

By: Senator(s) Tollison

To: Judiciary, Division B

SENATE BILL NO. 2834

1 AN ACT TO AMEND SECTION 79-11-509, MISSISSIPPI CODE OF 1972,
2 TO ALLOW REGISTRATION OF CHARITABLE ORGANIZATIONS WHEN APPLICANT,
3 REGISTRANT, OFFICERS, DIRECTORS OR PARTNERS OF THE APPLICANT OR
4 REGISTRANT, OR THEIR AGENTS OR EMPLOYEES, HAVE BEEN CONVICTED OF
5 ANY FELONY MORE THAN TEN YEARS AGO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 79-11-509, Mississippi Code of 1972, is
8 amended as follows:

9 79-11-509. (1) The Secretary of State shall deny, suspend
10 or revoke a registration or an exemption for the following
11 reasons:

12 (a) The application for registration or renewal is
13 incomplete.

14 (b) The application or renewal fee (where applicable)
15 has not been paid.

16 (c) A document filed with the Secretary of State
17 contains one or more false or misleading statements or omits
18 material facts.

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

22 (e) The applicant or registrant has violated or failed
23 to comply with any provisions of this chapter or any rule or order
24 thereunder.

25 (f) The applicant, registrant, officers, directors, or
26 partners of the applicant or registrant, or their agents or
27 employees, (i) have been convicted of a felony or of a misdemeanor
28 where such felony or misdemeanor involved fraud,

29 misrepresentation, misapplication or misuse of the money or
30 property of another, or (ii) have been convicted of any felony
31 within the past ten (10) years from the date of the application
32 for registration, or (iii) have not completed the sentence
33 associated with any felony conviction at the time of the
34 application for registration.

35 (g) The applicant or registrant has engaged in the use
36 or employment of dishonesty, fraud, deception, misrepresentation,
37 false promise or false pretense.

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

42 (i) The applicant or registrant has been convicted of
43 any criminal offense committed in connection with the performance
44 of activities regulated under Sections 79-11-501 through 79-11-529
45 or any criminal offense involving untruthfulness or dishonesty or
46 any criminal offense relating adversely to the registrant's or
47 applicant's fitness to perform activities regulated by Sections
48 79-11-501 through 79-11-529. For the purposes of this paragraph,
49 a plea of guilty, non vult, nolo contendere or any other similar
50 disposition of alleged criminal activity shall be deemed a
51 conviction.

52 (j) The applicant or registrant has engaged in other
53 forms of misconduct as may be determined by the rules adopted by
54 the Secretary of State.

55 (2) The Secretary of State shall notify the applicant or
56 licensee of his intent to deny, suspend or revoke a license. The
57 notification shall contain the reasons for the action and shall
58 inform him of his right to request an administrative hearing
59 within thirty (30) days of receipt of the notification. The
60 denial, suspension or revocation shall become effective thirty
61 (30) days after receipt of the notification unless a request for

62 an administrative hearing is received by the Secretary of State
63 before the expiration of the thirty (30) days. If a hearing is
64 requested and the denial, suspension or revocation is upheld, the
65 denial, suspension or revocation shall become effective upon the
66 service of the final administrative decision on the applicant or
67 licensee.

68 (3) Registration shall become effective no later than noon
69 of the thirtieth day after a completed application is filed, if no
70 denial order is in effect and no proceeding is pending under this
71 chapter. The Secretary of State may, by rule or order, specify an
72 earlier effective date, and the Secretary of State may, by order,
73 defer the effective date until noon of the thirtieth day after the
74 filing of any amendment.

75 (4) Whenever it appears to the Secretary of State that any
76 person has engaged in or is about to engage in any act or practice
77 constituting a violation of any provision of this chapter or any
78 rule or order hereunder, he may, in his discretion, seek the
79 following remedies in addition to other remedies authorized by
80 law:

81 (a) Issue a cease and desist order, with or without a
82 prior hearing against the person or persons engaged in the
83 prohibited activities, directing them to cease and desist from
84 further illegal activity; or

85 (b) Issue an order in the case of a registered charity,
86 professional fund-raiser or solicitor, or other person who
87 violated this chapter, imposing an administrative penalty up to a
88 maximum of Twenty-five Thousand Dollars (\$25,000.00) for each
89 offense, each violation to be considered as a separate offense in
90 a single proceeding or a series of related proceedings;

91 (c) For the purpose of determining the amount or extent
92 of a sanction, if any, to be imposed under subparagraph (b) of
93 this section, the Secretary of State shall consider, among other
94 factors, the frequency, persistence and willfulness of the conduct

95 constituting a violation of this chapter or a rule promulgated
96 thereunder or an order of the Secretary of State, the number of
97 persons adversely affected by the conduct, and the resources of
98 the person committing the violation.

99 (5) Whenever it appears to the Attorney General that any
100 person has engaged in or is about to engage in any act or practice
101 constituting a violation of any provision of Sections 79-11-501
102 through 79-11-529 or any rule or order thereunder, he may, in his
103 discretion, bring an action in chancery court to enjoin the acts
104 or practices to enforce compliance with Sections 79-11-501 through
105 79-11-529 or any rule or order thereunder. Upon a proper showing
106 a permanent or temporary injunction, restraining order or writ of
107 mandamus shall be granted and a receiver or conservator may be
108 appointed for the defendant or the defendant's assets. In
109 addition, upon a proper showing by the Attorney General, the court
110 may enter an order of rescission, restitution or disgorgement
111 directed to any person who has engaged in any act constituting a
112 violation of any provision of Sections 79-11-501 through 79-11-529
113 or any rule or order thereunder or the court may impose a civil
114 penalty up to a maximum of Twenty-five Thousand Dollars
115 (\$25,000.00) for each offense, and each violation shall be
116 considered as a separate offense in a single proceeding or a
117 series of related proceedings. The court may not require the
118 Attorney General to post a bond.

119 **SECTION 2.** This act shall take effect and be in force from
120 and after July 1, 2006.