

Committee on Commerce and Tourism

CS/CS/HB 629 — Charities

by Regulatory Affairs Committee; Business and Professional Regulation Subcommittee; and Rep. Boyd and others (CS/CS/SB 638 by Appropriations Committee; Commerce and Tourism Committee; and Senator Brandes)

This bill updates the Solicitation of Contributions Act to provide increased oversight by the Department of Agriculture and Consumer Services (DACS) of 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;
- Requires notices to be provided for all solicitations and confirmations;
- Requires professional fundraising consultants and professional solicitors to only enter into contracts with charitable organizations and sponsors registered under ch. 496, F.S.;
- Removes blood banks from the list of regulated charities; and
- Appropriates \$179,944 in recurring funds and \$235.584 in nonrecurring funds from General Revenue and three full-time equivalent positions to DACS to implement the bill for Fiscal Year 2014-15.

Specifically, the bill:

Charitable Organizations and Sponsors

- Authorizes DACS to enter a disqualification order for violations of the Solicitation of Contributions Act, which disqualifies the charity from receiving sales tax exempt status for 1 year;
- Requires a non-exempt charity or sponsor that intends to solicit contributions either in Florida or from Florida to register with DACS before soliciting contributions;
- Clarifies the requirements related to financial statements;
- Authorizes DACS to order an audit or review of a charity's or solicitor's financial statement if DACS finds discrepancies in the financial statement;
- 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 during which personal financial information is collected;
- Requires professional solicitor license applicants to provide a set of fingerprints along with a fee for state and federal background screening;
- Updates the definition of “professional solicitor” to include solicitors located in Florida that solicit outside of Florida;
- Requires professional solicitation businesses to include additional application information, such as the name, date of birth, and identification of all individuals in charge of or engaged in any solicitation, 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 the information 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.

If approved by the Governor, these provisions take effect July 1, 2014.

Vote: Senate 39-0; House 113-3