase over 2012/13
 - Additional **\$6.5M** in domestic marketing
 - Four major campaigns (Summer, Fall, Winter & Spring)
 - Geographic expansion
 - Additional **\$2M** in International marketing
 - Matched Co-op Programs with Brand USA
 - Additional **\$750K** for Air Lift grants to increase lift to FL
 - \$1.8B Economic Impact
 - 2020 Plan Research – **\$250K**

**Walking in a
winter summerland.
Must be the sunshine.**



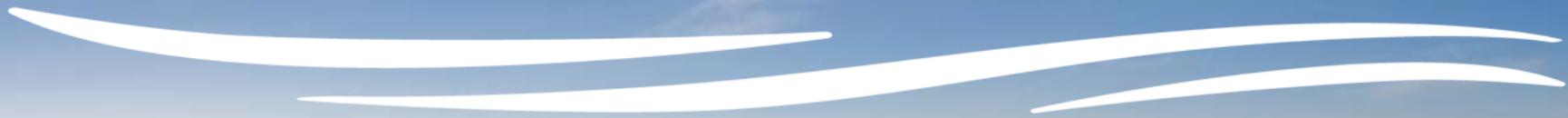
With 825 miles of beaches and average temps
in the 70s, get to know the warmer side of winter.

VISITFLORIDA.COM





VISITFLORIDA®



The following is the website for the 2013-2014 VISIT FLORIDA Marketing Plan that was presented at the Senate Commerce and Tourism Committee Meeting on February 10, 2014.

http://www.visitflorida.org/marketingplan/1Home_1.html

What would 100 million visitors mean to the Sunshine State?

\$6.628 billion GDP Increase

121,298
Total Jobs Created

114,318
Private non-farm jobs

\$5.307 billion
Personal income

Average salary of jobs created **\$43,751.75**

\$4.615 billion
Disposable personal income

Tourism Matters to Florida's Economy

For more information, email research@VISITFLORIDA.org

Source: Tax Watch



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Vice Chair*
Transportation, *Vice Chair*
Appropriations
Appropriations Subcommittee on Finance and Tax
Banking and Insurance
Commerce and Tourism
Gaming
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR GWEN MARGOLIS
35th District

February 10, 2014

To: Senate Committee on Commerce & Tourism

From: Terri Jo Kennedy, Assistant to Senator Margolis

RECEIVED

FEB 10 2014

COMMERCE

Please excuse Senator Gwen Margolis from the Commerce & Tourism Committee meeting today (February 10, 2014). She is not able to be in Tallahassee today.

Needs to
be approved
prior to
start of
meeting.

REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5035

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case:

Type:

Caption: Commerce and Tourism Committee Judge:

Started: 2/10/2014 4:01:59 PM

Ends: 2/10/2014 5:21:42 PM Length: 01:19:44

4:02:09 PM Call to order
4:02:23 PM Tab 1 SB 484 Senator Braynon
4:03:52 PM Amendment
4:03:56 PM Amendment 1 Barcode 430832
4:04:25 PM Senator Hays
4:08:02 PM Senator Abruzzo
4:09:34 PM Senator Hukill
4:14:14 PM Senator Simpson
4:15:12 PM Senator Bean
4:17:34 PM Speaker Nelson Diaz representing Zip Car
4:18:06 PM Senator Thompson
4:19:46 PM Senator Simpson
4:20:34 PM Senator Abruzzo
4:21:30 PM Senator Hukill
4:22:29 PM Speaker Doug Bell representing Avis Budget Group
4:29:19 PM Roll call on CS/SB 484
4:31:09 PM Bill passes
4:31:12 PM Tab 2 SB 638 Senator Brandes
4:31:37 PM Amendment 1 Barcode 545694
4:34:27 PM Senator Ring
4:35:37 PM Speaker Grace Lovett representing Department of Agriculture and Consumer Services
4:37:32 PM Speaker Michael Batts representing non profit organizations
4:42:06 PM Senator Stargel
4:42:46 PM Speaker Jim Moyer representing The Salvation Army of Broward County Adult Rehab Center
4:46:19 PM Speaker Justin Thames representing Florida Institute of CPA
4:48:55 PM Roll call on SB 638
4:49:24 PM Bill passes
4:49:37 PM Tab 3 SPB 7032 Staff Director Jennifer
4:51:16 PM Roll call on SPB 7032 as committee bill
4:51:55 PM Tab 4 Presentation by Visit Florida CEO Will Seccombe
5:10:41 PM Senator Simpson
5:12:03 PM Senator Detert
5:13:23 PM Senator Thompson
5:21:32 PM Adjournment