

By: Representative Yancey

To: Business and Commerce

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1290

1 AN ACT TO CREATE THE "CHARITY PROTECTION ACT"; TO PROVIDE  
2 THAT THE PURPOSE OF THIS ACT IS TO MINIMIZE BURDENS PLACED ON THE  
3 CHARITABLE SECTOR, AND CREATE A GRANTMAKING ENVIRONMENT CENTERED  
4 ON EFFECTIVENESS AND IMPACT; TO DEFINE CERTAIN TERMS "CHARITABLE  
5 ORGANIZATION" AND "STATE AGENCY"; TO PROHIBIT STATE AGENCIES OR  
6 OFFICIALS OF SUCH AGENCIES FROM IMPOSING ANY ANNUAL FILING OR  
7 REPORTING REQUIREMENTS ON CERTAIN CHARITABLE ORGANIZATIONS THAT  
8 ARE MORE BURDENSOME THAN THE REQUIREMENTS AS PROVIDED IN STATUTES  
9 RELATING TO THE REGULATION OF CHARITABLE SOLICITATIONS; TO AMEND  
10 SECTIONS 79-11-503, 79-11-504, 79-11-507, 79-11-509, 79-11-513,  
11 79-11-515, 79-11-518, 79-11-519 AND 79-11-521, MISSISSIPPI CODE OF  
12 1972, WHICH RELATE TO THE REGULATION OF CHARITABLE SOLICITATIONS,  
13 TO CONFORM WITH THE PRECEDING PROVISIONS; TO BRING FORWARD  
14 SECTIONS 79-11-501, 79-11-505, 79-11-511, 79-11-517, 79-11-523,  
15 79-11-524, 79-11-525, 79-11-526, 79-11-527 AND 79-11-529,  
16 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE REGULATION OF  
17 CHARITABLE SOLICITATIONS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO  
18 BRING FORWARD SECTION 91-8-405, MISSISSIPPI CODE OF 1972, WHICH  
19 RELATES TO CHARITABLE TRUSTS, FOR PURPOSES OF POSSIBLE AMENDMENT;  
20 AND FOR RELATED PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1.** This act shall be known and may be cited as the  
23 "Charity Protection Act".

24 **SECTION 2.** The purpose of this act is to minimize burdens  
25 placed on the charitable sector, and create a grantmaking  
26 environment centered on effectiveness and impact.



27           **SECTION 3.** (1) As used in this act, the following terms  
28 have the meanings as defined in this section, unless the context  
29 clearly indicates otherwise:

30           (a) The term "charitable organization" has the meaning  
31 as provided in Section 79-11-501.

32           (b) "State agency" means an agency, department,  
33 commission, division, institution, board, council, office, bureau,  
34 committee, instrumentality, or political subdivision of the State  
35 of Mississippi, or any officer or other administrative unit  
36 thereof. The term "state agency" does not include the Legislature  
37 or any of its component units, the judiciary or any of its  
38 component units, or the Governor.

39           **SECTION 4.** (1) Except as otherwise provided in federal law  
40 or Sections 79-11-501 through 79-11-529, no state agency shall  
41 impose any annual filing or reporting requirements upon a  
42 charitable organization that is regulated or specifically exempted  
43 from regulation under Sections 79-11-501 through 79-11-529, that  
44 are more burdensome than the requirements as provided in such  
45 sections.

46           (2) This section shall not apply to state grants and  
47 contracts or fraud investigations, and shall not restrict  
48 enforcement actions against specific nonprofit organizations.

49           **SECTION 5.** Section 79-11-503, Mississippi Code of 1972, is  
50 amended as follows:



51           79-11-503. (1) Except as otherwise provided in Section  
52 79-11-505 and prior to any solicitation of contributions, every  
53 charitable organization as defined in Section 79-11-501 which  
54 solicits or intends to solicit contributions by any means  
55 whatsoever shall file a registration statement with, and pay a  
56 filing fee of Fifty Dollars (\$50.00) to, the Secretary of State.  
57 A registration statement that contains false, misleading,  
58 deceptive or incomplete information or documentation shall not be  
59 considered sufficient. Except as otherwise provided in Section 4  
60 of this act, the registration statement shall be on forms  
61 prescribed by the Secretary of State and shall contain the  
62 following information and such other information that the  
63 Secretary of State may require by rule:

64           (a) The name of the organization and the name or names  
65 under which it intends to solicit contributions;

66           (b) The names and addresses of the officers, directors,  
67 trustees and chief executive officer of the organization;

68           (c) The addresses of the organization and any offices  
69 in this state. If the organization does not maintain a principal  
70 office, the name and address of the person having custody of its  
71 financial records;

72           (d) Where and when the organization was legally  
73 established, the form of its organization and its tax-exempt  
74 status;



75           (e) The purpose for which the organization and the  
76 purpose or purposes for which the contributions to be solicited  
77 will be used;

78           (f) The date on which the fiscal year of the  
79 organization ends;

80           (g) Whether the organization is authorized by any other  
81 governmental authority to solicit contributions and a statement of

82       (i) whether the charitable organization or any of its present  
83 officers, directors, executive personnel or trustees have ever had  
84 a license or registration denied, suspended, revoked or enjoined  
85 by any court or other governmental authority in this state or any  
86 other state, or (ii) whether the charitable organization has  
87 voluntarily entered into an assurance or voluntary discontinuance  
88 or agreement with any jurisdiction or federal agency or officer;

89           (h) The names and addresses of any professional  
90 fundraisers or fund-raising counsel who are acting or have agreed  
91 to act on behalf of the organization;

92           (i) Methods by which solicitation will be made;

93           (j) Copies of contracts between charitable  
94 organizations and professional fundraisers or fund-raising counsel  
95 relating to financial compensation or profit to be derived by the  
96 professional fundraisers or fund-raising counsel. If any such  
97 contract is executed after filing of a registration statement, a  
98 copy thereof shall be filed within ten (10) days of the date of  
99 execution;



100           (k) The board, group or individual having final  
101 authority over the distribution, custody and use of contributions  
102 received;

103           (l) A financial report as required by Section  
104 79-11-507;

105           (m) With the initial registration only, a copy of the  
106 current charter, articles of incorporation, agreement of  
107 association, instrument of trust, constitution, or other  
108 organizational instrument and a copy of the bylaws of the  
109 charitable organization; and

110           (n) With the initial registration or, if after  
111 registration, within thirty (30) days after its receipt, a copy of  
112 any federal tax exemption determination letter, any correspondence  
113 rescinding the charitable organization's tax-exempt status, or any  
114 notification from the Internal Revenue Service of any challenge to  
115 or investigation of the charitable organization's continued  
116 entitlement to federal tax exemption.

117           (2) The registration statement shall be signed and sworn to  
118 under penalties of perjury by the president or other authorized  
119 officer and the chief fiscal officer of the organization.

120           (3) The Secretary of State shall issue a certificate of  
121 registration to a charitable organization once the Secretary of  
122 State determines that such organization has complied with all  
123 provisions of this chapter. No charitable organization required



124 to be registered under this section shall solicit funds without a  
125 valid certificate of registration.

126 (4) (a) Such registration shall remain in effect until the  
127 time for annual renewal. Except as otherwise provided in Section  
128 4 of this act, a charitable organization shall renew registration  
129 by filing forms prescribed by the Secretary of State and paying  
130 the Fifty Dollar (\$50.00) renewal fee on or before the fifteenth  
131 day of the fifth month following the close of the charitable  
132 organization's taxable year.

133 (b) Except as otherwise provided in Section 4 of this  
134 act, the Secretary of State, pursuant to Section 79-11-509, may  
135 promulgate rules to provide for extensions of the due date for  
136 filing of the annual renewal required by this section and may  
137 impose an administrative penalty against any organization which  
138 fails to comply with this section within the time prescribed, or  
139 fails to furnish such additional information as is requested by  
140 the Secretary of State within the required time.

141 (5) Every registered organization shall notify the Secretary  
142 of State within thirty (30) days of any change in the information  
143 required to be furnished by such organization under Sections  
144 79-11-501 through 79-11-529.

145 (6) In no event shall a registered charitable organization  
146 continue to solicit contributions in or from this state after the  
147 date such organization should have filed, but failed to file, a



148 renewal and the financial report in accordance with the  
149 requirements of Sections 79-11-501 through 79-11-529.

150 (7) If any local, county or area division of a charitable  
151 organization is supervised and controlled by a superior or parent  
152 organization, incorporated, qualified to do business, or doing  
153 business within this state, such local, county or area division  
154 shall not be required to register under this section if the  
155 superior or parent organization files a registration statement on  
156 behalf of the local, county or area division in addition to or as  
157 part of its own registration statement. If a registration  
158 statement has been filed by a superior or parent organization as  
159 provided in subsection \* \* \* (1) of this section, it shall file  
160 the annual report required under Section 79-11-507 on behalf of  
161 the local, county or area division in addition to or as part of  
162 its own report, but the accounting information required under  
163 Section 79-11-507 shall be set forth separately and not in  
164 consolidated form with respect to every local, county or area  
165 division which raises or expends more than Twenty-five Thousand  
166 Dollars (\$25,000.00).

167 (8) Except as otherwise provided in Section 4 of this act,  
168 any registered charitable organization which for any reason opts  
169 not to renew its registration must, upon the expiration of its  
170 registration, provide to the Secretary of State a final report  
171 including the following, in addition to such other information the  
172 Secretary of State may require by rule:



173 (a) For domestic charitable organizations which have  
174 dissolved pursuant to the Mississippi Nonprofit Corporation  
175 Act \* \* \*:

176 (i) All financial statements and reports required  
177 by Section 79-11-507;

178 (ii) Articles of dissolution and certified minutes  
179 reflecting the dissolution;

180 (iii) A list of officers and trustees of the  
181 corporation, including their addresses and telephone numbers; and

182 (iv) A statement signed by an officer of the  
183 corporation providing details of the final distribution of assets.

184 (b) For all other charitable organizations, foreign or  
185 domestic, which opt not to renew for any other reason:

186 (i) All financial statements and reports required  
187 by Section 79-11-507; and

188 (ii) A statement signed by an officer of the  
189 charitable organization certifying that the organization has  
190 ceased charitable solicitations within the state.

191 **SECTION 6.** Section 79-11-504, Mississippi Code of 1972, is  
192 amended as follows:

193 79-11-504. Except as otherwise provided in Section 4 of this  
194 act, the Secretary of State shall have the authority to:

195 (a) Promulgate rules of procedure and regulations  
196 necessary for the administration of Sections 79-11-501 through





197 79-11-529, Mississippi Code of 1972, subject to the provisions of  
198 the Mississippi Administrative Procedures Law.

199 (b) Honor written requests from interested persons for  
200 interpretative opinions regarding registration and exemptions from  
201 registration.

202 (c) Publish and disseminate information to the public  
203 concerning persons subject to Sections 79-11-501 through  
204 79-11-529, Mississippi Code of 1972.

205 (d) Perform any other functions and duties which may be  
206 necessary to carry out the provisions of Sections 79-11-501  
207 through 79-11-529, Mississippi Code of 1972.

208 **SECTION 7.** Section 79-11-507, Mississippi Code of 1972, is  
209 amended as follows:

210 79-11-507. (1) Every charitable organization registered  
211 pursuant to Section 79-11-503 that shall receive in any fiscal  
212 year contributions in excess of Seven Hundred Fifty Thousand  
213 Dollars (\$750,000.00) via monetary donations and all of whose  
214 fund-raising functions are carried on by persons who are unpaid  
215 for such services, and every charitable organization registered  
216 pursuant to Section 79-11-503 whose fund-raising functions are not  
217 carried on solely by persons who are unpaid for such services  
218 shall file a financial statement for its most recently completed  
219 fiscal year with the Secretary of State. The financial statement  
220 shall be filed along with the registration statement required by  
221 Section 79-11-503 and any renewals or final report thereafter.



222 Except as otherwise provided in Section 4 of this act, the  
223 financial statement shall include a balance sheet and statement of  
224 income and expense and shall be consistent with forms furnished by  
225 the Secretary of State clearly setting forth the following: gross  
226 receipts and gross income from all sources, broken down into total  
227 receipts and income from each separate solicitation project or  
228 source; cost of administration; cost of solicitation; cost of  
229 programs designed to inform or educate the public; total net  
230 amount disbursed or dedicated for each major purpose, charitable  
231 or otherwise. The statement shall be signed by the president or  
232 other authorized officer and the chief fiscal officer of the  
233 organization, and shall be accompanied by an opinion signed by an  
234 independent certified public accountant that the financial  
235 statement therein fairly represents the financial operations of  
236 the organization in sufficient detail to permit public evaluation  
237 of its operations. The financial statement shall be accompanied  
238 by any and all forms required to be filed by a charitable  
239 organization with the United States Internal Revenue Service.

240 (2) Every organization registered pursuant to Section  
241 79-11-503 that shall receive in any fiscal year contributions of  
242 at least Two Hundred Fifty Thousand Dollars (\$250,000.00) but not  
243 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) via  
244 monetary donations and all of whose fund-raising functions are  
245 carried on by persons who are unpaid for their services shall file  
246 a financial statement reviewed by an independent certified public



247 accountant along with the registration statement required by  
248 Section 79-11-503 and any renewals or final report thereafter with  
249 the Secretary of State upon forms prescribed by him. Except as  
250 otherwise provided in Section 4 of this act, the reviewed  
251 financial statement shall cover the most recently completed fiscal  
252 year and include such information as required by the Secretary of  
253 State by rule or otherwise, including, but not limited to, the  
254 gross receipts from contributions and the use of the proceeds of  
255 such contributions. The statement shall be signed by the  
256 president or other authorized officer of the organization who  
257 shall certify under penalties of perjury that the statements  
258 therein are true and correct to the best of the signer's  
259 knowledge. The reviewed financial statement shall be accompanied  
260 by any and all forms required to be filed by a charitable  
261 organization with the United States Internal Revenue Service.

262 (3) Every organization registered pursuant to Section  
263 79-11-503 that shall receive in any fiscal year contributions not  
264 in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) and  
265 all of whose fund-raising functions are carried on by persons who  
266 are unpaid for their services shall file a financial report along  
267 with the registration statement required by Section 79-11-503 and  
268 any renewals or final report thereafter with the Secretary of  
269 State upon forms prescribed by him. Except as otherwise provided  
270 in Section 4 of this act, such financial report shall cover the  
271 most recently completed fiscal year and include such information



272 as required by the Secretary of State by rule or otherwise,  
273 including, but not limited to, the gross receipts from  
274 contributions and the use of the proceeds of such contributions.  
275 The report shall be signed by the president or other authorized  
276 officer of the organization who shall certify under penalties of  
277 perjury that the statements therein are true and correct to the  
278 best of the signer's knowledge. Such financial report shall be  
279 accompanied by any and all forms required to be filed by a  
280 charitable organization with the United States Internal Revenue  
281 Service.

282 (4) Except as otherwise provided in Section 4 of this act,  
283 any charitable organization receiving more than Twenty-five  
284 Thousand Dollars (\$25,000.00) but less than Seven Hundred Fifty  
285 Thousand Dollars (\$750,000.00) via monetary donations shall, at  
286 the request of the Secretary of State, submit additional financial  
287 information, including, but not limited to, an audited financial  
288 statement prepared in accordance with generally accepted  
289 accounting principles and accompanied by an opinion signed by an  
290 independent certified public accountant that the financial  
291 statement therein fairly represents the financial operations of  
292 the organization in sufficient detail to permit public evaluation  
293 of its operations.

294 (5) Except as otherwise provided in Section 4 of this act,  
295 the Secretary of State pursuant to Section 79-11-509 may  
296 promulgate rules to provide for extensions of the due date for



297 filing of the financial statements required by this chapter and  
298 may impose an administrative penalty against any organization  
299 which fails to comply with this section within the time  
300 prescribed, or fails to furnish such additional information as is  
301 requested by the Secretary of State within the required time.

302 **SECTION 8.** Section 79-11-509, Mississippi Code of 1972, is  
303 amended as follows:

304 79-11-509. (1) The Secretary of State shall deny, suspend  
305 or revoke a registration or an exemption for the following  
306 reasons:

307 (a) The application for registration or renewal is  
308 incomplete.

309 (b) The application or renewal fee (where applicable)  
310 has not been paid.

311 (c) A document filed with the Secretary of State  
312 contains one or more false or misleading statements or omits  
313 material facts.

314 (d) The charitable contributions have not been or are  
315 not being applied for the purpose or purposes stated in the  
316 documents filed with the Secretary of State.

317 (e) Except as otherwise provided in Section 4 of this  
318 act, the applicant or registrant has violated or failed to comply  
319 with any provisions of this chapter or any rule or order  
320 thereunder.



321 (f) Any applicant, registrant, officer, director, or  
322 partner of the applicant or registrant, or any agent or employee  
323 thereof who has been convicted of a felony or a misdemeanor  
324 involving misrepresentation, misapplication or misuse of the money  
325 or property of another maintains a position where he or she has  
326 access to or control over the funds of the charitable  
327 organization.

328 (g) The applicant or registrant has engaged in the use  
329 or employment of dishonesty, fraud, deception, misrepresentation,  
330 false promise or false pretense.

331 (h) The applicant or registrant has had the authority  
332 to engage in charitable or fund-raising activities denied, revoked  
333 or suspended by the Secretary of State or any other state or  
334 jurisdiction.

335 (i) The applicant or registrant has been convicted of  
336 any criminal offense committed in connection with the performance  
337 of activities regulated under Sections 79-11-501 through 79-11-529  
338 or any criminal offense involving untruthfulness or dishonesty or  
339 any criminal offense relating adversely to the registrant's or  
340 applicant's fitness to perform activities regulated by Sections  
341 79-11-501 through 79-11-529. For the purposes of this paragraph,  
342 a plea of guilty, non vult, nolo contendere or any other similar  
343 disposition of alleged criminal activity shall be deemed a  
344 conviction.



345 (j) Any applicant, registrant, officer, director, or  
346 partner of the applicant or registrant, or any agent, volunteer or  
347 employee thereof, who has been convicted under federal or state  
348 law of any criminal offense involving acts against children  
349 maintains a position where he or she is in close contact with  
350 children.

351 (k) Any officer, director, partner, employee, agent or  
352 volunteer has accrued three (3) or more unremediated citations  
353 issued by the Secretary of State pursuant to this section.

354 (l) Except as otherwise provided in Section 4 of this  
355 act, the applicant or registrant has engaged in other forms of  
356 misconduct as may be determined by the rules adopted by the  
357 Secretary of State.

358 (2) The Secretary of State shall notify the applicant or  
359 licensee of his intent to deny, suspend or revoke a license. The  
360 notification shall contain the reasons for the action and shall  
361 inform him of his right to request an administrative hearing  
362 within thirty (30) days of receipt of the notification. The  
363 denial, suspension or revocation shall become effective thirty  
364 (30) days after receipt of the notification unless a request for  
365 an administrative hearing is received by the Secretary of State  
366 before the expiration of the thirty (30) days. If a hearing is  
367 requested and the denial, suspension or revocation is upheld, the  
368 denial, suspension or revocation shall become effective upon the



369 service of the final administrative decision on the applicant or  
370 licensee.

371 (3) Registration shall become effective no later than noon  
372 of the thirtieth day after a completed application is filed, if no  
373 denial order is in effect and no proceeding is pending under this  
374 chapter. The Secretary of State may, by rule or order, specify an  
375 earlier effective date, and the Secretary of State may, by order,  
376 defer the effective date until noon of the thirtieth day after the  
377 filing of any amendment.

378 (4) (a) Except as otherwise provided in Section 4 of this  
379 act, whenever it appears to the Secretary of State that any person  
380 has engaged in or is about to engage in any act or practice  
381 constituting a violation of any provision of this chapter or any  
382 rule or order hereunder, he may, in his discretion, seek one or  
383 more of the following remedies in addition to other remedies  
384 authorized by law:

385 ( \* \* \*i) Issue a cease and desist order, with or  
386 without a prior hearing against the person or persons engaged in  
387 the prohibited activities, directing them to cease and desist from  
388 further illegal activity;

389 ( \* \* \*ii) Administratively dissolve or seek the  
390 judicial dissolution of a domestic corporation that is a  
391 charitable organization, or revoke the certificate of authority of  
392 a foreign corporation that is a charitable organization; or





393 ( \* \* \*iii) Issue an order imposing an  
394 administrative penalty up to a maximum of Twenty-five Thousand  
395 Dollars (\$25,000.00) for each offense, each violation to be  
396 considered as a separate offense in a single proceeding or a  
397 series of related proceedings;

398 ( \* \* \*b) For the purpose of determining the amount or  
399 extent of a sanction, if any, to be imposed under paragraph  
400 ( \* \* \*a) (ii) or (iii) \* \* \* of this subsection, the Secretary of  
401 State shall consider, among other factors, the frequency,  
402 persistence and willfulness of the conduct constituting a  
403 violation of this chapter or a rule promulgated thereunder or an  
404 order of the Secretary of State, the number of persons adversely  
405 affected by the conduct, and the resources of the person  
406 committing the violation.

407 (5) Except as otherwise provided in Section 4 of this act,  
408 in addition to the above remedies, the Secretary of State may  
409 issue a citation to any person engaging in any act or practice  
410 constituting a violation of any provision of this chapter or any  
411 rule or order hereunder. The Secretary of State shall establish  
412 rules providing remediation of certain citations, and the decision  
413 whether to allow such remediation will be within the Secretary of  
414 State's discretion.

415 (6) Except as otherwise provided in Section 4 of this act,  
416 whenever it appears to the Secretary of State or Attorney General  
417 that any person has engaged in or is about to engage in any act or



418 practice constituting a violation of any provision of Sections  
419 79-11-501 through 79-11-529 or any rule or order thereunder,  
420 either official may, in his discretion, take any or all of the  
421 following actions: bring an action in chancery court to obtain a  
422 temporary restraining order or injunction to enjoin the acts or  
423 practices and enforce compliance with Sections 79-11-501 through  
424 79-11-529 or any rule or order thereunder; collect administrative  
425 penalties imposed under this section; or obtain on behalf of a  
426 charitable organization the return or repayment of any property or  
427 consideration received as private inurement or an excess benefit  
428 in violation of Section 79-11-519(3)(j). Upon a proper showing a  
429 permanent or temporary injunction, restraining order or writ of  
430 mandamus shall be granted and a receiver or conservator may be  
431 appointed for the defendant or the defendant's assets. In  
432 addition, upon a proper showing, the court may enter an order of  
433 rescission, restitution or disgorgement directed to any person who  
434 has engaged in any act constituting a violation of any provision  
435 of Sections 79-11-501 through 79-11-529 or any rule or order  
436 thereunder. In addition the court may impose a civil penalty up  
437 to a maximum of Twenty-five Thousand Dollars (\$25,000.00) for each  
438 offense, and each violation shall be considered as a separate  
439 offense in a single proceeding or a series of related proceedings.  
440 The court may not require the Secretary of State or Attorney  
441 General to post a bond.



442 (7) Any person aggrieved by a final order of the Secretary  
443 of State may obtain a review of the order in the Chancery Court of  
444 the First Judicial District of Hinds County, Mississippi, by  
445 filing in the court, within thirty (30) days after the entry of  
446 the order, a written petition praying that the order be modified  
447 or set aside, in whole or in part. A copy of the petition shall  
448 be forthwith served upon the Secretary of State and thereupon the  
449 Secretary of State shall certify and file in court a copy of the  
450 filing and evidence upon which the order was entered. When these  
451 have been filed, the court has exclusive jurisdiction to affirm,  
452 modify, enforce or set aside the order, in whole or in part.

453 **SECTION 9.** Section 79-11-513, Mississippi Code of 1972, is  
454 amended as follows:

455 79-11-513. No person shall act as a professional fund-raiser  
456 or fund-raising counsel for a charitable organization before he  
457 has registered with the Secretary of State or after the expiration  
458 or cancellation of such registration or any renewal thereof.  
459 Applications for registration and renewals shall be in writing  
460 sworn to under penalties of perjury in the form prescribed by the  
461 Secretary of State and accompanied by the filing of a fee of Two  
462 Hundred Fifty Dollars (\$250.00). The professional fund-raiser  
463 applicant, at the time of making application, shall file with the  
464 State Treasurer and have approved by the Secretary of State a bond  
465 in which the applicant shall be the principal obligor in the sum  
466 of Ten Thousand Dollars (\$10,000.00) with one or more corporate



467 sureties licensed to do business in this state whose liability in  
468 the aggregate will at least equal such sum. The bond shall run to  
469 the Secretary of State for the use of the state and to any person  
470 who may have a cause of action against the obligor of the bond for  
471 any malfeasance or misfeasance in the conduct of such  
472 solicitation; provided, that the aggregate limit of liability of  
473 the surety to the state and to all such persons shall, in no  
474 event, exceed the sum of such bond. Such limitation of liability,  
475 as to the sum of the bond, as to the surety, shall not otherwise  
476 affect any liability to any person by any charitable organization,  
477 professional fund-raiser, professional solicitor or any other  
478 person for a violation of this chapter. Registration when  
479 effected shall be for a period of one (1) year, or a part thereof,  
480 expiring on June 30 or on such other date as prescribed by rule  
481 and may be renewed upon written application, under oath, in the  
482 form prescribed by the Secretary of State and upon the remittance  
483 of the renewal fee of Two Hundred Fifty Dollars (\$250.00) and the  
484 filing of the bond for additional one-year periods. Except as  
485 otherwise provided in Section 4 of this act, every professional  
486 fund-raiser and fund-raising counsel required to register pursuant  
487 to Sections 79-11-501 through 79-11-529 shall file an annual  
488 written report with the Secretary of State containing such  
489 information and documentation as he may require by rule.

490       **SECTION 10.** Section 79-11-515, Mississippi Code of 1972, is  
491 amended as follows:



492           79-11-515. (1) All contracts entered into between  
493 professional fund-raisers or fund-raising counsel and charitable  
494 organizations shall be in writing and a true and correct copy of  
495 such contract shall be filed by the professional fund-raiser or  
496 fund-raising counsel who is a party thereto with the Secretary of  
497 State at least ten (10) days prior to the performance by the  
498 professional fund-raiser or fund-raising counsel of any service.  
499 The contract must be signed by two (2) authorized officials of the  
500 charitable organization, one (1) of whom must be a member of the  
501 organization's governing body, and the authorized contracting  
502 officer for the professional fund-raiser or fund-raising counsel.  
503 True and correct copies of such contracts shall be kept on file in  
504 the offices of the charitable organization and the professional  
505 fund-raiser or fund-raising counsel during the term thereof and  
506 until the expiration of a period of three (3) years subsequent to  
507 the date the solicitation of contributions provided for therein  
508 actually terminates. The contract shall contain all of the  
509 following provisions:

510           (a) The legal name and address of the charitable  
511 organization as registered with the Secretary of State, unless  
512 that charitable organization is exempt from registration;

513           (b) A statement of the charitable purpose for which the  
514 solicitation campaign is being conducted;



515 (c) A statement of the respective obligations of the  
516 professional fund-raiser or fund-raising counsel and the  
517 charitable organization;

518 (d) A clear statement of the fees or rate which will be  
519 paid to the professional fund-raiser or fund-raising counsel;

520 (e) The effective and termination dates of the contract  
521 and the date services will commence with respect to the  
522 solicitation in this state of contributions for a charitable  
523 organization;

524 (f) For fund-raising counsel, a statement that the  
525 fund-raising counsel will not at any time have custody or control  
526 of contributions;

527 (g) A statement that the charitable organization  
528 exercises control and approval over the content and volume of any  
529 solicitation; and

530 (h) Except as otherwise provided in Section 4 of this  
531 act, any other information required by the rules of the Secretary  
532 of State.

533 (2) Except as otherwise provided in Section 4 of this act,  
534 prior to the commencement of any solicitation, the professional  
535 fund-raiser shall file all of the following with the Secretary of  
536 State and such other information that the Secretary of State may,  
537 by rule, require a written report on forms prescribed by the  
538 Secretary of State containing information about the solicitation  
539 campaign, including, but not limited to, the following:



540           (a) The fund-raising methods to be used;

541           (b) The projected dates when the solicitation campaign  
542 will commence and terminate;

543           (c) The location and telephone number from where the  
544 solicitation campaign will be conducted if it will be conducted by  
545 telephone;

546           (d) The name and residence address of each person  
547 responsible for directing and supervising the conduct of the  
548 solicitation campaign;

549           (e) A statement of whether the professional fund-raiser  
550 will at any time have custody of any contributions;

551           (f) The account number and location of each bank  
552 account where receipts from the campaign are to be deposited;

553           (g) A full and fair description of the charitable  
554 program for which the solicitation campaign is being carried out;  
555 and

556           (h) The written and signed consent of every charitable  
557 organization on whose behalf the professional fund-raiser will be  
558 soliciting contributions or whose name will be mentioned during  
559 the solicitation.

560           (3) Not later than ninety (90) days after a solicitation  
561 campaign has been completed and on the anniversary of the  
562 commencement of a solicitation campaign lasting more than one (1)  
563 year, the professional fund-raiser shall furnish an accounting of  
564 all contributions collected and expenses paid to the charitable



565 organization with which the professional fund-raiser has  
566 contracted. The accounting shall be in writing and shall be  
567 retained by the professional fund-raiser and charitable  
568 organization for three (3) years. Except as otherwise provided in  
569 Section 4 of this act, the professional fund-raiser shall file a  
570 final report of the accounting with the Secretary of State on  
571 forms prescribed by him and containing such information he may, by  
572 rule, require not later than seven (7) days after it is furnished  
573 to the charitable organization. This report shall be signed by  
574 the contracting agent with the professional fund-raiser and also  
575 by an authorized officer of the charitable organization.

576 (4) Not later than two (2) days after receipt of each  
577 contribution, the professional fund-raiser shall deposit the  
578 entire amount of the contribution in an account at a bank or other  
579 federally insured financial institution which shall be in the name  
580 of the charitable organization with which the professional  
581 fund-raiser has contracted. Each contribution collected by the  
582 professional fund-raiser shall be solely in the name of that  
583 charitable organization. The charitable organization shall have  
584 sole control of all withdrawals from the account and the  
585 professional fund-raiser shall not be given the authority to  
586 withdraw any deposited funds from the account.

587 (5) During each solicitation campaign and for not less than  
588 three (3) years after its completion, the professional fund-raiser





589 shall maintain the following records that shall be made available  
590 to the Attorney General or the Secretary of State upon request:

591 (a) A record of each contribution that at any time is  
592 in the custody of the professional fund-raiser, including the name  
593 and address of each contributor and the date and amount of the  
594 contribution; and

595 (b) The location of each bank or financial institution  
596 in which the professional fund-raiser has deposited revenue from  
597 the solicitation campaign and the account number of each account  
598 into which the deposits were made.

599 (6) Any material change in any information filed with the  
600 Secretary of State pursuant to this section shall be reported in  
601 writing by the professional fund-raiser or fund-raising counsel to  
602 the Secretary of State not more than seven (7) days after such  
603 change occurs.

604 **SECTION 11.** Section 79-11-518, Mississippi Code of 1972, is  
605 amended as follows:

606 79-11-518. Every charitable organization, professional  
607 fund-raiser, professional solicitor, or fund-raising counsel,  
608 whether or not required to register pursuant to Sections 79-11-501  
609 through 79-11-529, Mississippi Code of 1972, shall keep true and  
610 correct books and records of solicitation activities that are  
611 covered by Sections 79-11-501 through 79-11-529, Mississippi Code  
612 of 1972, or any rule or order adopted under Sections 79-11-501  
613 through 79-11-529, Mississippi Code of 1972, except as otherwise



614 provided in Section 4 of this act. All such books and records  
615 shall be open to inspection at all reasonable times by the  
616 Secretary of State or the Attorney General, or their duly  
617 authorized representatives. The records shall be retained for a  
618 period of at least three (3) years.

619 **SECTION 12.** Section 79-11-519, Mississippi Code of 1972, is  
620 amended as follows:

621 79-11-519. (1) It is the duty of the district attorneys and  
622 county prosecuting attorneys of this state to prosecute all  
623 violations of the provisions of Sections 79-11-501 through  
624 79-11-529. In addition, actions for violations of Sections  
625 79-11-501 through 79-11-529 may be prosecuted by the Attorney  
626 General.

627 (2) Sections 79-11-501 through 79-11-529 shall not be  
628 construed to limit or restrict the exercise of the powers or the  
629 performance of the duties of the Attorney General which he or she  
630 otherwise is authorized to exercise or perform under any other  
631 provision of law by statute or otherwise except the rendering of  
632 interpretative opinions in accordance with Section 79-11-503 which  
633 shall be limited to the Secretary of State, except as otherwise  
634 provided in Section 4 of this act.

635 (3) It shall be a violation of Sections 79-11-501 through  
636 79-11-529 for any person:

637 (a) To misrepresent:

638 (i) The purpose or beneficiary of a solicitation;



639                   (ii) The purpose or nature of a charitable  
640 organization; or

641                   (iii) That any other person sponsors or endorses a  
642 solicitation \* \* \*;

643                   (b) To use or exploit the fact of registration so as to  
644 lead the public to believe that such registration constitutes an  
645 endorsement or approval by the state;

646                   (c) To use the name of a charitable organization, or to  
647 display any emblem, device or printed matter belonging to or  
648 associated with a charitable organization without the express  
649 written permission of the charitable organization;

650                   (d) To make any false or misleading statement on any  
651 document required by Sections 79-11-501 through 79-11-529 or any  
652 rule or order thereunder;

653                   (e) To fail to comply with the requirements of Sections  
654 79-11-501 through 79-11-529 or any rule or order thereunder;

655                   (f) To commit any unfair or deceptive act or practice;  
656 to employ any device, scheme or artifice to defraud; to engage in  
657 any act, practice or course of business which operates or would  
658 operate as a fraud or deceit upon any person; or to obtain money  
659 or property by means of any false pretense, representation or  
660 promise;

661                   (g) To fail to provide complete and timely payment to a  
662 charitable organization of the proceeds from a solicitation  
663 campaign or a charitable sales promotion;



664 (h) To make any false or misleading statements in the  
665 solicitations of contributions in this state or to omit to state  
666 any fact necessary in order to make the statements made, in light  
667 of the circumstances under which they are made, not misleading;

668 (i) To refuse or fail, after notice, to produce any  
669 records required to be kept under Sections 79-11-501 through  
670 79-11-529, or any rule or order promulgated thereunder;

671 (j) To benefit, directly or indirectly, from any  
672 transaction in which an economic benefit is provided by a  
673 charitable organization where the value of the benefit provided by  
674 the organization exceeds the fair market value of the  
675 consideration received by the organization.

676 (4) It shall be a violation of Sections 79-11-501 through  
677 79-11-529 for any charitable organization:

678 (a) To engage in any financial transaction which is not  
679 related to the accomplishment of a charitable purpose, or which  
680 jeopardizes or interferes with the ability of the charitable  
681 organization to accomplish a charitable purpose;

682 (b) To expend an unreasonable amount of money for  
683 solicitation or management;

684 (c) To use the name which is the same as or confusingly  
685 similar to the name of another charitable organization unless the  
686 latter organization shall consent in writing to its use;

687 (d) To represent itself as being associated with  
688 another charitable organization without the express written



689 acknowledgment and endorsement of such other charitable  
690 organization;

691 (e) To use the services of an unregistered professional  
692 fund-raiser or fund-raising counsel or professional solicitor;

693 (f) To fail to comply with any provisions of Sections  
694 79-11-501 through 79-11-529 or any rule or order thereunder;

695 (g) To employ as an officer, director, partner,  
696 employee, agent or volunteer any person who has accrued three (3)  
697 or more unremediated citations issued by the Secretary of State  
698 pursuant to Section 79-11-509;

699 (h) To employ as an officer, director, partner,  
700 employee or agent any person who has been convicted of a felony or  
701 misdemeanor involving misrepresentation, misapplication or misuse  
702 of the money or property of another, in a capacity where that  
703 person has access to or control over the funds of the charitable  
704 organization;

705 (i) To employ as an officer, director, partner,  
706 employee, volunteer or agent any person who has been convicted  
707 under federal or state law of any criminal offense involving acts  
708 against children, where such position will bring the person into  
709 close contact with children; or

710 (j) To apply the charitable organization's funds or  
711 assets for private inurement or excess benefits which exceed the  
712 fair market value of the property or services received in return  
713 from directors, officers, or those persons who are deemed



714 disqualified persons or insiders under applicable federal law for  
715 tax-exempt organizations.

716 (5) It shall be a violation of Sections 79-11-501 through  
717 79-11-529 for any professional fund-raiser, professional  
718 fund-raising counsel or any professional solicitor:

719 (a) To perform any services on behalf of an  
720 unregistered charitable organization; or

721 (b) To fail to comply with any provisions of Sections  
722 79-11-501 through 79-11-529 or any rule or order thereunder.

723 (6) It shall be a violation of Sections 79-11-501 through  
724 79-11-529 for any person, in connection with a public safety  
725 organization solicitation:

726 (a) To use any representation that implies that the  
727 contribution is for or on behalf of a public safety agency or a  
728 public safety organization, or using any emblem, device, or  
729 printed matter belonging to or associated with a public safety  
730 agency or organization, unless authorized in writing to do so by  
731 the agency or organization;

732 (b) To use a name, symbol, or statement that is similar  
733 to that used by a public safety agency or organization in a manner  
734 that is intended to confuse or mislead a person being solicited;

735 (c) To represent or imply that the solicitor is a peace  
736 officer or member of a public safety agency or public safety  
737 organization if the solicitor is not;



738 (d) To solicit for a public safety organization,  
739 independent promoter, public safety publication, or cause by  
740 representing that those who respond affirmatively to the  
741 solicitation will receive favored treatment by public safety  
742 personnel; or

743 (e) To fail to comply with any provisions of Sections  
744 79-11-501 through 79-11-529 or any rule or order thereunder.

745 (7) A misrepresentation may be accomplished by words or  
746 conduct or failure to disclose a material fact. Regardless of a  
747 person's intent or the lack of injury, the above acts and  
748 practices are prohibited in the planning, conduct or execution of  
749 any solicitation or charitable sales promotion.

750 (8) The Secretary of State or the Attorney General may  
751 exercise the authority granted in this section against any  
752 charitable organization or person which or who operates under the  
753 guise or pretense of being an organization exempted by the  
754 provisions of Section 79-11-505, and is not in fact an  
755 organization entitled to such an exemption.

756 **SECTION 13.** Section 79-11-521, Mississippi Code of 1972, is  
757 amended as follows:

758 79-11-521. Except as otherwise provided in Section 4 of this  
759 act, either the Secretary of State or Attorney General, in his or  
760 her discretion: (a) may make such public or private  
761 investigations within or outside of this state as deemed necessary  
762 by the Secretary of State or Attorney General to determine whether



763 any person has violated or is about to violate any provision of  
764 this chapter or any rule or order hereunder, or to aid in the  
765 enforcement of Sections 79-11-501 through 79-11-529 or in the  
766 prescribing of rules and forms hereunder; (b) may require or  
767 permit any person to file a statement in writing, under oath or  
768 otherwise, as to all the facts and circumstances concerning the  
769 matter to be investigated; and (c) may publish information  
770 concerning any violation of Sections 79-11-501 through 79-11-529  
771 or any rule or order hereunder.

772 Except as otherwise provided in Section 4 of this act, for  
773 the purpose of any investigation or proceeding under Sections  
774 79-11-501 through 79-11-529, the Secretary of State or Attorney  
775 General, or any designated officer may administer oaths and  
776 affirmations, subpoena witnesses, compel their attendance, take  
777 evidence, and require the production of any books, papers,  
778 correspondence, memoranda, agreements, or other documents or  
779 records which the Secretary of State or Attorney General deems  
780 relevant or material to the inquiry.

781 **SECTION 14.** Section 79-11-501, Mississippi Code of 1972, is  
782 brought forward as follows:

783 79-11-501. The following words and phrases as used in  
784 Sections 79-11-501 through 79-11-529 shall have the meanings as  
785 defined in this section unless the context clearly indicates  
786 otherwise:





787 (a) (i) "Charitable organization" means either of the  
788 following:

789 (A) Any person determined by the Internal  
790 Revenue Service to be a tax exempt organization pursuant to  
791 Section 501(c) (3) of the Internal Revenue Code; or

792 (B) Any person actually or purporting to be  
793 established for any voluntary health and welfare, benevolent,  
794 philanthropic, patriotic, educational, humane, scientific, public  
795 health, environmental conservation, civic, or other eleemosynary  
796 purpose or for the benefit of law enforcement personnel,  
797 firefighters, or other public safety organizations, or any person  
798 employing in any manner a charitable appeal as the basis of any  
799 solicitation or an appeal that suggests that there is a charitable  
800 purpose to any solicitation and includes each local, county or  
801 area division within this state of such charitable organization,  
802 provided such local, county or area division has authority and  
803 discretion to disburse funds or property otherwise than by  
804 transfer to any parent organization.

805 (ii) "Charitable organization" is not limited to  
806 only those organizations to which contributions are tax deductible  
807 under Section 170 of the Internal Revenue Code.

808 (iii) "Charitable organization" does not include  
809 any bona fide duly constituted religious institutions and such  
810 separate groups or corporations which form an integral part of  
811 religious institutions, provided that:



812 (A) Such religious institutions, groups or  
813 corporations are tax exempt pursuant to the Internal Revenue Code;

814 (B) No part of their net income inures to the  
815 direct benefit of any individual; and

816 (C) Their conduct is primarily supported by  
817 government grants or contracts, funds solicited from their own  
818 membership, congregations and fees charged for services rendered.

819 (b) "Charitable purpose" means either of the following:

820 (i) Any purpose described in Section 501(c)(3) of  
821 the Internal Revenue Code; or

822 (ii) Any voluntary health and welfare, charitable,  
823 benevolent, philanthropic, patriotic, educational, humane,  
824 scientific, public health, environmental conservation, civic, or  
825 other eleemosynary purpose or for the benefit of law enforcement  
826 personnel, firefighters, or other public safety organizations;

827 "Charitable purpose" is not limited to only those purposes  
828 for which contributions are tax deductible under Section 170 of  
829 the Internal Revenue Code.

830 (c) "Container" means any box, carton, package,  
831 receptacle, canister, jar, dispenser, or machine that offers a  
832 product for sale or distribution which is or purports to be a  
833 solicitation of contributions for a charitable purpose.

834 (d) "Contribution" means the promise or grant of any  
835 money or property of any kind or value, including the promise to  
836 pay, except payments by members of an organization for membership



837 fees, dues, fines, assessments or for services rendered to  
838 individual members, if membership in such organization confers a  
839 bona fide right, privilege, professional standing, honor or other  
840 direct benefit, other than the right to vote, elect officers or  
841 hold offices, and except money or property received from any  
842 governmental authority. Reference to the dollar amount of  
843 "contributions" in Sections 79-11-501 through 79-11-529 means in  
844 the case of promises to pay, or payments for merchandise or rights  
845 of any other description, the value of the total amount promised  
846 to be paid or paid for such merchandise or rights and not merely  
847 that portion of the purchase price to be applied to a charitable  
848 purpose.

849 (e) "Fundraising counsel" means a person (i) who for a  
850 fixed fee or rate under a written agreement plans, manages,  
851 advises or consults with respect to the solicitation in this state  
852 of contributions by a charitable organization, (ii) who neither  
853 solicits contributions nor directly or indirectly employ, procure  
854 or engage any person compensated to solicit contributions, and  
855 (iii) who does not at any time, whether directly or indirectly,  
856 receive or have custody or control of contributions. A bona fide  
857 nontemporary salaried officer or employee of a charitable  
858 organization shall not be deemed to be a fundraising counsel. No  
859 attorney, accountant or banker who renders professional services  
860 to a charitable organization or advises a person to make a  
861 charitable contribution during the course of rendering



862 professional services to that person shall be deemed, as a result  
863 of the professional service or advice rendered, to be a  
864 fundraising counsel.

865 (f) "Person" means any individual, organization, group,  
866 association, partnership, corporation, trust or any combination of  
867 them or any other entity however established within or without  
868 this state.

869 (g) "Professional fundraiser" means any person who for  
870 compensation or other consideration is retained by a charitable  
871 organization to solicit in or from this state contributions for  
872 charitable purposes directly or in the form of payment for goods,  
873 services or admission to fundraising events, whether such  
874 solicitation is performed personally or through his agents,  
875 servants or employees or through agents, servants or employees  
876 especially employed by or for a charitable organization who are  
877 engaged in the solicitation of contributions, the sale of goods or  
878 services or the production of fundraising events under the  
879 direction of such person, or a person who plans, conducts,  
880 manages, carries on, advises or consults, whether directly or  
881 indirectly, in connection with the solicitation of contributions,  
882 sale of goods or services or the production of fundraising events  
883 for or on behalf of any charitable organization, but does not  
884 qualify as a fundraising counsel within the meaning of Sections  
885 79-11-501 through 79-11-529, or who engages in the business of or  
886 holds himself out as independently engaged in the business of



887 soliciting contributions for such purposes. A bona fide officer  
888 or employee of a charitable organization shall not be deemed a  
889 professional fundraiser unless his salary or other compensation is  
890 paid as a commission which is computed on the basis of funds to be  
891 raised or actually raised.

892 (h) "Professional solicitor" means any person who is  
893 employed or retained for compensation by a professional fundraiser  
894 to solicit contributions for charitable purposes from persons in  
895 this state.

896 (i) "Public safety organization" means a  
897 nongovernmental organization that uses in its name, whether in a  
898 publication of the organization, in a solicitation for  
899 contributions to the organizations, for membership in the  
900 organization, or to purchase advertising in a publication of the  
901 organization, or in a solicitation to purchase products or tickets  
902 to an event sponsored by or for the benefit of the organization by  
903 a solicitor, the term officer, peace officer, police officer,  
904 police law enforcement, reserve officer, deputy, deputy sheriff,  
905 constable, deputy constable, fireman, firefighter, volunteer  
906 fireman, emergency medical service provider, civil employee or any  
907 other term in a manner that reasonably implies that the  
908 organization or that a contribution, purchase or membership will  
909 benefit public safety personnel.

910 (j) "Solicitation" or "solicit" means the request,  
911 directly or indirectly, for money, credit, property, financial



912 assistance, or any other thing of value on the plea or  
913 representation that such money, credit, property, financial  
914 assistance, or any other thing of value or a portion of it will be  
915 used for a charitable purpose or will benefit a charitable  
916 organization. "Solicitation" or "solicit" includes, but is not  
917 limited to, the following methods of requesting or securing money,  
918 credit, property, financial assistance or any other thing of  
919 value:

920 (i) Any oral or written request.

921 (ii) The making of any announcement in the press,  
922 over the radio or television, by telephone, through the mail or  
923 any other media concerning an appeal or campaign by or for any  
924 charitable organization or purpose.

925 (iii) The distribution, circulation, posting or  
926 publishing of any handbill, written advertisement or other  
927 publication which directly or by implication seeks to obtain a  
928 contribution.

929 (iv) The offer of, attempt to sell, or sale of any  
930 advertising space, book, card, tag, coupon, device, magazine,  
931 membership, merchandise, subscription, flower, ticket, candy,  
932 cookies or other tangible item in connection with which any appeal  
933 is made for any charitable organization or purpose, or where the  
934 name of any charitable organization is used or referred to in any  
935 appeal as an inducement or reason for making any sale, or where  
936 any statement is made that the whole or any part of the proceeds



937 from the sale will be used for any charitable purpose or will  
938 benefit any charitable organization.

939 (v) The use or employment of container, canisters,  
940 cards, receptacles or similar devices for the collection of money  
941 or other thing of value in connection with which any appeal is  
942 made for any charitable organization or purpose.

943 (vi) Any announcement requesting the public to  
944 attend an appeal, assemblage, athletic or competitive event,  
945 carnival, circus, concert, contest, dance, entertainment,  
946 exhibition, exposition, game, lecture, meal, party, show, social  
947 gathering or other performance or event of any kind.

948 A solicitation shall take place whether or not the person  
949 making the solicitation receives any contribution, except that a  
950 charitable organization's use of its own name in any communication  
951 shall not alone be sufficient to constitute a solicitation.

952 **SECTION 15.** Section 79-11-505, Mississippi Code of 1972, is  
953 brought forward as follows:

954 79-11-505. (1) The registration provisions of Section  
955 79-11-503 and the reporting provisions of Section 79-11-507 shall  
956 not apply to the following organizations:

957 (a) All educational institutions that are recognized by  
958 the State Board of Education or that are accredited by a regional  
959 accrediting association or by an organization affiliated with the  
960 National Commission on Accrediting, any foundation having an  
961 established identity with any of the aforementioned educational



962 institutions, any other educational institution which makes the  
963 solicitation of contributions solely by its student body, alumni,  
964 faculty and trustees and their families or a library established  
965 under the laws of this state.

966 (b) Fraternal, patriotic, social, educational, alumni  
967 organizations and historical societies when solicitation of  
968 contributions is made solely by their membership; however, posts  
969 of the American Legion and posts of the Veterans of Foreign Wars  
970 of the United States may utilize nonmembers to assist designated  
971 supervisors in the conduct of bingo under the Charitable Bingo Law  
972 and qualify for this exemption. This exemption shall be extended  
973 to any subsidiary of a parent or superior organization if such  
974 solicitation is made solely by the membership of the subsidiary,  
975 parent or superior organization.

976 (c) Persons requesting any contributions for the relief  
977 or benefit of any individual, specified by name at the time of the  
978 solicitation, if the contributions collected are turned over to  
979 the named beneficiary, first deducting reasonable expenses for  
980 costs of banquets or social gatherings, if any, provided all  
981 fundraising functions are carried on by persons who are unpaid,  
982 directly or indirectly, for such services.

983 (d) Any charitable organization which does not intend  
984 to solicit and receive and does not actually receive contributions  
985 in excess of Twenty-five Thousand Dollars (\$25,000.00) during any  
986 twelve-month period ending June 30 of any year or on such other





987 date as prescribed by rule, provided all of its fundraising  
988 functions are carried on by persons who are unpaid for such  
989 services. However, if the gross contributions received by such  
990 charitable organization during any twelve-month period ending June  
991 30 of any year or other date as prescribed by rule shall be in  
992 excess of Twenty-five Thousand Dollars (\$25,000.00) it shall,  
993 within thirty (30) days after the date it shall have received  
994 total contributions in excess of Twenty-five Thousand Dollars  
995 (\$25,000.00), register with and report to the Secretary of State  
996 as required by this chapter.

997 (e) Any charitable organization receiving an allocation  
998 from an incorporated community chest or united fund, provided such  
999 chest or fund is complying with the provisions of Sections  
1000 79-11-501 through 79-11-529 relating to registration and filing of  
1001 annual reports with the Secretary of State, and provided such  
1002 organization does not actually receive, in addition to such  
1003 allocation, contributions in excess of Twenty-five Thousand  
1004 Dollars (\$25,000.00) during any twelve-month period ending June 30  
1005 of any year or such other date as prescribed by rule, and provided  
1006 further, that all the fundraising functions of such organization  
1007 are carried on by persons who are unpaid for such services.  
1008 However, if the gross contributions other than such allocation  
1009 received by such charitable organization during any twelve-month  
1010 period ending June 30 of any year or on such other date as  
1011 prescribed by rule shall be in excess of Twenty-five Thousand



1012 Dollars (\$25,000.00), it shall, within thirty (30) days after the  
1013 date it shall have received such contributions in excess of  
1014 Twenty-five Thousand Dollars (\$25,000.00), register with and  
1015 report to the Secretary of State as required by this chapter.

1016 (f) All volunteer fire departments or rescue units,  
1017 rural or otherwise, chartered under the laws and statutes of the  
1018 State of Mississippi as nonprofit corporations.

1019 (g) Any humane society organized under the laws of  
1020 Mississippi which receives not less than fifty percent (50%) of  
1021 its annual funding from contracts with counties or municipalities  
1022 for the care and keeping of estrays.

1023 (h) Any other organization which the Secretary of State  
1024 by rule or order exempts from the registration requirements of  
1025 this chapter upon finding that (i) such registration is neither  
1026 necessary in the public interest nor for the protection of  
1027 contributors, or (ii) such exemption shall further the objectives  
1028 of compatibility with uniformity among the states.

1029 (2) Prior to any solicitations for contributions, each  
1030 charitable organization claiming to be exempt shall file a Notice  
1031 of Exemption on the forms prescribed by the Secretary of State.  
1032 In any proceeding under this chapter, the burden of proving an  
1033 exemption, or an exception from a definition, is upon the person  
1034 claiming it.

1035 **SECTION 16.** Section 79-11-511, Mississippi Code of 1972, is  
1036 brought forward as follows:



1037           79-11-511. A charitable organization, person, professional  
1038 fundraiser, fundraising counsel or professional solicitor, that  
1039 solicits contributions in the State of Mississippi, shall be  
1040 subject to notice or demand as provided in Section 79-35-13, and  
1041 shall be subject to service of process as provided by the  
1042 Mississippi Rules of Civil Procedure.

1043           **SECTION 17.** Section 79-11-517, Mississippi Code of 1972, is  
1044 brought forward as follows:

1045           79-11-517. No person shall act as a professional solicitor  
1046 in the employ of a professional fund-raiser required to register  
1047 pursuant to Section 79-11-513 before he has registered with the  
1048 Secretary of State or after the expiration or cancellation of such  
1049 registration or any renewal thereof. Application for registration  
1050 or renewal shall be in writing sworn to under penalties of perjury  
1051 in the form prescribed by the Secretary of State. Such  
1052 registration when effected shall be for a period of one (1) year,  
1053 or a part thereof, expiring on June 30 or such other date as  
1054 prescribed by rule, and may be renewed upon written application,  
1055 sworn to under penalties of perjury, in the form prescribed by the  
1056 Secretary of State for additional one-year periods.

1057           **SECTION 18.** Section 79-11-523, Mississippi Code of 1972, is  
1058 brought forward as follows:

1059           79-11-523. (1) (a) Prior to orally requesting a  
1060 contribution or contemporaneously with written requests for a  
1061 contribution, a professional fund-raiser and professional



1062 solicitor shall be responsible for clearly and conspicuously  
1063 disclosing:

1064                   (i) The name of the professional fund-raiser as on  
1065 file with the Secretary of State and that the solicitation is  
1066 being conducted by a professional fund-raiser who is being paid  
1067 for his services;

1068                   (ii) If the professional solicitor acting on  
1069 behalf of the professional fund-raiser identifies himself by name,  
1070 the professional solicitor's legal name; and

1071                   (iii) The name of the charitable organization as  
1072 on file with the Secretary of State and a description of how the  
1073 contributions raised by the solicitation will be utilized for a  
1074 charitable purpose or, if no charitable organization exists, a  
1075 description as to how the contributions raised by the solicitation  
1076 will be utilized for a charitable purpose.

1077                   (b) All responses given by a professional fund-raiser  
1078 and professional solicitor to an oral or written request for  
1079 information shall be truthful.

1080                   (c) In the case of a solicitation campaign conducted  
1081 orally, whether by telephone or otherwise, any written  
1082 confirmation, receipt or reminder sent to any person who has  
1083 contributed or has pledged to contribute shall include a clear and  
1084 conspicuous disclosure of the information required under paragraph  
1085 (1) (a) of this section.



1086           (2) If requested by the person being solicited, the  
1087 professional fund-raiser and professional solicitor shall inform  
1088 that person orally and then in writing within fourteen (14) days  
1089 of the request of the fixed percentage of the gross revenue or the  
1090 reasonable estimate of the percentage of the gross revenue that  
1091 the charitable organization or sponsor will receive as benefit  
1092 from the solicitation campaign.

1093           (3) In addition to the information required by subsection  
1094 (1), any written confirmation, receipt and reminder of a  
1095 contribution made pursuant to an oral solicitation and any written  
1096 solicitation shall conspicuously state verbatim:

1097           The official registration and financial information of  
1098 (insert the legal name of the charity as registered with the  
1099 Secretary of State) may be obtained from the Mississippi Secretary  
1100 of State's office by calling 1-888-236-6167. Registration by the  
1101 Secretary of State does not imply endorsement by the Secretary of  
1102 State.

1103           (4) Prior to orally requesting or contemporaneously with  
1104 written requests for advertising to appear in a for-profit  
1105 publication which relates to, purports to relate to or which could  
1106 reasonably be construed to relate to any charitable purpose, the  
1107 professional fund-raiser or fund-raising counsel shall be  
1108 responsible for clearly and conspicuously disclosing:

1109           (a) That the publication is a for-profit, commercial  
1110 enterprise;



1111 (b) The true name of the solicitor and the fact that  
1112 the solicitor is being paid for his services; and

1113 (c) The publication is not directly affiliated or  
1114 sponsored by any charitable organization.

1115 (5) Every container, as defined in Section 79-11-501, shall  
1116 have a printed or typed notice affixed to the container, in a  
1117 conspicuous place and accessible to the public, that is easily  
1118 readable and legible that informs the public of the following:

1119 (a) The approximate annual percentage paid, if any, to  
1120 any person to maintain, service or collect the contributions  
1121 raised by the solicitation;

1122 (b) The net percentage or sum annually paid for the  
1123 most recent calendar year paid to the specific charitable purpose;  
1124 and

1125 (c) If the maintenance, service and collection from the  
1126 container is done by volunteers or by paid individuals.

1127 The disclosure as required in this provision shall not apply  
1128 to persons requesting any contributions for the relief or benefit  
1129 of any individual, specified by name at the time of the  
1130 solicitation, if all of the contributions collected are turned  
1131 over to the named beneficiary, and provided all fund-raising  
1132 functions are carried on by persons who are unpaid, directly or  
1133 indirectly, for such services.

1134 **SECTION 19.** Section 79-11-524, Mississippi Code of 1972, is  
1135 brought forward as follows:



1136 79-11-524. Any fund-raising counsel, professional  
1137 fund-raiser, professional solicitor or employee of any of these  
1138 who makes a telephone solicitation subject to the provisions of  
1139 this chapter to a residential telephone number shall make calls  
1140 only between the hours of 9:00 a.m. and 9:00 p.m., Monday through  
1141 Saturday. No calls shall be made on Sundays.

1142 **SECTION 20.** Section 79-11-525, Mississippi Code of 1972, is  
1143 brought forward as follows:

1144 79-11-525. Every person who solicits, collects or expends  
1145 contributions on behalf of a charitable organization or for a  
1146 charitable purpose, or who conducts a charitable sales promotion,  
1147 and every officer, director, trustee or employee of that person  
1148 who is concerned with the solicitation, collection or expenditure  
1149 of those contributions shall be considered a fiduciary and as  
1150 acting in a fiduciary capacity. This section does not supersede  
1151 or otherwise alter the standard of care or the limitations on the  
1152 liability of volunteers.

1153 **SECTION 21.** Section 79-11-526, Mississippi Code of 1972, is  
1154 brought forward as follows:

1155 79-11-526. (1) For purposes of this section, the following  
1156 words and phrases shall have the meanings ascribed in this section  
1157 unless the context clearly indicates otherwise:

1158 (a) "Sponsor" or "advertiser" means any person,  
1159 corporation or legal entity who, for charitable purposes or for  
1160 the promotion of the health, peace and welfare of the community,



1161 donates or contributes products, material, money or pays fees for  
1162 advertising or displaying trademarks in order that an event may be  
1163 held or conducted.

1164 (b) "Event" means a concert, benefit, fundraiser,  
1165 auction or other occasion at which entertainment, food or  
1166 beverages are provided.

1167 (2) A sponsor or advertiser of an event shall not be held  
1168 vicariously liable for the negligence of another in connection  
1169 with or as a consequence of his involvement as a sponsor or  
1170 advertiser of an event if he does not exercise any control or  
1171 supervision over any aspect of the event.

1172 (3) This section shall not confer immunity on a sponsor or  
1173 advertiser of an event for willful acts or gross negligence, and a  
1174 sponsor or advertiser of an event shall not be considered to be a  
1175 part of a joint venture or the principal of an agent, with regard  
1176 to any other person, corporation or legal entity which is  
1177 participating in the event in a capacity other than that of a  
1178 sponsor or advertiser.

1179 **SECTION 22.** Section 79-11-527, Mississippi Code of 1972, is  
1180 brought forward as follows:

1181 79-11-527. The Secretary of State may enter into reciprocal  
1182 agreements with a like authority of any other state or states for  
1183 the purpose of exchanging information made available to the  
1184 Secretary of State or to such other like authority.





1185           The information contained in or filed with any registration  
1186 application, renewal or report may be made available to the public  
1187 under such rules as the Secretary of State prescribes.  
1188 Information in the possession of, filed with or obtained by the  
1189 Secretary of State in connection with any investigation or  
1190 examination under Sections 79-11-501 through 79-11-529 shall be  
1191 confidential and exempt from the requirements of the Mississippi  
1192 Public Records Act of 1983. No such information may be disclosed  
1193 by the Secretary of State or any of his officers or employees  
1194 unless necessary or appropriate in connection with a particular  
1195 investigation or proceeding under Sections 79-11-501 through  
1196 79-11-529 or for any law enforcement purpose.

1197           **SECTION 23.** Section 79-11-529, Mississippi Code of 1972, is  
1198 brought forward as follows:

1199           79-11-529. Any person who knowingly and willingly violates  
1200 the provisions of Sections 79-11-501 through 79-11-527 shall be  
1201 guilty of a misdemeanor and, upon conviction, shall be punished by  
1202 a fine not exceeding Two Thousand Dollars (\$2,000.00) or by  
1203 imprisonment in the county jail for not more than one (1) year or  
1204 both. In connection with any solicitation, any person employing a  
1205 device, scheme or artifice to defraud; or engaging in any act,  
1206 practice or course of business which operates or would operate as  
1207 a fraud or deceit upon any person, or obtaining money or property  
1208 by means of any false pretense, representation or promise shall be  
1209 guilty of a felony and, upon conviction, shall be punished by a



1210 fine not exceeding Twenty-five Thousand Dollars (\$25,000.00) or  
1211 imprisoned not more than five (5) years, or both. No indictment  
1212 or information may be returned under Sections 79-11-501 through  
1213 79-11-529 more than five (5) years after the alleged violation.

1214 **SECTION 24.** Section 91-8-405, Mississippi Code of 1972, is  
1215 brought forward as follows:

1216 91-8-405. (a) A charitable trust may be created for the  
1217 relief of poverty, the advancement of education or religion, the  
1218 promotion of health, governmental or municipal purposes, or other  
1219 purposes the achievement of which is beneficial to the community.

1220 (b) If the terms of a charitable trust do not indicate a  
1221 particular charitable purpose or beneficiary, the court may select  
1222 one or more charitable purposes or beneficiaries. The selection  
1223 must be consistent with the settlor's intention to the extent it  
1224 can be ascertained.

1225 (c) The settlor of a charitable trust, among others, may  
1226 maintain a proceeding to enforce the trust.

1227 **SECTION 25.** This act shall stand repealed on July 1, 2027.

1228 **SECTION 26.** This act shall take effect and be in force from  
1229 and after July 1, 2024.

