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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2014	.	
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The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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



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

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

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



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

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

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

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

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

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



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69 term:

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

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

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

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



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98 promotion.

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

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

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

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



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

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

133 (b) An official request for international assistance.

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

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



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

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

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

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

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

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



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185 or highway laws of the state; or

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

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

195 (a) The overall direction of the organization.

196 (b) Business management.

197 (c) General recordkeeping.

198 (d) Budgeting.

199 (e) Financial reporting and related expenses.

200 (f) Salaries.

201 (g) Rent.

202 (h) Supplies.

203 (i) Equipment.

204 (j) General overhead.

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

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

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



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

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

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

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



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

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

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

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



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



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

304

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

445 (4)



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

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



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

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

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



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

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

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

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

532 496.4055 Charitable organization or sponsor board duties.-



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

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

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

549 496.407 Financial statement report.-

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

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

556 1.(a) A balance sheet.

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

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



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



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591 certified public accountant performing such audit or review.

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

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

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

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

618 496.4071 Supplemental financial disclosure.-

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



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

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

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

632 2. Fundraising.

633 3. Travel expenses.

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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707 agreement.

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

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



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

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

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

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



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

768 496.410 Registration and duties of professional
769 solicitors.-

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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



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852 professional solicitor.

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

1129
1130 The statement must include a toll-free number and website for
1131 the division which ~~that~~ can be used to obtain the registration
1132 information. If ~~When~~ the solicitation consists of more than one
1133 piece, the statement must be displayed prominently in the
1134 solicitation materials. If the solicitation occurs on a website,
1135 the statement must be conspicuously displayed on the webpage
1136 where donations are requested.

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



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

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

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

1156 496.4121 Collection receptacles used for donations.—

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

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

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

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



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

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

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

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

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

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

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



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



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

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

1241 496.430 Disqualification for certain tax exemptions.-

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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1316 representative has relevant training.

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

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

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

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

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

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

1340 And the title is amended as follows:

1341 Delete everything before the enacting clause
1342 and insert:

1343 A bill to be entitled
1344 An act relating to charities; amending s. 212.08,



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



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



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



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



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



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



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