

HB184 ENROLLED



1 ZG93RK-2
2 By Representative Kiel
3 RFD: State Government
4 First Read: 22-Mar-23
5 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to charitable organizations; to amend Section
5 13A-9-71, Code of Alabama 1975, to prohibit the imposition of
6 certain filing or reporting requirements on certain charitable
7 organizations.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 13A-9-71, Code of Alabama 1975, is
10 amended to read as follows:

11 "§13A-9-71

12 (a) Every charitable organization, except those granted
13 an exemption in subsection (f), which is physically located in
14 this state, and which intends to solicit contributions in or
15 from this state, or to have contributions solicited in this
16 state, on its behalf, by other charitable organizations, paid
17 solicitors, or commercial co-venturers in or from this state
18 shall, prior to any solicitation, file a registration
19 statement with the Attorney General upon a form prescribed by
20 the Attorney General containing all of the following
21 information:

22 (1) The name of the organization and the name or names
23 under which it intends to solicit contributions.

24 (2) The names and addresses of the officers, directors,
25 trustees, and executive personnel of the organization.

26 (3) The addresses of the organization and the addresses
27 of any offices in this state. If the organization does not
28 maintain an office, the name and address of the person having



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29 custody of its financial records.

30 (4) The place where and the date when the organization
31 was legally established, the form of its organization, and its
32 tax exempt status.

33 (5) The purposes for which the organization is
34 organized and the purpose or purposes for which the
35 contributions to be solicited will be used.

36 (6) The date on which the fiscal year of the
37 organization ends.

38 (7) Whether the organization is authorized by any
39 governmental authority to solicit contributions and whether it
40 is or has ever been enjoined by any court from soliciting
41 contributions.

42 (8) The names and addresses of any professional fund
43 raisers and commercial co-venturers who are acting or have
44 agreed to act on behalf of the organization.

45 (b) With the initial registration only, every
46 charitable organization required to be registered shall also
47 file with the Attorney General a copy of the charitable
48 organizational charter, articles of organization or
49 incorporation, agreement of association, instrument of trust,
50 constitution or other organizational instrument and bylaws,
51 and a statement setting forth the place where and the date
52 when the organization was legally established, the form of
53 this organization, and its tax exemption status attaching
54 federal or state tax exemption determination letters.

55 (c) The registration form shall be signed by the
56 president or other authorized officer and the chief fiscal



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57 officer of the organization.

58 (d) Every charitable organization required to register
59 shall pay a fee of twenty-five dollars (\$25) to the Attorney
60 General at the time of registration.

61 (e) The registration shall remain in effect unless it
62 is either cancelled as provided in this section or withdrawn
63 by the organization. Every registered organization shall
64 notify the Attorney General within 10 days of any change in
65 the information required to be furnished by the organization
66 under subsection (a).

67 (f) The following persons shall not be required,
68 pursuant to this article, to register with the Attorney
69 General:

70 (1) Educational institutions and their authorized and
71 related foundations.

72 (2) Religious organizations.

73 (3) Political organizations.

74 (4) Fraternal, patriotic, benevolent, social,
75 educational, alumni, health care foundation, historical, and
76 civil rights organizations, including fraternities and
77 sororities and any auxiliaries associated with any such
78 organizations.

79 (5) Civic leagues and civic organizations which solicit
80 contributions solely from their own membership.

81 (6) Persons requesting any contributions for the relief
82 of any individual, specified by the name at the time of the
83 solicitation, if all of the contributions collected do not
84 exceed ten thousand dollars (\$10,000) and, without any



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85 deductions, are turned over to the named beneficiary.

86 (7) Any charitable organization which does not intend
87 to solicit and receive and does not actually receive
88 contributions in excess of twenty-five thousand dollars
89 (\$25,000) during a fiscal year of the organization, provided
90 all of its fund raising functions are carried on by persons
91 who are not paid for such services. If the gross contributions
92 received by a charitable organization during any fiscal year
93 of that organization are in excess of twenty-five thousand
94 dollars (\$25,000), within 30 days after the date it receives
95 total contributions in excess of twenty-five thousand dollars
96 (\$25,000), the charitable organization shall register with the
97 Attorney General as required by this section.

98 (8)a. Any charitable organization receiving an
99 allocation from an incorporated community chest or united
100 fund, provided all of the following requirements have been
101 met:

102 1. The chest or fund is complying with this section
103 relating to registration and filing of annual reports with the
104 Attorney General.

105 2. The charitable organization does not actually
106 receive, in addition to an allocation, contributions in excess
107 of twenty-five thousand dollars (\$25,000) during the fiscal
108 year.

109 3. All of the fund raising functions of the charitable
110 organization are carried on by persons who are not paid for
111 such services.

112 b. If the gross contributions other than the allocation



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113 received by the charitable organization during any fiscal year
114 of the charitable organization are in excess of twenty-five
115 thousand dollars (\$25,000), the charitable organization, ~~shall~~
116 within 30 days after the date it receives the contributions in
117 excess of twenty-five thousand dollars (\$25,000), shall
118 register with the Attorney General as required by this
119 section.

120 (9) A local post, camp, chapter, or similarly
121 designated element, or a county unit of such elements of a
122 bona fide veterans organization, which issues charters to
123 local elements throughout this state, or a bona fide
124 organization of volunteer firefighters, ambulance companies,
125 or rescue squads, or a bona fide auxiliary or affiliate of
126 such organizations, provided all of its fund raising
127 activities are carried on by members of the organization,
128 family members of the members of the organization, volunteers,
129 or an affiliate of the organization and the members receive no
130 compensation, directly or indirectly, therefor.

131 (g) Every charitable organization registered pursuant
132 to subsection (a) ~~shall~~, within 90 days of the close of its
133 fiscal year ending after the date on which the charitable
134 organization files its initial registration pursuant to
135 subsection (a), shall file an annual written report. Each
136 annual report shall be sworn to under oath, shall be in the
137 form prescribed by the Attorney General, and shall include a
138 financial statement covering the fiscal year, clearly setting
139 forth the gross income, expenses, and net income inuring to
140 the benefit of the charitable organization, a balance sheet as



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141 of the close of the fiscal year, and a schedule of the
142 activities carried on by the charitable organization in the
143 performance of its purposes and the amounts expended thereon
144 during the fiscal year. An organization may also meet this
145 requirement by submitting a copy of the Form 990 submitted to
146 the Internal Revenue Service as required by federal law. A fee
147 of twenty-five dollars (\$25) payable to the Attorney General
148 shall accompany the report at the time of filing.

149 (1) The Attorney General shall cancel the registration
150 of any charitable organization ~~which~~ that fails within the
151 time ~~herein~~ prescribed to comply with this ~~section~~ subsection,
152 or fails to furnish any additional information requested by
153 the Attorney General within the required time. The Attorney
154 General may extend the time for filing the reports for a
155 period not to exceed 180 days. Notice of cancellation pursuant
156 to this subsection shall be mailed to the registrant at least
157 15 days before the effective date thereof.

158 (2) All records, books, and reports maintained by any
159 charitable organization registered or required to register
160 pursuant to subsection (a) shall be available for inspection
161 during normal business hours at the principal office of the
162 organization, by the Attorney General, or the duly authorized
163 representative of the Attorney General.

164 (h) No person shall act as a professional fund raiser
165 or commercial co-venturer either before he or she registers
166 with the Attorney General, or after the expiration or
167 cancellation of his or her registration and prior to renewal
168 thereof. Applications for registration and renewal shall be in



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169 writing, under oath, in the form prescribed by the Attorney
170 General, and shall be accompanied by an annual fee in the
171 amount of one hundred dollars (\$100).

172 (1) The applicant shall at the time of making
173 application, file with, and have approved by the Attorney
174 General, a bond in which the applicant shall be the principal
175 obligor in the sum of ten thousand dollars (\$10,000) with one
176 or more sureties whose liability in the aggregate as sureties
177 will at least equal that sum. The bond shall run to the
178 Attorney General for the use of the state and to any person
179 who may have a cause of action against the obligor of the bond
180 for any malfeasance or misfeasance in the conduct of the
181 solicitation.

182 (2) Registration shall be for the period of one year,
183 or a part thereof, expiring on the 30th day of September and
184 may be renewed upon written application under oath, in the
185 form prescribed by the Attorney General, the filing of the
186 bond, and the payment of the fee prescribed for an additional
187 one-year period. Applications, registrations, renewals, and
188 bonds, when filed with the Attorney General, shall become
189 public records in the Office of the Attorney General.

190 (3) A professional fund raiser or commercial
191 co-venturer shall maintain accurate and current books and
192 records of his or her activities while required to be
193 registered under this section and until at least two years
194 have elapsed at the end of the effective period of the
195 registration to which they relate. He or she shall keep the
196 books and records in his or her office available for



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197 inspection and examination by the Attorney General, or the
198 duly authorized representative of the Attorney General.

199 (i) All contracts entered into between professional
200 fund raisers or commercial co-venturers and charitable
201 organizations shall be in writing. A true and correct copy of
202 each contract shall be filed by the professional fund raiser
203 or commercial co-venturer with the Attorney General within 10
204 days after it is executed. No services shall be performed
205 under a contract until the expiration of 15 days from the date
206 the contract is filed with the Attorney General. Within 90
207 days after the termination of the contract, the professional
208 fund raiser or commercial co-venturer shall file a closing
209 statement with the Attorney General disclosing gross receipts
210 and all expenditures incurred in the performance of the
211 contract.

212 (j) No person shall act as a professional solicitor in
213 the employ of a professional fund raiser who is required to
214 register pursuant to this section before he or she has
215 registered with the Attorney General or after the expiration
216 or cancellation of the registration or any renewal thereof.
217 Application for registration shall be in writing, under oath,
218 in the form prescribed by the Attorney General and shall be
219 accompanied by a fee in the amount of twenty-five dollars
220 (\$25). Registration when effected shall be for a period of one
221 year, or a part thereof, expiring with the 30th day of
222 September and may be renewed upon written application, under
223 oath, in the form prescribed by the Attorney General and the
224 payment of the fee prescribed herein for additional one-year



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225 periods. Applications for registration, when filed with the
226 Attorney General, shall become public records in the Office of
227 the Attorney General.

228 (k) Any charitable organization, professional fund
229 raiser, professional solicitor, or commercial co-venturer
230 which is subject to this article, having its principal place
231 of business outside this state, or organized under and by
232 virtue of the laws of a foreign state, shall be deemed to have
233 irrevocably appointed the Secretary of State as its agent upon
234 whom may be served any summons, subpoena, subpoena duces
235 tecum, or other process directed to the charitable
236 organization, professional fund raiser, professional
237 solicitor, or commercial co-venturer, or any partner,
238 principal officer, or director thereof, in any action or
239 proceeding brought pursuant to this article. Service of
240 process upon the Secretary of State shall be made by
241 personally delivering a copy to the Office of the Secretary of
242 State and depositing it with the Secretary of State or his or
243 her agent. Service shall be sufficient if notice of the
244 service and a copy of the process shall be forthwith sent by
245 the Secretary of State to the charitable organization,
246 professional fund raiser, commercial co-venturer, or other
247 person to whom it is directed, by registered mail, with return
248 receipt requested, to the last address known to the Secretary
249 of State.

250 (l) No person, except an officer, director, or trustee
251 of the charitable organization by or for whom contributions
252 are solicited, shall for the purpose of soliciting



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253 contributions from persons in this state, use the name of any
254 charitable organization without the consent of the charitable
255 organization.

256 (m) A person shall be deemed to have used the name of a
257 charitable organization for the purpose of soliciting
258 contributions if the latter charitable organization's name is
259 listed on any stationery, advertisement, brochure, or
260 correspondence in or by which a contribution is solicited by
261 or on behalf of a charitable organization or his or her name
262 is listed or referred to in connection with a request for a
263 contribution as one who has contributed to, sponsored, or
264 endorsed the charitable organization or its activities.

265 (n) Nothing contained in this section shall prevent the
266 publication of names of contributors without their written
267 consent in an annual or other periodic report issued by a
268 charitable organization for the purpose of reporting its
269 operations and affairs to its membership or for the purpose of
270 reporting contributions to contributors.

271 (o) No charitable organization or professional fund
272 raiser soliciting contributions shall use a name, symbol, or
273 statement so closely related or similar to that used by
274 another charitable organization or governmental agency that
275 the use thereof would tend to confuse or mislead the public.

276 (p) Every individual in the process of soliciting funds
277 shall identify himself or herself. If the individual is being
278 paid for soliciting, he or she shall so inform the solicitee
279 of his or her being so paid. This information shall be
280 disclosed to the solicitee in a clear manner before attempting



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281 any solicitations.

282 (q) Any solicitor or person who knowingly violates ~~the~~
283 ~~provisions of~~ this section shall be guilty of charitable
284 fraud. The initial conviction of charitable fraud shall be a
285 Class A misdemeanor. A second or subsequent conviction of
286 charitable fraud shall be a Class C felony.

287 (r) In addition to all other remedies provided by law,
288 the Attorney General, or a district attorney, may bring an
289 action to enjoin the violation of this section. The Attorney
290 General, or district attorney, may give at least 15 days
291 written notice by registered or certified mail to the
292 charitable organization, person, or persons violating the
293 provisions hereof. The notice shall require that registration
294 be accomplished or that the solicitation of funds be
295 immediately terminated. The failure to immediately discontinue
296 solicitation, or to register in accordance with this section,
297 shall be unlawful and the charitable organizations or persons
298 committing the violation shall forfeit and pay a penalty of
299 not more than five thousand dollars (\$5,000) upon petition by
300 the Attorney General or a district attorney acting in the name
301 of the state. The Attorney General shall have the authority to
302 formulate rules ~~and regulations~~ interpreting this section as
303 necessary to the administration and enforcement of its
304 provisions.

305 (s) (1) Except as required or authorized by federal law,
306 no state agency or state official shall impose any annual
307 filing or reporting requirement on any charitable
308 organization, professional fund raiser, commercial



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309 co-venturer, or professional solicitor, or their agent, or any
310 other entity regulated or specifically exempted from
311 regulation under this article that is more stringent,
312 restrictive, or expansive than the requirements authorized
313 under state law.

314 (2) Notwithstanding subdivision (1), this subsection
315 does not apply to state grants, state contracts, or state
316 fraud investigations, and does not restrict enforcement
317 actions against specific nonprofit organizations."

318 Section 2. This act shall become effective on the first
319 day of the third month following its passage and approval by
320 the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 20-Apr-23.

John Treadwell
Clerk

Senate **18-May-23**

Passed