

CS/SB 266 by **CU, Hukill**; Communications Services Taxes

750650 A S RCS AFT, Hukill Delete L.27 - 109: 03/21 04:30 PM

SB 510 by **Ring**; (Similar to H 0351) Local Government Neighborhood Improvement Districts

263722 A S RCS AFT, Ring Delete L.25 - 42: 03/21 04:30 PM

CS/SB 638 by **CM, Brandes**; (Similar to CS/H 0629) Charities

600582 D S RCS AFT, Brandes Delete everything after 03/21 04:30 PM

SB 792 by **Flores**; (Similar to H 1015) Tax on Sales, Use, and Other Transactions

211242 A S RCS AFT, Gardiner Delete L.62: 03/21 04:30 PM

SB 806 by **Bradley (CO-INTRODUCERS) Simpson, Soto**; (Identical to H 0651) Value Adjustment Board Proceedings

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND
TAX
Senator Hukill, Chair
Senator Ring, Vice Chair

MEETING DATE: Wednesday, March 19, 2014
TIME: 5:00 —7:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Ring, Vice Chair; Senators Abruzzo, Altman, Brandes, Clemens, Diaz de la Portilla, Evers, Gardiner, Margolis, Sachs, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 266 Communications, Energy, and Public Utilities / Hukill	Communications Services Taxes; Reducing the tax rate applied to the sale of communications services; reducing the tax rate applied to the retail sale of direct-to-home satellite services; conforming rates to the reduction of the communications services tax; revising the distribution of tax revenues received, etc. CU 02/04/2014 Fav/CS AFT 03/19/2014 Fav/CS AP	Fav/CS Yeas 11 Nays 0
2	SB 510 Ring (Similar H 351)	Local Government Neighborhood Improvement Districts; Providing that an ordinance that creates a local government neighborhood improvement district may authorize the district to incur certain debts and pledge the funds, credit, property, and special assessment power of the district to pay such debts for the purpose of financing certain projects; providing conditions on the exercise of such power, etc. CA 01/14/2014 Favorable AFT 03/19/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 2
3	CS/SB 638 Commerce and Tourism / Brandes (Similar CS/H 629)	Charities; Excluding charitable organizations or sponsors disqualified by the Department of Agriculture and Consumer Services from receiving certain tax exemptions; requiring that the financial statements of certain charitable organizations or sponsors be audited or reviewed; requiring each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor that conducts telephone solicitations to obtain a solicitor license from the department; increasing administrative fines for violations of the Solicitation of Contributions Act, etc. CM 02/10/2014 Fav/CS AFT 03/19/2014 Fav/CS AP	Fav/CS Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Finance and Tax
Wednesday, March 19, 2014, 5:00 —7:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 792 Flores (Similar H 1015)	Tax on Sales, Use, and Other Transactions; Specifying a period during which the sale of clothing, wallets, bags, school supplies, personal computers, and personal computer related accessories are exempt from the sales tax, etc. CM 03/10/2014 Favorable AFT 03/19/2014 Fav/CS AP	Fav/CS Yeas 10 Nays 0
5	SB 806 Bradley (Identical H 651)	Value Adjustment Board Proceedings; Requiring the clerk of the value adjustment board to have available and distribute specified forms; authorizing the owner of multiple items of tangible personal property to file a joint petition with the value adjustment board under certain circumstances; requiring the property appraiser to include the property record card in an evidence list for a value adjustment board hearing under certain circumstances, etc. CA 03/05/2014 Favorable AFT 03/19/2014 Favorable AP	Favorable Yeas 11 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/CS/SB 266

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Communications, Energy, and Public Utilities Committee; and Senator Hukill

SUBJECT: Communications Services Taxes

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<u>Fav/CS</u>
2.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 266 reduces the state portion of the communications services tax (CST) rate by 0.58 percent, from 6.65 percent to 6.07 percent and the tax rate on direct-to-home satellite services from 10.8 percent to 10.22 percent. The bill changes the distribution of direct-to-home satellite CST revenue to ensure that local governments continue to receive the same amount of revenue as they do under current law.

The Revenue Estimating Conference has not determined the impact of the bill. Staff estimates that the bill will decrease General Revenue by \$26.7 million in the 2014-2015 fiscal year, with a negative \$71.1 million recurring impact on General Revenue. The bill will also reduce local governments' revenues by \$3.4 million in Fiscal Year 2014-2015, with a negative \$9.1 million recurring impact on local governments.

II. Present Situation:

Chapter 202, F.S., provides for the tax on communication services, including telecommunications, cable, direct-to-home satellite and related services. The communications services tax includes a state tax rate of 6.65 percent and a state gross receipts tax rate of 2.52

percent for a combined rate of 9.17 percent.¹ In addition, local governments may impose a local tax rate of up to 7.12 percent.²

Direct-to-home satellite service is taxed at a rate of 10.8 percent and is also subject to the 2.37 percent gross receipts tax. The local tax does not apply to these services. However, the state tax on direct-to-home satellite is higher than the state tax on other communication services, for a total tax rate of 13.17 percent. The amount of tax collected from the additional tax is distributed to local governments.

A portion of the state taxes collected – including taxes collected on direct-to-home satellite service – are deposited into the General Revenue Fund and a portion is distributed to local governments.³ Gross receipts tax collections are deposited into the Public Education Capital Outlay and Debt Service Trust Fund and are used for the capital funding of public schools, community colleges, and universities.

III. Effect of Proposed Changes:

Section 1 reduces the state CST rate by 0.58 percent, reducing the general rate from 6.65 percent to 6.07 percent and the rate on direct-to-home satellite from 10.8 percent to 10.22 percent.

Sections 2 and 4 make conforming changes to the statutes which authorize a communications services dealer to collect a combined rate that includes both the CST and the gross receipts tax to reflect this 2 percent reduction in the communications services tax.

Section 3 amends section 202.18, F.S., to reduce the percentage of direct-to-home satellite CST tax revenues allocated to the state from 63 percent to 60.9 percent to ensure that local governments continue to receive the same amount of distributions as they receive under current law.

Section 5 provides that the act applies to taxable transactions included on bills for communications services that are dated on or after January 1, 2015.

Section 6 provides that the bill takes effect January 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue or reduce the percentage of a state tax shared with counties and municipalities.

¹ See ss. 202.12(1)(a) and 203.01(1)(b), F.S. The gross receipts tax is 2.37 percent, plus an additional 0.15 percent for certain services.

² Section 202.19, F.S.

³ Section 202.18, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not determined the impact of CS/CS SB 266. Staff estimates that the bill will decrease General Revenue by \$26.7 million in the 2014-2015 fiscal year, with a negative \$71.1 million recurring impact on General Revenue. The bill will also reduce local governments' revenues by \$3.4 million in Fiscal Year 2014-2015, with a negative \$9.1 million recurring impact on local governments.

B. Private Sector Impact:

Communications services customers will pay a reduced amount of state communications services tax.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 202.12, 202.12001, 202.18, and 203.001.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on March 19, 2014:

- Reduces the state CST rate by 0.58 percent, reducing the general rate from 6.65 percent to 6.07 percent and the rate on direct-to-home satellite from 10.8 percent to 10.22 percent; and
- Reduces the percentage of direct-to-home satellite CST tax revenues allocated to the state from 63 percent to 60.9 percent, ensuring that the local governments receive approximately the same amount of revenue from this source.

CS by Communications, Energy, and Public Utilities on February 4, 2014:

The CS:

- Reduces the percentage of direct-to-home satellite CST tax revenues allocated to the state from 63 percent to 54.5 percent, ensuring that the local governments receive approximately the same amount of revenue from this source; and
- Provides that the act applies to taxable transactions included on bills for communications services that are dated on or after January 1, 2015.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Hukill)
recommended the following:

Senate Amendment

Delete lines 27 - 109
and insert:

(a) Except as otherwise provided in this subsection, at a
rate of 6.07 ~~6.65~~ percent applied to the sales price of the
communications service that ~~which~~:

1. Originates and terminates in this state; ~~;~~ or
2. Originates or terminates in this state and is charged to
a service address in this state,



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11
12 when sold at retail, computed on each taxable sale for the
13 purpose of remitting the tax due. The gross receipts tax imposed
14 by chapter 203 shall be collected on the same taxable
15 transactions and remitted with the tax imposed by this
16 paragraph. If no tax is imposed by this paragraph due to the
17 exemption provided under ~~by reason of~~ s. 202.125(1), the tax
18 imposed by chapter 203 shall nevertheless be collected and
19 remitted in the manner and at the time prescribed for tax
20 collections and remittances under this chapter.

21 (b) At the rate of 10.22 ~~10.8~~ percent on the retail sales
22 price of any direct-to-home satellite service received in this
23 state. The proceeds of the tax imposed under this paragraph
24 shall be accounted for and distributed in accordance with s.
25 202.18(2). The gross receipts tax imposed by chapter 203 shall
26 be collected on the same taxable transactions and remitted with
27 the tax imposed by this paragraph.

28 Section 2. Section 202.12001, Florida Statutes, is amended
29 to read:

30 202.12001 Combined rate for tax collected pursuant to ss.
31 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
32 2010-149, Laws of Florida, the dealer of communication services
33 may collect a combined rate of 6.22 ~~6.8~~ percent comprised of
34 6.07 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)
35 and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider
36 properly reflects the tax collected with respect to the two
37 provisions as required in the return to the Department of
38 Revenue.

39 Section 3. Subsection (2) of section 202.18, Florida



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40 Statutes, is amended to read:

41 202.18 Allocation and disposition of tax proceeds.—The
42 proceeds of the communications services taxes remitted under
43 this chapter shall be treated as follows:

44 (2) The proceeds of the taxes remitted under s.
45 202.12(1)(b) shall be allocated ~~divided~~ as follows:

46 (a) The portion of such proceeds that constitute ~~which~~
47 ~~constitutes~~ gross receipts taxes, imposed at the rate prescribed
48 in chapter 203, shall be deposited as provided by law and in
49 accordance with s. 9, Art. XII of the State Constitution.

50 (b) Sixty and nine-tenths ~~Sixty-three~~ percent of the
51 remainder shall be allocated to the state and distributed
52 pursuant to s. 212.20(6), except that the proceeds allocated
53 pursuant to s. 212.20(6)(d)2. shall be prorated to the
54 participating counties in the same proportion as that month's
55 collection of the taxes and fees imposed pursuant to chapter 212
56 and paragraph (1)(b).

57 (c)1. During each calendar year, the remaining portion of
58 such proceeds shall be transferred to the Local Government Half-
59 cent Sales Tax Clearing Trust Fund. Seventy percent of such
60 proceeds shall be allocated in the same proportion as the
61 allocation of total receipts of the half-cent sales tax under s.
62 218.61 and the emergency distribution under s. 218.65 in the
63 prior state fiscal year. Thirty percent of such proceeds shall
64 be distributed pursuant to s. 218.67.

65 2. The proportion of the proceeds allocated based on the
66 emergency distribution under s. 218.65 shall be distributed
67 pursuant to s. 218.65.

68 3. In each calendar year, the proportion of the proceeds



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69 allocated based on the half-cent sales tax under s. 218.61 shall
70 be allocated to each county in the same proportion as the
71 county's percentage of total sales tax allocation for the prior
72 state fiscal year and distributed pursuant to s. 218.62.

73 4. The department shall distribute the appropriate amount
74 to each municipality and county each month at the same time that
75 local communications services taxes are distributed pursuant to
76 subsection (3).

77 Section 4. Section 203.001, Florida Statutes, is amended to
78 read:

79 203.001 Combined rate for tax collected pursuant to ss.
80 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
81 2010-149, Laws of Florida, the dealer of communication services
82 may collect a combined rate of 6.22 ~~6.8~~ percent comprised of
83 6.07 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)
84 and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider
85 properly reflects the tax collected with respect to the two
86 provisions as required in the return to the Department of
87 Revenue.

By the Committee on Communications, Energy, and Public Utilities; and Senator Hukill

579-01617-14

2014266c1

1 A bill to be entitled
 2 An act relating to communications services taxes;
 3 amending s. 202.12, F.S.; reducing the tax rate
 4 applied to the sale of communications services;
 5 reducing the tax rate applied to the retail sale of
 6 direct-to-home satellite services; amending s.
 7 202.12001, F.S.; conforming rates to the reduction of
 8 the communications services tax; amending s. 202.18,
 9 F.S.; revising the distribution of tax revenues
 10 received; amending s. 203.001, F.S.; conforming rates
 11 to the reduction of the communications services tax;
 12 providing applicability; providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraphs (a) and (b) of subsection (1) of
 17 section 202.12, Florida Statutes, are amended to read:
 18 202.12 Sales of communications services.—The Legislature
 19 finds that every person who engages in the business of selling
 20 communications services at retail in this state is exercising a
 21 taxable privilege. It is the intent of the Legislature that the
 22 tax imposed by chapter 203 be administered as provided in this
 23 chapter.
 24 (1) For the exercise of such privilege, a tax is levied on
 25 each taxable transaction, and the tax is due and payable as
 26 follows:
 27 (a) Except as otherwise provided in this subsection, at a
 28 rate of 4.65 ~~6.65~~ percent applied to the sales price of the
 29 communications service that ~~which~~:

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

579-01617-14

2014266c1

30 1. Originates and terminates in this state; 7 or
 31 2. Originates or terminates in this state and is charged to
 32 a service address in this state,
 33
 34 when sold at retail, computed on each taxable sale for the
 35 purpose of remitting the tax due. The gross receipts tax imposed
 36 by chapter 203 shall be collected on the same taxable
 37 transactions and remitted with the tax imposed by this
 38 paragraph. If no tax is imposed by this paragraph due to the
 39 exemption provided under ~~by reason of~~ s. 202.125(1), the tax
 40 imposed by chapter 203 shall nevertheless be collected and
 41 remitted in the manner and at the time prescribed for tax
 42 collections and remittances under this chapter.
 43 (b) At the rate of 8.8 ~~10.8~~ percent on the retail sales
 44 price of any direct-to-home satellite service received in this
 45 state. The proceeds of the tax imposed under this paragraph
 46 shall be accounted for and distributed in accordance with s.
 47 202.18(2). The gross receipts tax imposed by chapter 203 shall
 48 be collected on the same taxable transactions and remitted with
 49 the tax imposed by this paragraph.
 50 Section 2. Section 202.12001, Florida Statutes, is amended
 51 to read:
 52 202.12001 Combined rate for tax collected pursuant to ss.
 53 202.12(1) (a) and 203.01(1) (b).—In complying with ss. 1-3, ch.
 54 2010-149, Laws of Florida, the dealer of communication services
 55 may collect a combined rate of 4.8 ~~6.8~~ percent comprised of 4.65
 56 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1) (a) and
 57 203.01(1) (b)3., respectively, if as long as the provider
 58 properly reflects the tax collected with respect to the two

Page 2 of 4

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

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59 provisions as required in the return to the Department of
60 Revenue.

61 Section 3. Section 3. Subsection (2) of section 202.18,
62 Florida Statutes, is amended to read:

63 202.18 Allocation and disposition of tax proceeds.—The
64 proceeds of the communications services taxes remitted under
65 this chapter shall be treated as follows:

66 (2) The proceeds of the taxes remitted under s.
67 202.12(1)(b) shall be allocated ~~divided~~ as follows:

68 (a) The portion of such proceeds that constitute ~~which~~
69 ~~constitutes~~ gross receipts taxes, imposed at the rate prescribed
70 in chapter 203, shall be deposited as provided by law and in
71 accordance with s. 9, Art. XII of the State Constitution.

72 (b) Fifty-four and one-half ~~Sixty-three~~ percent of the
73 remainder shall be allocated to the state and distributed
74 pursuant to s. 212.20(6), except that the proceeds allocated
75 pursuant to s. 212.20(6)(d)2. shall be prorated to the
76 participating counties in the same proportion as that month's
77 collection of the taxes and fees imposed pursuant to chapter 212
78 and paragraph (1)(b).

79 (c)1. During each calendar year, the remaining portion of
80 such proceeds shall be transferred to the Local Government Half-
81 cent Sales Tax Clearing Trust Fund. Seventy percent of such
82 proceeds shall be allocated in the same proportion as the
83 allocation of total receipts of the half-cent sales tax under s.
84 218.61 and the emergency distribution under s. 218.65 in the
85 prior state fiscal year. Thirty percent of such proceeds shall
86 be distributed pursuant to s. 218.67.

87 2. The proportion of the proceeds allocated based on the

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88 emergency distribution under s. 218.65 shall be distributed
89 pursuant to s. 218.65.

90 3. In each calendar year, the proportion of the proceeds
91 allocated based on the half-cent sales tax under s. 218.61 shall
92 be allocated to each county in the same proportion as the
93 county's percentage of total sales tax allocation for the prior
94 state fiscal year and distributed pursuant to s. 218.62.

95 4. The department shall distribute the appropriate amount
96 to each municipality and county each month at the same time that
97 local communications services taxes are distributed pursuant to
98 subsection (3).

99 Section 4. Section 203.001, Florida Statutes, is amended to
100 read:

101 203.001 Combined rate for tax collected pursuant to ss.
102 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
103 2010-149, Laws of Florida, the dealer of communication services
104 may collect a combined rate of 4.8 ~~6.8~~ percent comprised of 4.65
105 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and
106 203.01(1)(b)3., respectively, if as long as the provider
107 properly reflects the tax collected with respect to the two
108 provisions as required in the return to the Department of
109 Revenue.

110 Section 5. This act applies to taxable transactions
111 included on bills that are for communication services and that
112 are dated on or after January 1, 2015.

113 Section 6. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 510

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Ring

SUBJECT: Local Government Neighborhood Improvement Districts

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 510 authorizes local government neighborhood improvement districts (NIDs) to borrow money, incur debt and pledge special assessments to finance capital projects.

This bill does not have a fiscal impact on state government. Local governments may incur additional costs associated with conducting referenda.

II. Present Situation:

Neighborhood Improvement Districts

Purposes and Creation

Part IV of ch. 163, F.S., is known as the "Safe Neighborhoods Act." The intent of the Act is to:

- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety; and

- Reduce crime rates.¹

Section 163.503(1) defines the term “neighborhood improvement district” to mean:

A district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security or defensible space techniques, or through community policing innovations. . . .

The Safe Neighborhoods Act allows county or municipal governing bodies to create NIDs through the adoption of a planning ordinance. Each NID that is established is required to register within 30 days with both the Department of Economic Opportunity and the Department of Legal Affairs and provide the name, location, size, type of NID, and such other information that the departments may require.² Under current law, there are four types of NIDs:

- Local government NIDs,
- Property owners’ association NIDs,
- Community redevelopment NIDs, and
- Special NIDs, which are further classified as either residential or business.³

As of March 2014, there are 31 active NIDs in the state of Florida.⁴ Twenty-eight of these are local government NIDs, two are special residential NIDs, and one is a property owners’ association NID.

NID Boards and Revenue Sources

The board of directors of a local government NID is the local governing body of the municipality or county that created the NID; however, as an alternative, a majority of the local governing body may also appoint a different board.⁵ The officers of an incorporated property owners’ association serve as the board of directors for property owners’ association NIDs.⁶ The board of a special NID is a three-member body appointed by the governing body of the municipality or county that created the district.⁷ The board of a community redevelopment NID is the community redevelopment board of commissioners, which is designated by the governing body of the municipality or county that created the board.⁸

¹ See s. 163.502, F.S.

² Section 163.5055, F.S.

³ See ss. 163.506-163.512, F.S.

⁴ Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, available at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited March 11, 2014).

⁵ Sections 163.506(1)(e), 163.506(3), F.S.

⁶ Section 163.508(1)(e), F.S.

⁷ Section 163.511(1)(f), F.S.

⁸ Section 163.356, F.S.

Local government NIDs are authorized to levy an ad valorem tax on real and personal property of up to two mills annually.⁹ Special NIDs have the same taxing authority; however, this authority is subject to referendum.¹⁰ Special *residential* NID ad valorem taxes are approved by a majority of the district electors voting in a referendum.¹¹ Special *business* NID ad valorem taxes are approved if freeholders representing in excess of 50 percent of the assessed value of the property within the district approve the levy.¹²

All NIDs are also authorized, subject to referendum approval, to make and collect special assessments.¹³ Assessments may not exceed \$500 for each individual parcel of land per year and require an affirmative vote by a majority of the registered voters residing in the district.¹⁴ Community redevelopment NIDs may also utilize community redevelopment trust funds to implement district planning and programming.¹⁵

NID Dissolutions

Local government and community redevelopment NIDs may be dissolved by the governing body that established them.¹⁶ Property owners' association NIDs continue in perpetuity as long as the property owners' association created when establishing the NID exists.¹⁷ Special NIDs are dissolved at the end of the tenth fiscal year of operation.¹⁸

NIDs and Bond Authority

Although NIDs have various powers, they do not have express authority to borrow funds. In 2006, the Florida Attorney General issued Opinion 2006-49, stating that an NID created by ordinance pursuant to s. 163.511, F.S., does not have the authority to borrow money to carry out the purposes of the district.¹⁹ The Attorney General's Office reasoned that a statutorily created entity is limited to such powers expressly granted by law or reasonably implied to carry out its expressly granted power. The opinion further stated that "[w]hen the Legislature has directed how a thing shall be done, that is in effect a prohibition against it[] being done any other way."

Other Sources of Funding for Local Government Improvement Efforts

County and municipal governments have authority under current law and under their constitutional home rule authority to raise revenue that could be used for many of the purposes identified by the Safe Neighborhoods Act.

⁹ Section 163.506(1)(c), F.S.

¹⁰ Section 163.511(1)(a) and (b), F.S.

¹¹ Section 163.511(3)(g), F.S.

¹² Section 163.511(4)(g), F.S.

¹³ Section 163.514(16), F.S. This authority and any of the other NID powers enumerated in s.163.514, F.S., may be prohibited by the NID's enacting ordinance.

¹⁴ *Id.*

¹⁵ Section 163.512(1)(c), F.S.

¹⁶ Sections 163.506(4) and 163.512(3), F.S.

¹⁷ Section 163.508(4), F.S.

¹⁸ Section 163.511(13), F.S. Special NIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.

¹⁹ Op. Atty Gen. Fla. 2006-49 (2006).

Section 125.01(1)(q), F.S., provides that counties may establish:

municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which it may provide fire protection, law enforcement, beach erosion control, recreation service and facilities, water..., streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, indigent health care services, mental health care services, and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.... This paragraph authorizes all counties to levy additional taxes, within the limits fixed for municipal purposes, within such municipal service taxing units under the authority of the second sentence of s. 9(b), Art. VII of the State Constitution.

Section 125.01(1)(r), F.S., grants counties the power to levy and collect ad valorem taxes, and provides that no referendum is required for the levy by a county of ad valorem taxes for county purposes or for providing municipal services within any municipal service taxing unit. The distinction between a municipal service taxing unit and a municipal service benefit unit is that in a benefit unit the services are funded by a service charge or a special assessment rather than a tax.

All taxes, other than ad valorem taxes, are reserved to the state.²⁰ Local governments may levy other taxes only if they are authorized by general law. Not all local government revenue sources are taxes. Counties and municipalities may levy fees, assessments, or charges for services under their home rule authority. Special assessments may be used to fund certain services and to construct and maintain capital facilities, such as those appropriate for NIDs, if they meet two requirements: (1) the property subject to assessment must derive a special benefit from the service or improvement funded by the assessment, and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 163.506, F.S., to authorize local government NIDs to borrow money, contract loans, and incur indebtedness to finance capital projects. Loan terms may not exceed the life of the capital project secured by the loan.

The governing body of local government NIDs will be able to issue a resolution authorizing bonds. Bonds must be approved by the board of the district, the governing body of the municipality or county that created the district, and by referendum. The referendum required for bonds is the same referendum currently required to impose special assessments. Local

²⁰ Fla. Const. Art. VII, s. 1(a).

²¹ See *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).

government NIDs will be able to pledge special assessments to secure or repay district obligations.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under SB 510, local governments may incur additional costs associated with conducting referenda.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 163.506 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Finance and Tax on March 19, 2014:

The CS:

- Restricts the NIDs bonding authority to capital projects.
- Requires bonding of NID special assessments to be approved by the same type of referendum required for these NIDs to impose special assessments.

- B. **Amendments:**

None.

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



263722

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 42

and insert:

(i) May authorize the district to borrow money, contract loans, and issue bonds, certificates, warrants, notes, or other evidence of indebtedness to finance the undertaking of a capital project for a purpose permitted by the State Constitution and this part, and to pledge the special assessment power of the district for the payment of such debts and bonds.



263722

11 1. Loans contracted by the district pursuant to this
12 paragraph may not have a term that exceeds the life of the
13 project secured by the loan.

14 2. Bonds issued by the district pursuant to this paragraph
15 must be authorized by resolution of the board, by resolution of
16 the governing body of the municipality or county, and by a
17 referendum as described in s. 163.514(16). As provided by
18 resolution or trust indenture, or a

19
20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete lines 7 - 9

23 and insert:

24 pledge the special assessment power of the district to
25 pay such debts for the purpose of financing certain
26 capital projects; providing

By Senator Ring

29-00692A-14

2014510__

A bill to be entitled

An act relating to local government neighborhood improvement districts; amending s. 163.506, F.S.; providing that an ordinance that creates a local government neighborhood improvement district may authorize the district to incur certain debts and pledge the funds, credit, property, and special assessment power of the district to pay such debts for the purpose of financing certain projects; providing conditions on the exercise of such power; providing an effective date.

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

Section 1. Paragraph (i) is added to subsection (1) of section 163.506, Florida Statutes, to read:

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(1) After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(i) Authorizes the district to borrow money, contract loans, and issue bonds, certificates, warrants, notes, or other evidence of indebtedness to finance the undertaking of a capital or other project for a purpose permitted by the State Constitution and this part, and to pledge the funds, credit,

Page 1 of 2

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

29-00692A-14

2014510__

property, and special assessment power of the district for the payment of such debts and bonds.

1. Loans contracted by the district pursuant to this paragraph may not have a term that exceeds the life of the project secured by the loan.

2. Bonds issued by the district pursuant to this paragraph must be authorized by resolution of the board, by resolution of the governing body of the municipality or county, and by a referendum as described in s. 163.514(16). For commercial districts, such referendum is deemed approved if approved by an affirmative vote of freeholders owning more than 50 percent of the assessed value of the properties represented by ballots cast. As provided by resolution or trust indenture, or a mortgage issued pursuant thereto, bonds may be issued in one or more series and must bear the specified date or dates; be payable upon demand or mature at the specified time or times; bear interest at the specified rate or rates; be in the specified denomination or denominations; be in the specified form, registered or not, with or without coupon; carry specified conversion or registration privileges; have the specified rank or priority; be executed in the specified manner; be payable in the specified medium of payment, at such place or places, and subject to the specified terms of redemption, with or without premium; be secured in the specified manner; and have other characteristics as may be specified.

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

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/CS/SB 638

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Commerce and Tourism Committee;
and Senator Brandes

SUBJECT: Charities

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Malcolm</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 638 updates the Solicitation of Contributions Act to provide increased oversight by the Department of Agriculture and Consumer Services (DACS) of charitable organizations and sponsors, professional fundraising consultants, and professional solicitors. It requires additional financial disclosure for a charitable organization that had more than \$1 million in total revenue and devoted less than a specified proportion of its spending to program service costs in the preceding year, and allows the DACS to disqualify a charitable organization from receiving a sales tax exemption certificate if the organization failed to spend at least 25 percent of total annual functional expenses on program costs for the 3 previous years.

The bill creates a license for professional solicitors that is expected to increase revenue to the DACS General Inspection Trust Fund by \$250,000 annually. It also requires fingerprinting of professional solicitors. Fingerprint processing fees will increase revenue to the FDLE Operating Trust Fund (net of payments to the FBI) by \$60,000 in the first year and an indeterminate amount in subsequent years. The bill also increases administrative fines for violations of the Florida Deceptive and Unfair Trade Practices Act.

The bill appropriates \$235,352 in recurring funds and \$239,357 in nonrecurring funds from the DACS General Inspection Trust Fund, and four full-time equivalent positions to the DACS to implement this act.

II. Present Situation:

In Florida, the solicitation of contributions by charitable organizations and sponsors is regulated by the Solicitation of Contributions Act (the SCA).¹ There are currently over 18,000 charitable organizations and sponsors, 404 professional fundraising consultants, and 87 professional solicitors registered in Florida. Of those 87 professional solicitors, 54 are headquartered outside Florida.²

The SCA contains basic registration, financial disclosure, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. Recent news reports suggest current regulations under the SCA may be insufficient to effectively monitor and regulate these entities to ensure they are fulfilling their purpose as charitable entities.³

(See a detailed analysis of the bill's effect on each part of the SCA below.)

III. Effect of Proposed Changes:

The bill makes the following changes to statutes regulating charitable organizations and sponsors, professional fundraising consultants, and professional solicitors. The bill:

- Requires that any changes to information in a registration statement be submitted to the Department of Agriculture and Consumer Services (DACS) within 10 days of the change.
- Requires automatic suspension of a registration for failure to disclose any information related to certain criminal or administrative actions.
- Permits increased processing times for the DACS if the applicant discloses any information related to certain criminal or administrative actions against it.
- Authorizes the DACS to deny or revoke an application if the applicant or its agent has had certain criminal or administrative action taken against it.
- Prohibits the employment of persons with certain criminal history.⁴
- Requires notices to be provided for all solicitations and confirmations.
- Requires professional fundraising consultants and professional solicitors to only enter into contracts with charitable organizations and sponsors registered under ch. 496, F.S.

¹ Chapter 496, F.S. The majority of the provisions in the SCA “do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as professional fundraising consultants solely on their behalf.” Section 496.403, F.S. Nor do the majority of the provisions in the SCA apply to political contributions solicited in accordance with election laws. *Id.*

² Conversation with Amy Topol, Assistant Director, Division of Consumer Services, the DACS, Jan. 4, 2014.

³ The Tampa Bay Times, in conjunction with the CNN and The Center for Investigative Reporting, recently published a number of articles related to charities. *America's Worst Charities*, Tampa Bay Times website, available at <http://www.tampabay.com/topics/specials/worst-charities.page> (last visited Feb. 4, 2014).

⁴ Disqualifying crimes include fraud, theft, larceny, embezzlement, fraudulent conversion, and misappropriation of property.

Charitable Organizations and Sponsors⁵

Summary

The bill:

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

Present Situation - Registration Statements

Currently, under s. 495.405, F.S., any charitable organization or sponsor⁶ that intends to solicit donations in Florida must register annually with the DACS and pay a registration fee⁷ before soliciting donations.⁸ Registration includes a financial report,⁹ a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must also include a statement related to the charity's activity in other states, including whether the charity is authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.¹⁰

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

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

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

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

⁸ *Id.* at (1)(a) and (c), F.S. Certain small charities (with less than \$25,000 total annual revenue) are exempt from the registration and financial reporting requirements in ss. 496.405 and 496.407, F.S. *See id.*; s. 496.406, F.S.

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

¹⁰ Section 496.405(2), F.S.

¹¹ *Id.*

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

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

Effect of Proposed Changes

Section 5 amends s. 496.405, F.S., to require that any changes to the information in a charity's registration statement related to the charity's activity in other states, including criminal, administrative, or other actions against the charity, must be reported to the DACS within 10 days of the change occurring. If the charity discloses any information related to criminal, administrative, or other actions against the charity in its initial registration statement or annual renewal statement, the bill allows the DACS additional time to process the applications under the processing time limits in ch. 120, F.S.¹⁵ Additionally, if a charity fails to disclose any information related to criminal, administrative, or other actions against the charity, its registration will be automatically suspended until the charity submits the required information related to those actions to the DACS.

The bill also requires that the consolidated financial statements filed by charities with affiliates must reflect the activities of each affiliate, including all contributions received by each entity, all payments made to each entity, and all administrative fees assessed to each entity. A copy of Internal Revenue Service Form 990 or Form 990-EZ, and attached schedules for the preceding year for the parent organization and each Florida chapter, branch, or affiliate, must be attached to the consolidated financial statement.

The bill repeals the DACS' authority to extend the time for filing an annual renewal statement or financial statement. The bill also provides that a charity's registration will expire with no further action required by the DACS if the charity fails to timely file its renewal statement or it fails to provide a financial statement within the extension periods under s. 496.407, F.S.¹⁶ Additionally, the DACS will have the authority to deny or revoke a charity's registration if the charity or any

¹² *Id.* at (1).

¹³ *Id.* at (4)(b).

¹⁴ *Id.* at (7).

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

¹⁶ See "*Financial Statements*" section below.

of its officers, directors, or trustees, has had the right to solicit contributions revoked in any state or has been ordered by any court or agency to cease soliciting contributions in any state.

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

Present Situation - Fundraising Restrictions for Individuals with Criminal Records

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

Effect of Proposed Changes

Section 5 of the bill also amends s. 496.405(8), F.S., to clarify that in addition to the charity, no officer, director, trustee, or employee of the charity may allow any of its officers, directors, trustees, or employees to solicit contributions on behalf of the charity if he or she has a criminal history as described above. The bill also clarifies that the applicable criminal history includes crimes or events that occurred in other states and any misdemeanor in another state that constitutes a disqualifying felony in Florida.

Present Situation – Conflict of Interest Transactions

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

Effect of Proposed Changes

Section 6 creates s. 496.4055, F.S., to require the board of directors, or a board committee, of a charity required to register with the DACS pursuant to s. 496.405, F.S., to adopt a policy regarding conflict of interest transactions. A “conflict of interest” is defined as a transaction between a charity and another party in which a director, officer, or trustee of the charity has a direct or indirect financial interest. The term includes the sale, lease, or exchange of property to or from the charity; the lending to or borrowing of money from the charity; and the payment for services provided to or from the charity. The policy adopted by the board must require an annual certification of compliance with the policy, and the organization must provide a copy of the policy to the department with the annual registration statement.

Present Situation – Financial Statements

Currently, under s. 496.407, F.S., a charity that is required to register with the DACS must file an annual financial report for the preceding year with the DACS. The report must include the following: a balance sheet; a statement of support, revenue, and expenses; identification of any charities, professional fundraising consultants, professional solicitors, and commercial co-venturers used and the amounts received from each of them; and a statement of functional expenses that must include program expenses, management and general expenses, and

fundraising expenses.¹⁷ A charity may choose to include a financial report that has been audited by an independent certified public accountant (CPA) or an audit with an opinion by an independent CPA. In lieu of the financial report a charity may submit a copy of its IRS Form 990 or Form 990-EZ.

Effect of Proposed Changes

Section 7 amends s. 496.407, F.S., to change the name of the financial reporting document required by the DACS from “financial report” to “financial statement.”¹⁸ The bill clarifies and adds new information that must be included in the required financial statement. Specifically, the financial statement must include a statement of functional expenses¹⁹ that must include program service costs, management and general costs, and fundraising costs.²⁰ “Management and general costs” are defined in the bill as all costs of a charity that are not identifiable with a single program or fundraising activity but which are necessary to conducting the charity’s programs and activities and necessary to the charity’s existence. The term includes expenses for business management, salaries, and overhead. “Program service costs” are defined in the bill to mean all expenses incurred primarily to accomplish the charity’s purposes; however, the term does not include fundraising costs.

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

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

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

¹⁹ Section 406.707(1)(d), F.S. Internal Revenue Forms 990 and 990-EZ also require a Statement of Functional Expenses; instructions are found at <http://www.irs.gov/pub/irs-pdf/i990.pdf>.

²⁰ Definitions of “program service costs” and “management and general costs” are added to s. 496.404, F.S., in Section 3 of the bill.

statement if these forms are prepared by a certified public accountant or professional tax preparer.

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

Present Situation – Supplemental Financial Disclosure

Currently, ch. 496, F.S., does not require a supplemental financial disclosure.

Effect of proposed changes:

Section 8 creates s. 496.4071, F.S., to require a charity with more than \$1 million in total revenue that spent less than 25 percent of the charity's total annual functional expenses on program service costs in the preceding fiscal year to file a supplemental financial disclosure in addition to the financial statement required under s. 496.407, F.S. The supplemental financial disclosure must be filed within 30 days of receiving a request by the DACS to provide such information and must include:

- The dollar amount and the percentage of total revenue and charitable contributions allocated to administrative functions related to managing and administering the charity, including information about payments to and contributions received from professional solicitors.
- The name of and amount earned by or paid to all employees or consultants who earned or were paid more than \$100,000.
- The name of and amount paid to all service providers who were paid \$100,000 or more and a description of the services provided.
- The amount and percentage of total revenue and charitable contributions allocated to programs.
- The details of any transactions between the charity and an officer, trustee, or director of the charity or his or her immediate family; any entity controlled by an officer, trustee, or director of the charity or his or her the immediate family; and any entity that employed or engaged for consultation an officer, trustee, or director the charity or his or her immediate family.²¹

Present Situation – Specific Disaster Relief Solicitations

Currently, ch. 496, F.S., does not have special regulations for disaster relief solicitations.

Effect of Proposed Changes

Section 9 creates s. 497.4072, F.S., to require charities that solicit donations related to a specific disaster or crisis and receive at least \$100,000 in donations in response to such solicitations to file quarterly disaster relief statements with the DACS. A “crisis” is defined in the bill as an event that garners widespread national or global media coverage due to an actual or perceived threat of harm to an individual, a group, or a community. Likewise, a “disaster” is defined in the bill as a natural, technological, or civil event, including an explosion, chemical spill, wildfire, tornado, hurricane, drought, or flood, which affects one or more countries and causes sufficient

²¹ The term “immediate family” is defined in section 8 of the bill to mean a parent, spouse, child, sibling, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

damage to result in an official declaration of a state of emergency or an official request for international assistance.²² The bill requires the DACS to provide a list on its website of disasters and crises that are subject to the quarterly disaster relief statement within 10 days of the disaster or crisis occurring.

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

Present Situation – Notice Statements

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

Effect of Proposed Changes

Section 13 amends s. 496.411(3), F.S., to require charities that are exempt from registration under s. 496.406(1)(d), F.S.,²³ to provide a notice statement. Additionally, the notice statement must be included with all solicitations and confirmations, regardless of form. The notice statement must also include the DACS website address where registration information can be obtained. If the solicitation is done through a website, the notice statement must be conspicuously displayed on the webpage where donations are requested.

Present Situation – Tax-Exempt Status and Disqualifying Events

Currently, organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, such as charities, are exempt from Florida’s sales and use tax.²⁴ To receive an exemption, the organization must submit to the Florida Department of Revenue (DOR) a copy of the Internal Revenue Service’s (IRS) letter determining the organization’s 501(c)(3) status.²⁵ After receiving the IRS determination letter and making a determination that the organization is actively engaged in an exempt endeavor, the DOR issues a certificate of exemption to the organization. Under current law, the DACS is not part of determining whether a charity operating in Florida should be exempt from sales tax. Specifically, the DACS does not have authority to disqualify a charity from receiving any sales tax exemption based on the charity’s allocation of expenses to accomplish the charity’s stated purpose.

²² Definitions of “disaster” and “crisis” are added to s. 496.404, F.S., in Section 4 of the bill.

²³ A charitable organization or sponsor that has less than \$25,000 in total revenue during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer.

²⁴ Section 212.08(7)(p), F.S.

²⁵ Section 212.084, F.S.

Effect of Proposed Changes

Section 19 creates s. 496.430, F.S., to give the DACS authority to disqualify a charity from receiving a sales tax exemption certificate from the DOR. The DACS must issue the disqualification order if it determines that the charity has failed to expend at least 25 percent of its total annual functional expenses on program service costs for the three most recent years. The DACS may decline to issue a disqualification order if the charity establishes that payments were made to affiliates that should be considered in calculating the program service costs, that revenue was accumulated for a specific program purpose consistent with the representations it made in solicitations, or any other mitigating circumstances. Additionally, charities that are not required to register under ch. 496, F.S., or that have been in existence less than 4 years regardless of whether they are registered in Florida, are exempt from the disqualification provisions of s. 496.30, F.S.

A disqualification order must remain in effect for at least 1 year and until the DACS receives sufficient evidence from the charity that demonstrates it spends at least 25 percent of its total annual functional expenses on program service costs. The charity may not submit such evidence to the DACS earlier than 1 year after the disqualification order becomes final and may not submit such information to the DACS more than once a year. The DACS must also consider any financial statement that was submitted by the charity pursuant to s. 496.407, F.S., after the disqualification order became final.

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

Sections 1 and 2 of the bill amend ss. 212.08 and 212.084, F.S., to disqualify any charity that is subject to a final disqualification order issued by the DACS from the sales and use tax exemption for 501(c)(3) organizations. The DOR's revocation or denial of a tax exempt certificate may be challenged under ch. 120, F.S., only as to whether a disqualification order is in effect. If a charitable organization wishes to challenge the validity of a disqualification order issued by the DACS, it must do so pursuant to the procedures under s. 496.430(2), F.S.

Professional Fundraising Consultants

Present Situation - Registration

Currently, professional fundraising consultants are required to register annually and pay a \$300 fee to the DACS pursuant to s. 496.409, F.S., before operating in Florida.²⁶ In addition to name and address information, the registration must also indicate whether any of the owners, directors, officers, or employees of the consultant are related to any other directors, officers, owners, or

²⁶ Section 496.409(1)(3), F.S.

employees, any charity under contract to the consultant, or any supplier or vendor providing goods or services to any charity under contract with the consultant. Additionally, the registration must indicate and explain whether the consultant or any of its officers, directors, trustees, or employees have been convicted or pled guilty within the past 10 years to any felony or a crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charity. Finally, the registration must indicate and explain whether the consultant or any of its officers, directors, trustees, or employees have been enjoined from violating any law relating to a charitable solicitation.²⁷

After receiving the registration statement, the DACS has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days the DACS has not notified the consultant, the registration is deemed approved.²⁸

In addition to the registration requirement, every agreement between a fundraising consultant and a charity must be in writing and signed by two authorized officials of the charity and must be filed with the DACS at least 5 days before the consultant begins providing services.²⁹

Effect of Proposed Changes

Sections 10 amends s. 496.409, F.S., to provide that professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with ch. 496, F.S. If the consultant discloses in its initial registration or renewal application any information related to criminal, administrative, or other actions against the consultant, its officers, directors, trustees, or employees, the bill gives the DACS additional time to process the application under the processing time limits in ch. 120, F.S.³⁰ Additionally, if a consultant fails to disclose any information related to criminal, administrative, or other actions against the consultant, its officers, directors, trustees, or employees, its registration will be automatically suspended until the consultant submits required information to the DACS. The DACS will also have the authority to deny or revoke a consultant's registration if the consultant or any of its officers, directors, or trustees, has had the right to solicit contributions revoked in any state or has been ordered by any court or agency to cease soliciting contributions.

Present Situation – Restrictions on Individuals with Criminal Records

Currently, under s. 495.409(9), F.S., a person may not act as a professional fundraising consultant, and a professional fundraising consultant may not employ any person, if, within the last 10 years, the person has been convicted of or pled guilty to any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charity, or has been enjoined from violating any law relating to a charitable solicitation.³¹

²⁷ *Id.* at (2).

²⁸ *Id.* at (6).

²⁹ *Id.* at (4).

³⁰ *Supra* note 15.

³¹ Section 496.409(9), F.S.

Effect of Proposed Changes

Section 10 also amends s. 495.409(9), F.S., to clarify that in addition to the consultant, no officer, director, trustee, or employee of the consultant may employ anyone with a criminal history as described above. The bill also clarifies that the applicable criminal history includes crimes or events that occurred in other states.

Professional Solicitor

Summary

The bill:

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

Present Situation - Registration

Currently, s. 496.410, F.S., requires a professional solicitor to register annually and pay a \$300 fee to the DACS before operating in Florida.³² Information that must be provided for registration includes the address of the business, the names and addresses of owners, officers, and directors, and the names of anyone in charge of any solicitation activity. The registration must also indicate whether any of the owners, directors, officers, or employees of the solicitor are related to any other directors, officers, owners, or employees of the solicitor, any charity under contract to the solicitor, or any supplier or vendor providing goods or services to any charity under contract with the solicitor. Additionally, the registration must indicate and explain whether the solicitor or any of its officers, directors, trustees, or employees or agents involved in solicitation have been convicted or pled guilty within the past 10 years to any felony or a crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or any crime arising from the conduct of a solicitation for a charity. Finally, the registration must indicate and explain, if applicable, whether the solicitor or any of its officers, directors, trustees, or employees or agents involved in solicitation have been enjoined from violating any law relating to a charitable solicitation.³³

³² “A professional solicitor that is a partnership or corporation may register for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees.” Section 496.410(3), F.S. Additionally, professional solicitors are required to maintain a \$50,000 bond. *Id.* at (4).

³³ *Id.* at (2).

After receiving the registration statement, the DACS has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days the DACS has not notified the solicitor, the registration is deemed approved.³⁴

In addition to being required to register, solicitors must also file a solicitation notice with the DACS at least 15 days before beginning a solicitation campaign or event.³⁵ Section 496.410(6), F.S., requires the notice to include a description of the solicitation campaign; each location and telephone number from which the solicitation will be conducted; the name and address of each person responsible for supervising the campaign; a statement as to whether the solicitor will have custody of donations; the account information for each account where receipts from the campaign are to be deposited; a description of the charity for which the campaign is being carried; the fundraising methods to be used; and copy of the contract between the solicitor and charity.

Effect of Proposed Changes

Section 4 of the bill amends s. 496.404, F.S., to update the definition of “professional solicitor” to include professional solicitors located in Florida that solicit outside of Florida.

Section 11 amends s. 495.410, F.S., to require professional solicitors to include the following additional information in its registration: a list of all telephone numbers the solicitor will use to solicit contributions and the address associated with each telephone number and any fictitious names associated with such address; a copy of any script, outline, or presentation used by the solicitor; and a copy of sales information or literature provided to a donor or potential donor.

The bill also repeals a provision in s. 496.410(3), F.S. that permits a professional solicitor that is a partnership or corporation to register as and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees. Instead being included under the solicitor’s registration, these individuals will now be required to obtain a solicitor’s license under s. 496.4101, F.S., which is created in section 12 of the bill.³⁶

If a solicitor discloses in its initial registration or renewal application any information related to criminal, administrative, or other actions against the solicitor, its officers, directors, trustees, or employees or agents, the bill allows the DACS to have additional time to process the application under the processing time limits in ch. 120, F.S.³⁷ If a solicitor fails to disclose any information related to criminal, administrative, or other actions against the solicitor, its officers, directors, trustees, employees, or agents, the solicitor’s registration will be automatically suspended until the solicitor submits the required information to the DACS. The DACS will also have the authority to deny or revoke a solicitor’s registration if the solicitor or any of its officers, directors, trustees, or agents has had the right to solicit contributions revoked in any state, has entered into an agreement with any state to cease soliciting contributions within that state, or has been ordered by any court or agency to cease soliciting contributions.

³⁴ *Id.* at (5).

³⁵ *Id.* at (6).

³⁶ Conversation with Amy Topol, Assistant Director, Division of Consumer Services, the DACS, Jan. 5, 2014.

³⁷ *Supra* note 15.

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

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

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

Present Situation – Restrictions on Individuals with Criminal Records

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

Effect of Proposed Changes

Section 11 also amends s. 495.410(14), F.S., to clarify that in addition to the solicitor, no officer, director, trustee, or employee of the solicitor may employ anyone with a criminal history as described above. The bill clarifies that the applicable criminal history includes crimes or events that occurred in other states and any misdemeanor in another state that constitutes a disqualifying felony in Florida.

Present Situation – Licensure of Professional Solicitors

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

Effect of Proposed Changes

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

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

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

The DACS must adopt rules that allow applicants to temporarily engage in solicitation activities while the solicitor license is being processed.

Applicants must be fingerprinted by an agency, entity, or vendor that meets state and federal standards,³⁸ and fees for state and national fingerprint processing and retention must be borne by the applicant. The Florida Department of Law Enforcement (FDLE) must retain the fingerprints and enroll them in the Federal Bureau of Investigation's (FBI) national retained print arrest notification program once the FDLE begins participating in the program. The DACS is required to screen background results to determine if an applicant meets licensure requirements. When a person is no longer licensed, the DACS must notify the FDLE.

Any material change to the information submitted in the licensing application must be reported to the DACS within 10 days of the change along with payment of a \$10 fee.³⁹ A license must be renewed annually; an un-renewed license automatically expires. The annual renewal fee is \$100. All fees, less administrative costs, will be deposited into the General Inspection Trust Fund of the DACS.

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

Additionally, the DACS may deny or revoke a solicitor's license if the solicitor has had the right to solicit contributions revoked in any state or is subject to any disqualification specified in s. 496.410(14), F.S., relating to the solicitor's criminal history.

Present Situation – Notice Statements and Requested Information

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

³⁸ Section 943.053(13), F.S.

³⁹ The \$10 change fee is also charged to telemarketers under s. 501.609(2), F.S.

endorsement, approval, or recommendation by the state.” The statement must include a toll-free number for the DACS.⁴⁰

Additionally, if a person being solicited requests the percentage of the gross revenue that the charity will receive from the solicitation campaign or requests the percentage of the contribution which may be tax-deductible, the solicitor must provide the requested information in writing within 14 days of the request.⁴¹

Effect of Proposed Changes

Section 14 amends s. 496.412(1), F.S., to expand the use of notice statements by solicitors to all solicitations rather than only on written solicitations and confirmations. The notice statement must also include the DACS website where registration information can be obtained. If the solicitation is done through a website, the notice statement must be conspicuously displayed on the webpage where donations are requested.

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

Present Situation – Collection Receptacles Used for Donations

Some charities utilize collection receptacles located in parking lots or along roads as a place for people to donate clothing and other goods. Recent reports indicate that for-profit businesses have begun using collection receptacles that look similar to those used by charities. The business uses the receptacles to collect clothes and sell them at a profit.⁴² Current law does not regulate the use of collection receptacles either by charities or by for-profit businesses.⁴³

Effect of Proposed Changes

Section 15 creates s. 496.4121, F.S., to regulate the use of collection receptacles. The bill defines a “collection receptacle” as a receptacle used to collect donated clothing, household items, or other goods for resale. The bill requires all collection receptacles to display a permanent sign on each side of the receptacle. The information on the sign must be printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color

⁴⁰ Section 496.412(1)(c), F.S.

⁴¹ *Id.* at (d)-(e).

⁴² See Evan Williams, *Recycling companies co-opt the look of charity for profit*, FORT MYERS FLORIDA WEEKLY, Jan. 23, 2013, available at http://fortmyers.floridaweekly.com/news/2013-01-23/Top_News/Recycling_companies_coopt_the_look_of_charity_for_.html (last visited Jan 30, 2014).

⁴³ In response to the rapid increase in the number of collection receptacles used by for-profit businesses, some Florida cities have enacted restrictions on their use. See Ariel Barkhurst, *Deerfield Beach passed a law allowing nonprofit clothing bins*, SUN SENTINEL, Feb. 22, 2013, available at http://articles.sun-sentinel.com/2013-02-22/news/fl-deerfield-donation-bins-20130218_1_donation-bins-salvation-army-commissioner-bill-ganz (last visited Jan. 30, 2014); Heather Carney, *Miramar cracks down on clothing donations bins*, SUN SENTINEL, Nov. 11, 2013, available at http://articles.sun-sentinel.com/2013-11-11/news/fl-miramar-regulates-clothing-donations-bins-20131110_1_for-profit-bins-reuse-clothes-donations (last visited Jan. 30, 2014).

of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity. For receptacles placed by an organization not required to register under ch. 496, F.S., or not claiming an exemption pursuant to s. 496.406, F.S., the sign must include the name, telephone number, and address of the business and the statement: "This is not a charity. Donations made here support a for-profit business and are not tax deductible." The bill also requires a charity using a collection receptacle to provide a donor with documentation of its tax-exempt status and registration, if requested.

Present Situation – Prohibited Acts and Penalties

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

Any violation of ch. 496, F.S., including engaging in any of the prohibited acts identified in s. 496.415, F.S., is a violation of the Florida Deceptive and Unfair Practices Act⁴⁴ and may also result in a civil action filed by the DACS.⁴⁵ Additionally, any willful and knowing violation of ch. 496, F.S., is a third-degree felony punishable by up to 5 years in prison and a fine of up to \$5,000, and any subsequent conviction is a second-degree felony punishable by up to 15 years in prison and a fine of up to \$10,000.⁴⁶

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

Effect of Proposed Changes

Section 16 amends s. 496.415, F.S., to prohibit a person from submitting false, misleading, or inaccurate information in a document that is filed with the DACS, provided to the public, or offered in response to a request or investigation by the DACS, the Department of Legal Affairs, or the state attorney regardless of whether the person knows he or she is submitting false, misleading, or inaccurate information. The bill also prohibits a person from failing to remit to a charity the disclosed guaranteed minimum percentage of gross receipts from contributions as indicated with its agreement with a charity, or, if the solicitation involved the sale of goods, services, or tickets to a fundraising event, the percentage of the purchase price as agreed to in the agreement.

⁴⁴ Chapter 501, part II, F.S.; Section 496.416, F.S.

⁴⁵ Section 496.420, F.S.

⁴⁶ Section 496.417, F.S.

Section 17 amends s. 496.419, F.S., to increase the fine the DACS may levy to \$5,000 for each act or omission and makes this fine applicable to 501(c)(3) organizations. The bill limits the fine for 501(c)(3) organizations that fail to register under s. 496.405, F.S., or file an exemption under s. 496.406(2), F.S., to \$500 per violation. The DACS may also levy a fine up to \$10,000 for any violation of ch. 496, F.S., which involves fraud or deception.

Section 18 creates. s. 496.4191, F.S., to require the DACS to suspend immediately the registration or the processing of a registration of any organization if the DACS receives written notification and verification by law enforcement, a court, a state attorney, or the FDLE, that the registrant, applicant, or any officer or director of the registrant or applicant is charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor. The suspension will remain in effect until final disposition of the case or removal or resignation of the officer or director.

Other Provisions

Section 3 of the bill amends s. 496.403, F.S., to remove blood establishments from the list of regulated charitable institutions.

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

Section 21 amends s. 741.0305, F.S., to correct a cross-reference due to the amendments to s. 496.404, F.S., in section 3 of the bill.

Section 22 appropriates \$235,352 in recurring funds and \$239,357 in nonrecurring funds from the DACS General Inspection Trust Fund, and four full-time equivalent positions with associated salary rate of 143,264, to the DACS to implement this act.

Section 23 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

CS/CS/SB 638 creates a \$100 application fee for a professional solicitor license and a \$10 fee to report material changes associated with changes to information submitted with the license application. The Department of Agriculture and Consumer Services (DACS) estimates that the \$100 application and renewal fee for a professional solicitor license will result in an estimated recurring revenue increase of \$250,000 annually.⁴⁷ The DACS did not estimate the revenue impact from the \$10 fee.

The cost for a state and national criminal history record check is \$40.50, which goes into the FDLE Operating Trust Fund. From that amount, \$16.50 is transferred from the FDLE Operating Trust Fund to the FBI; the remaining \$24 stays in the FDLE Operating Trust Fund for state processing. Based on the DACS estimate of 2,500 applications for professional solicitor licenses, the FDLE Operating Trust Fund will receive an additional \$60,000 (net of payments to the FBI) in the first year of the program, and an indeterminate amount in subsequent years as new license applications are submitted. Additionally, the bill requires that all fingerprints be retained by the FDLE. The fee for state retention of fingerprints is \$6 annually after the year of the original fingerprint processing.

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

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

B. Private Sector Impact:

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

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

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

⁴⁷ The DACS Analysis, SB 638, 5, Feb. 5, 2014, on file with the Committee on Commerce and Tourism. The DACS estimates 2,500 licenses at \$100 per license, but did not provide a breakdown of renewal applicants versus new applicants in outlying years. The DACS has not yet submitted an analysis of the CS at this time.

disclosure requirements, updated financial statement requirements, and updated notice statement requirements.

The fingerprinting cost for a new applicant for a professional solicitor license is \$53.50 in total: \$40.50 for the state and federal background check and \$13 for lifetime federal fingerprint retention, after FDLE begins to participate in the Federal Bureau of Investigation's national retained print arrest notification program.⁴⁸ For annual renewal of a license, an applicant will pay the \$6 state fingerprint retention fee.

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

C. Government Sector Impact:

Expenditures

The DACS anticipates the additional rules and licensing required by the bill will necessitate the hiring of two Regulatory Consultants and the development of new software for the Division of Consumer Services.⁴⁹ Similarly, the DACS anticipates the bill will result in an additional 500 cases that will be referred to the department's Office of Agriculture Law Enforcement (OALE) for regulatory investigation.⁵⁰ To meet the increased workload, OALE estimates it will require two additional Senior Financial Investigators as well as a vehicle for each investigator.⁵¹ The DACS projects it will need \$474,709 in additional funding in Fiscal Year 2014-2015 and \$235,352 each year thereafter.

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

Revenues

The DACS expects annual revenues of an additional \$112,000 due to the increase in the maximum administrative fine for violations of the Florida Deceptive and Unfair Practices Act from \$1,000 to \$5,000.⁵² The DACS did not provide information related to revenue impacts for the \$10,000 fine or for fines from increased criminal prosecutions of willful and knowing violations of the Florida Deceptive and Unfair Trade Practices Act. See Tax/Fee Issues.

According to the FDLE, it expects annual revenues in year 1 of \$60,000 from the collection of the \$24 fee for state criminal history record checks. The amount does not

⁴⁸ The bill also requires fingerprints submitted by applicants for professional solicitor licenses to be enrolled in the Federal Bureau of Investigation's national retained print arrest notification program when FDLE begins participation in the program. The annual fee for fingerprint retention in this program will be \$13. (Information provided by FDLE fiscal analyst Cynthia Barr, March 13, 2014.)

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* This amount was calculated by multiplying the number of administrative fines (28) levied in FY 2012-2013 by the \$4,000 increase fines.

include the \$6 state fingerprint retention fee because it is paid only by those seeking annual license renewals.

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Department of Law Enforcement (FDLE) recommended in its bill analysis that the fingerprinting provisions be amended to require that the fingerprints be taken by an authorized entity and to clarify that fingerprint fees will be paid by the applicant.⁵³

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 212.084, 496.403, 496.404, 496.405, 496.407, 496.409, 496.410, 496.411, 496.412, 496.415, 496.419, 741.0305.

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

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on March 19, 2014:

The committee substitute:

- Exempts blood banks from many of the requirements in chapter 496.
- Removes references to specific types of “management and general costs.”
- Makes the definition of “religious institution” consistent with current law.
- Requires a charity that files a consolidated financial statement to include its IRS form 990 with its annual consolidated financial statement. Consolidated financial statements are required of certain charities that have separate branches or affiliates.
- Requires a conflict of interest policy be annually certified by the charity and provided to the Department of Agriculture and Consumer Services (DACS) with its annual registration.
- Permits a charity to submit its IRS form 990 in lieu of a financial statement.
- Requires the DACS to show good cause before it can require an audit or review of a charity’s financial statement.
- Clarifies the fingerprinting retention procedures for professional solicitor licenses.

⁵³ *Id.* at 7.

- Requires the DACS to disqualify a charity's sale tax exemption certificate if the charity fails to meet the required expense threshold.
- Removes language that would have given the DACS authority to deny or revoke a registration or license if the entity has entered into a voluntary settlement agreement with another state.
- Makes technical corrections.

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

The committee substitute:

- Updates the definition of a professional solicitor regulated by ch. 496, F.S., to include professional solicitors located in Florida that solicit outside of Florida.
- Provides that only those charities that are required to register under s. 496.405, F.S., must enact a conflict of interest policy.
- Requires that audits and reviews of a charity's financial statement be prepared by an independent CPA.
- Clarifies that a charity must show good cause before DACS can grant an extension of time to file a financial statement.
- Authorizes DACS to require a charity to have its financial statement audited or reviewed.
- Replaces the words "ancestor" and "descendant" with "grandparent" and "grandchild."
- Requires DACS to provide a list of disasters and crises that are subject to the additional financial reporting requirement.
- Updates the fingerprinting requirements for professional solicitor licenses to:
 - Specify that the state cost for fingerprinting paid by the applicant is the statutory cost of \$24.
 - Require FDLE to retain the fingerprints and enroll them in the FBI's national arrest notification program once FDLE begins participating in the program.
 - Require DACS to notify FDLE when a person loses his or her license.
 - Require DACS to screen background results to determine if an applicant meets licensure requirements.
- Clarifies that the signage requirement for collection receptacles operated by for-profit businesses does not apply to charities.
- Clarifies that a sales tax exemption certificate is issued by DOR.
- Adds a severability clause.
- Updates the amount appropriated to DACS to implement the bill.
- Makes technical corrections.

B. Amendments:

None.



600582

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
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	.	

Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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



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

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

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



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

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

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

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

66 Section 3. Section 496.403, Florida Statutes, is amended to
67 read:

68 496.403 Application.—Sections 496.401-496.424 do not apply



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69 to bona fide religious institutions, educational institutions,
70 and state agencies or other government entities or persons or
71 organizations who solicit or act as professional fundraising
72 consultants solely on ~~their~~ behalf of those entities, or to
73 blood establishments as defined in s. 381.06014. Sections
74 496.401-496.424 do not apply to political contributions
75 solicited in accordance with the election laws of this state.

76 Section 4. Section 496.404, Florida Statutes, is amended to
77 read:

78 496.404 Definitions.—As used in ss. 496.401-496.424, the
79 term:

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

92 (2) "Charitable purpose" means any benevolent,
93 philanthropic, patriotic, educational, humane, scientific,
94 artistic, public health, social welfare or advocacy,
95 environmental conservation, civic, or other eleemosynary
96 objective.

97 (3) "Charitable sales promotion" means an advertising or



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98 sales campaign conducted by a commercial co-venturer which
99 represents that the purchase or use of goods or services offered
100 by the commercial co-venturer ~~are to~~ benefit a charitable
101 organization. The provision of advertising services to a
102 charitable organization does not, in itself, constitute a
103 charitable sales promotion.

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

109 (5) "Contribution" means the promise, pledge, or grant of
110 any money or property, financial assistance, or any other thing
111 of value in response to a solicitation. The term "Contribution"
112 includes, in the case of a charitable organization or sponsor
113 offering goods and services to the public, the difference
114 between the direct cost of the goods and services to the
115 charitable organization or sponsor and the price at which the
116 charitable organization or sponsor or any person acting on
117 behalf of the charitable organization or sponsor resells those
118 goods or services to the public. The term "Contribution" does
119 not include bona fide fees, dues, or assessments paid by
120 members, if ~~provided that~~ membership is not conferred solely as
121 consideration for making a contribution in response to a
122 solicitation; or ~~"Contribution" also does not include~~ funds
123 obtained by a charitable organization or sponsor pursuant to
124 government grants or contracts; funds, ~~or~~ obtained as an
125 allocation from a United Way organization that is duly
126 registered with the department; or funds received from an



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127 organization that is exempt from federal income taxation under
128 s. 501(a) of the Internal Revenue Code and described in s.
129 501(c) of the Internal Revenue Code which ~~that~~ is duly
130 registered with the department.

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

134 (7)~~(6)~~ "Department" means the Department of Agriculture and
135 Consumer Services.

136 (8) "Disaster" means a natural, technological, or civil
137 event, including, but not limited to, an explosion, chemical
138 spill, earthquake, tsunami, landslide, volcanic activity,
139 avalanche, wildfire, tornado, hurricane, drought, or flood,
140 which affects one or more countries and causes damage of
141 sufficient severity and magnitude to result in an official
142 declaration of a state of emergency or an official request for
143 international assistance.

144 (9)~~(7)~~ "Division" means the Division of Consumer Services
145 of the Department of Agriculture and Consumer Services.

146 (10)~~(8)~~ "Educational institutions" means those institutions
147 and organizations described in s. 212.08(7)(cc)8.a. The term
148 includes private nonprofit organizations, the purpose of which
149 is to raise funds for schools teaching grades kindergarten
150 through grade 12, colleges, and universities, including any
151 nonprofit newspaper of free or paid circulation primarily on
152 university or college campuses which holds a current exemption
153 from federal income tax under s. 501(c)(3) of the Internal
154 Revenue Code, any educational television network or system
155 established pursuant to s. 1001.25 or s. 1001.26, and any



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156 nonprofit television or radio station that is a part of such
157 network or system and that holds a current exemption from
158 federal income tax under s. 501(c)(3) of the Internal Revenue
159 Code. The term also includes a nonprofit educational cable
160 consortium that holds a current exemption from federal income
161 tax under s. 501(c)(3) of the Internal Revenue Code, whose
162 primary purpose is the delivery of educational and instructional
163 cable television programming and whose members are composed
164 exclusively of educational organizations that hold a valid
165 consumer certificate of exemption and that are either an
166 educational institution as defined in this subsection or
167 qualified as a nonprofit organization pursuant to s. 501(c)(3)
168 of the Internal Revenue Code.

169 (11)~~(9)~~ "Emergency service employee" means an ~~any~~ employee
170 who is a firefighter, as defined in s. 633.102, or ambulance
171 driver, emergency medical technician, or paramedic, as defined
172 in s. 401.23.

173 (12)~~(10)~~ "Federated fundraising organization" means a
174 federation of independent charitable organizations that ~~which~~
175 have voluntarily joined together, including, but not limited to,
176 a united way or community chest, for purposes of raising and
177 distributing contributions for and among themselves and where
178 membership does not confer operating authority and control of
179 the individual organization upon the federated group
180 organization.

181 (13)~~(11)~~ "Fundraising costs" means those costs incurred in
182 inducing others to make contributions to a charitable
183 organization or sponsor for which the contributors will receive
184 no direct economic benefit. Fundraising costs include, but are



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185 not limited to, salaries, rent, acquiring and obtaining mailing
186 lists, printing, mailing, and all direct and indirect costs of
187 soliciting, as well as the cost of unsolicited merchandise sent
188 to encourage contributions.

189 (14)~~(12)~~ "Law enforcement officer" means a ~~any~~ person who
190 is elected, appointed, or employed by any municipality or the
191 state or any political subdivision thereof and:

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

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

199 (15) "Management and general costs" means all such costs of
200 a charitable organization or sponsor which are not identifiable
201 with a single program or fundraising activity but which are
202 indispensable to the conduct of such programs and activities and
203 the charitable organization's or sponsor's existence.

204 (16)~~(13)~~ "Membership" means the relationship of a person to
205 an organization which ~~that~~ entitles her or him to the
206 privileges, professional standing, honors, or other direct
207 benefit of the organization in addition to the right to vote,
208 elect officers, and hold office in the organization.

209 (17)~~(14)~~ "Owner" means a ~~any~~ person who has a direct or
210 indirect interest in any professional fundraising consultant or
211 professional solicitor.

212 (18)~~(15)~~ "Parent organization" means that part of a
213 charitable organization or sponsor which coordinates,



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

217 ~~(19)-(16)~~ "Person" means an ~~any~~ individual, organization,
218 trust, foundation, group, association, entity, partnership,
219 corporation, society, or any combination thereof ~~of them~~.

220 ~~(20)-(17)~~ "Professional fundraising consultant" means a ~~any~~
221 person who is retained by a charitable organization or sponsor
222 for a fixed fee or rate under a written agreement to plan,
223 manage, conduct, carry on, advise, consult, or prepare material
224 for a solicitation of contributions in this state, but who does
225 not solicit contributions or employ, procure, or engage any
226 compensated person to solicit contributions and who does not at
227 any time have custody or control of contributions. A bona fide
228 volunteer or bona fide employee or salaried officer of a
229 charitable organization or sponsor maintaining a permanent
230 establishment in this state is not a professional fundraising
231 consultant. An attorney, investment counselor, or banker who
232 advises an individual, corporation, or association to make a
233 charitable contribution is not a professional fundraising
234 consultant as the result of such advice.

235 ~~(21)-(18)~~ "Professional solicitor" means a ~~any~~ person who,
236 for compensation, performs for a charitable organization or
237 sponsor any service in connection with which contributions are
238 or will be solicited in, or from a location in, this state by
239 the compensated person or by any person it employs, procures, or
240 otherwise engages, directly or indirectly, to solicit
241 contributions, or a person who plans, conducts, manages, carries
242 on, advises, consults, ~~whether~~ directly or indirectly, in



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

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

256 (23)~~(19)~~ "Religious institution" means any church,
257 ecclesiastical or denominational organization, or established
258 physical place for worship in this state at which nonprofit
259 religious services and activities are regularly conducted and
260 carried on, and includes those bona fide religious groups which
261 do not maintain specific places of worship. The term "Religious
262 institution" also includes any separate group or corporation
263 which forms an integral part of a religious institution which is
264 exempt from federal income tax under the provisions of s.
265 501(c)(3) of the Internal Revenue Code, and which is not
266 primarily supported by funds solicited outside its own
267 membership or congregation.

268 (24)~~(20)~~ "Solicitation" means a request, directly or
269 indirectly, for money, property, financial assistance, or any
270 other thing of value on the plea or representation that such
271 money, property, financial assistance, or other thing of value



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272 or a portion of it will be used for a charitable or sponsor
273 purpose or will benefit a charitable organization or sponsor.
274 The term "Solicitation" includes, but is not limited to, the
275 following methods of requesting or securing the promise, pledge,
276 or grant of money, property, financial assistance, or any other
277 thing of value:

278 (a) Making any oral or written request;

279 (b) Making any announcement to the press, on radio or
280 television, by telephone or telegraph, or by any other
281 communication device concerning an appeal or campaign by or for
282 any charitable organization or sponsor or for any charitable or
283 sponsor purpose;

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

287 (d) Selling or offering or attempting to sell any
288 advertisement, advertising space, book, card, coupon, chance,
289 device, magazine, membership, merchandise, subscription,
290 sponsorship, flower, admission, ticket, food, or other service
291 or tangible good, item, or thing of value, or any right of any
292 description in connection with which any appeal is made for any
293 charitable organization or sponsor or charitable or sponsor
294 purpose, or when the name of any charitable organization or
295 sponsor is used or referred to in any such appeal as an
296 inducement or reason for making the sale or when, in connection
297 with the sale or offer or attempt to sell, any statement is made
298 that all or part of the proceeds from the sale will be used for
299 any charitable or sponsor purpose or will benefit any charitable
300 organization or sponsor.



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301

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

310 (25)~~(21)~~ "Sponsor" means a group or person that ~~which~~ is or
311 holds itself out to be soliciting contributions by the use of
312 any name that ~~which~~ implies that the group or person is in any
313 way affiliated with or organized for the benefit of emergency
314 service employees or law enforcement officers and the group or
315 person ~~which~~ is not a charitable organization. The term includes
316 a chapter, branch, or affiliate that ~~which~~ has its principal
317 place of business outside the state, if such chapter, branch, or
318 affiliate solicits or holds itself out to be soliciting
319 contributions in this state.

320 (26)~~(22)~~ "Sponsor purpose" means any program or endeavor
321 performed to benefit emergency service employees or law
322 enforcement officers.

323 (27)~~(23)~~ "Sponsor sales promotion" means an advertising or
324 sales campaign conducted by a commercial co-venturer who
325 represents that the purchase or use of goods or services offered
326 by the commercial co-venturer will be used for a sponsor purpose
327 or donated to a sponsor. The provision of advertising services
328 to a sponsor does not, in itself, constitute a sponsor sales
329 promotion.



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330 Section 5. Subsection (1), paragraphs (a) and (g) of
331 subsection (2), subsection (3), paragraph (b) of subsection (4),
332 and subsections (7) and (8) of section 496.405, Florida
333 Statutes, are amended, and subsections (9) and (10) are added to
334 that section, to read:

335 496.405 Registration statements by charitable organizations
336 and sponsors.—

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

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

355 (b) Any changes to the information submitted to the
356 department pursuant to paragraph (2)(d) on the initial
357 registration statement or the last renewal statement must be
358 reported to the department on a form prescribed by the



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359 department within 10 days after the change occurs.

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

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

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

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

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

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

387 (a) A copy of the financial statement ~~report~~ or Internal



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388 Revenue Service Form 990 and all attached schedules or Internal
389 Revenue Service Form 990-EZ and Schedule O required under s.
390 496.407 for the immediately preceding fiscal year. A newly
391 organized charitable organization or sponsor with no financial
392 history must file a budget for the current fiscal year.

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

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

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

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

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

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



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417 (3) Each chapter, branch, or affiliate of a parent
418 organization that is required to register under this section
419 must ~~either~~ file a separate registration statement and financial
420 statement report or ~~must~~ report the required information to its
421 parent organization, which shall then file, on a form prescribed
422 by the department, a consolidated registration statement for the
423 parent organization and its Florida chapters, branches, and
424 affiliates. A consolidated registration statement filed by a
425 parent organization must include or be accompanied by financial
426 statements reports as specified in s. 496.407 for the parent
427 organization and each of its Florida chapters, branches, and
428 affiliates that solicited or received contributions during the
429 preceding fiscal year. However, if all contributions received by
430 chapters, branches, or affiliates are remitted directly into a
431 depository account that ~~which~~ feeds directly into the parent
432 organization's centralized accounting system from which all
433 disbursements are made, the parent organization may submit one
434 consolidated financial statement report on a form prescribed by
435 the department. A copy of Internal Revenue Service Form 990 and
436 all attached schedules filed for the preceding fiscal year, or a
437 copy of Internal Revenue Form 990-EZ and Schedule O for the
438 preceding fiscal year, for the parent organization and each
439 Florida chapter, branch, or affiliate that is required to file
440 such forms must be attached to the consolidated financial
441 statement. The consolidated financial statement must comply with
442 the requirements of s. 496.407 and must reflect the activities
443 of each chapter, branch, or affiliate of the parent
444 organization, including all contributions received in the name
445 of each chapter, branch, or affiliate; all payments made to each



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446 chapter, branch, or affiliate; and all administrative fees
447 assessed to each chapter, branch, or affiliate.

448 (4)

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

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



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

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

500 (8) A ~~No~~ charitable organization or sponsor, or any
501 officer, director, trustee, or employee thereof, may not ~~shall~~
502 knowingly allow any officer, director, trustee, or employee of
503 the charitable organization or sponsor ~~of its officers,~~



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

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

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

531 Section 6. Section 496.4055, Florida Statutes, is created
532 to read:



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533 496.4055 Charitable organization or sponsor board duties.-

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

545 (2) The board of directors, or an authorized committee
546 thereof, of a charitable organization or sponsor required to
547 register with the department under s. 496.405 shall adopt a
548 policy regarding conflict of interest transactions. The policy
549 must require annual certification of compliance with the policy
550 by all directors, officers, and trustees of the charitable
551 organization or sponsor.

552 (3) The charitable organization or sponsor shall provide to
553 the department a copy of the policy adopted under subsection (2)
554 with the annual registration statement required under s.
555 496.405.

556 Section 7. Section 496.407, Florida Statutes, is amended to
557 read:

558 496.407 Financial statement ~~report~~.-

559 (1) A charitable organization or sponsor that is required
560 to initially register or annually renew registration must file
561 an annual financial statement ~~report~~ for the immediately



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562 preceding fiscal year on ~~upon~~ a form prescribed by the
563 department.

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

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

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

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

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

574 a.~~1.~~ Program service costs.

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

576 c.~~3.~~ Fundraising costs.

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

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

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

586 3. For a charitable organization or sponsor that receives
587 \$1 million or more in annual contributions, the financial
588 statement shall be audited by an independent certified public
589 accountant.

590 (c) Audits and reviews shall be prepared in accordance with



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591 the following standards:

592 1. Audits shall be prepared by an independent certified
593 public account in accordance with generally accepted auditing
594 standards, including the Statements on Auditing Standards.

595 2. Reviews shall be prepared by an independent certified
596 public accountant in accordance with the Statements on Standards
597 for Accounting and Review Services.

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

601 (2) In lieu of the financial ~~statement~~ ~~report~~ described in
602 subsection (1), a charitable organization or sponsor may submit
603 as its financial statement a copy of its Internal Revenue
604 Service Form 990 and all attached schedules filed for the
605 preceding fiscal year, or a copy of its Internal Revenue Service
606 Form 990-EZ and Schedule O filed for the preceding fiscal year.
607 Such forms and schedules submitted by a charitable organization
608 or sponsor that receives at least \$500,000 in annual
609 contributions must be prepared by a certified public accountant
610 or other professional who normally prepares such forms and
611 schedules in the ordinary course of their business.

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

619 (4) Upon a showing of good cause, the department may



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620 require that an audit or review be conducted for any financial
621 statement submitted by any charitable organization or sponsor.
622 As used in this subsection, the term "good cause" includes, but
623 is not limited to, irregular or inconsistent information
624 provided on a charitable organization's or sponsor's financial
625 statement. A charitable organization or sponsor may elect to
626 also include a financial report that has been audited by an
627 independent certified public accountant or an audit with opinion
628 by an independent certified public accountant. In the event that
629 a charitable organization or sponsor elects to file an audited
630 financial report, this optional filing must be noted in the
631 department's annual report submitted pursuant to s. 496.423.

632 Section 8. Section 496.4071, Florida Statutes, is created
633 to read:

634 496.4071 Supplemental financial disclosure.—

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

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

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

648 2. Fundraising, including the names of any professional



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649 solicitors, amounts paid to the professional solicitors, and
650 contributions received from a professional solicitor's campaign.

651 3. Travel expenses.

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

654 (b) The name of and specific sum earned by or paid to all
655 employees or consultants who earned or were paid more than
656 \$100,000 during the immediately preceding fiscal year.

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

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

663 (e) The details of any economic or business transactions
664 between the charitable organization or sponsor and an officer,
665 trustee, or director of the charitable organization or sponsor;
666 the immediate family of an officer, trustee, or director of the
667 charitable organization or sponsor; any entity controlled by an
668 officer, trustee, or director of the charitable organization or
669 sponsor; any entity controlled by the immediate family of an
670 officer, trustee, or director of the charitable organization or
671 sponsor; any entity that employed or engaged for consultation an
672 officer, trustee, or director of the charitable organization or
673 sponsor; and any entity that employed or engaged for
674 consultation the immediate family of an officer, trustee, or
675 director of the charitable organization or sponsor. As used in
676 this paragraph, the term "immediate family" means a parent,
677 spouse, child, sibling, grandparent, grandchild, brother-in-law,



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678 sister-in-law, son-in-law, daughter-in-law, mother-in-law, or
679 father-in-law.

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

684 Section 9. Section 496.4072, Florida Statutes, is created
685 to read:

686 496.4072 Financial statements for specific disaster relief
687 solicitations.—

688 (1) A charitable organization or sponsor that solicits
689 contributions in this state for a charitable purpose related to
690 a specific disaster or crisis and receives at least \$100,000 in
691 contributions in response to such solicitation shall file
692 quarterly disaster relief financial statements with the
693 department on a form prescribed by the department. The quarterly
694 statements must detail the contributions secured as a result of
695 the solicitation and the manner in which such contributions were
696 expended.

697 (2) The first quarterly statement shall be filed on the
698 last day of the third month following the accrual of at least
699 \$100,000 in contributions after the commencement of
700 solicitations for the specific disaster or crisis. The
701 charitable organization or sponsor shall continue to file
702 quarterly statements with the department until the quarter after
703 all contributions raised in response to the solicitation are
704 expended.

705 (3) The department shall post notice on its website of the
706 specific disasters and crises subject to the additional



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707 reporting requirements in this section within 10 days after such
708 disaster or crisis.

709 Section 10. Subsections (4), (6), and (9) of section
710 496.409, Florida Statutes, are amended, and subsection (10) is
711 added to that section, to read:

712 496.409 Registration and duties of professional fundraising
713 consultant.-

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

727 (6) (a) The department shall examine each registration
728 statement and all supporting documents filed by a professional
729 fundraising consultant and determine whether the registration
730 requirements are satisfied. If the department determines that
731 the registration requirements are not satisfied, the department
732 must notify the professional fundraising consultant within 15
733 business ~~working~~ days after its receipt of the registration
734 statement; otherwise the registration statement is approved.
735 Within 7 business ~~working~~ days after receipt of a notification



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736 that the registration requirements are not satisfied, the
737 applicant may request a hearing. The hearing must be held within
738 7 business working days after receipt of the request, and any
739 recommended order, if one is issued, must be rendered within 3
740 business working days after the hearing. The final order must
741 then be issued within 2 business working days after the
742 recommended order. If there is no recommended order, the final
743 order must be issued within 5 business working days after the
744 hearing. The proceedings must be conducted in accordance with
745 chapter 120, except that the time limits and provisions ~~set~~
746 ~~forth~~ in this subsection prevail to the extent of any conflict.

747 (b) If a professional fundraising consultant discloses
748 information specified in paragraphs (2)(e)-(g) in the initial
749 application for registration or renewal application, the
750 processing time limits of this subsection are waived and the
751 department shall process the initial application for
752 registration or the renewal application in accordance with the
753 time limits in chapter 120. The registration of a professional
754 consultant shall be automatically suspended for failure to
755 disclose any information specified in paragraphs (2)(e)-(g)
756 until such time as the required information is submitted to the
757 department.

758 (9) A ~~no~~ person may not act as a professional fundraising
759 consultant, and a ~~no~~ professional fundraising consultant, or any
760 officer, director, trustee, or employee thereof, may not ~~shall~~
761 knowingly employ any officer, trustee, director, or employee, if
762 such person has, in any state, regardless of adjudication, been
763 convicted of, or found guilty of, or pled guilty or nolo
764 contendere to, or has been incarcerated within the last 10 years



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765 as a result of having previously been convicted of, or found
766 guilty of, or pled guilty or nolo contendere to, any crime
767 within the last 10 years involving fraud, theft, larceny,
768 embezzlement, fraudulent conversion, or misappropriation of
769 property, or any crime arising from the conduct of a
770 solicitation for a charitable organization or sponsor, or has
771 been enjoined in any state from violating any law relating to a
772 charitable solicitation.

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

779 Section 11. Present subsections (3), (5), (7), (14), and
780 (15) of section 496.410, Florida Statutes, are amended,
781 paragraphs (j), (k), and (l) are added to subsection (2) of that
782 section, paragraphs (i) through (n) are added to subsection (6)
783 of that section, and a new subsection (15) is added to that
784 section, to read:

785 496.410 Registration and duties of professional
786 solicitors.—

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

792 (j) A list of all telephone numbers the applicant will use
793 to solicit contributions as well as the actual physical address



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794 associated with each telephone number and any fictitious names
795 associated with such address.

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

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

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

816 (5) (a) The department must examine each registration
817 statement and supporting documents filed by a professional
818 solicitor. If the department determines that the registration
819 requirements are not satisfied, the department must notify the
820 professional solicitor within 15 business ~~working~~ days after its
821 receipt of the registration statement; otherwise the
822 registration statement is approved. Within 7 business ~~working~~



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823 days after receipt of a notification that the registration
824 requirements are not satisfied, the applicant may request a
825 hearing. The hearing must be held within 7 business ~~working~~ days
826 after receipt of the request, and any recommended order, if one
827 is issued, must be rendered within 3 business ~~working~~ days after
828 the hearing. The final order must then be issued within 2
829 business ~~working~~ days after the recommended order. If there is
830 no recommended order, the final order must be issued within 5
831 business ~~working~~ days after the hearing. The proceedings must be
832 conducted in accordance with chapter 120, except that the time
833 limits and provisions ~~set forth~~ in this subsection prevail to
834 the extent of any conflict.

835 (b) If a professional solicitor makes a disclosure
836 specified in paragraphs (2) (f)-(h) in the initial application
837 for registration or the renewal application, the processing time
838 limits of this subsection are waived and the department shall
839 process the initial application for registration or renewal
840 application in accordance with the time limits in chapter 120.
841 The registration of a professional solicitor shall be
842 automatically suspended for failure to disclose any information
843 specified in paragraphs (2) (f)-(h) until such time as the
844 required information is submitted to the department.

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

851 (i) A statement of the guaranteed minimum percentage of the



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852 gross receipts from contributions which will be remitted to the
853 charitable organization or sponsor, if any, or, if the
854 solicitation involves the sale of goods, services, or tickets to
855 a fundraising event, the percentage of the purchase price which
856 will be remitted to the charitable organization or sponsor, if
857 any.

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

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

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

867 2. Any officer, director, owner, trustee, or employee of a
868 charitable organization or sponsor under contract to the
869 professional solicitor.

870 3. Any supplier or vendor providing goods or services to a
871 charitable organization or sponsor under contract to the
872 professional solicitor.

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

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

879 (n) A copy of sales information or literature provided to a
880 donor or potential donor by the professional solicitor in



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881 connection with the solicitation campaign.

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

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

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

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

907 (d) A statement of the percentage of the gross revenue
908 which the professional solicitor will be compensated. If the
909 compensation of the professional solicitor is not contingent



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910 upon the number of contributions or the amount of revenue
911 received, his or her compensation shall be expressed as a
912 reasonable estimate of the percentage of the gross revenue, and
913 the contract must clearly disclose the assumptions upon which
914 the estimate is based. The stated assumptions must be based upon
915 all of the relevant facts known to the professional solicitor
916 regarding the solicitation to be conducted by the professional
917 solicitor.

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

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

937 (15) The department may deny or revoke the registration of
938 a professional solicitor if the professional solicitor, or any



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939 of its officers, directors, trustees, or agents, has had the
940 right to solicit contributions revoked in any state or has been
941 ordered by any court or governmental agency to cease soliciting
942 contributions within any state.

943 (16)-(15) All registration fees must be paid to the
944 department and deposited into the General Inspection Trust Fund.

945 Section 12. Section 496.4101, Florida Statutes, is created
946 to read:

947 496.4101 Licensure of professional solicitors and certain
948 employees thereof.-

949 (1) Each officer, director, trustee, or owner of a
950 professional solicitor and any employee of a professional
951 solicitor conducting telephonic solicitations must, before
952 engaging in solicitation activities, obtain a solicitor license
953 from the department.

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

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

962 (b) If the applicant, in any state, regardless of
963 adjudication, has previously been convicted of, or found guilty
964 of, or pled guilty or nolo contendere to, or has been
965 incarcerated within the last 10 years as a result of having
966 previously been convicted of, or found guilty of, or pled guilty
967 or nolo contendere to, any crime within the last 10 years



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968 involving fraud, theft, larceny, embezzlement, fraudulent
969 conversion, or misappropriation of property, or any crime
970 arising from the conduct of a solicitation for a charitable
971 organization or sponsor, or has been enjoined, in any state,
972 from violating any law relating to a charitable solicitation.

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

982 (3) (a) Each applicant must be fingerprinted by an agency,
983 entity, or vendor that meets the requirements of s. 943.053(13).
984 The agency, entity, or vendor shall forward a complete set of
985 the applicant's fingerprints to the Department of Law
986 Enforcement for state processing, and the Department of Law
987 Enforcement shall forward the applicant's fingerprints to the
988 Federal Bureau of Investigation for national processing.

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

994 (c) All fingerprints submitted to the Department of Law
995 Enforcement as required under this subsection shall be retained
996 by the Department of Law Enforcement as provided under s.



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997 943.05(2)(g) and (h) and enrolled in the Federal Bureau of
998 Investigation's national retained print arrest notification
999 program. Fingerprints may not be enrolled in the national
1000 retained print arrest notification program until the Department
1001 of Law Enforcement begins participation with the Federal Bureau
1002 of Investigation. Arrest fingerprints will be searched against
1003 the retained prints by the Department of Law Enforcement and the
1004 Federal Bureau of Investigation.

1005 (d) For any renewal of the applicant's license, the
1006 department shall request the Department of Law Enforcement to
1007 forward the retained fingerprints of the applicant to the
1008 Federal Bureau of Investigation unless the applicant is enrolled
1009 in the national retained print arrest notification program
1010 described in paragraph (c). The fee for the national criminal
1011 history check will be paid as part of the renewal fee to the
1012 department and forwarded by the department to Department of Law
1013 Enforcement. If the applicant's fingerprints are retained in the
1014 national retained print arrest notification program, the
1015 applicant shall pay the state and national retention fee to the
1016 department which will forward the fee to the Department of Law
1017 Enforcement.

1018 (e) The department shall notify the Department of Law
1019 Enforcement regarding any person whose fingerprints have been
1020 retained but who is no longer licensed under this chapter.

1021 (f) The department shall screen background results to
1022 determine if an applicant meets licensure requirements.

1023 (4) A solicitor license must be renewed annually by the
1024 submission of a renewal application. A solicitor license that is
1025 not renewed expires without further action by the department.



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1026 (5) Each applicant for a solicitor license shall remit a
1027 license fee of \$100 to the department at the time the initial
1028 application is filed with the department and an annual renewal
1029 fee of \$100 thereafter. All fees collected, less the cost of
1030 administration, shall be deposited into the General Inspection
1031 Trust Fund.

1032 (6) Any material change to the information submitted to the
1033 department in the initial application or renewal application for
1034 a solicitor license shall be reported to the department by the
1035 applicant or licensee within 10 days after the change occurs.
1036 The applicant or licensee shall also remit a fee in the amount
1037 of \$10 for processing the change to the initial or renewal
1038 application.

1039 (7) It is a violation of this chapter:

1040 (a) For an applicant to provide inaccurate or incomplete
1041 information to the department in the initial or renewal
1042 application for a solicitor license.

1043 (b) For any person specified in subsection (1) to fail to
1044 maintain a solicitor license as required by this section.

1045 (c) For a professional solicitor to allow, require, permit,
1046 or authorize an employee without an active solicitor license
1047 issued under this section to conduct telephonic solicitations.

1048 (8) The department shall adopt rules that allow applicants
1049 to engage in solicitation activities on an interim basis until
1050 such time as a solicitor license is granted or denied.

1051 (9) The department may deny or revoke any solicitor license
1052 if the applicant or licensee has had the right to solicit
1053 contributions revoked in any state, has been ordered by any
1054 court or governmental agency to cease soliciting contributions



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1055 within any state, or is subject to any disqualification
1056 specified in s. 496.410(14).

1057 (10) Any administrative proceeding conducted pursuant to
1058 this section must be conducted in accordance with chapter 120.

1059 Section 13. Subsections (2) and (3) of section 496.411,
1060 Florida Statutes, are amended to read:

1061 496.411 Disclosure requirements and duties of charitable
1062 organizations and sponsors.—

1063 (2) A charitable organization or sponsor soliciting in this
1064 state must include all of the following disclosures at the point
1065 of solicitation:

1066 (a) The name of the charitable organization or sponsor and
1067 state of the principal place of business of the charitable
1068 organization or sponsor.†

1069 (b) A description of the purpose or purposes for which the
1070 solicitation is being made.†

1071 (c) Upon request, the name and either the address or
1072 telephone number of a representative to whom inquiries could be
1073 addressed.†

1074 (d) Upon request, the amount of the contribution which may
1075 be deducted as a charitable contribution under federal income
1076 tax laws.†

1077 (e) Upon request, the source from which a written financial
1078 statement may be obtained. Such financial statement must be for
1079 the immediate preceding ~~past~~ fiscal year and must be consistent
1080 with the annual financial statement ~~report~~ filed under s.

1081 496.407. The written financial statement must be provided within
1082 14 days after the request and must state the purpose for which
1083 funds are raised, the total amount of all contributions raised,



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1084 the total costs and expenses incurred in raising contributions,
1085 the total amount of contributions dedicated to the stated
1086 purpose or disbursed for the stated purpose, and whether the
1087 services of another person or organization have been contracted
1088 to conduct solicitation activities.

1089 (3) Every charitable organization or sponsor ~~that~~ ~~which~~ is
1090 required to register under s. 496.405 or is exempt under s.
1091 496.406(1)(d) shall ~~must~~ conspicuously display ~~in capital~~
1092 ~~letters~~ the following statement on every ~~printed~~ solicitation,
1093 ~~written~~ confirmation, receipt, or reminder of a contribution:

1094

1095 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
1096 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1097 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1098 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1099 APPROVAL, OR RECOMMENDATION BY THE STATE."

1100

1101 The statement must include a toll-free number and website for
1102 the division which ~~that~~ can be used to obtain the registration
1103 information. If ~~When~~ the solicitation consists of more than one
1104 piece, the statement must be displayed prominently in the
1105 solicitation materials. If the solicitation occurs through a
1106 website, the statement must be conspicuously displayed on the
1107 webpage where donations are requested.

1108

1109

Section 14. Subsection (1) of section 496.412, Florida
Statutes, is amended to read:

1110

496.412 Disclosure requirements and duties of professional
solicitors.—

1111

(1) A professional solicitor must comply with and be

1112



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1113 responsible for complying or causing compliance with the
1114 following disclosures:

1115 (a) ~~Before~~ Before ~~Prior to~~ orally requesting a contribution, or
1116 contemporaneously with a written request for a contribution, a
1117 professional solicitor must clearly disclose:

1118 1. The name of the professional solicitor as on file with
1119 the department.

1120 2. If the individual acting on behalf of the professional
1121 solicitor identifies himself or herself by name, the
1122 individual's legal name.

1123 3. The name and state of the principal place of business of
1124 the charitable organization or sponsor and a description of how
1125 the contributions raised by the solicitation will be used for a
1126 charitable or sponsor purpose; or, if there is no charitable
1127 organization or sponsor, a description as to how the
1128 contributions raised by the solicitation will be used for a
1129 charitable or sponsor purpose.

1130 (b) In the case of a solicitation campaign conducted
1131 orally, whether by telephone or otherwise, any written
1132 confirmation, receipt, or reminder sent to any person who has
1133 contributed or has pledged to contribute, shall include a clear
1134 disclosure of the information required by paragraph (a).

1135 (c) In addition to the information required by paragraph
1136 (a), any written confirmation, receipt, or reminder of
1137 contribution made pursuant to an oral solicitation and any
1138 ~~written~~ solicitation shall conspicuously state ~~in capital~~
1139 ~~letters~~:

1140
1141 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL



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1142 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
1143 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
1144 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
1145 APPROVAL, OR RECOMMENDATION BY THE STATE.”
1146

1147 The statement must include a toll-free number and website for
1148 the division which ~~that~~ can be used to obtain the registration
1149 information. If ~~When~~ the solicitation consists of more than one
1150 piece, the statement must be displayed prominently in the
1151 solicitation materials. If the solicitation occurs on a website,
1152 the statement must be conspicuously displayed on the webpage
1153 where donations are requested.

1154 (d) If requested by the person being solicited, the
1155 professional solicitor shall inform that person in writing,
1156 within 14 days after ~~of~~ the request, of the fixed percentage of
1157 the gross revenue or the reasonable estimate of the percentage
1158 of the gross revenue that the charitable organization or sponsor
1159 will receive as a benefit from the solicitation campaign or
1160 shall immediately notify the person being solicited that the
1161 information is available on the department's website or by
1162 calling the division's toll-free number.

1163 (e) If requested by the person being solicited, the
1164 professional solicitor shall inform that person in writing,
1165 within 14 days after ~~of~~ the request, of the percentage of the
1166 contribution which may be deducted as a charitable contribution
1167 under federal income tax laws or shall immediately notify the
1168 person being solicited that the information is available on the
1169 department's website or by calling the division's toll-free
1170 number.



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1171 Section 15. Section 496.4121, Florida Statutes, is created
1172 to read:

1173 496.4121 Collection receptacles used for donations.—

1174 (1) As used in this section, the term "collection
1175 receptacle" means a receptacle used to collect donated clothing,
1176 household items, or other goods for resale.

1177 (2) A collection receptacle must display a permanent sign
1178 or label on each side which contains the following information
1179 printed in letters that are at least 3 inches in height and no
1180 less than one-half inch in width, in a color that contrasts with
1181 the color of the collection receptacle:

1182 (a) For collection receptacles used by a person required to
1183 register under this chapter, the name, business address,
1184 telephone number, and registration number of the charitable
1185 organization or sponsor for whom the solicitation is made.

1186 (b) For collection receptacles placed or maintained in
1187 public view by a person not required to register under this
1188 chapter or by a person not claiming an exemption pursuant to s.
1189 496.406, the name, telephone number, and physical address of the
1190 business conducting the solicitation and the statement: "This is
1191 not a charity. Donations made here support a for-profit business
1192 and are not tax deductible."

1193 (3) Upon request, a charitable organization or sponsor
1194 using a collection receptacle must provide the donor with
1195 documentation of its tax-exempt status and the registration
1196 issued under this chapter.

1197 Section 16. Subsection (2) of section 496.415, Florida
1198 Statutes, is amended, and subsection (18) is added to that
1199 section, to read:



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1200 496.415 Prohibited acts.—It is unlawful for any person in
1201 connection with the planning, conduct, or execution of any
1202 solicitation or charitable or sponsor sales promotion to:

1203 (2) ~~Knowingly~~ Submit false, misleading, or inaccurate
1204 information in a document that is filed with the department,
1205 provided to the public, or offered in response to a request or
1206 investigation by the department, the Department of Legal
1207 Affairs, or the state attorney.

1208 (18) Fail to remit to a charitable organization or sponsor
1209 the disclosed guaranteed minimum percentage of gross receipts
1210 from contributions as required under s. 496.410(7)(c) or, if the
1211 solicitation involved the sale of goods, services, or tickets to
1212 a fundraising event, the percentage of the purchase price as
1213 agreed in the contract or agreement as required under this
1214 chapter.

1215 Section 17. Subsection (5) of section 496.419, Florida
1216 Statutes, is amended to read:

1217 496.419 Powers of the department.—

1218 (5) Upon a finding as set forth in subsection (4), the
1219 department may enter an order doing one or more of the
1220 following:

1221 (a) Issuing a notice of noncompliance pursuant to s.
1222 120.695;

1223 (b) Issuing a cease and desist order that directs that the
1224 person cease and desist specified fundraising activities;

1225 (c) Refusing to register or canceling or suspending a
1226 registration;

1227 (d) Placing the registrant on probation for a period of
1228 time, subject to such conditions as the department may specify;



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1229 (e) Canceling an exemption granted under s. 496.406; ~~and~~
1230 (f) Except as provided in paragraph (g), imposing an
1231 administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or
1232 omission that ~~which~~ constitutes a violation of ss. 496.401-
1233 496.424 or s. 496.426 or a rule or order. With respect to a s.
1234 501(c)(3) organization, the penalty imposed pursuant to this
1235 subsection may ~~shall~~ not exceed \$500 per violation for failure
1236 to register under s. 496.405 or file for an exemption under s.
1237 496.406(2). The penalty shall be the entire amount per violation
1238 and is not ~~to be interpreted as~~ a daily penalty; and
1239 (g) Imposing an administrative fine not to exceed \$10,000
1240 for a violation of this chapter that involves fraud or
1241 deception.

1242 Section 18. Section 496.4191, Florida Statutes, is created
1243 to read:

1244 496.4191 Additional penalty; immediate suspension.—Upon
1245 notification and subsequent written verification by a law
1246 enforcement agency, a court, a state attorney, or the Florida
1247 Department of Law Enforcement, the department shall immediately
1248 suspend a registration or the processing of an application for a
1249 registration if the registrant, applicant, or any officer or
1250 director of the registrant or applicant is formally charged with
1251 a crime involving fraud, theft, larceny, embezzlement, or
1252 fraudulent conversion or misappropriation of property or any
1253 crime arising from the conduct of a solicitation for a
1254 charitable organization or sponsor until final disposition of
1255 the case or removal or resignation of that officer or director.

1256 Section 19. Section 496.430, Florida Statutes, is created
1257 to read:



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1258 496.430 Disqualification for certain tax exemptions.-

1259 (1) The department shall issue an order to disqualify a
1260 charitable organization or sponsor from receiving any sales tax
1261 exemption certificate issued by the Department of Revenue if the
1262 department finds, based up on the average of functional expenses
1263 and program service costs provided to the department pursuant to
1264 s. 496.407 for the 3 most recent fiscal years, that the
1265 charitable organization or sponsor has failed to expend at least
1266 25 percent of its total annual functional expenses on program
1267 service costs.

1268 (2) A charitable organization or sponsor may appeal a
1269 disqualification order by requesting a hearing within 21 days
1270 after notification from the department that it has issued a
1271 disqualification order under this section. The hearing must be
1272 conducted in accordance with chapter 120.

1273 (3) Notwithstanding a finding under subsection (1) that a
1274 charitable organization or sponsor has failed to expend at least
1275 25 percent of its total annual functional expenses on program
1276 service costs, the department may decline to issue a
1277 disqualification order if the charitable organization or sponsor
1278 establishes:

1279 (a) That payments were made to affiliates which should be
1280 considered in calculating the program service costs;

1281 (b) That revenue was accumulated for a specific program
1282 purpose consistent with representations in solicitations; or

1283 (c) Such other mitigating circumstances as are defined by
1284 rule of the department.

1285 (4) A disqualification order issued by the department
1286 pursuant to this section is effective for at least 1 year after



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1287 such order becomes final and shall remain effective until such
1288 time as the department receives sufficient evidence from the
1289 disqualified charitable organization or sponsor which
1290 demonstrates it expends at least 25 percent of its total annual
1291 functional expenses on program service costs.

1292 (a) The charitable organization or sponsor may not submit
1293 such evidence to the department sooner than 1 year after the
1294 disqualification order becomes final and may not submit such
1295 information more than once each year for consideration by the
1296 department.

1297 (b) The department shall also consider any financial
1298 statement that was submitted by the charitable organization or
1299 sponsor to the department pursuant to s. 496.407 after the
1300 disqualification order became final.

1301 (5) The department shall provide a disqualification order
1302 to the Department of Revenue within 30 days after such order
1303 becomes final. A final disqualification order is conclusive as
1304 to the charitable organization's or sponsor's entitlement to any
1305 sales tax exemption. The Department of Revenue shall revoke or
1306 refuse to grant a sales tax exemption certificate to a
1307 charitable organization or sponsor subject to a final
1308 disqualification order within 30 days after receiving such
1309 disqualification order. A charitable organization or sponsor may
1310 not appeal or challenge the revocation or denial of a sales tax
1311 exemption certificate by the Department of Revenue if such
1312 revocation or denial is based upon a final disqualification
1313 order issued pursuant to this section.

1314 (6) This section does not apply to a charitable
1315 organization or sponsor that:



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1316 (a) Is not required to register under this chapter with the
1317 department; or

1318 (b) Has been in existence for less than 4 years, regardless
1319 of whether the charitable organization or sponsor is registered
1320 in this state.

1321 Section 20. Section 496.431, Florida Statutes, is created
1322 to read:

1323 496.431 Severability.—If any provision of this chapter or
1324 its application to any person or circumstance is held invalid,
1325 the invalidity does not affect other provisions or applications
1326 of this chapter which can be given effect without the invalid
1327 provision or application, and to this end the provisions of this
1328 chapter are severable.

1329 Section 21. Paragraph (a) of subsection (3) of section
1330 741.0305, Florida Statutes, is amended to read:

1331 741.0305 Marriage fee reduction for completion of
1332 premarital preparation course.—

1333 (3) (a) All individuals electing to participate in a
1334 premarital preparation course shall choose from the following
1335 list of qualified instructors:

- 1336 1. A psychologist licensed under chapter 490.
- 1337 2. A clinical social worker licensed under chapter 491.
- 1338 3. A marriage and family therapist licensed under chapter
1339 491.
- 1340 4. A mental health counselor licensed under chapter 491.
- 1341 5. An official representative of a religious institution
1342 which is recognized under s. 496.404(23) ~~496.404(19)~~, if the
1343 representative has relevant training.
- 1344 6. Any other provider designated by a judicial circuit,



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1345 including, but not limited to, school counselors who are
1346 certified to offer such courses. Each judicial circuit may
1347 establish a roster of area course providers, including those who
1348 offer the course on a sliding fee scale or for free.

1349 Section 22. For the 2014-2015 fiscal year, there is
1350 appropriated to the Department of Agriculture and Consumer
1351 Services, the sums of \$235,352 in recurring and \$239,357 in
1352 nonrecurring funds from the General Inspection Trust Fund, and 4
1353 full-time equivalent positions with associated salary rate of
1354 143,264 are authorized for the purpose of implementing this act.

1355 Section 23. This act shall take effect July 1, 2014.

1356
1357 ===== T I T L E A M E N D M E N T =====

1358 And the title is amended as follows:

1359 Delete everything before the enacting clause
1360 and insert:

1361 A bill to be entitled
1362 An act relating to charities; amending s. 212.08,
1363 F.S.; excluding charitable organizations or sponsors
1364 disqualified by the Department of Agriculture and
1365 Consumer Services from receiving certain tax
1366 exemptions; amending s. 212.084, F.S.; requiring the
1367 Department of Revenue to revoke or deny a sales tax
1368 exemption to charitable organizations or sponsors
1369 disqualified by the department; providing for a
1370 limited appeal of the denial or revocation of the
1371 sales tax exemption; amending s. 496.403, F.S.;
1372 revising the applicability of the Solicitation of
1373 Contributions Act; amending s. 496.404, F.S.; defining



1374 terms; redefining the term "professional solicitor";
1375 amending s. 496.405, F.S.; revising the timeframe
1376 within which a charitable organization or sponsor must
1377 report changes to certain information provided to the
1378 department on an initial or renewal registration
1379 statement; providing for the automatic expiration of a
1380 registration for failure to file a renewal or
1381 financial statement by a certain date; deleting a
1382 provision to extend the time to file a renewal
1383 statement; deleting a requirement that the renewal
1384 statement be filed subsequent to the financial
1385 statement; specifying the information that must be
1386 submitted by a parent organization on a consolidated
1387 financial statement; requiring a parent organization
1388 to attach certain Internal Revenue Service forms and
1389 schedules to a consolidated financial statement;
1390 extending the time allowed for the department to
1391 review certain initial or renewal registration
1392 statements; providing that failure of a charitable
1393 organization or sponsor to make certain disclosures in
1394 a registration statement results in the automatic
1395 suspension of an active registration for a specified
1396 period; prohibiting the officers, directors, trustees,
1397 or employees of a charitable organization or sponsor
1398 from allowing certain persons to solicit contributions
1399 on behalf of the charitable organization or sponsor;
1400 specifying that the prohibition against certain
1401 persons soliciting contributions on behalf of a
1402 charitable organization or sponsor due to the



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1403 commission of certain felonies includes those felonies
1404 committed in any state as well as any misdemeanor in
1405 another state which constitutes a disqualifying felony
1406 in this state; authorizing the department to deny or
1407 revoke the registration of a charitable organization
1408 or sponsor under certain circumstances; requiring a
1409 charitable organization or sponsor that has ended
1410 solicitation activities in this state to notify the
1411 department in writing; making technical changes;
1412 creating s. 496.4055, F.S.; defining the term
1413 "conflict of interest transaction"; requiring the
1414 board of directors of a charitable organization or
1415 sponsor, or an authorized committee thereof, to adopt
1416 a policy regarding conflict of interest transactions;
1417 specifying certain requirements of the policy;
1418 requiring a charitable organization or sponsor to
1419 provide the department with a copy of the policy;
1420 amending s. 496.407, F.S.; requiring that the
1421 financial statements of certain charitable
1422 organizations or sponsors be audited or reviewed;
1423 specifying requirements and standards for the audit or
1424 review of a financial statement; requiring that an
1425 alternative financial statement submitted by certain
1426 charitable organizations or sponsors be prepared by a
1427 certified public accountant or other professional;
1428 authorizing the department to require an audit or
1429 review of any financial statement and to extend the
1430 time to file a financial statement under certain
1431 circumstances; providing that the registration of a



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1432 charitable organization or sponsor be suspended upon
1433 its failure to file a financial statement within an
1434 extension period; making technical changes; creating
1435 s. 496.4071, F.S.; requiring certain charitable
1436 organizations or sponsors to report specified
1437 supplemental financial information to the department
1438 by a certain date; creating s. 496.4072, F.S. ;
1439 requiring certain charitable organizations or sponsors
1440 who solicit contributions for a specific disaster
1441 relief effort to submit quarterly financial statements
1442 to the department; specifying information to be
1443 included in the quarterly financial statement and the
1444 length of the required reporting period; requiring the
1445 department to post notice of specific disaster relief
1446 efforts subject the reporting requirements; amending
1447 ss. 496.409 and 496.410, F.S.; prohibiting a
1448 professional fundraising consultant or professional
1449 solicitor from entering into a contract or agreement
1450 with a charitable organization or sponsor that has not
1451 complied with certain requirements; extending the time
1452 that the department may review initial or renewal
1453 registration statements of professional fundraising
1454 consultants or professional solicitors which contain
1455 certain disclosures; providing that the failure of a
1456 professional fundraising consultant or professional
1457 solicitor to make certain disclosures in an initial or
1458 renewal registration statement results in automatic
1459 suspension of an active registration; prohibiting the
1460 officers, trustees, directors, or employees of a



1461 professional fundraising consultant or a professional
1462 solicitor from allowing certain persons to solicit
1463 contributions on behalf of the professional
1464 fundraising consultant or professional solicitor;
1465 specifying that the prohibition against acting as a
1466 professional solicitor or the employment of certain
1467 persons by a professional solicitor due to the
1468 commission of certain felonies includes those felonies
1469 committed in any state as well as any misdemeanor in
1470 another state which constitutes a disqualifying felony
1471 in this state; authorizing the department to deny or
1472 revoke the registration of a professional fundraising
1473 consultant or professional solicitor under certain
1474 circumstances; revising required information in the
1475 initial or renewal application of a professional
1476 solicitor; deleting a provision authorizing the
1477 payment of a single registration fee for certain
1478 professional solicitors; requiring a professional
1479 solicitor to provide additional specified information
1480 to the department in a solicitation notice; creating
1481 s. 496.4101, F.S.; requiring each officer, director,
1482 trustee, or owner of a professional solicitor and any
1483 employee of a professional solicitor that conducts
1484 telephone solicitations to obtain a solicitor license
1485 from the department; specifying application
1486 information and the application procedure for a
1487 solicitor license; requiring that each applicant for a
1488 solicitor license to be fingerprinted by certain
1489 agencies, entities, or vendors; requiring such



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1490 agencies, entities, or vendors to submit a complete
1491 set of the applicant's fingerprints to the Department
1492 of Law Enforcement for state processing; requiring the
1493 Department of Law Enforcement to forward the
1494 applicant's fingerprints to the Federal Bureau of
1495 Investigation for national processing; providing that
1496 fees for fingerprint processing and retention be borne
1497 by the applicant; providing for retention of the
1498 fingerprints; requiring the department to notify the
1499 Department of Law Enforcement of individuals who are
1500 no longer licensed; requiring that a solicitor license
1501 be renewed annually or expire automatically upon
1502 nonrenewal; requiring that an applicant for a
1503 solicitor license pay certain licensing fees;
1504 providing that licensing fees be deposited into the
1505 General Inspection Trust Fund; requiring that an
1506 applicant for a solicitor license report changes in
1507 information submitted to the department in a specified
1508 manner along with a processing fee; specifying
1509 violations; requiring the department to adopt rules
1510 allowing applicants to engage in solicitation
1511 activities without a solicitor license on an interim
1512 basis; authorizing the department to deny or revoke a
1513 solicitor license under specified circumstances;
1514 requiring that certain administrative proceedings be
1515 conducted pursuant to chapter 120; amending ss.
1516 496.411 and 496.412, F.S.; expanding and revising
1517 required solicitation disclosures of charitable
1518 organizations, sponsors, and professional solicitors;



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1519 requiring that certain exempt charitable organizations
1520 or sponsors also provide such solicitation
1521 disclosures; requiring that such solicitation
1522 disclosures be placed online under certain
1523 circumstances; creating s. 496.4121, F.S.; defining
1524 the term "collection receptacle"; requiring that
1525 collection receptacles display permanent signs or
1526 labels; specifying requirements for the physical
1527 appearance of such labels or signs and the information
1528 displayed thereon; requiring that a charitable
1529 organization or sponsor using a collection receptacle
1530 provide certain information to a donor upon request;
1531 amending s. 496.415, F.S.; providing that the
1532 submission of false, misleading, or inaccurate
1533 information in a document connected with a
1534 solicitation or sales promotion is unlawful; providing
1535 that the failure to remit specified funds to a
1536 charitable organization or sponsor is unlawful;
1537 amending s. 496.419, F.S.; increasing administrative
1538 fines for violations of the Solicitation of
1539 Contributions Act; creating s. 496.4191, F.S.;
1540 requiring the department to immediately suspend a
1541 registration or processing of an application for
1542 registration for a specified period if the registrant,
1543 applicant, or any officer or director thereof is
1544 criminally charged with certain offenses; creating s.
1545 496.430, F.S.; requiring the department to disqualify
1546 a charitable organization or sponsor from receiving a
1547 sales tax exemption under specified circumstances;



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1548 providing that a charitable organization or sponsor
1549 may appeal a disqualification order; specifying appeal
1550 procedure; providing exceptions; providing that a
1551 disqualification order remains effective for a
1552 specified period; specifying the procedure to lift a
1553 disqualification order; requiring the department to
1554 provide a final disqualification order to the
1555 Department of Revenue within a specified period;
1556 providing that a final disqualification order is
1557 conclusive as to a charitable organization or
1558 sponsor's right to a sales tax exemption; requiring
1559 the Department of Revenue to revoke or deny a sales
1560 tax exemption to a charitable organization or sponsor
1561 subject to a final disqualification order within a
1562 specified period; providing for a limited appeal of
1563 the revocation or denial of the sales tax exemption;
1564 providing applicability; creating s. 496.431, F.S.;
1565 providing for severability; amending s. 741.0305,
1566 F.S.; conforming a cross-reference; making an
1567 appropriation; providing an effective date.

By the Committee on Commerce and Tourism; and Senator Brandes

577-01736A-14

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

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

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

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

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

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117 solicitor license to submit a complete set of his or
 118 her fingerprints and a fee for fingerprint processing
 119 and retention to the department; requiring the
 120 department to submit the applicant's fingerprints to
 121 the Department of Law Enforcement for a criminal
 122 history background check; providing for retention of
 123 the fingerprints; requiring the department to notify
 124 the Department of Law Enforcement of individuals who
 125 are no longer licensed; requiring that a solicitor
 126 license be renewed annually or expire automatically
 127 upon nonrenewal; requiring that an applicant for a
 128 solicitor license pay certain licensing fees;
 129 providing that licensing fees be deposited into the
 130 General Inspection Trust Fund; requiring that an
 131 applicant for a solicitor license report changes in
 132 information submitted to the department in a specified
 133 manner along with a processing fee; specifying
 134 violations; requiring the department to adopt rules
 135 allowing certain persons to engage in solicitation
 136 activities without a solicitor license for a specified
 137 period; authorizing the department to deny or revoke a
 138 solicitor license under specified circumstances;
 139 amending ss. 496.411 and 496.412, F.S.; expanding and
 140 revising required solicitation disclosures of
 141 charitable organizations, sponsors, and professional
 142 solicitors; requiring that certain exempt charitable
 143 organizations or sponsors also provide such
 144 solicitation disclosures; requiring that such
 145 solicitation disclosures be placed online under

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

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175 remains effective for a specified period; specifying
 176 the procedure to lift a disqualification order;
 177 requiring the department to provide a final
 178 disqualification order to the Department of Revenue
 179 within a specified period; providing that a final
 180 disqualification order is conclusive as to a
 181 charitable organization or sponsor's right to a sales
 182 tax exemption; requiring the Department of Revenue to
 183 revoke or deny a sales tax exemption to a charitable
 184 organization or sponsor subject to a final
 185 disqualification order within a specified period;
 186 providing for a limited appeal of the revocation or
 187 denial of the sales tax exemption; providing
 188 applicability; amending s. 741.0305, F.S.; conforming
 189 a cross-reference; creating s. 496.431, F.S.;
 190 providing for severability; making an appropriation;
 191 providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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320 which affects one or more countries and causes damage of
 321 sufficient severity and magnitude to result in:

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

323 (b) An official request for international assistance.

324 (9)(7) "Division" means the Division of Consumer Services
 325 of the Department of Agriculture and Consumer Services.

326 (10)(8) "Educational institutions" means those institutions
 327 and organizations described in s. 212.08(7)(cc)8.a. The term
 328 includes private nonprofit organizations, the purpose of which
 329 is to raise funds for schools teaching grades kindergarten
 330 through grade 12, colleges, and universities, including any
 331 nonprofit newspaper of free or paid circulation primarily on
 332 university or college campuses which holds a current exemption
 333 from federal income tax under s. 501(c)(3) of the Internal
 334 Revenue Code, any educational television network or system
 335 established pursuant to s. 1001.25 or s. 1001.26, and any
 336 nonprofit television or radio station that is a part of such
 337 network or system and that holds a current exemption from
 338 federal income tax under s. 501(c)(3) of the Internal Revenue
 339 Code. The term also includes a nonprofit educational cable
 340 consortium that holds a current exemption from federal income
 341 tax under s. 501(c)(3) of the Internal Revenue Code, whose
 342 primary purpose is the delivery of educational and instructional
 343 cable television programming and whose members are composed
 344 exclusively of educational organizations that hold a valid
 345 consumer certificate of exemption and that are either an
 346 educational institution as defined in this subsection or
 347 qualified as a nonprofit organization pursuant to s. 501(c)(3)
 348 of the Internal Revenue Code.

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

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

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

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

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

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

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378 institution.

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

385 (a) The overall direction of the organization.

386 (b) Business management.

387 (c) General recordkeeping.

388 (d) Budgeting.

389 (e) Financial reporting and related expenses.

390 (f) Salaries.

391 (g) Rent.

392 (h) Supplies.

393 (i) Equipment.

394 (j) General overhead.

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

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

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

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

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

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

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

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436 qualify as a professional fundraising consultant. A bona fide
437 volunteer or bona fide employee or salaried officer of a
438 charitable organization or sponsor maintaining a permanent
439 establishment in this state is not a professional solicitor. An
440 attorney, investment counselor, or banker who advises an
441 individual, corporation, or association to make a charitable
442 contribution is not a professional solicitor as the result of
443 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

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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.

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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 or
 504 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.

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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 organizations
 529 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

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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 on
 576 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

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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 the
 591 charitable organization or sponsor and the street address and
 592 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 sponsor's
 604 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.

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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

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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

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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

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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 a
708 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 interest
724 transaction" means a transaction between a charitable
725 organization or sponsor and another party in which a director,

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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 s. 496.405 shall adopt a
736 policy regarding conflict of interest transactions.

737 Section 6. Section 496.407, Florida Statutes, is amended to
738 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 any
748 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 include,
754 but not be limited to, expenses in the following categories:

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755 ~~a.1-~~ Program service costs.
 756 ~~b.2-~~ Management and general costs.
 757 ~~c.3-~~ Fundraising costs.
 758 (b) The financial statement must be audited or reviewed as
 759 follows:
 760 1. For a charitable organization or sponsor that receives
 761 less than \$500,000 in annual contributions, a compilation,
 762 audit, or review of the financial statement is optional.
 763 2. For a charitable organization or sponsor that receives
 764 at least \$500,000 but less than \$1 million in annual
 765 contributions, the financial statement shall be reviewed or
 766 audited by an independent certified public accountant.
 767 3. For a charitable organization or sponsor that receives
 768 \$1 million or more in annual contributions, the financial
 769 statement shall be audited by an independent certified public
 770 accountant.
 771 (c) Audits and reviews shall be prepared in accordance with
 772 the following standards:
 773 1. Audits shall be prepared by an independent certified
 774 public account in accordance with generally accepted auditing
 775 standards, including the Statements on Auditing Standards.
 776 2. Reviews shall be prepared by an independent certified
 777 public accountant in accordance with the Statements on Standards
 778 for Accounting and Review Services.
 779 (d) Audited and reviewed financial statements must be
 780 accompanied by a report signed and prepared by the independent
 781 certified public accountant performing such audit or review.
 782 (2) In lieu of the financial ~~statement~~ ~~report~~ described in
 783 subsection (1), a charitable organization or sponsor ~~that~~

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784 receives less than \$500,000 in annual contributions may submit a
 785 copy of its Internal Revenue Service Form 990 and all attached
 786 schedules filed for the preceding fiscal year, or a copy of its
 787 Internal Revenue Service Form 990-EZ and Schedule O filed for
 788 the preceding fiscal year.
 789 (3) Upon a showing of good cause by a charitable
 790 organization or sponsor, the department may extend the time for
 791 the filing of a financial statement required under this section
 792 by up to 180 days, during which time the previous registration
 793 shall remain active. The registration shall be automatically
 794 suspended for failure to file the financial statement within the
 795 extension period.
 796 (4) The department may require that an audit or review be
 797 conducted for any financial statement submitted by any
 798 charitable organization or sponsor. ~~A charitable organization or~~
 799 ~~sponsor may elect to also include a financial report that has~~
 800 ~~been audited by an independent certified public accountant or an~~
 801 ~~audit with opinion by an independent certified public~~
 802 ~~accountant. In the event that a charitable organization or~~
 803 ~~sponsor elects to file an audited financial report, this~~
 804 ~~optional filing must be noted in the department's annual report~~
 805 ~~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

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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 charitable
 821 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

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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, grandparent, grandchild, 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. The department shall post notice on its website of the
 869 disasters and crises subject to the additional reporting
 870 requirements in this section within ten days of the disaster or

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871 crisis.

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

880 Section 9. Subsections (4), (6), and (9) of section
 881 496.409, Florida Statutes, are amended, and subsection (10) is
 882 added to that section, to read:

883 496.409 Registration and duties of professional fundraising
 884 consultant.—

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

898 (6) (a) The department shall examine each registration
 899 statement and all supporting documents filed by a professional

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900 fundraising consultant and determine whether the registration
 901 requirements are satisfied. If the department determines that
 902 the registration requirements are not satisfied, the department
 903 must notify the professional fundraising consultant within 15
 904 ~~business working~~ days after its receipt of the registration
 905 statement; otherwise the registration statement is approved.
 906 Within 7 ~~business working~~ days after receipt of a notification
 907 that the registration requirements are not satisfied, the
 908 applicant may request a hearing. The hearing must be held within
 909 7 ~~business working~~ days after receipt of the request, and any
 910 recommended order, if one is issued, must be rendered within 3
 911 ~~business working~~ days after the hearing. The final order must
 912 then be issued within 2 ~~business working~~ days after the
 913 recommended order. If there is no recommended order, the final
 914 order must be issued within 5 ~~business working~~ days after the
 915 hearing. The proceedings must be conducted in accordance with
 916 chapter 120, except that the time limits and provisions ~~set~~
 917 ~~forth~~ in this subsection prevail to the extent of any conflict.

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

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929 (9) ~~A~~ ~~ne~~ person may not act as a professional fundraising
 930 consultant, and ~~a~~ ~~ne~~ professional fundraising consultant, or any
 931 officer, director, trustee, or employee thereof, may not shall
 932 knowingly employ any officer, trustee, director, or employee, if
 933 such person has, in any state, regardless of adjudication, been
 934 convicted of, or found guilty of, or pled guilty or nolo
 935 contendere to, or has been incarcerated within the last 10 years
 936 as a result of having previously been convicted of, or found
 937 guilty of, or pled guilty or nolo contendere to, any crime
 938 within the last 10 years involving fraud, theft, larceny,
 939 embezzlement, fraudulent conversion, or misappropriation of
 940 property, or any crime arising from the conduct of a
 941 solicitation for a charitable organization or sponsor, or has
 942 been enjoined in any state from violating any law relating to a
 943 charitable solicitation.

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

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

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958 496.410 Registration and duties of professional
 959 solicitors.—

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

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

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

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

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

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987 period upon application to the department and payment of the
988 registration fee.

989 (5) (a) The department must examine each registration
990 statement and supporting documents filed by a professional
991 solicitor. If the department determines that the registration
992 requirements are not satisfied, the department must notify the
993 professional solicitor within 15 business ~~working~~ days after its
994 receipt of the registration statement; otherwise the
995 registration statement is approved. Within 7 business ~~working~~
996 days after receipt of a notification that the registration
997 requirements are not satisfied, the applicant may request a
998 hearing. The hearing must be held within 7 business ~~working~~ days
999 after receipt of the request, and any recommended order, if one
1000 is issued, must be rendered within 3 business ~~working~~ days after
1001 the hearing. The final order must then be issued within 2
1002 business ~~working~~ days after the recommended order. If there is
1003 no recommended order, the final order must be issued within 5
1004 business ~~working~~ days after the hearing. The proceedings must be
1005 conducted in accordance with chapter 120, except that the time
1006 limits and provisions ~~set forth~~ in this subsection prevail to
1007 the extent of any conflict.

1008 (b) If a professional solicitor makes a disclosure
1009 specified in paragraphs (2) (f)-(h) in the initial application
1010 for registration or the renewal application, the processing time
1011 limits of this subsection are waived and the department shall
1012 process the initial application for registration or renewal
1013 application in accordance with the time limits in chapter 120.
1014 The registration of a professional solicitor shall be
1015 automatically suspended for failure to disclose any information

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1016 specified in paragraphs (2) (f)-(h) until such time as the
1017 required information is submitted to the department.

1018 (6) No less than 15 days before commencing any solicitation
1019 campaign or event, the professional solicitor must file with the
1020 department a solicitation notice on a form prescribed by the
1021 department. The notice must be signed and sworn to by the
1022 contracting officer of the professional solicitor and must
1023 include:

1024 (i) A statement of the guaranteed minimum percentage of the
1025 gross receipts from contributions which will be remitted to the
1026 charitable organization or sponsor, if any, or, if the
1027 solicitation involves the sale of goods, services, or tickets to
1028 a fundraising event, the percentage of the purchase price which
1029 will be remitted to the charitable organization or sponsor, if
1030 any.

1031 (j) The percentage of a contribution which may be deducted
1032 as a charitable contribution under federal income tax laws.

1033 (k) A statement as to whether any owner, director, officer,
1034 trustee, or employee of the professional solicitor is related as
1035 a parent, spouse, child, sibling, grandparent, grandchild,
1036 brother-in-law, sister-in-law, son-in-law, daughter-in-law,
1037 mother-in-law, or father-in-law to:

1038 1. Another officer, director, owner, trustee, or employee
1039 of the professional solicitor.

1040 2. Any officer, director, owner, trustee, or employee of a
1041 charitable organization or sponsor under contract to the
1042 professional solicitor.

1043 3. Any supplier or vendor providing goods or services to a
1044 charitable organization or sponsor under contract to the

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1045 professional solicitor.

1046 (l) The beginning and ending dates of the solicitation
1047 campaign.

1048 (m) A copy of any script, outline, or presentation used by
1049 the professional solicitor to solicit contributions for the
1050 solicitation campaign. If such aids are not used, written
1051 confirmation thereof.

1052 (n) A copy of sales information or literature provided to a
1053 donor or potential donor by the professional solicitor in
1054 connection with the solicitation campaign.

1055 (7) A professional solicitor may enter into a contract or
1056 agreement with a charitable organization or sponsor only if the
1057 charitable organization or sponsor has complied with all
1058 applicable provisions of this chapter. A ~~Each~~ contract or
1059 agreement between a professional solicitor and a charitable
1060 organization or sponsor for each solicitation campaign must be
1061 in writing, signed by two authorized officials of the charitable
1062 organization or sponsor, one of whom must be a member of the
1063 organization's governing body and one of whom must be the
1064 authorized contracting officer for the professional solicitor,
1065 and contain all of the following provisions:

1066 (a) A statement of the charitable or sponsor purpose and
1067 program for which the solicitation campaign is being conducted.

1068 (b) A statement of the respective obligations of the
1069 professional solicitor and the charitable organization or
1070 sponsor.

1071 (c) A statement of the guaranteed minimum percentage of the
1072 gross receipts from contributions which will be remitted to the
1073 charitable organization or sponsor, if any, or, if the

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1074 solicitation involves the sale of goods, services, or tickets to
1075 a fundraising event, the percentage of the purchase price which
1076 will be remitted to the charitable organization or sponsor, if
1077 any. Any stated percentage shall exclude any amount which the
1078 charitable organization or sponsor is to pay as fundraising
1079 costs.

1080 (d) A statement of the percentage of the gross revenue
1081 which the professional solicitor will be compensated. If the
1082 compensation of the professional solicitor is not contingent
1083 upon the number of contributions or the amount of revenue
1084 received, his or her compensation shall be expressed as a
1085 reasonable estimate of the percentage of the gross revenue, and
1086 the contract must clearly disclose the assumptions upon which
1087 the estimate is based. The stated assumptions must be based upon
1088 all of the relevant facts known to the professional solicitor
1089 regarding the solicitation to be conducted by the professional
1090 solicitor.

1091 (e) The effective and termination dates of the contract.

1092 (14) A ~~no~~ person may not act as a professional solicitor,
1093 and a ~~no~~ professional solicitor, or any officer, director,
1094 trustee, or employee thereof, may ~~not shall~~, to solicit for
1095 compensation, knowingly employ any officer, trustee, director,
1096 employee, or any person with a controlling interest therein, who
1097 has, in any state, regardless of adjudication, been convicted
1098 of, or found guilty of, or pled guilty or nolo contendere to, or
1099 has been incarcerated within the last 10 years as a result of
1100 having previously been convicted of, or found guilty of, or pled
1101 guilty or nolo contendere to, a felony within the last 10 years
1102 involving fraud, theft, larceny, embezzlement, fraudulent

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1103 conversion, or misappropriation of property, or any crime
 1104 arising from the conduct of a solicitation for a charitable
 1105 organization or sponsor, or has been enjoined in any state from
 1106 violating any law relating to a charitable solicitation. The
 1107 prohibitions in this subsection also apply to any misdemeanor in
 1108 another state which constitutes a disqualifying felony in this
 1109 state.

1110 (15) The department may deny or revoke the registration of
 1111 a professional solicitor if the professional solicitor, or any
 1112 of its officers, directors, trustees, or agents, has had the
 1113 right to solicit contributions revoked in any state, has entered
 1114 into an agreement with any state to cease soliciting
 1115 contributions within that state, or has been ordered by any
 1116 court or governmental agency to cease soliciting contributions
 1117 within any state.

1118 (16)(15) All registration fees must be paid to the
 1119 department and deposited into the General Inspection Trust Fund.
 1120 Section 11. Section 496.4101, Florida Statutes, is created
 1121 to read:

1122 496.4101 Licensure of professional solicitors and certain
 1123 employees thereof.—

1124 (1) Each officer, director, trustee, or owner of a
 1125 professional solicitor and any employee of a professional
 1126 solicitor conducting telephonic solicitations must, before
 1127 engaging in solicitation activities, obtain a solicitor license
 1128 from the department.

1129 (2) Persons required to obtain a solicitor license under
 1130 subsection (1) shall submit to the department, in such form as
 1131 the department prescribes, an application for a solicitor

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1132 license. The application must include the following information:

1133 (a) The true name, date of birth, unique identification
 1134 number of a driver license or other valid form of
 1135 identification, and home address of the applicant.

1136 (b) If the applicant, in any state, regardless of
 1137 adjudication, has previously been convicted of, or found guilty
 1138 of, or pled guilty or nolo contendere to, or has been
 1139 incarcerated within the last 10 years as a result of having
 1140 previously been convicted of, or found guilty of, or pled guilty
 1141 or nolo contendere to, any crime within the last 10 years
 1142 involving fraud, theft, larceny, embezzlement, fraudulent
 1143 conversion, or misappropriation of property, or any crime
 1144 arising from the conduct of a solicitation for a charitable
 1145 organization or sponsor, or has been enjoined, in any state,
 1146 from violating any law relating to a charitable solicitation.

1147 (c) If the applicant, in any state, is involved in pending
 1148 litigation or has had entered against her or him an injunction,
 1149 a temporary restraining order, or a final judgment or order,
 1150 including a stipulated judgment or order, an assurance of
 1151 voluntary compliance, cease and desist, or any similar document,
 1152 in any civil or administrative action involving fraud, theft,
 1153 larceny, embezzlement, fraudulent conversion, or
 1154 misappropriation of property, or has been enjoined from
 1155 violating any law relating to a charitable solicitation.

1156 (3) (a) Each applicant shall submit a complete set of his or
 1157 her fingerprints with the initial application for a solicitor
 1158 license and a fee equal to the federal and state costs for
 1159 fingerprint processing and fingerprint retention. The state cost
 1160 for fingerprint processing is that authorized in s.

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1161 943.053(3)(b) for records provided to persons or entities other
 1162 than those specified as exceptions therein.
 1163 (b) The department shall forward the fingerprints to the
 1164 Department of Law Enforcement for state processing, and the
 1165 Department of Law Enforcement shall forward them to the Federal
 1166 Bureau of Investigation for national processing.
 1167 (c) All fingerprints submitted to the Department of Law
 1168 Enforcement as required under this subsection shall be retained
 1169 by the Department of Law Enforcement as provided under s.
 1170 943.05(2)(g) and (h) and enrolled in the Federal Bureau of
 1171 Investigation's national retained print arrest notification
 1172 program. Fingerprints shall not be enrolled in the national
 1173 retained print arrest notification program until the Department
 1174 of Law Enforcement begins participation with the Federal Bureau
 1175 of Investigation. Arrest fingerprints will be searched against
 1176 the retained prints by the Department of Law Enforcement and the
 1177 Federal Bureau of Investigation.
 1178 (d) For any renewal of the applicant's license, the
 1179 department shall request the Department of Law Enforcement to
 1180 forward the retained fingerprints of the applicant to the
 1181 Federal Bureau of Investigation unless the applicant is enrolled
 1182 in the national retained print arrest notification program
 1183 described in paragraph (c). The fee for the national criminal
 1184 history check will be paid as part of the renewal fee to the
 1185 department and forwarded by the department to Department of Law
 1186 Enforcement. If the applicant's fingerprints are retained in the
 1187 national retained print arrest notification program, the
 1188 applicant shall pay the state and national retention fee to the
 1189 department which will forward the fee to the Department of Law

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1190 Enforcement.
 1191 (e) The department shall notify the Department of Law
 1192 Enforcement regarding any person whose fingerprints have been
 1193 retained but who is no longer licensed under this chapter.
 1194 (f) The department shall screen background results to
 1195 determine if an applicant meets licensure requirements.
 1196 (4) A solicitor license must be renewed annually by the
 1197 submission of a renewal application. A solicitor license that is
 1198 not renewed expires without further action by the department.
 1199 (5) Each applicant for a solicitor license shall remit a
 1200 license fee of \$100 to the department at the time the initial
 1201 application is filed with the department and an annual renewal
 1202 fee of \$100 thereafter. All fees collected, less the cost of
 1203 administration, shall be deposited into the General Inspection
 1204 Trust Fund.
 1205 (6) Any material change to the information submitted to the
 1206 department in the initial application or renewal application for
 1207 a solicitor license shall be reported to the department by the
 1208 applicant or licensee within 10 days after the change occurs.
 1209 The applicant or licensee shall also remit a fee in the amount
 1210 of \$10 for processing the change to the initial or renewal
 1211 application.
 1212 (7) It is a violation of this chapter:
 1213 (a) For an applicant to provide inaccurate or incomplete
 1214 information to the department in the initial or renewal
 1215 application for a solicitor license.
 1216 (b) For any person specified in subsection (1) to fail to
 1217 maintain a solicitor license as required by this section.
 1218 (c) For a professional solicitor to allow, require, permit,

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1219 or authorize an employee without an active solicitor license
 1220 issued under this section to conduct telephonic solicitations.

1221 (8) The department shall adopt rules that allow certain
 1222 applicants to engage in solicitation activities on an interim
 1223 basis until such time as a solicitor license is granted or
 1224 denied.

1225 (9) The department may deny or revoke any solicitor license
 1226 if the applicant or licensee has had the right to solicit
 1227 contributions revoked in any state, has entered into an
 1228 agreement with any state to cease soliciting contributions
 1229 within that state, has been ordered by any court or governmental
 1230 agency to cease soliciting contributions within any state, or is
 1231 subject to any disqualification specified in s. 496.410(14).

1232 Section 12. Subsections (2) and (3) of section 496.411,
 1233 Florida Statutes, are amended to read:

1234 496.411 Disclosure requirements and duties of charitable
 1235 organizations and sponsors.—

1236 (2) A charitable organization or sponsor soliciting in this
 1237 state must include all of the following disclosures at the point
 1238 of solicitation:

1239 (a) The name of the charitable organization or sponsor and
 1240 state of the principal place of business of the charitable
 1241 organization or sponsor;

1242 (b) A description of the purpose or purposes for which the
 1243 solicitation is being made;

1244 (c) Upon request, the name and either the address or
 1245 telephone number of a representative to whom inquiries could be
 1246 addressed;

1247 (d) Upon request, the amount of the contribution which may

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1248 be deducted as a charitable contribution under federal income
 1249 tax laws;

1250 (e) Upon request, the source from which a written financial
 1251 statement may be obtained. Such financial statement must be for
 1252 the immediate ~~preceding~~ ~~past~~ fiscal year and must be consistent
 1253 with the annual financial ~~statement~~ ~~report~~ filed under s.
 1254 496.407. The written financial statement must be provided within
 1255 14 days after the request and must state the purpose for which
 1256 funds are raised, the total amount of all contributions raised,
 1257 the total costs and expenses incurred in raising contributions,
 1258 the total amount of contributions dedicated to the stated
 1259 purpose or disbursed for the stated purpose, and whether the
 1260 services of another person or organization have been contracted
 1261 to conduct solicitation activities.

1262 (3) Every charitable organization or sponsor ~~that which~~ is
 1263 required to register under s. 496.405 or is exempt under s.
 1264 496.406(1)(d) shall ~~must~~ conspicuously display ~~in capital~~
 1265 ~~letters~~ the following statement on every ~~printed~~ solicitation,
 1266 ~~written~~ confirmation, receipt, or reminder of a contribution:

1267

1268 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
 1269 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
 1270 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
 1271 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
 1272 APPROVAL, OR RECOMMENDATION BY THE STATE."

1273

1274 The statement must include a toll-free number and website for
 1275 the division which ~~that~~ can be used to obtain the registration
 1276 information. If ~~When~~ the solicitation consists of more than one

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1277 piece, the statement must be displayed prominently in the
 1278 solicitation materials. If the solicitation occurs through a
 1279 website, the statement must be conspicuously displayed on the
 1280 webpage where donations are requested.

1281 Section 13. Subsection (1) of section 496.412, Florida
 1282 Statutes, is amended to read:

1283 496.412 Disclosure requirements and duties of professional
 1284 solicitors.—

1285 (1) A professional solicitor must comply with and be
 1286 responsible for complying or causing compliance with the
 1287 following disclosures:

1288 (a) ~~Before~~ Prior to orally requesting a contribution, or
 1289 contemporaneously with a written request for a contribution, a
 1290 professional solicitor must clearly disclose:

1291 1. The name of the professional solicitor as on file with
 1292 the department.

1293 2. If the individual acting on behalf of the professional
 1294 solicitor identifies himself or herself by name, the
 1295 individual's legal name.

1296 3. The name and state of the principal place of business of
 1297 the charitable organization or sponsor and a description of how
 1298 the contributions raised by the solicitation will be used for a
 1299 charitable or sponsor purpose; or, if there is no charitable
 1300 organization or sponsor, a description as to how the
 1301 contributions raised by the solicitation will be used for a
 1302 charitable or sponsor purpose.

1303 (b) In the case of a solicitation campaign conducted
 1304 orally, whether by telephone or otherwise, any written
 1305 confirmation, receipt, or reminder sent to any person who has

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1306 contributed or has pledged to contribute, shall include a clear
 1307 disclosure of the information required by paragraph (a).

1308 (c) In addition to the information required by paragraph
 1309 (a), any written confirmation, receipt, or reminder of
 1310 contribution made pursuant to an oral solicitation and any
 1311 ~~written~~ solicitation shall conspicuously state ~~in capital~~
 1312 ~~letters:~~

1313

1314 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
 1315 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
 1316 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
 1317 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
 1318 APPROVAL, OR RECOMMENDATION BY THE STATE."

1319

1320 The statement must include a toll-free number and website for
 1321 the division ~~which that~~ can be used to obtain the registration
 1322 information. If when the solicitation consists of more than one
 1323 piece, the statement must be displayed prominently in the
 1324 solicitation materials. If the solicitation occurs on a website,
 1325 the statement must be conspicuously displayed on the webpage
 1326 where donations are requested.

1327 (d) If requested by the person being solicited, the
 1328 professional solicitor shall inform that person in writing,
 1329 within 14 days after ~~of~~ the request, of the fixed percentage of
 1330 the gross revenue or the reasonable estimate of the percentage
 1331 of the gross revenue that the charitable organization or sponsor
 1332 will receive as a benefit from the solicitation campaign or
 1333 shall immediately notify the person being solicited that the
 1334 information is available on the department's website or by

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1335 calling the division's toll-free number.

1336 (e) If requested by the person being solicited, the
1337 professional solicitor shall inform that person in writing,
1338 within 14 days ~~after~~ of the request, of the percentage of the
1339 contribution which may be deducted as a charitable contribution
1340 under federal income tax laws or shall immediately notify the
1341 person being solicited that the information is available on the
1342 department's website or by calling the division's toll-free
1343 number.

1344 Section 14. Section 496.4121, Florida Statutes, is created
1345 to read:

1346 496.4121 Collection receptacles used for donations.-

1347 (1) As used in this section, the term "collection
1348 receptacle" means a receptacle used to collect donated clothing,
1349 household items, or other goods for resale.

1350 (2) A collection receptacle must display a permanent sign
1351 or label on each side which contains the following information
1352 printed in letters that are at least 3 inches in height and no
1353 less than one-half inch in width, in a color that contrasts with
1354 the color of the collection receptacle:

1355 (a) For collection receptacles used by a person required to
1356 register under this chapter, the name, business address,
1357 telephone number, and registration number of the charitable
1358 organization or sponsor for whom the solicitation is made.

1359 (b) For collection receptacles placed or maintained in
1360 public view by a person not required to register under this
1361 chapter or by a person not claiming an exemption pursuant to
1362 496.406, the name, telephone number, and physical address of the
1363 business conducting the solicitation and the statement: "This is

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1364 not a charity. Donations made here support a for-profit business
1365 and are not tax deductible."

1366 (3) Upon request, a charitable organization or sponsor
1367 using a collection receptacle must provide the donor with
1368 documentation of its tax-exempt status and the registration
1369 issued under this chapter.

1370 Section 15. Subsection (2) of section 496.415, Florida
1371 Statutes, is amended, and subsection (18) is added to that
1372 section, to read:

1373 496.415 Prohibited acts.-It is unlawful for any person in
1374 connection with the planning, conduct, or execution of any
1375 solicitation or charitable or sponsor sales promotion to:

1376 (2) ~~Knowingly~~ Submit false, misleading, or inaccurate
1377 information in a document that is filed with the department,
1378 provided to the public, or offered in response to a request or
1379 investigation by the department, the Department of Legal
1380 Affairs, or the state attorney.

1381 (18) Fail to remit to a charitable organization or sponsor
1382 the disclosed guaranteed minimum percentage of gross receipts
1383 from contributions as required under s. 496.410(7)(c) or, if the
1384 solicitation involved the sale of goods, services, or tickets to
1385 a fundraising event, the percentage of the purchase price as
1386 agreed in the contract or agreement as required under this
1387 chapter.

1388 Section 16. Subsection (5) of section 496.419, Florida
1389 Statutes, is amended to read:

1390 496.419 Powers of the department.-

1391 (5) Upon a finding as set forth in subsection (4), the
1392 department may enter an order doing one or more of the

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1393 following:

1394 (a) Issuing a notice of noncompliance pursuant to s.
1395 120.695;

1396 (b) Issuing a cease and desist order that directs that the
1397 person cease and desist specified fundraising activities;

1398 (c) Refusing to register or canceling or suspending a
1399 registration;

1400 (d) Placing the registrant on probation for a period of
1401 time, subject to such conditions as the department may specify;

1402 (e) Canceling an exemption granted under s. 496.406; ~~and~~

1403 (f) Except as provided in paragraph (g), imposing an
1404 administrative fine not to exceed \$5,000 ~~\$1,000~~ for each act or
1405 omission ~~that~~ ~~which~~ constitutes a violation of ss. 496.401-
1406 496.424 or s. 496.426 or a rule or order. With respect to a s.
1407 501(c)(3) organization, the penalty imposed pursuant to this
1408 subsection ~~may shall~~ not exceed \$500 per violation for failure
1409 to register under s. 496.405 or file for an exemption under s.
1410 496.406(2). The penalty shall be the entire amount per violation
1411 and is not ~~to be interpreted as~~ a daily penalty; and

1412 (g) Imposing an administrative fine not to exceed \$10,000
1413 for a violation of this chapter that involves fraud or
1414 deception.

1415 Section 17. Section 496.4191, Florida Statutes, is created
1416 to read:

1417 496.4191 Additional penalty; immediate suspension.—Upon
1418 notification and subsequent written verification by a law
1419 enforcement agency, a court, a state attorney, or the Florida
1420 Department of Law Enforcement, the department shall immediately
1421 suspend a registration or the processing of an application for a

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1422 registration if the registrant, applicant, or any officer or
1423 director of the registrant or applicant is formally charged with
1424 a crime involving fraud, theft, larceny, embezzlement, or
1425 fraudulent conversion or misappropriation of property or any
1426 crime arising from the conduct of a solicitation for a
1427 charitable organization or sponsor until final disposition of
1428 the case or removal or resignation of that officer or director.

1429 Section 18. Section 496.430, Florida Statutes, is created
1430 to read:

1431 496.430 Disqualification for certain tax exemptions.—

1432 (1) The department may issue an order to disqualify a
1433 charitable organization or sponsor from receiving any sales tax
1434 exemption certificate issued by the Department of Revenue if the
1435 department finds, based up on the average of functional expenses
1436 and program service costs provided to the department pursuant to
1437 s. 496.407 for the 3 most recent fiscal years, that the
1438 charitable organization or sponsor has failed to expend at least
1439 25 percent of its total annual functional expenses on program
1440 service costs.

1441 (2) A charitable organization or sponsor may appeal a
1442 disqualification order by requesting a hearing within 21 days
1443 after notification from the department that it has issued a
1444 disqualification order under this section. The hearing must be
1445 conducted in accordance with chapter 120.

1446 (3) Notwithstanding a finding under subsection (1) that a
1447 charitable organization or sponsor has failed to expend at least
1448 25 percent of its total annual functional expenses on program
1449 service costs, the department may decline to issue a
1450 disqualification order if the charitable organization or sponsor

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1451 establishes:

1452 (a) That payments were made to affiliates which should be
 1453 considered in calculating the program service costs;

1454 (b) That revenue was accumulated for a specific program
 1455 purpose consistent with representations in solicitations; or

1456 (c) Such other mitigating circumstances as are defined by
 1457 rule of the department.

1458 (4) A disqualification order issued by the department
 1459 pursuant to this section is effective for at least 1 year after
 1460 such order becomes final and shall remain effective until such
 1461 time as the department receives sufficient evidence from the
 1462 disqualified charitable organization or sponsor which
 1463 demonstrates it expends at least 25 percent of its total annual
 1464 functional expenses on program service costs.

1465 (a) The charitable organization or sponsor may not submit
 1466 such evidence to the department sooner than 1 year after the
 1467 disqualification order becomes final and may not submit such
 1468 information more than once each year for consideration by the
 1469 department.

1470 (b) The department shall also consider any financial
 1471 statement that was submitted by the charitable organization or
 1472 sponsor to the department pursuant to s. 496.407 after the
 1473 disqualification order became final.

1474 (5) The department shall provide a disqualification order
 1475 to the Department of Revenue within 30 days after such order
 1476 becomes final. A final disqualification order is conclusive as
 1477 to the charitable organization's or sponsor's entitlement to any
 1478 sales tax exemption. The Department of Revenue shall revoke or
 1479 refuse to grant a sales tax exemption certificate to a

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1480 charitable organization or sponsor subject to a final
 1481 disqualification order within 30 days after receiving such
 1482 disqualification order. A charitable organization or sponsor may
 1483 not appeal or challenge the revocation or denial of a sales tax
 1484 exemption certificate by the Department of Revenue if such
 1485 revocation or denial is based upon a final disqualification
 1486 order issued pursuant to this section.

1487 (6) This section does not apply to a charitable
 1488 organization or sponsor that:

1489 (a) Is not required to register under this chapter with the
 1490 department; or

1491 (b) Has been in existence for less than 4 years.

1492 Section 19. Paragraph (a) of subsection (3) of section
 1493 741.0305, Florida Statutes, is amended to read:

1494 741.0305 Marriage fee reduction for completion of
 1495 premarital preparation course.—

1496 (3) (a) All individuals electing to participate in a
 1497 premarital preparation course shall choose from the following
 1498 list of qualified instructors:

- 1499 1. A psychologist licensed under chapter 490.
- 1500 2. A clinical social worker licensed under chapter 491.
- 1501 3. A marriage and family therapist licensed under chapter
- 1502 491.
- 1503 4. A mental health counselor licensed under chapter 491.
- 1504 5. An official representative of a religious institution
- 1505 which is recognized under s. ~~496.404(23)~~ ~~496.404(19)~~, if the
- 1506 representative has relevant training.
- 1507 6. Any other provider designated by a judicial circuit,
- 1508 including, but not limited to, school counselors who are

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1509 certified to offer such courses. Each judicial circuit may
1510 establish a roster of area course providers, including those who
1511 offer the course on a sliding fee scale or for free.

1512 Section 20. Section 496.431, Florida Statutes, is created
1513 to read:

1514 496.431 Severability.-If any provision of this chapter or
1515 its application to any person or circumstance is held invalid,
1516 the invalidity does not affect other provisions or applications
1517 of this chapter which can be given effect without the invalid
1518 provision or application, and to this end the provisions of this
1519 chapter are severable.

1520 Section 21. For the 2014-2015 fiscal year, there is
1521 appropriated to the Department of Agriculture and Consumer
1522 Services, the sums of \$235,352 in recurring and \$239,357 in
1523 nonrecurring funds from the General Inspection Trust Fund, and 4
1524 full-time equivalent positions with associated salary rate of
1525 \$143,264 are authorized for the purpose of implementing this
1526 act.

1527 Section 22. This act shall take effect July 1, 2014.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 792

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Flores

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baye</u>	<u>Hrdlicka</u>	<u>CM</u>	Favorable
2.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 792 provides for a state and local sales tax exemption for a 3-day period from August 1 through August 3, 2014, for the purchases of clothing costing \$75 or less per item, school supplies costing \$15 or less per item, and personal computers and related accessories costing \$750 or less.

The Revenue Estimating Conference estimates that the bill will have a nonrecurring, negative impact of \$31.8 million to the General Revenue Fund for Fiscal Year 2014-2015 and a nonrecurring, negative impact of \$7.2 million to local governments.

The bill appropriates \$223,048 from the General Revenue Fund to the Department of Revenue to implement the law and notify sales and use tax dealers prior to the beginning of the sales tax holiday.

II. Present Situation:

Chapter 212, F.S., levies a 6 percent sales and use tax on most sales of tangible personal property, including books, clothing, footwear, wallets, bags, school supplies, and computers.¹ Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by the chapter.

¹ Section 212.05, F.S.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The rate of the discretionary sales surtax depends on the county, while some counties do not have a surtax.² Rates currently range from 0.5 percent to 1.5 percent.³ The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.⁴

The Legislature has approved sales tax holidays in eight of the past ten years. The length of the exemption period has varied from 3 to 10 days. The type and value of exempt items has also varied. The holiday is made available for the benefit of families making back-to-school purchases, and is typically offered just prior to the start of a new school year.

III. Effect of Proposed Changes:

The bill provides an exemption from state and local sales tax during the 3-day period beginning at 12:01 a.m. on August 1, 2014 through 11:59 p.m. on August 3, 2014, for the following items:

- Clothing, wallets, or bags having a sales price of \$75 or less per item.
 - “Clothing” includes footwear, but excludes watches, watchbands, jewelry, umbrellas, handkerchiefs, skis, swim fins, roller blades, and skates.
 - “Bags” includes handbags, backpacks, fanny packs, and diaper bags, but excludes briefcases, suitcases, and other garment bags.
- School supplies having a sales price of \$15 or less per item. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rules, computer disks, protractors, compasses, and calculators.
- Personal computers and related accessories that have a sales price of \$750 or less and are purchased for noncommercial home or personal use.
 - “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers, but exclude cell phones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.
 - “Related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or other peripherals that are designed or intended primarily for recreational use.

The exemptions do not apply to sales within a theme park or entertainment complex, a public lodging establishment, or an airport.

The Department of Revenue is authorized to adopt emergency rules to administer this section.

²Florida Department of Revenue, *Florida’s Discretionary Sales Surtax*, <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Mar. 5, 2014).

³ Florida Department of Revenue, *Discretionary Sales Surtax Information*, http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf (last visited Mar. 5, 2014).

⁴ Section 212.054(2)(b)1., F.S.

This act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill provides a sales tax exemption that will reduce the municipalities' and counties' local option sales tax collections over a three-day period, thereby reducing their revenue-raising authority. However, an exemption may apply because the reduction in local governments' revenue-raising authority may be below the \$1.9 million threshold for an insignificant impact on local governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) estimates that SB 792 will have a nonrecurring, negative impact of \$31.8 million to General Revenue for Fiscal Year 2014-2015 and a nonrecurring, negative impact of \$7.2 million to local governments.

B. Private Sector Impact:

During the specified exemption period, clothing, wallets, and bags selling for \$75 or less, school supplies selling for \$15 or less, and computers and related accessories selling for \$750 or less can be purchased tax free. Families will be able to save money on clothing and school supplies as the tax exemption period is just before the beginning of a new school year.

C. Government Sector Impact:

The bill provides an appropriation of \$223,048 in nonrecurring funds for Fiscal Year 2013-2014 to the Department of Revenue from the General Revenue Fund for purposes of administering this act. Funds from the appropriation that remain unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in Fiscal Year 2014-2015.

The Department of Revenue will use the appropriated funds to print and mail tax information publications to approximately 569,000 sales tax dealers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the Department of Revenue to adopt emergency rules.

VIII. Statutes Affected:

This bill creates general law not contained in a designated section of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Finance and Tax on March 19, 2014:

- Reduces the appropriation from the General Revenue Fund to the Department of Revenue to \$223,048.

B. Amendments:

None.



211242

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Gardiner)
recommended the following:

Senate Amendment

Delete line 62
and insert:
\$223,048 in nonrecurring funds is appropriated from the
General

By Senator Flores

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1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; specifying a period during which the
 4 sale of clothing, wallets, bags, school supplies,
 5 personal computers, and personal computer related
 6 accessories are exempt from the sales tax; providing
 7 definitions; providing exceptions; authorizing the
 8 Department of Revenue to adopt emergency rules;
 9 providing an appropriation; providing an effective
 10 date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. (1) The tax levied under chapter 212, Florida
 15 Statutes, may not be collected during the period from 12:01 a.m.
 16 on August 1, 2014, through 11:59 p.m. on August 3, 2014, on the
 17 sale of:

18 (a) Clothing, wallets, or bags, including handbags,
 19 backpacks, fanny packs, and diaper bags, but excluding
 20 briefcases, suitcases, and other garment bags, having a sales
 21 price of \$75 or less per item. As used in this paragraph, the
 22 term "clothing" means:

23 1. An article of wearing apparel intended to be worn on or
 24 about the human body, excluding watches, watchbands, jewelry,
 25 umbrellas, and handkerchiefs; and

26 2. All footwear, excluding skis, swim fins, roller blades,
 27 and skates.

28 (b) School supplies having a sales price of \$15 or less per
 29 item. As used in this paragraph, the term "school supplies"

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30 means pens, pencils, erasers, crayons, notebooks, notebook
 31 filler paper, legal pads, binders, lunch boxes, construction
 32 paper, markers, folders, poster board, composition books, poster
 33 paper, scissors, cellophane tape, glue or paste, rulers,
 34 computer disks, protractors, compasses, and calculators.

35 (c) Personal computers and related accessories that have a
 36 sales price of \$750 or less and are purchased for noncommercial
 37 home or personal use. As used in this paragraph, the term:

38 1. "Personal computer" means an electronic device that
 39 accepts information in digital or similar form and manipulates
 40 such information for a result based on a sequence of
 41 instructions. The term includes an electronic book reader and a
 42 laptop, desktop, handheld, tablet, or tower computer but does
 43 not include a cellular telephone, video game console, digital
 44 media receiver, or device that is not primarily designed to
 45 process data.

46 2. "Related accessories" includes keyboards, mice, personal
 47 digital assistants, monitors, other peripheral devices, modems,
 48 routers, and nonrecreational software regardless of whether the
 49 accessories are used in association with a personal computer
 50 base unit but does not include furniture or systems, devices,
 51 software, monitors with a television tuner, or other peripherals
 52 that are designed or intended primarily for recreational use.

53 (2) The tax exemptions provided in this section do not
 54 apply to sales within a theme park or entertainment complex as
 55 defined in s. 509.013, Florida Statutes, within a public lodging
 56 establishment as defined in s. 509.013, Florida Statutes, or
 57 within an airport as defined in s. 330.27, Florida Statutes.

58 (3) The Department of Revenue may, and all conditions are

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59 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
60 and 120.54, Florida Statutes, to administer this section.

61 Section 2. For the 2013-2014 fiscal year, the sum of
62 \$235,695 in nonrecurring funds is appropriated from the General
63 Revenue Fund to the Department of Revenue for the purpose of
64 administering this act. Funds from the appropriation that remain
65 unexpended or unencumbered as of June 30, 2014, shall revert and
66 be reappropriated for the same purpose in the 2014-2015 fiscal
67 year.

68 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: SB 806

INTRODUCER: Senator Bradley

SUBJECT: Value Adjustment Board Proceedings

DATE: March 19, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 806 allows taxpayers to file a single value adjustment board petition for multiple items of tangible personal property of a similar nature. The bill requires that the clerk of the value adjustment board provide petition forms to petitioners.

The Revenue Estimating Conference has determined that the bill will reduce value adjustment board filing fees by \$100,000.

II. Present Situation:

Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of property tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members.¹ A property owner may petition the VAB to review the property appraiser's assessment of real or tangible personal property or the denial of an exemption or classification.²

Petition Process for VAB Hearing

A property owner initiates the VAB's review by filing a petition with the clerk³ of the VAB on an approved petition form.⁴ The property appraiser is required to make petition forms available to the public.⁵

¹ Section 194.015, F.S.

² Section 194.011, F.S.

³ The county clerk usually serves as the clerk of the value adjustment board. Section 194.015, F.S.

⁴ Section 194.011(3)(a), F.S.

⁵ *Id.*

The VAB may impose a petition filing fee, up to \$15.⁶ An owner of contiguous, undeveloped parcels of real property may consolidate all parcels into one joint petition if the property appraiser determines that the parcels are substantially similar in nature.⁷ In this case, the property owner is only subject to one filing fee.⁸

Property Record Cards

Property appraisers maintain records of assessment information for assessed properties. A property's record of information is often referred to as the "property record card." On a petition to the VAB, a petitioner may elect to receive a copy of the property record card. Prior to 2013, the clerk of the VAB was required to provide a copy of the card when the petitioner made the election on the petition. Section 8, chapter 2013-109, Laws of Florida, shifted this responsibility from the clerk of the VAB to the property appraiser; however, the law did not conform s. 194.011(4)(b), F.S., to recognize this change.

III. Effect of Proposed Changes:

Section 1 amends s. 194.011, F.S., to allow a taxpayer to include multiple items of substantially similar tangible personal property, as determined by the property appraiser, on a single VAB petition and to pay a single petition filing fee. This section also requires the clerk of the VAB to also make petition forms available to the public. Lastly, this section removes an obsolete reference to clerks of the VAB providing property record cards, which conforms s. 194.011(4)(b), F.S., to the change made by s. 8, chapter 2013-109, Laws of Florida.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill reduces the authority that counties have to raise revenues. The REC estimates that the bill will reduce VAB filing fees by \$100,000, statewide. Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature.⁹ However, the impact of the bill appears to be insignificant, and thus, the bill appears to be exempt under article VII, section 18(d) of the Florida Constitution.¹⁰

B. Public Records/Open Meetings Issues:

None.

⁷ Section 194.011(3)(f), F.S.

⁷ Section 194.011(3)(f), F.S.

⁸ Section 194.013(1), F.S.

⁹ FLA. CONST. art. VII, s. 18(b).

¹⁰ An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year. FLA. CONST. art. VII, s. 18(d); Revenue Estimating Conference, *Analysis of HB651/SB806* (adopted Feb. 14, 2014).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC has determined that SB 806 will reduce VAB filing fees by \$100,000.¹¹

B. Private Sector Impact:

By allowing the use of a single petition for multiple items of tangible personal property, the bill reduces the filing burdens for taxpayers who file tangible personal property petitions with VABs. The bill also may reduce VAB filing fees for taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 194.011 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

¹¹ Revenue Estimating Conference, *Analysis of HB651/SB806* (adopted Feb. 14, 2014).

By Senator Bradley

7-00913C-14

2014806__

1 A bill to be entitled
 2 An act relating to value adjustment board proceedings;
 3 amending s. 194.011, F.S.; requiring the clerk of the
 4 value adjustment board to have available and
 5 distribute specified forms; authorizing the owner of
 6 multiple items of tangible personal property to file a
 7 joint petition with the value adjustment board under
 8 certain circumstances; requiring the property
 9 appraiser to include the property record card in an
 10 evidence list for a value adjustment board hearing
 11 under certain circumstances; providing an effective
 12 date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraphs (a) and (f) of subsection (3) and
 17 paragraph (b) of subsection (4) of section 194.011, Florida
 18 Statutes, are amended to read:
 19 194.011 Assessment notice; objections to assessments.—
 20 (3) A petition to the value adjustment board must be in
 21 substantially the form prescribed by the department.
 22 Notwithstanding s. 195.022, a county officer may not refuse to
 23 accept a form provided by the department for this purpose if the
 24 taxpayer chooses to use it. A petition to the value adjustment
 25 board shall describe the property by parcel number and shall be
 26 filed as follows:
 27 (a) The clerk of the value adjustment board and the
 28 property appraiser shall have available and shall distribute
 29 forms prescribed by the Department of Revenue on which the

Page 1 of 2

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

7-00913C-14

2014806__

30 petition shall be made. Such petition shall be sworn to by the
 31 petitioner.
 32 (f) An owner of contiguous, undeveloped parcels, or an
 33 owner of multiple items of tangible personal property, may file
 34 with the value adjustment board a single joint petition if the
 35 property appraiser determines such parcels or items of tangible
 36 personal property to be ~~are~~ substantially similar in nature.
 37 (4)
 38 (b) No later than 7 days before the hearing, if the
 39 petitioner has provided the information required under paragraph
 40 (a), and if requested in writing by the petitioner, the property
 41 appraiser shall provide to the petitioner a list of evidence to
 42 be presented at the hearing, together with copies of all
 43 documentation to be considered by the value adjustment board and
 44 a summary of evidence to be presented by witnesses. The evidence
 45 list must contain the property appraiser's property record card
 46 ~~if provided by the clerk~~. Failure of the property appraiser to
 47 timely comply with the requirements of this paragraph shall
 48 result in a rescheduling of the hearing.
 49 Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 19 / 2014

Meeting Date

Topic _____

Bill Number 266
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic Communication Services Taxes

Bill Number SB 266
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 N. Adams St.
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19
Meeting Date

Topic CST

Bill Number 2440
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 130 S Bronough
Street

Phone 521-1235

City _____ State _____ Zip _____

E-mail Cjohnson@

Speaking: For Against Information

~~Carolyn Johnson~~
Fchamber.com

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

MARCH 19th 2014
Date

SB 266
Bill Number

Name RICHARD TURNER

Phone 850.224.2250

Address 230 S. Adams
Street

E-mail RTURNER@FRLA.ORG

Tallahassee, FL 32301
City State Zip

Job Title General Counsel

Speaking: For Against Information

Appearing at request of Chair

Subject COMMUNICATION SERVICES TAX

Representing Florida Restaurant & Lodging Association

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE

Amendment

APPEARANCE RECORD

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

March 19th 2014
Meeting Date

Topic Communications Services Tax

Bill Number SB 266
(if applicable)

Name Richard Turner

Amendment Barcode 750650
(if applicable)

Job Title General Counsel

Address 230 S. Adams
Street

Phone 850.224-2250

Tallahassee FL 32301
City State Zip

E-mail RTurner@FRLA.org

Speaking: For Against Information

Representing Florida Restaurant & Lodging Assn.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic Neighborhood Improv. Dist.

Bill Number 8B 510
(if applicable)

Name David Cruz

Amendment Barcode _____
(if applicable)

Job Title Assistant General Counsel

Address P.O. 1757

Phone 706-3676

Street

Tallahassee FL 32302

City

State

Zip

E-mail DCruz@FLcities.com

Speaking: For Against Information

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19/2014

Meeting Date

Topic _____

Bill Number 510
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD



8/19/04

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

Meeting Date

Topic Safe Neighborhood Districts

Bill Number 510
(if applicable)

Name Mario J. Bailey

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 1 E Broward Blvd E Andrew ~~Florida~~

Phone 205-246-3932

Street

FL Land

FL

City

State

Zip

E-mail mbailey@bplegal.com

Speaking: For Against Information

Representing City of Leukerhill

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____

Bill Number 638
(if applicable)

Name Andrew Fay

Amendment Barcode _____
(if applicable)

Job Title Assistant Attorney General

Address Plaza
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Office of the Attorney General

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3 11 12014

Meeting Date

Topic _____

Bill Number 638
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

19 March 14
Meeting Date

Topic Charities

Bill Number SB 638
(if applicable)

Name Lester Abberger

Amendment Barcode _____
(if applicable)

Job Title _____

Address Post Box 1168

Phone 850/524 2779

Street

Tallahassee FL 32302

City

State

Zip

E-mail lesterabberger@netally.com

Speaking: For Against Information

Representing Florida Non-Profit Alliance, Florida Philanthropic Network, United Way of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

March 19, 2014
Meeting Date

Topic Charities

Bill Number 638
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Director of legislative Affairs

Address PL 10 The Capital
Street
Tallahassee FL 32399
City State Zip

Phone 850 617 7700

E-mail grace.lovett@
freshfromflorida.com

Speaking: For Against Information

Representing FL Dept. of Agriculture & Consumer Service

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14
Meeting Date

Topic BACK TO SCHOOL TAX HOLIDAY

Bill Number 792
(if applicable)

Name Randy Mellon

Amendment Barcode _____
(if applicable)

Job Title EX V.P.

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing FLORIDA RETAIL FOUNDATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3 11 9 12014

Meeting Date

Topic _____

Bill Number 792
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic Tax on Sales, Use, and Other Transactions

Bill Number SB 792
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 N. Adams St.

Phone 224-7173

Street

Tallahassee

FL

32301

City

State

Zip

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14
Meeting Date

Topic Value Adjustment Board Proceedings Bill Number 806
(if applicable)

Name Michael Hickox Amendment Barcode _____
(if applicable)

Job Title Nassau County Property Appraiser

Address 416 Centre Street Phone 904/491-7300

Fernandina Beach, FL 32034 E-mail mhickox@nassaufla.com
Street City State Zip

Speaking: For Against Information

Representing Florida Association of Property Appraisers

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Gaming
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

25th District

March 18th, 2014

Senator Dorothy L. Hukill
201 Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Hukill:

Please accept this letter as a formal request to excuse myself from the Appropriations Subcommittee on Finance and Tax committee meeting on Wednesday, March 19th, 2014. Unfortunately, I have a prior commitment in the district that I must attend to.

If I can provide any additional information for my excusal, I would be more than happy to do so. Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Joseph Abruzzo".

Joseph Abruzzo

Cc: Staff Director, Jose Diez-Arguelles

A handwritten signature in black ink that reads "Dorothy L. Hukill".

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore