

By: Representative Yancey

To: Business and Commerce

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 3
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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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 3 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.

