

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

Page 1 of 58

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

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
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
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
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
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
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
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
 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:

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
257 to 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
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
 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; ~~or "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
315 and 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,
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
327 institutions and organizations described in s. 212.08(7)(cc)8.a.
328 The term includes private nonprofit organizations, the purpose
329 of which is to raise funds for schools teaching grades
330 kindergarten through grade 12, colleges, and universities,
331 including any nonprofit newspaper of free or paid circulation
332 primarily on university or college campuses which holds a
333 current exemption from federal income tax under s. 501(c)(3) of
334 the Internal Revenue Code, any educational television network or
335 system 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.

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
 378 institution.

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

- 386 (a) The overall direction of the organization.
- 387 (b) Business management.
- 388 (c) General recordkeeping.
- 389 (d) Budgeting.
- 390 (e) Financial reporting and related expenses.

391 (f) Salaries.

392 (g) Rent.

393 (h) Supplies.

394 (i) Equipment.

395 (j) General overhead.

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

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

404 (18)-(15) "Parent organization" means that part of a
 405 charitable organization or sponsor which coordinates,
 406 supervises, or exercises control over policy, fundraising, and
 407 expenditures or assists or advises one or more of the
 408 organization's chapters, branches, or affiliates in this state.

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

412 (20)-(17) "Professional fundraising consultant" means a ~~any~~
 413 person who is retained by a charitable organization or sponsor
 414 for a fixed fee or rate under a written agreement to plan,
 415 manage, conduct, carry on, advise, consult, or prepare material
 416 for a solicitation of contributions in this state, but who does

417 not solicit contributions or employ, procure, or engage any
418 compensated person to solicit contributions and who does not at
419 any time have custody or control of contributions. A bona fide
420 volunteer or bona fide employee or salaried officer of a
421 charitable organization or sponsor maintaining a permanent
422 establishment in this state is not a professional fundraising
423 consultant. An attorney, investment counselor, or banker who
424 advises an individual, corporation, or association to make a
425 charitable contribution is not a professional fundraising
426 consultant as the result of such advice.

427 (21)~~(18)~~ "Professional solicitor" means a ~~any~~ person who,
428 for compensation, performs for a charitable organization or
429 sponsor any service in connection with which contributions are
430 or will be solicited in this state by the compensated person or
431 by any person it employs, procures, or otherwise engages,
432 directly or indirectly, to solicit contributions, or a person
433 who plans, conducts, manages, carries on, advises, consults,
434 ~~whether~~ directly or indirectly, in connection with the
435 solicitation of contributions for or on behalf of a charitable
436 organization or sponsor, but who does not qualify as a
437 professional fundraising consultant. A bona fide volunteer or
438 bona fide employee or salaried officer of a charitable
439 organization or sponsor maintaining a permanent establishment in
440 this state is not a professional solicitor. An attorney,
441 investment counselor, or banker who advises an individual,
442 corporation, or association to make a charitable contribution is

443 not a professional solicitor as the result of such advice.

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

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

461 (24)~~(20)~~ "Solicitation" means a request, directly or
 462 indirectly, for money, property, financial assistance, or any
 463 other thing of value on the plea or representation that such
 464 money, property, financial assistance, or other thing of value
 465 or a portion of it will be used for a charitable or sponsor
 466 purpose or will benefit a charitable organization or sponsor.
 467 The term "Solicitation" includes, but is not limited to, the
 468 following methods of requesting or securing the promise, pledge,

469 or grant of money, property, financial assistance, or any other
470 thing of value:

471 (a) Making any oral or written request;

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

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

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

494

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

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

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

516 (27)~~(23)~~ "Sponsor sales promotion" means an advertising or
517 sales campaign conducted by a commercial co-venturer who
518 represents that the purchase or use of goods or services offered
519 by the commercial co-venturer will be used for a sponsor purpose
520 or donated to a sponsor. The provision of advertising services

521 to a sponsor does not, in itself, constitute a sponsor sales
 522 promotion.

523 Section 4. Subsection (1), paragraphs (a) and (g) of
 524 subsection (2), subsection (3), paragraph (b) of subsection (4),
 525 and subsections (7) and (8) of section 496.405, Florida
 526 Statutes, are amended, and subsections (9) and (10) are added to
 527 that section, to read:

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

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

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

547 before the renewal date.

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

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

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

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

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

571 2. For failure to provide a financial statement within any
572 extension period provided under ~~and~~ s. 496.407. ~~The organization~~

573 ~~may not file a renewal statement until it has filed the required~~
574 ~~financial report with the department.~~

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

580 (a) A copy of the financial statement ~~report~~ or Internal
581 Revenue Service Form 990 and all attached schedules or Internal
582 Revenue Service Form 990-EZ and Schedule O required under s.
583 496.407 for the immediately preceding fiscal year. A newly
584 organized charitable organization or sponsor with no financial
585 history must file a budget for the current fiscal year.

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

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

599 numbers of all such locations in this state.

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

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

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

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

610 (3) Each chapter, branch, or affiliate of a parent
611 organization that is required to register under this section
612 must ~~either~~ file a separate registration statement and financial
613 statement report or ~~must~~ report the required information to its
614 parent organization, which shall then file, on a form prescribed
615 by the department, a consolidated registration statement for the
616 parent organization and its Florida chapters, branches, and
617 affiliates. A consolidated registration statement filed by a
618 parent organization must include or be accompanied by financial
619 statements reports as specified in s. 496.407 for the parent
620 organization and each of its Florida chapters, branches, and
621 affiliates that solicited or received contributions during the
622 preceding fiscal year. However, if all contributions received by
623 chapters, branches, or affiliates are remitted directly into a
624 depository account that ~~which~~ feeds directly into the parent

625 organization's centralized accounting system from which all
626 disbursements are made, the parent organization may submit one
627 consolidated financial statement ~~report~~ on a form prescribed by
628 the department. The consolidated financial statement must
629 reflect the activities of each chapter, branch, or affiliate of
630 the parent organization, including all contributions received in
631 the name of each chapter, branch, or affiliate; all payments
632 made to each chapter, branch, or affiliate; and all
633 administrative fees assessed to each chapter, branch, or
634 affiliate.

635 (4)

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

642 (7) (a) The department must examine each initial
643 registration statement or annual renewal statement and the
644 supporting documents filed by a charitable organization or
645 sponsor and shall determine whether the registration
646 requirements are satisfied. Within 15 business ~~working~~ days
647 after its receipt of a statement, the department must examine
648 the statement, notify the applicant of any apparent errors or
649 omissions, and request any additional information the department
650 is allowed by law to require. Failure to correct an error or

651 omission or to supply additional information is not grounds for
652 denial of the initial registration or annual renewal statement
653 unless the department has notified the applicant within such
654 period of 15 business days ~~the 15-working-day period~~. The
655 department must approve or deny each statement, or must notify
656 the applicant that the activity for which she or he seeks
657 registration is exempt from the registration requirement, within
658 15 business ~~working~~ days after receipt of the initial
659 registration or annual renewal statement or the requested
660 additional information or correction of errors or omissions. Any
661 statement that is not approved or denied within 15 business
662 ~~working~~ days after receipt of the requested additional
663 information or correction of errors or omissions is approved.
664 Within 7 business ~~working~~ days after receipt of a notification
665 that the registration requirements are not satisfied, the
666 charitable organization or sponsor may request a hearing. The
667 hearing must be held within 7 business ~~working~~ days after
668 receipt of the request, and any recommended order, if one is
669 issued, must be rendered within 3 business ~~working~~ days of the
670 hearing. The final order must then be issued within 2 business
671 ~~working~~ days after the recommended order. If a recommended order
672 is not issued, the final order must be issued within 5 business
673 ~~working~~ days after the hearing. The proceedings must be
674 conducted in accordance with chapter 120, except that the time
675 limits and provisions set forth in this subsection prevail to
676 the extent of any conflict.

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

687 (8) A ~~No~~ charitable organization or sponsor, or any
688 officer, director, trustee, or employee thereof, may not shall
689 knowingly allow any officer, director, trustee, or employee of
690 the charitable organization or sponsor ~~of its officers,~~
691 ~~directors, trustees, or employees~~ to solicit contributions on
692 behalf of such charitable organization or sponsor if such
693 officer, director, trustee, or employee has, in any state,
694 regardless of adjudication, been convicted of, or found guilty
695 of, or pled guilty or nolo contendere to, or has been
696 incarcerated within the last 10 years as a result of having
697 previously been convicted of, or found guilty of, or pled guilty
698 or nolo contendere to, any felony within the last 10 years or
699 any crime within the last 10 years involving fraud, theft,
700 larceny, embezzlement, fraudulent conversion, misappropriation
701 of property, or any crime arising from the conduct of a
702 solicitation for a charitable organization or sponsor, or has

703 been enjoined, in any state, from violating any law relating to
 704 a charitable solicitation. The prohibitions in this subsection
 705 also apply to any misdemeanor in another state which constitutes
 706 a disqualifying felony in this state.

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

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

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

722 496.4055 Charitable organization or sponsor board duties.—

723 (1) As used in this section, the term "conflict of
 724 interest transaction" means a transaction between a charitable
 725 organization or sponsor and another party in which a director,
 726 officer, or trustee of the charitable organization or sponsor
 727 has a direct or indirect interest. The term includes, but is not
 728 limited to, the sale, lease, or exchange of property to or from

729 the charitable organization or sponsor; the lending of moneys to
730 or borrowing of moneys from the charitable organization or
731 sponsor; and the payment of compensation for services provided
732 to or from the charitable organization or sponsor.

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

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

739 496.407 Financial statement ~~report~~.—

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

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

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

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

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

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

755 categories:

756 ~~a.1.~~ Program service costs.

757 ~~b.2.~~ Management and general costs.

758 ~~c.3.~~ Fundraising costs.

759 (b) The financial statement must be audited or reviewed as
760 follows:

761 1. For a charitable organization or sponsor that receives
762 less than \$500,000 in annual contributions, a compilation,
763 audit, or review of the financial statement is optional.

764 2. For a charitable organization or sponsor that receives
765 at least \$500,000 but less than \$1 million in annual
766 contributions, the financial statement shall be reviewed or
767 audited by an independent certified public accountant.

768 3. For a charitable organization or sponsor that receives
769 \$1 million or more in annual contributions, the financial
770 statement shall be audited by an independent certified public
771 accountant.

772 (c) Audits and reviews shall be performed in accordance
773 with the following standards:

774 1. Audits shall be performed in accordance with generally
775 accepted auditing standards, including the Statements on
776 Auditing Standards of the American Institute of Certified Public
777 Accountants.

778 2. Reviews shall be performed in accordance with the
779 Statements on Standards for Accounting and Review Services of
780 the American Institute of Certified Public Accountants.

781 (d) Audited and reviewed financial statements must be
782 accompanied by a report signed and prepared by the independent
783 certified public accountant performing such audit or review.

784 (2) In lieu of the financial statement ~~report~~ described in
785 subsection (1), a charitable organization or sponsor that
786 receives less than \$500,000 in annual contributions may submit a
787 copy of its Internal Revenue Service Form 990 and all attached
788 schedules filed for the preceding fiscal year, or a copy of its
789 Internal Revenue Service Form 990-EZ and Schedule O filed for
790 the preceding fiscal year.

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

792 (a) Extend the time for the filing of a financial
793 statement required under this section by up to 180 days, during
794 which time the previous registration shall remain active. The
795 registration shall be automatically suspended for failure to
796 file the financial statement within the extension period.

797 (b) Require that an audit or review be conducted for any
798 financial statement submitted by any charitable organization or
799 sponsor. A charitable organization or sponsor may elect to also
800 ~~include a financial report that has been audited by an~~
801 ~~independent certified public accountant or an audit with opinion~~
802 ~~by an independent certified public accountant. In the event that~~
803 ~~a charitable organization or sponsor elects to file an audited~~
804 ~~financial report, this optional filing must be noted in the~~
805 ~~department's annual report submitted pursuant to s. 496.423.~~

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

807 to read:

808 496.4071 Supplemental financial disclosure.—

809 (1) If, for the immediately preceding fiscal year, a
810 charitable organization or sponsor had more than \$1 million in
811 total revenue and spent less than 25 percent of the
812 organization's total annual functional expenses on program
813 service costs, in addition to any financial statement required
814 under s. 496.407, the charitable organization or sponsor shall
815 file the following supplemental financial information on a form
816 prescribed by the department:

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

820 1. Total salaries of all persons employed by the
821 charitable organization or sponsor.

822 2. Fundraising.

823 3. Travel expenses.

824 4. Overhead and other expenses related to managing and
825 administering the charitable organization or sponsor.

826 (b) The name of and specific sum earned by or paid to all
827 employees or consultants who earned or were paid more than
828 \$100,000 during the immediately preceding fiscal year.

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

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

835 (e) The details of any economic or business transactions
 836 between the charitable organization or sponsor and an officer,
 837 trustee, or director of the charitable organization or sponsor;
 838 the immediate family of an officer, trustee, or director of the
 839 charitable organization or sponsor; any entity controlled by an
 840 officer, trustee, or director of the charitable organization or
 841 sponsor; any entity controlled by the immediate family of an
 842 officer, trustee, or director of the charitable organization or
 843 sponsor; any entity that employed or engaged for consultation an
 844 officer, trustee, or director of the charitable organization or
 845 sponsor; and any entity that employed or engaged for
 846 consultation the immediate family of an officer, trustee, or
 847 director of the charitable organization or sponsor. As used in
 848 this paragraph, the term "immediate family" means a parent,
 849 spouse, child, sibling, ancestor, descendant, brother-in-law,
 850 sister-in-law, son-in-law, daughter-in-law, mother-in-law, or
 851 father-in-law.

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

856 Section 8. Section 496.4072, Florida Statutes, is created
 857 to read:

858 496.4072 Financial statements for specific disaster relief

859 solicitations.—

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

869 (2) The first quarterly statement shall be filed on the
870 last day of the third month following the accrual of at least
871 \$100,000 in contributions after the commencement of
872 solicitations for the specific disaster or crisis. The
873 charitable organization or sponsor shall continue to file
874 quarterly statements with the department until the quarter after
875 all contributions raised in response to the solicitation are
876 expended.

877 Section 9. Subsections (4), (6), and (9) of section
878 496.409, Florida Statutes, are amended, and subsection (10) is
879 added to that section, to read:

880 496.409 Registration and duties of professional
881 fundraising consultant.—

882 (4) A professional fundraising consultant may enter into a
883 contract or agreement with a charitable organization or sponsor
884 only if the charitable organization or sponsor has complied with

885 all applicable provisions of this chapter. ~~Every~~ contract or
886 agreement between a professional fundraising consultant and a
887 charitable organization or sponsor must be in writing, signed by
888 two authorized officials of the charitable organization or
889 sponsor, and filed by the professional fundraising consultant
890 with the department at least 5 days before ~~prior to~~ the
891 performance of any material service by the professional
892 fundraising consultant. Solicitation under the contract or
893 agreement may not begin before the filing of the contract or
894 agreement.

895 (6) (a) The department shall examine each registration
896 statement and all supporting documents filed by a professional
897 fundraising consultant and determine whether the registration
898 requirements are satisfied. If the department determines that
899 the registration requirements are not satisfied, the department
900 must notify the professional fundraising consultant within 15
901 business ~~working~~ days after its receipt of the registration
902 statement; otherwise the registration statement is approved.
903 Within 7 business ~~working~~ days after receipt of a notification
904 that the registration requirements are not satisfied, the
905 applicant may request a hearing. The hearing must be held within
906 7 business ~~working~~ days after receipt of the request, and any
907 recommended order, if one is issued, must be rendered within 3
908 business ~~working~~ days after the hearing. The final order must
909 then be issued within 2 business ~~working~~ days after the
910 recommended order. If there is no recommended order, the final

911 order must be issued within 5 business ~~working~~ days after the
912 hearing. The proceedings must be conducted in accordance with
913 chapter 120, except that the time limits and provisions ~~set~~
914 ~~forth~~ in this subsection prevail to the extent of any conflict.

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

926 (9) A ~~no~~ person may not act as a professional fundraising
927 consultant, and a ~~no~~ professional fundraising consultant, or any
928 officer, director, trustee, or employee thereof, may ~~not~~ shall
929 knowingly employ any officer, trustee, director, or employee, if
930 such person has, in any state, regardless of adjudication, been
931 convicted of, or found guilty of, or pled guilty or nolo
932 contendere to, or has been incarcerated within the last 10 years
933 as a result of having previously been convicted of, or found
934 guilty of, or pled guilty or nolo contendere to, any crime
935 within the last 10 years involving fraud, theft, larceny,
936 embezzlement, fraudulent conversion, or misappropriation of

937 property, or any crime arising from the conduct of a
938 solicitation for a charitable organization or sponsor, or has
939 been enjoined in any state from violating any law relating to a
940 charitable solicitation.

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

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

955 496.410 Registration and duties of professional
956 solicitors.—

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

962 (j) A list of all telephone numbers the applicant will use

963 to solicit contributions as well as the actual physical address
964 associated with each telephone number and any fictitious names
965 associated with such address.

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

969 (l) A copy of sales information or literature provided to
970 a donor or potential donor by the applicant in connection with a
971 solicitation.

972 (3) The application for registration must be accompanied
973 by a fee of \$300. ~~A professional solicitor that is a partnership~~
974 ~~or corporation may register for and pay a single fee on behalf~~
975 ~~of all of its partners, members, officers, directors, agents,~~
976 ~~and employees. In that case,~~ The names and street addresses of
977 all the officers, employees, and agents of the professional
978 solicitor and all other persons with whom the professional
979 solicitor has contracted to work under its direction, including
980 solicitors, must be listed in the application or furnished to
981 the department within 5 days after the date of employment or
982 contractual arrangement. Each registration is valid for 1 year
983 and. ~~The registration~~ may be renewed for an additional 1-year
984 period upon application to the department and payment of the
985 registration fee.

986 (5) (a) The department must examine each registration
987 statement and supporting documents filed by a professional
988 solicitor. If the department determines that the registration

989 requirements are not satisfied, the department must notify the
 990 professional solicitor within 15 business ~~working~~ days after its
 991 receipt of the registration statement; otherwise the
 992 registration statement is approved. Within 7 business ~~working~~
 993 days after receipt of a notification that the registration
 994 requirements are not satisfied, the applicant may request a
 995 hearing. The hearing must be held within 7 business ~~working~~ days
 996 after receipt of the request, and any recommended order, if one
 997 is issued, must be rendered within 3 business ~~working~~ days after
 998 the hearing. The final order must then be issued within 2
 999 business ~~working~~ days after the recommended order. If there is
 1000 no recommended order, the final order must be issued within 5
 1001 business ~~working~~ days after the hearing. The proceedings must be
 1002 conducted in accordance with chapter 120, except that the time
 1003 limits and provisions ~~set forth~~ in this subsection prevail to
 1004 the extent of any conflict.

1005 (b) If a professional solicitor makes a disclosure
 1006 specified in paragraphs (2)(f)-(h) in the initial application
 1007 for registration or the renewal application, the processing time
 1008 limits of this subsection are waived and the department shall
 1009 process the initial application for registration or renewal
 1010 application in accordance with the time limits in chapter 120.
 1011 The registration of a professional solicitor shall be
 1012 automatically suspended for failure to disclose any information
 1013 specified in paragraphs (2)(f)-(h) until such time as the
 1014 required information is submitted to the department.

1015 (6) No less than 15 days before commencing any
 1016 solicitation campaign or event, the professional solicitor must
 1017 file with the department a solicitation notice on a form
 1018 prescribed by the department. The notice must be signed and
 1019 sworn to by the contracting officer of the professional
 1020 solicitor and must include:

1021 (i) A statement of the guaranteed minimum percentage of
 1022 the gross receipts from contributions which will be remitted to
 1023 the charitable organization or sponsor, if any, or, if the
 1024 solicitation involves the sale of goods, services, or tickets to
 1025 a fundraising event, the percentage of the purchase price which
 1026 will be remitted to the charitable organization or sponsor, if
 1027 any.

1028 (j) The percentage of a contribution which may be deducted
 1029 as a charitable contribution under federal income tax laws.

1030 (k) A statement as to whether any owner, director,
 1031 officer, trustee, or employee of the professional solicitor is
 1032 related as a parent, spouse, child, sibling, ancestor,
 1033 descendant, brother-in-law, sister-in-law, son-in-law, daughter-
 1034 in-law, mother-in-law, or father-in-law to:

1035 1. Another officer, director, owner, trustee, or employee
 1036 of the professional solicitor.

1037 2. Any officer, director, owner, trustee, or employee of a
 1038 charitable organization or sponsor under contract to the
 1039 professional solicitor.

1040 3. Any supplier or vendor providing goods or services to a

1041 charitable organization or sponsor under contract to the
1042 professional solicitor.

1043 (l) The beginning and ending dates of the solicitation
1044 campaign.

1045 (m) A copy of any script, outline, or presentation used by
1046 the professional solicitor to solicit contributions for the
1047 solicitation campaign. If such aids are not used, written
1048 confirmation thereof.

1049 (n) A copy of sales information or literature provided to
1050 a donor or potential donor by the professional solicitor in
1051 connection with the solicitation campaign.

1052 (7) A professional solicitor may enter into a contract or
1053 agreement with a charitable organization or sponsor only if the
1054 charitable organization or sponsor has complied with all
1055 applicable provisions of this chapter. A ~~Each~~ contract or
1056 agreement between a professional solicitor and a charitable
1057 organization or sponsor for each solicitation campaign must be
1058 in writing, signed by two authorized officials of the charitable
1059 organization or sponsor, one of whom must be a member of the
1060 organization's governing body and one of whom must be the
1061 authorized contracting officer for the professional solicitor,
1062 and contain all of the following provisions:

1063 (a) A statement of the charitable or sponsor purpose and
1064 program for which the solicitation campaign is being conducted.

1065 (b) A statement of the respective obligations of the
1066 professional solicitor and the charitable organization or

1067 sponsor.

1068 (c) A statement of the guaranteed minimum percentage of
 1069 the gross receipts from contributions which will be remitted to
 1070 the charitable organization or sponsor, if any, or, if the
 1071 solicitation involves the sale of goods, services, or tickets to
 1072 a fundraising event, the percentage of the purchase price which
 1073 will be remitted to the charitable organization or sponsor, if
 1074 any. Any stated percentage shall exclude any amount which the
 1075 charitable organization or sponsor is to pay as fundraising
 1076 costs.

1077 (d) A statement of the percentage of the gross revenue
 1078 which the professional solicitor will be compensated. If the
 1079 compensation of the professional solicitor is not contingent
 1080 upon the number of contributions or the amount of revenue
 1081 received, his or her compensation shall be expressed as a
 1082 reasonable estimate of the percentage of the gross revenue, and
 1083 the contract must clearly disclose the assumptions upon which
 1084 the estimate is based. The stated assumptions must be based upon
 1085 all of the relevant facts known to the professional solicitor
 1086 regarding the solicitation to be conducted by the professional
 1087 solicitor.

1088 (e) The effective and termination dates of the contract.

1089 (14) A ~~no~~ person may not act as a professional solicitor,
 1090 and a ~~no~~ professional solicitor, or any officer, director,
 1091 trustee, or employee thereof, may not shall, to solicit for
 1092 compensation, knowingly employ any officer, trustee, director,

1093 employee, or any person with a controlling interest therein, who
 1094 has, in any state, regardless of adjudication, been convicted
 1095 of, or found guilty of, or pled guilty or nolo contendere to, or
 1096 has been incarcerated within the last 10 years as a result of
 1097 having previously been convicted of, or found guilty of, or pled
 1098 guilty or nolo contendere to, a felony within the last 10 years
 1099 involving fraud, theft, larceny, embezzlement, fraudulent
 1100 conversion, or misappropriation of property, or any crime
 1101 arising from the conduct of a solicitation for a charitable
 1102 organization or sponsor, or has been enjoined in any state from
 1103 violating any law relating to a charitable solicitation. The
 1104 prohibitions in this subsection also apply to any misdemeanor in
 1105 another state which constitutes a disqualifying felony in this
 1106 state.

1107 (15) The department may deny or revoke the registration of
 1108 a professional solicitor if the professional solicitor, or any
 1109 of its officers, directors, trustees, or agents, has had the
 1110 right to solicit contributions revoked in any state, has entered
 1111 into an agreement with any state to cease soliciting
 1112 contributions within that state, or has been ordered by any
 1113 court or governmental agency to cease soliciting contributions
 1114 within any state.

1115 (16)~~(15)~~ All registration fees must be paid to the
 1116 department and deposited into the General Inspection Trust Fund.

1117 Section 11. Section 496.4101, Florida Statutes, is created
 1118 to read:

1119 496.4101 Licensure of professional solicitors and certain
1120 employees thereof.—

1121 (1) Each officer, director, trustee, or owner of a
1122 professional solicitor and any employee of a professional
1123 solicitor conducting telephonic solicitations must, before
1124 engaging in solicitation activities, obtain a solicitor license
1125 from the department.

1126 (2) Persons required to obtain a solicitor license under
1127 subsection (1) shall submit to the department, in such form as
1128 the department prescribes, an application for a solicitor
1129 license. The application must include the following information:

1130 (a) The true name, date of birth, unique identification
1131 number of a driver license or other valid form of
1132 identification, and home address of the applicant.

1133 (b) If the applicant, in any state, regardless of
1134 adjudication, has previously been convicted of, or found guilty
1135 of, or pled guilty or nolo contendere to, or has been
1136 incarcerated within the last 10 years as a result of having
1137 previously been convicted of, or found guilty of, or pled guilty
1138 or nolo contendere to, any crime within the last 10 years
1139 involving fraud, theft, larceny, embezzlement, fraudulent
1140 conversion, or misappropriation of property, or any crime
1141 arising from the conduct of a solicitation for a charitable
1142 organization or sponsor, or has been enjoined, in any state,
1143 from violating any law relating to a charitable solicitation.

1144 (c) If the applicant, in any state, is involved in pending

1145 litigation or has had entered against her or him an injunction,
1146 a temporary restraining order, or a final judgment or order,
1147 including a stipulated judgment or order, an assurance of
1148 voluntary compliance, cease and desist, or any similar document,
1149 in any civil or administrative action involving fraud, theft,
1150 larceny, embezzlement, fraudulent conversion, or
1151 misappropriation of property, or has been enjoined from
1152 violating any law relating to a charitable solicitation.

1153 (3) Each applicant shall submit a complete set of his or
1154 her fingerprints with the initial application for a solicitor
1155 license and a fee equal to the federal and state costs for
1156 fingerprint processing.

1157 (a) The applicant's fingerprints must be taken by an
1158 authorized law enforcement officer or fingerprinting service
1159 provider approved by the Department of Law Enforcement.

1160 (b) The department shall forward the complete set of
1161 fingerprints to the Department of Law Enforcement to be
1162 processed for state and federal criminal justice information as
1163 defined in s. 943.045. The Department of Law Enforcement shall
1164 report the findings of the state and national criminal history
1165 background check to the department within 30 days after the
1166 fingerprints are submitted to the Department of Law Enforcement
1167 for criminal justice information.

1168 (4) A solicitor license must be renewed annually by the
1169 submission of a renewal application. A solicitor license that is
1170 not renewed expires without further action by the department.

1171 (5) Each applicant for a solicitor license shall remit a
1172 license fee of \$100 to the department at the time the initial
1173 application is filed with the department and an annual renewal
1174 fee of \$100 thereafter. All fees collected, less the cost of
1175 administration, shall be deposited into the General Inspection
1176 Trust Fund.

1177 (6) Any material change to the information submitted to
1178 the department in the initial application or renewal application
1179 for a solicitor license shall be reported to the department by
1180 the applicant or licensee within 10 days after the change
1181 occurs. The applicant or licensee shall also submit a fee in the
1182 amount of \$10 for processing the change to the initial or
1183 renewal application.

1184 (7) It is a violation of this chapter:

1185 (a) For an applicant to provide inaccurate or incomplete
1186 information to the department in the initial or renewal
1187 application for a solicitor license.

1188 (b) For any person specified in subsection (1) to fail to
1189 maintain a solicitor license as required by this section.

1190 (c) For a professional solicitor to allow, require,
1191 permit, or authorize an employee without an active solicitor
1192 license issued under this section to conduct telephonic
1193 solicitations.

1194 (8) The department shall adopt rules that allow certain
1195 applicants to engage in solicitation activities on an interim
1196 basis until such time as a solicitor license is granted or

1197 denied.

1198 (9) The department may deny or revoke any solicitor
 1199 license if the applicant or licensee has had the right to
 1200 solicit contributions revoked in any state, has entered into an
 1201 agreement with any state to cease soliciting contributions
 1202 within that state, has been ordered by any court or governmental
 1203 agency to cease soliciting contributions within any state, or is
 1204 subject to any disqualification specified in s. 496.410(14).

1205 Section 12. Subsections (2) and (3) of section 496.411,
 1206 Florida Statutes, are amended to read:

1207 496.411 Disclosure requirements and duties of charitable
 1208 organizations and sponsors.—

1209 (2) A charitable organization or sponsor soliciting in
 1210 this state must include all of the following disclosures at the
 1211 point of solicitation:

1212 (a) The name of the charitable organization or sponsor and
 1213 state of the principal place of business of the charitable
 1214 organization or sponsor;

1215 (b) A description of the purpose or purposes for which the
 1216 solicitation is being made;

1217 (c) Upon request, the name and either the address or
 1218 telephone number of a representative to whom inquiries could be
 1219 addressed;

1220 (d) Upon request, the amount of the contribution which may
 1221 be deducted as a charitable contribution under federal income
 1222 tax laws;

1223 (e) Upon request, the source from which a written
 1224 financial statement may be obtained. Such financial statement
 1225 must be for the immediate preceding ~~past~~ fiscal year and must be
 1226 consistent with the annual financial statement ~~report~~ filed
 1227 under s. 496.407. The written financial statement must be
 1228 provided within 14 days after the request and must state the
 1229 purpose for which funds are raised, the total amount of all
 1230 contributions raised, the total costs and expenses incurred in
 1231 raising contributions, the total amount of contributions
 1232 dedicated to the stated purpose or disbursed for the stated
 1233 purpose, and whether the services of another person or
 1234 organization have been contracted to conduct solicitation
 1235 activities.

1236 (3) Every charitable organization or sponsor that ~~which~~ is
 1237 required to register under s. 496.405 or is exempt under s.
 1238 496.406(2)(d) shall ~~must~~ conspicuously display ~~in capital~~
 1239 ~~letters~~ the following statement on every ~~printed~~ solicitation,
 1240 ~~written~~ confirmation, receipt, or reminder of a contribution:
 1241

1242 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
 1243 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
 1244 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
 1245 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
 1246 APPROVAL, OR RECOMMENDATION BY THE STATE."
 1247

1248 The statement must include a toll-free number and website for

1249 the division which ~~that~~ can be used to obtain the registration
 1250 information. If ~~When~~ the solicitation consists of more than one
 1251 piece, the statement must be displayed prominently in the
 1252 solicitation materials. If the solicitation occurs through a
 1253 website, the statement must be conspicuously displayed on the
 1254 webpage where donations are requested.

1255 Section 13. Subsection (1) of section 496.412, Florida
 1256 Statutes, is amended to read:

1257 496.412 Disclosure requirements and duties of professional
 1258 solicitors.—

1259 (1) A professional solicitor must comply with and be
 1260 responsible for complying or causing compliance with the
 1261 following disclosures:

1262 (a) Before ~~Prior to~~ orally requesting a contribution, or
 1263 contemporaneously with a written request for a contribution, a
 1264 professional solicitor must clearly disclose:

1265 1. The name of the professional solicitor as on file with
 1266 the department.

1267 2. If the individual acting on behalf of the professional
 1268 solicitor identifies himself or herself by name, the
 1269 individual's legal name.

1270 3. The name and state of the principal place of business
 1271 of the charitable organization or sponsor and a description of
 1272 how the contributions raised by the solicitation will be used
 1273 for a charitable or sponsor purpose; or, if there is no
 1274 charitable organization or sponsor, a description as to how the

1275 contributions raised by the solicitation will be used for a
 1276 charitable or sponsor purpose.

1277 (b) In the case of a solicitation campaign conducted
 1278 orally, whether by telephone or otherwise, any written
 1279 confirmation, receipt, or reminder sent to any person who has
 1280 contributed or has pledged to contribute, shall include a clear
 1281 disclosure of the information required by paragraph (a).

1282 (c) In addition to the information required by paragraph
 1283 (a), any written confirmation, receipt, or reminder of
 1284 contribution made pursuant to an oral solicitation and any
 1285 ~~written~~ solicitation shall conspicuously state ~~in capital~~
 1286 ~~letters~~:

1287
 1288 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
 1289 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
 1290 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
 1291 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
 1292 APPROVAL, OR RECOMMENDATION BY THE STATE."
 1293

1294 The statement must include a toll-free number and website for
 1295 the division which ~~that~~ can be used to obtain the registration
 1296 information. If ~~When~~ the solicitation consists of more than one
 1297 piece, the statement must be displayed prominently in the
 1298 solicitation materials. If the solicitation occurs on a website,
 1299 the statement must be conspicuously displayed on the webpage
 1300 where donations are requested.

1301 (d) If requested by the person being solicited, the
 1302 professional solicitor shall inform that person in writing,
 1303 within 14 days after ~~of~~ the request, of the fixed percentage of
 1304 the gross revenue or the reasonable estimate of the percentage
 1305 of the gross revenue that the charitable organization or sponsor
 1306 will receive as a benefit from the solicitation campaign or
 1307 shall immediately notify the person being solicited that the
 1308 information is available on the department's website or by
 1309 calling the division's toll-free number.

1310 (e) If requested by the person being solicited, the
 1311 professional solicitor shall inform that person in writing,
 1312 within 14 days after ~~of~~ the request, of the percentage of the
 1313 contribution which may be deducted as a charitable contribution
 1314 under federal income tax laws or shall immediately notify the
 1315 person being solicited that the information is available on the
 1316 department's website or by calling the division's toll-free
 1317 number.

1318 Section 14. Section 496.4121, Florida Statutes, is created
 1319 to read:

1320 496.4121 Collection receptacles used for donations.-

1321 (1) As used in this section, the term "collection
 1322 receptacle" means a receptacle used to collect donated clothing,
 1323 household items, or other goods for resale.

1324 (2) A collection receptacle must display a permanent sign
 1325 or label on each side which contains the following information
 1326 printed in letters that are at least 3 inches in height and no

1327 less than one-half inch in width, in a color that contrasts with
 1328 the color of the collection receptacle:

1329 (a) For collection receptacles used by a person required
 1330 to register under this chapter, the name, business address,
 1331 telephone number, and registration number of the charitable
 1332 organization or sponsor for whom the solicitation is made.

1333 (b) For collection receptacles placed or maintained in
 1334 public view by a person not required to register under this
 1335 chapter, the name, telephone number, and physical address of the
 1336 business conducting the solicitation and the statement: "This is
 1337 not a charity. Donations made here support a for-profit business
 1338 and are not tax deductible."

1339 (3) Upon request, a charitable organization or sponsor
 1340 using a collection receptacle must provide the donor with
 1341 documentation of its tax-exempt status and the registration
 1342 issued under this chapter.

1343 Section 15. Subsection (2) of section 496.415, Florida
 1344 Statutes, is amended, and subsection (18) is added to that
 1345 section, to read:

1346 496.415 Prohibited acts.—It is unlawful for any person in
 1347 connection with the planning, conduct, or execution of any
 1348 solicitation or charitable or sponsor sales promotion to:

1349 (2) ~~Knowingly~~ Submit false, misleading, or inaccurate
 1350 information in a document that is filed with the department,
 1351 provided to the public, or offered in response to a request or
 1352 investigation by the department, the Department of Legal

1353 Affairs, or the state attorney.

1354 (18) Fail to remit to a charitable organization or sponsor
 1355 the disclosed guaranteed minimum percentage of gross receipts
 1356 from contributions as required under s. 496.410(7)(c) or, if the
 1357 solicitation involved the sale of goods, services, or tickets to
 1358 a fundraising event, the percentage of the purchase price as
 1359 agreed in the contract or agreement as required under this
 1360 chapter.

1361 Section 16. Subsection (5) of section 496.419, Florida
 1362 Statutes, is amended to read:

1363 496.419 Powers of the department.—

1364 (5) Upon a finding as set forth in subsection (4), the
 1365 department may enter an order doing one or more of the
 1366 following:

1367 (a) Issuing a notice of noncompliance pursuant to s.
 1368 120.695;

1369 (b) Issuing a cease and desist order that directs that the
 1370 person cease and desist specified fundraising activities;

1371 (c) Refusing to register or canceling or suspending a
 1372 registration;

1373 (d) Placing the registrant on probation for a period of
 1374 time, subject to such conditions as the department may specify;

1375 (e) Canceling an exemption granted under s. 496.406; ~~and~~

1376 (f) Except as provided in paragraph (g), imposing an
 1377 administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or
 1378 omission that ~~which~~ constitutes a violation of ss. 496.401-

1379 496.424 or s. 496.426 or a rule or order. With respect to a s.
 1380 501(c)(3) organization, the penalty imposed pursuant to this
 1381 subsection may ~~shall~~ not exceed \$500 per violation for failure
 1382 to register under s. 496.405 or file for an exemption under s.
 1383 496.406(2). The penalty shall be the entire amount per violation
 1384 and is not ~~to be interpreted as~~ a daily penalty; and

1385 (g) Imposing an administrative fine not to exceed \$10,000
 1386 for a violation of this chapter that involves fraud or
 1387 deception.

1388 Section 17. Section 496.4191, Florida Statutes, is created
 1389 to read:

1390 496.4191 Additional penalty; immediate suspension.—Upon
 1391 notification and subsequent written verification by a law
 1392 enforcement agency, a court, a state attorney, or the Florida
 1393 Department of Law Enforcement, the department shall immediately
 1394 suspend a registration or the processing of an application for a
 1395 registration if the registrant, applicant, or any officer or
 1396 director of the registrant or applicant is formally charged with
 1397 a crime involving fraud, theft, larceny, embezzlement, or
 1398 fraudulent conversion or misappropriation of property or any
 1399 crime arising from the conduct of a solicitation for a
 1400 charitable organization or sponsor until final disposition of
 1401 the case or removal or resignation of that officer or director.

1402 Section 18. Section 496.430, Florida Statutes, is created
 1403 to read:

1404 496.430 Disqualification for certain tax exemptions.—

1405 (1) The department may issue an order to disqualify a
1406 charitable organization or sponsor from receiving any sales tax
1407 exemption if the department finds, based upon the average of
1408 functional expenses and program service costs provided to the
1409 department pursuant to s. 496.407 for the 3 most recent fiscal
1410 years, that the charitable organization or sponsor has failed to
1411 expend at least 25 percent of its total annual functional
1412 expenses on program service costs.

1413 (2) A charitable organization or sponsor may appeal a
1414 disqualification order by requesting a hearing within 21 days
1415 after notification from the department that it has issued a
1416 disqualification order under this section. The hearing must be
1417 conducted in accordance with chapter 120.

1418 (3) Notwithstanding a finding under subsection (1) that a
1419 charitable organization or sponsor has failed to expend at least
1420 25 percent of its total annual functional expenses on program
1421 service costs, the department may decline to issue a
1422 disqualification order if the charitable organization or sponsor
1423 establishes:

1424 (a) That payments were made to affiliates which should be
1425 considered in calculating the program service costs;

1426 (b) That revenue was accumulated for a specific program
1427 purpose consistent with representations in solicitations; or

1428 (c) Such other mitigating circumstances as are defined by
1429 rule of the department.

1430 (4) A disqualification order issued by the department

1431 pursuant to this section is effective for at least 1 year after
1432 such order becomes final and shall remain effective until such
1433 time as the department receives sufficient evidence from the
1434 disqualified charitable organization or sponsor which
1435 demonstrates it expends at least 25 percent of its total annual
1436 functional expenses on program service costs.

1437 (a) The charitable organization or sponsor may not submit
1438 such evidence to the department sooner than 1 year after the
1439 disqualification order becomes final and may not submit such
1440 information more than once each year for consideration by the
1441 department.

1442 (b) The department shall also consider any financial
1443 statement that was submitted by the charitable organization or
1444 sponsor to the department pursuant to s. 496.407 after the
1445 disqualification order became final.

1446 (5) The department shall provide a disqualification order
1447 to the Department of Revenue within 30 days after such order
1448 becomes final. A final disqualification order is conclusive as
1449 to the charitable organization's or sponsor's entitlement to any
1450 sales tax exemption. The Department of Revenue shall revoke or
1451 refuse to grant a sales tax exemption certificate to a
1452 charitable organization or sponsor subject to a final
1453 disqualification order within 30 days after receiving such
1454 disqualification order. A charitable organization or sponsor may
1455 not appeal or challenge the revocation or denial of a sales tax
1456 exemption certificate by the Department of Revenue if such

1457 revocation or denial is based upon a final disqualification
 1458 order issued pursuant to this section.

1459 (6) This section does not apply to a charitable
 1460 organization or sponsor that:

1461 (a) Is not required to register under this chapter with
 1462 the department; or

1463 (b) Has been in existence for less than 4 years.

1464 Section 19. Paragraph (a) of subsection (3) of section
 1465 741.0305, Florida Statutes, is amended to read:

1466 741.0305 Marriage fee reduction for completion of
 1467 premarital preparation course.—

1468 (3) (a) All individuals electing to participate in a
 1469 premarital preparation course shall choose from the following
 1470 list of qualified instructors:

- 1471 1. A psychologist licensed under chapter 490.
- 1472 2. A clinical social worker licensed under chapter 491.
- 1473 3. A marriage and family therapist licensed under chapter
 1474 491.
- 1475 4. A mental health counselor licensed under chapter 491.
- 1476 5. An official representative of a religious institution
 1477 which is recognized under s. 496.404(23) ~~496.404(19)~~, if the
 1478 representative has relevant training.

1479 6. Any other provider designated by a judicial circuit,
 1480 including, but not limited to, school counselors who are
 1481 certified to offer such courses. Each judicial circuit may
 1482 establish a roster of area course providers, including those who

HB 629

2014

1483 offer the course on a sliding fee scale or for free.

1484 Section 20. For the 2014-2015 fiscal year, the sum of
1485 \$175,000 in nonrecurring funds is appropriated from the General
1486 Inspection Trust Fund of the Department of Agriculture and
1487 Consumer Services to the Contracted Services appropriation
1488 category for the purpose of implementing this act. Funds
1489 remaining unexpended or unencumbered from this appropriation as
1490 of June 30, 2015, shall revert and be reappropriated for the
1491 same purpose in the 2015-2016 fiscal year.

1492 Section 21. This act shall take effect July 1, 2014.