

CHAPTER 2014-122

Committee Substitute for Committee Substitute for House Bill No. 629

An act relating to charities; providing legislative findings and declarations; amending s. 212.08, F.S.; revising an exemption from the sales and use tax to exclude from eligibility charitable organizations subject to a final disqualification order issued by the Department of Agriculture and Consumer Services; amending s. 212.084, F.S.; requiring the Department of Revenue to revoke a sales tax exemption certificate of, or refuse to grant a sales tax exemption certificate to, certain charitable organizations; providing for appeal; amending s. 496.403, F.S.; exempting blood establishments from the Solicitation of Contributions Act; amending s. 496.404, F.S.; revising definitions; amending s. 496.405, F.S.; revising requirements and procedures for the filing of registration statements of charitable organizations and sponsors; specifying the information that each chapter, branch, or affiliate of a parent organization must include in, and attach to, a consolidated financial statement; revising the period within which the Department of Agriculture and Consumer Services must review certain initial registration statements and annual renewal statements; providing for the automatic suspension of a charitable organization or sponsor's registration for failure to disclose specified information; prohibiting officers, directors, trustees, or employees of a charitable organization or sponsor from allowing certain persons to solicit contributions on behalf of the charitable organization or sponsor; authorizing the department to deny or revoke the registration of a charitable organization or sponsor under certain circumstances; requiring a charitable organization or sponsor that has ended solicitation activities in this state to notify the department in writing; creating s. 496.4055, F.S.; defining the term "conflict of interest transaction"; requiring the board of directors of a charitable organization or sponsor, or an authorized committee thereof, to adopt a policy regarding conflict of interest transactions; amending s. 496.407, F.S.; requiring the financial statements of certain charitable organizations or sponsors to be audited or reviewed; providing requirements and standards for such audit or review; authorizing charitable organizations and sponsors to redact specified information from certain Internal Revenue Service Forms submitted in lieu of a financial statement; requiring such forms submitted by certain charitable organizations or sponsors to be prepared by a certified public accountant; authorizing the department to provide an extension for filing a financial statement; authorizing the department to require an audit or review for a financial statement submitted by a charitable organization or sponsor under certain circumstances; creating s. 496.4071, F.S.; requiring certain charitable organizations or sponsors to report specified supplemental financial information to the department by a certain date; creating s. 496.4072, F.S.; requiring certain charitable organizations or sponsors that solicit contributions for a specific disaster relief effort to submit quarterly financial statements to the department;

providing requirements and procedures for the filing of such quarterly statements; exempting certain charitable organizations and sponsors from filing such quarterly statements; amending s. 496.409, F.S.; authorizing a professional fundraising consultant to enter into a contract or agreement only with certain charitable organizations or sponsors; revising the procedures and requirements for reviewing professional fundraising consultant registration statements and renewal applications; prohibiting certain officers, trustees, directors, or employees of professional fundraising consultants from allowing certain persons to solicit contributions on behalf of the professional fundraising consultant; authorizing the department to deny or revoke the registration of a professional fundraising consultant under certain circumstances; amending s. 496.410, F.S.; revising the information that must be included in a professional solicitor application for registration or renewal of registration; revising procedures and requirements for reviewing professional solicitor registration statements and renewal applications; revising the information that must be included in a solicitation notice filed by a professional solicitor; authorizing a professional solicitor to enter into a contract or agreement only with certain charitable organizations or sponsors; prohibiting certain officers, trustees, directors, or employees of a professional solicitor from soliciting for compensation or allowing certain persons to solicit for compensation on behalf of the professional solicitor; authorizing the department to deny or revoke the registration of a professional solicitor under certain circumstances; creating s. 496.4101, F.S.; requiring each officer, director, trustee, or owner of a professional solicitor and certain employees of a professional solicitor to obtain a solicitor license from the department; defining the term “personal financial information”; providing application requirements and procedures; requiring applicants to submit a complete set of fingerprints and pay a fee for fingerprint processing and retention; requiring a solicitor license to be renewed annually; requiring material changes in applications or renewal applications to be reported to the department within a specified period; providing violations; requiring the department to adopt rules to allow applicants to engage in solicitation activities on a temporary basis; authorizing the department to deny or revoke a solicitor license under certain circumstances; requiring certain administrative proceedings to be conducted in accordance with chapter 120, F.S.; amending s. 496.411, F.S.; revising disclosure requirements for charitable organizations and sponsors; amending s. 496.412, F.S.; revising disclosure requirements for professional solicitors; creating s. 496.4121, F.S.; defining the term “collection receptacle”; requiring collection receptacles to display permanent signs or labels; providing requirements for such signs or labels; requiring a charitable organization or sponsor using a collection receptacle to provide certain information to a donor upon request; amending s. 496.415, F.S.; prohibiting the submission of false, misleading, or inaccurate information in a document in connection with a solicitation or sales promotion; prohibiting the failure to remit specified funds to a charitable organization or sponsor; amending s. 496.419, F.S.; increasing administrative fine amounts the department is authorized to impose for specified violations of the Solicitation of Contributions Act; creating s. 496.4191,

F.S.; requiring the department to immediately suspend a registration or processing of an application for registration if the registrant, applicant, or any officer or director thereof is charged with certain criminal offenses; creating s. 496.430, F.S.; authorizing the department to issue an order to disqualify a charitable organization or sponsor from receiving a sales tax exemption certificate under certain circumstances; authorizing a charitable organization or sponsor to appeal a disqualification order within a specified period; providing that a disqualification order remains effective for a specified period; authorizing a charitable organization or sponsor to apply to the Department of Revenue for a sales tax exemption certificate after expiration of a final disqualification order; requiring the Department of Agriculture and Consumer Services to provide a final disqualification order to the Department of Revenue within a specified period; requiring the Department of Revenue to revoke a sales tax exemption certificate of, or refuse to grant a sales tax exemption certificate to, charitable organizations or sponsors subject to a final disqualification order; prohibiting a charitable organization or sponsor from appealing or challenging the revocation or denial of a sales tax exemption certificate under certain circumstances; amending s. 741.0305, F.S.; conforming a cross-reference; providing severability; providing an appropriation and authorizing positions; providing an effective date.

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

Section 1. Legislative findings and declarations.—

(1) The Legislature finds that Floridians are generous and that such generosity provides charitable or nonprofit organizations with the resources they need to have a positive impact on the communities they serve.

(2) The Legislature supports the opportunity for charitable or nonprofit organizations to raise funds to carry out their charitable or nonprofit missions.

(3) The Legislature respects the diversity of activities conducted by religious groups and therefore, through this act, intends that the definition of a “religious institution” apply to bona fide religious groups.

(4) The Legislature finds that the provisions of this act strengthening chapter 496, Florida Statutes, will prevent the misuse of Floridians’ charitable contributions by deterring fraudulent and deceptive organizations from soliciting contributions in this state.

(5) The Legislature finds that there is a compelling state interest in revising chapter 496, Florida Statutes, to help Floridians make more informed decisions regarding which organizations merit their support.

Section 2. Paragraph (p) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

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

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

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

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

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

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

(7) The department shall revoke a sales tax exemption certificate granted to, or refuse to grant a sales tax exemption certificate to, an institution, organization, or individual who is the subject of a final disqualification order

issued by the Department of Agriculture and Consumer Services pursuant to s. 496.430. A revocation or denial under this subsection is subject to challenge under chapter 120 only as to whether a disqualification order is in effect. An institution, organization, or individual who appeals the disqualification order must do so pursuant to s. 496.430(2).

Section 4. Section 496.403, Florida Statutes, is amended to read:

496.403 Application.—Sections 496.401-496.424 do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as professional fundraising consultants solely on their behalf of those entities, or to blood establishments as defined in s. 381.06014(1)(a). Sections 496.401-496.424 do not apply to political contributions solicited in accordance with the election laws of this state.

Section 5. Section 496.404, Florida Statutes, is amended to read:

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

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

(2) “Charitable purpose” means a ~~any~~ benevolent, philanthropic, patriotic, educational, humane, scientific, artistic, public health, social welfare or advocacy, environmental conservation, civic, or other eleemosynary objective.

(3) “Charitable sales promotion” means an advertising or sales campaign conducted by a commercial co-venturer which represents that the purchase or use of goods or services offered by the commercial co-venturer benefits ~~are to benefit~~ a charitable organization. The provision of advertising services to a charitable organization does not, in itself, constitute a charitable sales promotion.

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

(5) “Contribution” means the promise, pledge, or grant of ~~any~~ money or property, financial assistance, or any other thing of value in response to a solicitation. The term ~~“Contribution”~~ includes, in the case of a charitable

organization or sponsor offering goods and services to the public, the difference between the direct cost of the goods and services to the charitable organization or sponsor and the price at which the charitable organization or sponsor or a any person acting on behalf of the charitable organization or sponsor resells those goods or services to the public. The term “Contribution” does not include:

(a) Bona fide fees, dues, or assessments paid by members if, provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation;

(b) “Contribution” also does not include Funds obtained by a charitable organization or sponsor pursuant to government grants or contracts;

(c) Funds, or obtained as an allocation from a United Way organization that is duly registered with the department; or

(d) Funds received from an organization duly registered with the department that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code and described in s. 501(c) of the Internal Revenue Code that is duly registered with the department.

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

(7)(6) “Department” means the Department of Agriculture and Consumer Services.

(8) “Disaster” means a natural, technological, or civil event, including, but not limited to, an explosion, chemical spill, earthquake, tsunami, landslide, volcanic activity, avalanche, wildfire, tornado, hurricane, drought, or flood, which affects one or more countries and causes damage of sufficient severity and magnitude to result in:

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

(b) An official request for international assistance.

(9)(7) “Division” means the Division of Consumer Services of the Department of Agriculture and Consumer Services.

(10)(8) “Educational institutions” means those institutions and organizations described in s. 212.08(7)(cc)8.a. The term includes private nonprofit organizations, the purpose of which is to raise funds for schools teaching grades kindergarten through grade 12, colleges, and universities, including a any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, an any educational television network or system established pursuant to s. 1001.25 or s. 1001.26, and a any nonprofit television or radio station that is a part of

such network or system and that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term also includes a nonprofit educational cable consortium that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, the whose primary purpose of which is the delivery of educational and instructional cable television programming and the whose members of which are composed exclusively of educational organizations that hold a valid consumer certificate of exemption and that are either an educational institution as defined in this subsection or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

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

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

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

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

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

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

~~(15)~~ “Management and general costs” means all such costs of a charitable organization or sponsor which are not identifiable with a single program or fundraising activity but which are indispensable to the conduct of such programs and activities and the charitable organization or sponsor’s existence.

~~(16)~~(13) “Membership” means the relationship of a person to an organization which ~~that~~ entitles her or him to the privileges, professional standing,

honors, or other direct benefit of the organization in addition to the right to vote, elect officers, and hold office in the organization.

(17)(14) “Owner” means ~~a~~ any person who has a direct or indirect interest in ~~a~~ any professional fundraising consultant or professional solicitor.

(18)(15) “Parent organization” means that part of a charitable organization or sponsor which coordinates, supervises, or exercises control over policy, fundraising, and expenditures or assists or advises one or more of the organization’s chapters, branches, or affiliates in this state.

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

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

(21)(18) “Professional solicitor” means ~~a~~ any person who, for compensation, performs for a charitable organization or sponsor ~~a~~ any service in connection with which contributions are or will be solicited in, or from a location in, this state by the compensated person or by ~~a~~ any person it employs, procures, or otherwise engages, directly or indirectly, to solicit contributions, or a person who plans, conducts, manages, carries on, advises, consults, ~~whether~~ directly or indirectly, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor, but who does not qualify as a professional fundraising consultant. A bona fide volunteer or bona fide employee or salaried officer of a charitable organization or sponsor maintaining a permanent establishment in this state is not a professional solicitor. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a professional solicitor as the result of such advice.

(22) “Program service costs” means all expenses incurred primarily to accomplish the charitable organization or sponsor’s stated purposes. The term does not include fundraising costs.

(23)(19) “Religious institution” means ~~a~~ any church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly

conducted and carried on, and includes those bona fide religious groups ~~that~~ which do not maintain specific places of worship. The term “Religious institution” also includes a any separate group or corporation that ~~which~~ forms an integral part of a religious institution that ~~which~~ is exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, and that ~~which~~ is not primarily supported by funds solicited outside its own membership or congregation.

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

- (a) Making any oral or written request;
- (b) Making any announcement to the press, on radio or television, by telephone or telegraph, or by any other communication device concerning an appeal or campaign by or for any charitable organization or sponsor or for any charitable or sponsor purpose;
- (c) Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution; or
- (d) Selling or offering or attempting to sell any advertisement, advertising space, book, card, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, admission, ticket, food, or other service or tangible good, item, or thing of value, or any right of any description in connection with which any appeal is made for any charitable organization or sponsor or charitable or sponsor purpose, or when the name of any charitable organization or sponsor is used or referred to in any such appeal as an inducement or reason for making the sale or when, in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable or sponsor purpose or will benefit any charitable organization or sponsor.

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

~~(25)~~~~(21)~~ “Sponsor” means a group or person ~~who~~ which is or holds herself or himself ~~itself~~ out to be soliciting contributions by the use of a any name

~~that which~~ implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person ~~which~~ is not a charitable organization. The term includes a chapter, branch, or affiliate ~~that which~~ has its principal place of business outside the state, if such chapter, branch, or affiliate solicits or holds itself out to be soliciting contributions in this state.

~~(26)(22)~~ “Sponsor purpose” means a ~~any~~ program or endeavor performed to benefit emergency service employees or law enforcement officers.

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

Section 6. Subsection (1), paragraphs (a) and (g) of subsection (2), subsection (3), paragraph (b) of subsection (4), and subsections (7) and (8) of section 496.405, Florida Statutes, are amended, and subsections (9) and (10) are added to that section, to read:

496.405 Registration statements by charitable organizations and sponsors.—

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

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

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

(c) A charitable organization or sponsor that is required to file an initial registration statement or annual renewal statement may not, before ~~prior to~~

approval of its statement by the department in accordance with subsection (7), solicit contributions or have contributions solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or participate in a charitable sales promotion or sponsor sales promotion.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Each chapter, branch, or affiliate of a parent organization that is required to register under this section must ~~either~~ file a separate registration statement and financial statement ~~report~~ or ~~must~~ report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates. A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements ~~reports~~ as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and affiliates that solicited or received contributions during the preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that ~~which~~ feeds directly into the parent organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement ~~report~~ on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent organization and each Florida chapter, branch, or affiliate that is required to file such forms must be attached to the consolidated financial statement.

(4)

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

(7)(a) The department must examine each initial registration statement or annual renewal statement and the supporting documents filed by a charitable organization or sponsor and shall determine whether the registration requirements are satisfied. Within 15 business ~~working~~ days after its receipt of a statement, the department must examine the statement,

notify the applicant of any apparent errors or omissions, and request any additional information the department is allowed by law to require. Failure to correct an error or omission or to supply additional information is not grounds for denial of the initial registration or annual renewal statement unless the department has notified the applicant within the 15-business-day ~~15-working-day~~ period. The department must approve or deny each statement, or must notify the applicant that the activity for which she or he seeks registration is exempt from the registration requirement, within 15 business working ~~15 working~~ days after receipt of the initial registration or annual renewal statement or the requested additional information or correction of errors or omissions. A ~~Any~~ statement that is not approved or denied within 15 business working ~~15 working~~ days after receipt of the requested additional information or correction of errors or omissions is approved. Within 7 business working ~~7 working~~ days after receipt of a notification that the registration requirements are not satisfied, the charitable organization or sponsor may request a hearing. The hearing must be held within 7 business working ~~7 working~~ days after receipt of the request, and any recommended order, if one is issued, must be rendered within 3 business working ~~3 working~~ days after of the hearing. The final order must then be issued within 2 business working ~~2 working~~ days after the recommended order. If a recommended order is not issued, the final order must be issued within 5 business working ~~5 working~~ days after the hearing. The proceedings must be conducted in accordance with chapter 120, except that the time limits and provisions set forth in this paragraph ~~subsection~~ prevail to the extent of any conflict.

(b) If a charitable organization or sponsor discloses information specified in subparagraphs (2)(d)2.-7. in the initial registration statement or annual renewal statement, the time limits set forth in paragraph (a) are waived, and the department shall process such initial registration statement or annual renewal statement in accordance with the time limits set forth in chapter 120. The registration of a charitable organization or sponsor shall be automatically suspended for failure to disclose any information specified in subparagraphs (2)(d)2.-7. until such time as the required information is submitted to the department.

(8) A ~~No~~ charitable organization or sponsor, or an officer, director, trustee, or employee thereof, may not ~~shall~~ knowingly allow an officer, director, trustee, or employee of the charitable organization or sponsor any of its officers, directors, trustees, or employees to solicit contributions on behalf of such charitable organization or sponsor if such officer, director, trustee, or employee has, in any state, regardless of adjudication, been convicted of, been or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, been or found guilty of, or pled guilty or nolo contendere to, a any felony within the last 10 years or a any crime within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or a any crime arising from the conduct of a solicitation for a charitable organization or sponsor, or has been enjoined in any state from violating a any law relating to a charitable solicitation. The

prohibitions in this subsection also apply to a misdemeanor in another state which constitutes a disqualifying felony in this state.

(9) The department may deny or revoke the registration of a charitable organization or sponsor if the charitable organization or sponsor, or an officer, director, or trustee thereof, has had the right to solicit contributions revoked in any state or has been ordered by a court or governmental agency to cease soliciting contributions within any state.

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

Section 7. Section 496.4055, Florida Statutes, is created to read:

496.4055 Charitable organization or sponsor board duties.—

(1) As used in this section, the term “conflict of interest transaction” means a transaction between a charitable organization or sponsor and another party in which a director, officer, or trustee of the charitable organization or sponsor has a direct or indirect financial interest. The term includes, but is not limited to, the sale, lease, or exchange of property to or from the charitable organization or sponsor; the lending of moneys to or borrowing of moneys from the charitable organization or sponsor; and the payment of compensation for services provided to or from the charitable organization or sponsor.

(2) The board of directors, or an authorized committee thereof, of a charitable organization or sponsor required to register with the department under s. 496.405 shall adopt a policy regarding conflict of interest transactions. The policy shall require annual certification of compliance with the policy by all directors, officers, and trustees of the charitable organization. A copy of the annual certification shall be submitted to the department with the annual registration statement required by s. 496.405.

Section 8. Section 496.407, Florida Statutes, is amended to read:

496.407 Financial statement report.—

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

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

1.(a) A balance sheet.

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

3.(e) The names and addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom from each of them, if any.

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

- a.1. Program service costs.
- b.2. Management and general costs.
- c.3. Fundraising costs.

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

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

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

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

(c) Audits and reviews shall be prepared in accordance with the following standards:

1. An audit shall be prepared by an independent certified public accountant in accordance with generally accepted auditing standards, including the Statements on Auditing Standards.

2. A review shall be prepared by an independent certified public accountant in accordance with the Statements on Standards for Accounting and Review Services.

(d) An audited or reviewed financial statement must be accompanied by a report signed and prepared by the independent certified public accountant performing such audit or review.

(2)(a) In lieu of the financial statement report described in subsection (1), a charitable organization or sponsor may submit a copy of its Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of its Internal Revenue Service Form 990-EZ and Schedule O filed for the preceding fiscal year. A charitable organization or sponsor that submits such forms or schedules may redact information that is not subject to public inspection pursuant to 26 U.S.C. s. 6104(d)(3) before submission.

(b) Forms and schedules described in paragraph (a) submitted by a charitable organization or sponsor that receives \$500,000 or more in annual contributions must be prepared by a certified public accountant or another professional who prepares such forms or schedules in the ordinary course of his or her business.

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

~~(4) The department may require that an audit or review be conducted for any financial statement submitted by a charitable organization or sponsor if the department finds any discrepancies, which may include, but are not limited to, irregular or inconsistent information, in the charitable organization's or sponsor's financial statement. A charitable organization or sponsor may elect to also include a financial report that has been audited by an independent certified public accountant or an audit with opinion by an independent certified public accountant. In the event that a charitable organization or sponsor elects to file an audited financial report, this optional filing must be noted in the department's annual report submitted pursuant to s. 496.423.~~

Section 9. Section 496.4071, Florida Statutes, is created to read:

496.4071 Supplemental financial disclosure.—

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

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

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

2. Fundraising, including the names of any professional solicitors, amounts paid to professional solicitors, and contributions received from professional solicitors' campaigns.

3. Travel expenses.

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

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

(c) The names of and specific sums paid to all service providers who were paid more than \$100,000 during the immediately preceding fiscal year and a brief description of the services provided.

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

(e) The details of any economic or business transaction between the charitable organization or sponsor and an officer, trustee, or director of the charitable organization or sponsor; the immediate family of an officer, trustee, or director of the charitable organization or sponsor; an entity controlled by an officer, trustee, or director of the charitable organization or sponsor; an entity controlled by the immediate family of an officer, trustee, or director of the charitable organization or sponsor; an entity that employed or engaged for consultation an officer, trustee, or director of the charitable organization or sponsor; and an entity that employed or engaged for consultation the immediate family of an officer, trustee, or director of the charitable organization or sponsor. As used in this paragraph, the term "immediate family" means a parent, spouse, child, sibling, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

(f) Any additional clarifying information.

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

Section 10. Section 496.4072, Florida Statutes, is created to read:

496.4072 Financial statements for specific disaster relief solicitations.

(1) A charitable organization or sponsor that solicits contributions in this state for a charitable purpose related to a specific disaster or crisis and receives at least \$50,000 in contributions in response to such solicitation shall file quarterly disaster relief financial statements with the department on a form prescribed by the department. The quarterly statements must detail the contributions secured as a result of the solicitation and the manner in which such contributions were expended.

(2) The first quarterly statement shall be filed on the last day of the 3rd month following the accrual of at least \$50,000 in contributions after the commencement of solicitations for the specific disaster or crisis. The charitable organization or sponsor shall continue to file quarterly statements with the department until the quarter after all contributions raised in response to the solicitation are expended.

(3) The department shall post notice on its website of each disaster or crisis subject to the reporting requirements of this section within 10 days after the disaster or crisis.

(4) A charitable organization or sponsor that has been registered with the department for at least 4 consecutive years immediately before soliciting contributions for a charitable purpose related to a specific disaster or crisis is exempt from the reporting requirements of this section.

Section 11. Subsections (4), (6), and (9) of section 496.409, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

496.409 Registration and duties of professional fundraising consultant.

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

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

(b) If a professional fundraising consultant discloses information specified in paragraphs (2)(e)-(g) in the initial application for registration or renewal application, the time limits set forth in paragraph (a) are waived, and the department shall process the initial application for registration or the renewal application in accordance with the time limits set forth in chapter 120. The registration of a professional consultant shall be automatically suspended for failure to disclose any information specified in

paragraphs (2)(e)-(g) until such time as the required information is submitted to the department.

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

(10) The department may deny or revoke the registration of a professional fundraising consultant if the professional fundraising consultant, or any of its officers, directors, or trustees, has had the right to solicit contributions revoked in any state or has been ordered by a court or governmental agency to cease soliciting contributions within any state.

Section 12. Paragraph (i) of subsection (2) and subsections (3), (5), (7), (14), and (15) of section 496.410, Florida Statutes, are amended, paragraphs (j), (k), and (l) are added to subsection (2) of that section, paragraphs (i) through (n) are added to subsection (6) of that section, and a new subsection (15) is added to that section, to read:

496.410 Registration and duties of professional solicitors.—

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

(i) The names, dates of birth, and identifying numbers on or associated with valid government-issued identification cards of all persons in charge of or engaged in any solicitation activity, except those individuals required to obtain an individual license pursuant to s. 496.4101.

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

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

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

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

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

(b) If a professional solicitor discloses information specified in paragraphs (2)(f)-(h) in the initial application for registration or the renewal application, the time limits set forth in paragraph (a) are waived, and the department shall process the initial application for registration or renewal application in accordance with the time limits set forth in chapter 120. The registration of a professional solicitor shall be automatically suspended for failure to disclose any information specified in paragraphs (2)(f)-(h) until such time as the required information is submitted to the department.

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

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

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

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

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

2. An officer, director, owner, trustee, or employee of a charitable organization or sponsor under contract with the professional solicitor.

3. A supplier or vendor providing goods or services to a charitable organization or sponsor under contract with the professional solicitor.

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

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

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

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

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

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

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

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

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

(14) ~~A No~~ person may not act as a professional solicitor, and ~~a no~~ professional solicitor, or an officer, director, trustee, or employee thereof, ~~may not shall~~, to solicit for compensation, knowingly employ an any officer, trustee, director, or employee, or a any person with a controlling interest therein, who has, in any state, regardless of adjudication, been convicted of, been ~~or~~ found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, been ~~or~~ found guilty of, or pled guilty or nolo contendere to, a felony within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or a any crime arising from the conduct of a solicitation for a charitable organization or sponsor, or has been enjoined in any state from violating a any law relating to a charitable solicitation. The prohibitions in this subsection also apply to a misdemeanor in another state which constitutes a disqualifying felony in this state.

(15) The department may deny or revoke the registration of a professional solicitor if the professional solicitor, or any of its officers, directors, trustees, or agents, has had the right to solicit contributions revoked in any state or has been ordered by a court or governmental agency to cease soliciting contributions within any state.

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

Section 13. Section 496.4101, Florida Statutes, is created to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(1) Each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting telephonic solicitations during which a donor's or potential donor's personal financial information is requested or provided must, before engaging in solicitation activities, obtain a solicitor license from the department. As used in this subsection, the term "personal financial information" includes, but is not limited to, social security numbers, credit card numbers, banking information, and credit reports.

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

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

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

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

(3)(a) An applicant shall submit a complete set of his or her fingerprints to an agency, entity, or vendor authorized by s. 943.053(13). The fingerprints shall be forwarded to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for national processing.

(b) Fees for state and federal fingerprint processing and fingerprint retention fees shall be borne by the applicant. The state cost for fingerprint processing is that authorized in s. 943.053(3)(b) for records provided to persons or entities other than those specified as exceptions therein.

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

(d) For any renewal of the applicant's license, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the applicant is enrolled in the national retained print arrest notification program described in paragraph (c). The fee for the national criminal history check shall be paid as part of the renewal process to the department and forwarded by the department to the Department of Law Enforcement. If the applicant's fingerprints are retained in the national retained print arrest notification program, the applicant shall pay the state and national retention fee to the department, which shall forward the fee to the Department of Law Enforcement.

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

(f) The department shall screen background results to determine whether an applicant meets licensure requirements.

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

(5) Any material change to the information submitted to the department in the initial application or renewal application for a solicitor license shall be reported to the department by the applicant or licensee within 10 days after the change occurs.

(6) It is a violation of this chapter:

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

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

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

(7) The department shall adopt rules that allow applicants to engage in solicitation activities on a temporary basis until such time as a solicitor license is granted or denied.

(8) The department may deny or revoke a solicitor license if the applicant or licensee has had the right to solicit contributions revoked in any state, has been ordered by a court or governmental agency to cease soliciting contributions within any state, or is subject to any disqualification specified in s. 496.410(14).

(9) Any administrative proceeding that could result in entry of an order under this section shall be conducted in accordance with chapter 120.

Section 14. Subsections (2), (3), and (6) of section 496.411, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

“A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.”

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

prominently in the solicitation materials. If the solicitation occurs on a website, the statement must be conspicuously displayed on any webpage that identifies a mailing address where contributions are to be sent, identifies a telephone number to call to process contributions, or provides for online processing of contributions.

(6) Each charitable organization or sponsor that is required to register under s. 496.405 shall conspicuously display the organization ~~organization's~~ or sponsor's registration number issued by the department under this chapter on every printed solicitation, written confirmation, receipt, or reminder of a contribution. If the solicitation consists of more than a single item, the statement shall be displayed prominently in the solicitation materials.

Section 15. Subsection (1) of section 496.412, Florida Statutes, is amended to read:

496.412 Disclosure requirements and duties of professional solicitors.—

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

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

1. The name of the professional solicitor as on file with the department.
2. If the individual acting on behalf of the professional solicitor identifies himself or herself by name, the individual's legal name.
3. The name and state of the principal place of business of the charitable organization or sponsor and a description of how the contributions raised by the solicitation will be used for a charitable or sponsor purpose; or, if there is no charitable organization or sponsor, a description as to how the contributions raised by the solicitation will be used for a charitable or sponsor purpose.

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

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

“A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE

STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.”

The statement must include a toll-free number and website for the division which ~~that~~ can be used to obtain the registration information. If ~~When~~ the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials. If the solicitation occurs on a website, the statement must be conspicuously displayed on any webpage that identifies a mailing address where contributions are to be sent, identifies a telephone number to call to process contributions, or provides for online processing of contributions.

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

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

Section 16. Section 496.4121, Florida Statutes, is created to read:

496.4121 Collection receptacles used for donations.—

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

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

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

(b) For a collection receptacle placed or maintained in public view by a person not required to register under this chapter or by a person not claiming an exemption pursuant to s. 496.406, the name, telephone number, and physical address of the business conducting the solicitation and the

statement: “This is not a charity. Donations made here support a for-profit business and are not tax deductible.”

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

Section 17. Subsection (2) of section 496.415, Florida Statutes, is amended, and subsection (18) is added to that section, to read:

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

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

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

Section 18. Subsection (5) of section 496.419, Florida Statutes, is amended to read:

496.419 Powers of the department.—

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

- (a) Issuing a notice of noncompliance pursuant to s. 120.695;
- (b) Issuing a cease and desist order that directs that the person cease and desist specified fundraising activities;
- (c) Refusing to register or canceling or suspending a registration;
- (d) Placing the registrant on probation for a period of time, subject to such conditions as the department may specify;
- (e) Canceling an exemption granted under s. 496.406; ~~and~~
- (f) Except as provided in paragraph (g), imposing an administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or omission ~~that~~ which constitutes a violation of ss. 496.401-496.424 or s. 496.426 or a rule or order. With respect to a s. 501(c)(3) organization, the penalty imposed pursuant to this subsection ~~may shall~~ not exceed \$500 per violation for failure to register under s. 496.405 or file for an exemption under s. 496.406(2). The penalty

shall be the entire amount per violation and is not to be interpreted as a daily penalty; and

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

Section 19. Section 496.4191, Florida Statutes, is created to read:

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

Section 20. Section 496.430, Florida Statutes, is created to read:

496.430 Disqualification for certain tax exemptions.—

(1) In addition to the penalties provided for in s. 496.419(5), the department may issue an order to disqualify a charitable organization or sponsor from receiving any sales tax exemption certificate issued by the Department of Revenue if the department finds a violation of s. 496.419(4).

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

(3) A disqualification order issued by the department pursuant to this section is effective for 1 year after such order becomes final. After the expiration of a final disqualification order, a charitable organization or sponsor may apply to the Department of Revenue for a sales tax exemption certificate.

(4) The department shall provide a disqualification order to the Department of Revenue within 30 days after such order becomes final. A final disqualification order is conclusive as to the charitable organization or sponsor's entitlement to a sales tax exemption. The Department of Revenue shall revoke a sales tax exemption certificate granted to, or refuse to grant a sales tax exemption certificate to, a charitable organization or sponsor subject to a final disqualification order within 30 days after receiving such disqualification order. A charitable organization or sponsor may not appeal or challenge the revocation or denial of a sales tax exemption certificate by the Department of Revenue if such revocation or denial is based upon a final disqualification order issued pursuant to this section.

Section 21. Paragraph (a) of subsection (3) of section 741.0305, Florida Statutes, is amended to read:

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

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

1. A psychologist licensed under chapter 490.
2. A clinical social worker licensed under chapter 491.
3. A marriage and family therapist licensed under chapter 491.
4. A mental health counselor licensed under chapter 491.
5. An official representative of a religious institution which is recognized under s. ~~496.404(23)~~ 496.404(19), if the representative has relevant training.
6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

Section 22. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 23. For the 2014-2015 fiscal year, the sums of \$179,944 in recurring funds and \$235,584 in nonrecurring funds from General Revenue are appropriated to the Department of Agriculture and Consumer Services, and 3 full-time equivalent positions with associated salary rate of 110,441 are authorized, for the purpose of implementing this act.

Section 24. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.