

SUBSTITUTE FOR
SENATE BILL NO. 1115

A bill to amend 1975 PA 169, entitled "Charitable organizations and solicitations act," by amending the title and sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 20, 21, and 23 (MCL 400.272, 400.273, 400.274, 400.275, 400.276, 400.277, 400.278, 400.279, 400.280, 400.281, 400.282, 400.283, 400.286, 400.287, 400.288, 400.290, 400.291, and 400.293), section 13 as amended by 1992 PA 299, and by adding sections 3a, 19, 19a, 19b, 22a, 23a, 23b, and 23c; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to regulate organizations and persons soliciting or

3

collecting contributions for charitable purposes; to require

4

registration ~~—~~ **and** disclosure of information ~~and licensing~~

5

before solicitation of contributions; to provide for reporting of

1 financial and other information by those ~~licensed or~~ registered
2 and those claiming exemption; to prescribe standards of conduct
3 and administration, and to prohibit certain actions; to provide
4 for enforcement, investigation, and promulgation of rules by the
5 attorney general; to preempt local regulation; to provide
6 penalties for violations; and to repeal ~~certain~~ acts and parts
7 of acts.

8 Sec. 2. As used in this act:

9 (a) "Charitable organization" means a ~~benevolent,~~
10 ~~educational, philanthropic, humane, patriotic, or eleemosynary~~
11 ~~organization of persons which solicits or obtains contributions~~
12 ~~solicited from the public for charitable purposes. A chapter,~~
13 ~~branch, area office, or similar affiliate or person soliciting~~
14 ~~contributions within the state for a charitable organization~~
15 ~~which has its principal place of business outside the state is a~~
16 ~~charitable organization. This definition does not include duly~~
17 ~~constituted religious organizations or a group affiliated with~~
18 ~~and forming an integral part of a religious organization no part~~
19 ~~of the net income of which inures to the direct benefit of any~~
20 ~~individual if it has received a declaration of current tax exempt~~
21 ~~status from the United States. The affiliated group shall not be~~
22 ~~required to obtain a declaration if the parent or principal~~
23 ~~organization has obtained tax exempt status. Charitable~~
24 ~~organization does not include a candidate or committee as defined~~
25 ~~in section 901 of Act No. 116 of the Public Acts of 1954, being~~
26 ~~section 168.901 of the Michigan Compiled Laws, or a political~~
27 ~~party qualified to be on the general election ballot pursuant to~~

1 ~~section 560a of Act No. 116 of the Public Acts of 1954, as added,~~
2 ~~being section 168.560a of the Michigan Compiled Laws.~~ tax exempt
3 organization under section 501(c)(3) of the internal revenue code
4 of 1986 or a person whose purpose, structure, or activities are
5 described under section 501(c)(3) of the internal revenue code of
6 1986. The term does not include any of the following:

7 (i) A federal, state, or local unit of government or a
8 subdivision, agency, or instrumentality of federal, state, or
9 local government.

10 (ii) A religious organization incorporated or established for
11 religious purposes whether or not the organization is exempt
12 under or described in section 501(c)(3) of the internal revenue
13 code of 1986.

14 (b) "Charitable purpose" means a purpose described in section
15 501(c)(3) of the internal revenue code of 1986.

16 (c) "Charitable sales promotion" means an advertising or
17 sales campaign representing that proceeds from the sale or use of
18 the goods or services offered will benefit, in whole or in part,
19 a charitable organization or charitable purpose, or that the
20 seller or vendor will make a payment to a charitable organization
21 or for a charitable purpose.

22 (d) "Commercial coventurer" means a person who conducts
23 charitable sales promotions. A person who enters into a
24 licensing arrangement in which a charitable organization allows
25 the person to use the charitable organization's name for a fee is
26 a commercial coventurer.

27 (e) ~~(b)~~ "Contribution" means the promise, grant, or payment

1 of money or property of any kind or value, including ~~premises~~
2 **the promise** to pay. ~~, except payments by members of an~~
3 ~~organization for membership fees, dues, fines, or assessments, or~~
4 ~~for services rendered to individual members, if membership in the~~
5 ~~organization confers a bona fide right, privilege, professional~~
6 ~~standing, honor, or other direct benefit, other than the right to~~
7 ~~vote, elect officers, or hold offices, and except money or~~
8 ~~property received from a governmental authority or foundation~~
9 ~~restricted as to use.~~ Contribution includes that portion of
10 membership fees, dues, or assessments that exceed the monetary
11 value of membership benefits available to a dues payer whether or
12 not the membership benefits are used, and membership fees, dues,
13 or assessments that are paid primarily to support the charitable
14 organization's activities. Contribution does not include any of
15 the following:

16 (i) A grant or contract from any governmental agency or a
17 restricted grant from a foundation.

18 (ii) Any portion of membership dues, fees, or assessments
19 paid to a labor organization or bargaining representative. As
20 used in this subparagraph:

21 (A) "Bargaining representative" means that term as defined in
22 section 1 of 1947 PA 336, MCL 423.201.

23 (B) "Labor organization" means that term as defined in
24 section 2 of 1939 PA 176, MCL 423.2, or section 2 of the national
25 labor relations act, 29 USC 152.

26 (f) "Misrepresentation" includes an affirmative
27 misrepresentation; a false statement; or an omission of or

1 failure to disclose a material fact that is not obvious to the
2 person to whom a statement or representation is made, if the
3 omission or failure to disclose tends to mislead that person.

4 (g) ~~-(e)-~~ "Person" means an individual, an organization, a
5 group, an association, partnership, corporation, limited
6 liability company, trust, or ~~any combination of them~~ other
7 legal entity.

8 (h) "Professional fund-raiser" means a person, including a
9 subcontractor, who for compensation or other consideration
10 conducts, manages, or carries out a plan, drive, or campaign to
11 solicit contributions for or on behalf of a charitable
12 organization or religious organization; a person, including a
13 subcontractor, who engages in the business of or holds himself or
14 herself out as independently engaged in the business of
15 soliciting contributions for charitable purposes; or a bona fide
16 officer or employee of a charitable organization if his or her
17 salary or other compensation is based or computed on the amount
18 of money he or she raises or is expected to raise. A person
19 whose service to a charitable organization or religious
20 organization is limited to providing training, advice, research,
21 preparation of grant or contract applications, or design,
22 writing, or production of solicitation materials is not a
23 professional fund-raiser if all of the following are met:

24 (i) All materials are subject to review and acceptance or
25 rejection by the charitable organization or religious
26 organization.

27 (ii) All grants are submitted to the grantor by the

1 charitable organization or religious organization.

2 (iii) The person does not directly solicit any donors.

3 (iv) The person's compensation is not directly or indirectly
4 based or computed on the amount of money the person raises or is
5 expected to raise.

6 (i) "Solicit" and "solicitation" mean the following:

7 (i) A direct or indirect request for a contribution based on
8 the representation that the contribution will or may be used for
9 a charitable purpose or to benefit a charitable organization,
10 whether or not the person making the solicitation receives a
11 contribution. The term includes any of the following methods of
12 securing contributions:

13 (A) An oral or written request.

14 (B) Distributing, circulating, mailing, posting, or
15 publishing a handbill, written advertisement, or other
16 publication that directly or by implication seeks to obtain a
17 contribution.

18 (C) An announcement to the news media, or by radio,
19 television, telephone, telegraph, facsimile, electronic mail, or
20 any other communication device, or on the internet, concerning an
21 appeal or campaign for a charitable organization or purpose.

22 (D) The sale, attempted sale, or offer to sell an
23 advertisement, advertising space, a book, a coupon, a magazine, a
24 membership, merchandise, a subscription, a ticket, or other item
25 in connection with a request for a charitable organization or
26 purpose.

27 (E) A receptacle for contributions, such as honor boxes,

1 vending machines, wishing wells, or contribution boxes, where a
2 charitable purpose is used, referred to, or implied as an
3 inducement to make a contribution or purchase.

4 (ii) Receiving contributions that are solicited from the
5 public by a person other than the charitable organization and
6 transferred to that charitable organization.

7 (iii) Receiving money from a community chest, united fund, or
8 similar organization or from a combined solicitation by 2 or more
9 charitable organizations.

10 (j) ~~(d)~~ "Soliciting material" means printed or similar
11 material, including but not limited to labels, posters,
12 television scripts, radio scripts, or **other text or** recordings
13 used in soliciting funds from the public.

14 (k) ~~(e)~~ "Solicitor" means a person who solicits on behalf
15 of a charitable organization.

16 ~~(f) "Professional fund raiser" means a person who for~~
17 ~~compensation or other consideration plans, conducts, manages, or~~
18 ~~carries on a drive or campaign of soliciting contributions for or~~
19 ~~on behalf of a charitable organization, religious organization,~~
20 ~~or any other person; or who engages in the business of or holds~~
21 ~~himself out as independently engaged in the business of~~
22 ~~soliciting contributions for such purposes. A bona fide officer~~
23 ~~or employee of a charitable organization is not a professional~~
24 ~~fund raiser unless his salary or other compensation is computed~~
25 ~~on the basis of funds to be raised or actually raised.~~

26 ~~—— (g) "Professional solicitor" means a person who is employed~~
27 ~~or retained for compensation by a professional fund raiser to~~

1 ~~solicit contributions for charitable purposes.~~

2 ~~—— (h) "Prohibited transaction" is that dealing, activity,~~
 3 ~~conduct, administration, or management of the charitable~~
 4 ~~organization or by any of its officers, trustees, personnel, or~~
 5 ~~related persons which may be prohibited as constituting activity~~
 6 ~~contrary to proper administration of the charitable organization~~
 7 ~~or conduct of a fund raising campaign or solicitation by a~~
 8 ~~professional fund raiser or solicitor.~~

9 (l) "Vendor" means a person other than a charitable
 10 organization who conducts charitable sales promotions or
 11 solicitation campaigns through vending machines, honor boxes,
 12 novelty machines, or similar devices, that represents that it
 13 benefits a charitable organization or a charitable purpose
 14 through a portion of the proceeds, a fixed dollar amount, or any
 15 other manner.

16 Sec. 3. (1) ~~Before a solicitation, a~~ A charitable
 17 organization ~~which~~ that is not ~~an~~ exempt ~~organization~~ and
 18 ~~which is not described in~~ from registration and reporting
 19 pursuant to section 13 ~~, which~~ and that solicits or intends to
 20 solicit or receives or intends to receive contributions from
 21 persons by any means ~~whatsoever,~~ shall ~~file~~ have not less
 22 than 2 directors, trustees, or members and shall register with
 23 the attorney general upon forms prescribed by ~~him,~~ an
 24 application for a license. ~~It~~ the attorney general, together
 25 with all necessary information. The registration shall include
 26 the following information:

27 (a) The name of the organization and ~~the~~ any name ~~under~~

1 ~~which it intends~~ **used by that organization** to solicit
2 contributions.

3 (b) The ~~principal~~ **address and telephone number** of the
4 **principal office of the** organization and the address of any
5 office in this state. If the organization does not maintain a
6 principal office, the name, ~~and~~ **address, and telephone number**
7 of the person having custody of its financial records.

8 ~~(c) The names and addresses of the officers, directors,~~
9 ~~trustees, chief executive officer, and state agent.~~

10 (c) ~~(d)~~ Where and when the organization was legally
11 established ~~,~~ **and** the form of its organization. ~~,~~ ~~and its tax~~
12 ~~exempt status.~~

13 (d) **The organization's federal tax exempt status and, with**
14 **its initial application, a copy of its internal revenue service**
15 **determination letter.**

16 (e) ~~The~~ **A statement of the organization's purpose** ~~for~~
17 ~~which it is organized~~ and the purposes for which contributions
18 to be solicited will be used.

19 (f) ~~The fiscal year date of the organization~~ **Methods by**
20 **which solicitations will be made.**

21 (g) ~~Whether the organization is or has ever been enjoined~~
22 ~~from soliciting contributions~~ **The names and addresses of all**
23 **professional fund-raisers with whom the organization has**
24 **contracted.**

25 (h) ~~All methods by which solicitations will be made~~ **A list**
26 **of the names and addresses of the organization's board of**
27 **directors, officers, and trustees.**

1 ~~(i) Copies of contracts between charitable organizations and~~
2 ~~professional fund raisers relating to financial compensation or~~
3 ~~profit to be derived by the professional fund raisers. When the~~
4 ~~contract is executed after filing of application statement, a~~
5 ~~copy shall be filed within 10 days of the date of execution.~~

6 ~~(j) Other information as required by rule.~~

7 (i) Whether the organization or any of its officers,
8 directors, or principals is, or has ever been, enjoined, fined,
9 convicted, or subject to any other sanction or penalty as a
10 result of soliciting contributions in any state or country, or
11 whether such proceedings are pending.

12 (j) Whether an officer, director, or employee of the
13 charitable organization owns a 10% or greater interest in a
14 professional fund-raiser, or is an agent or contractor for a
15 professional fund-raiser, during a period of time when the
16 professional fund-raiser is under contract with the charitable
17 organization to solicit funds.

18 (2) The charitable organization shall provide the following
19 information with its registration:

20 (a) Unless the charitable organization has not completed its
21 first accounting period, a copy of its fully and properly
22 completed internal revenue service form 990, 990-EZ, or 990-PF
23 for the immediately preceding tax year, or successor forms,
24 including all schedules, attachments, and exhibits filed with the
25 internal revenue service, except the schedule of contributors.
26 If a charitable organization does not file an internal revenue
27 service form 990, 990-EZ, or 990-PF, it shall prepare a pro forma

1 form 990, 990-EZ, or 990-PF return and file it with the
2 registration. A charitable organization shall complete a pro
3 forma return fully and properly pursuant to internal revenue
4 service instructions and shall include all required information,
5 attachments, schedules, and exhibits.

6 (b) Financial statements prepared according to generally
7 accepted accounting principles that have been audited by an
8 independent certified public accountant if the amount of
9 contributions received by the charitable organization during its
10 fiscal year reported on its federal tax return is \$500,000.00 or
11 more. If the amount of contributions as reported on the
12 charitable organization's internal revenue service form 990,
13 990-EZ, or 990-PF is \$200,000.00 or more, but less than
14 \$500,000.00, financial statements either reviewed or audited by
15 an independent certified public accountant shall be provided.
16 The amount of contributions received by the organization includes
17 direct and indirect public support as shown on the internal
18 revenue service form 990, 990-EZ, or 990-PF, less any restricted
19 grants from foundations included in the federal tax return, plus
20 net special fund-raising events revenue. The attorney general
21 may waive this requirement 1 time for a charitable organization.

22 (3) With its registration, or renewal of its registration as
23 provided in section 7, a charitable organization shall pay the
24 following registration fee:

25 (a) If gross receipts from all sources were less than
26 \$25,000.00 in the fiscal year reported on the registration, there
27 is no fee.

1 (b) If gross receipts from all sources were at least
2 \$25,000.00 but less than \$100,000.00 in the fiscal year reported
3 on the registration, \$20.00.

4 (c) If gross receipts from all sources were at least
5 \$100,000.00 but less than \$500,000.00 in the fiscal year reported
6 on the registration, \$50.00.

7 (d) If gross receipts from all sources were at least
8 \$500,000.00 but less than \$1,000,000.00 in the fiscal year
9 reported on the registration, \$100.00.

10 (e) If gross receipts from all sources were \$1,000,000.00 or
11 more in the fiscal year reported on the registration, \$200.00.

12 (f) A parent charitable organization registered under this
13 act that is the parent charitable organization of 1 or more
14 subsidiary charitable organizations required to be registered
15 under this act that do not meet the combined registration
16 requirements set forth in section 9 may pay a single registration
17 fee of \$300.00 for itself and all of its subsidiary charitable
18 organizations. As used in this subdivision, "parent charitable
19 organization" means an organization that meets the requirements
20 for consolidating financial statements under generally accepted
21 accounting principles.

22 Sec. 3a. (1) The charitable organizations and solicitations
23 fund is created within the state treasury.

24 (2) The state treasurer may receive money or other assets for
25 deposit into the charitable organizations and solicitations fund
26 from any of the following:

27 (a) Registration fees collected under this act.

1 (b) Late registration fees collected under this act.

2 (c) Fines and penalties assessed and collected under this
3 act.

4 (d) Any other source.

5 (3) The state treasurer shall direct the investment of the
6 charitable organizations and solicitations fund and shall credit
7 to the charitable organizations and solicitations fund interest
8 and earnings from charitable organizations and solicitations fund
9 investments.

10 (4) Money in the charitable organizations and solicitations
11 fund at the close of the fiscal year shall remain in the
12 charitable organizations and solicitations fund and shall not
13 lapse to the general fund.

14 (5) The department of attorney general shall expend money
15 from the charitable organizations and solicitations fund, upon
16 appropriation, only to directly administer and enforce this act.

17 Sec. 4. (1) ~~True~~ A true and correct ~~copies~~ copy of ~~the~~
18 ~~contracts of~~ a contract with a professional ~~fund raisers~~
19 ~~fund-raiser~~ shall be kept on file in the offices of the
20 charitable organization and the professional ~~fund-raiser~~
21 ~~fund-raiser~~ during the term of ~~employment~~ the contract and for
22 6 years ~~subsequent to the date~~ after the solicitation of
23 contributions provided for ~~therein~~ in the contract actually
24 terminates.

25 (2) Copies of a contract with a professional fund-raiser,
26 vendor, or commercial coventurer and all soliciting materials
27 shall be supplied to the attorney general upon request. ~~of the~~

1 ~~attorney general.~~

2 (3) A charitable organization shall retain in its records a
3 copy of the registration of any professional fund-raiser with
4 which it has contracted to perform services as a professional
5 fund-raiser for any campaign conducted in this state for a period
6 of 3 years after the campaign has ended.

7 Sec. 5. (1) ~~An application~~ The attorney general shall
8 review a registration of a charitable organization or
9 professional fund-raiser that is submitted in proper form ~~and~~
10 ~~supported by material information~~ together with the information
11 and registration fee required ~~shall be examined by the attorney~~
12 ~~general~~ under this act. ~~If the application and supporting~~
13 ~~material conforms to the requirements of~~ A charitable
14 organization's or professional fund-raiser's registration is
15 effective immediately upon receipt by the attorney general of the
16 registration, information, and fees required under this act, ~~and~~
17 ~~the rules, the attorney general shall issue a license to the~~
18 ~~charitable organization within 30 days, except where~~ unless the
19 charitable organization or professional fund-raiser has
20 ~~materially misrepresented~~ made a misrepresentation or omitted
21 ~~information~~ required ~~or~~ information, the charitable
22 organization or professional fund-raiser has ~~acted~~ violated or
23 is ~~acting in violation of~~ violating this act or rules
24 promulgated ~~hereunder~~ under this act, or an officer, director,
25 or principal of the professional fund-raiser has violated section
26 17(2)(e). The attorney general shall notify the charitable
27 organization or professional fund-raiser of any omissions or

1 deficiencies in its registration or renewal of registration
2 within 30 days after receipt.

3 ~~(2) The license shall be without charge and issued to the~~
4 ~~charitable organization, its agents and representatives for the~~
5 ~~purpose of soliciting and receiving contributions and donations~~
6 ~~or to sell memberships or otherwise raise moneys from the public~~
7 ~~for the specified charitable purpose.~~

8 (2) ~~(3) A license issued to a professional fund raiser,~~
9 ~~professional solicitor, or a charitable organization, its agents~~
10 ~~and representatives may be suspended or revoked by the~~ The
11 attorney general may suspend or rescind the registration of a
12 charitable organization or professional fund-raiser or an agent
13 or representative of a charitable organization or professional
14 fund-raiser for violation of this act, ~~or rules promulgated~~
15 ~~hereunder,~~ after reasonable notice and opportunity ~~to be heard~~
16 for a hearing.

17 (3) The attorney general may suspend on an emergency basis,
18 without notice or hearing, ~~any license issued to a professional~~
19 ~~fund raiser, professional solicitor, or a charitable organization~~
20 ~~when~~ the registration of a charitable organization or
21 professional fund-raiser if the attorney general specifies in
22 ~~the~~ a notice of emergency suspension the reasons and grounds
23 indicating a violation of this act or ~~any~~ a rule ~~which~~
24 promulgated under this act that constitutes the emergency. ~~The~~
25 notice shall set forth that within **Within** 48 hours, at a
26 designated time, **date**, and place, **the attorney general shall hold**
27 a hearing ~~shall be held~~ on whether the ~~license~~ **suspension**

1 should ~~be permanently suspended or revoked~~ continue. ~~The~~
2 ~~professional fund raiser, professional solicitor, or charitable~~
3 ~~organization may show compliance with the requirements of this~~
4 ~~act or the rules and shall have the burden of adducing the~~
5 ~~evidence.~~

6 (4) All of the following apply to a notice given or a hearing
7 held under this section:

8 (a) The administrative procedures act of 1969, 1969 PA 306,
9 MCL 24.201 to 24.328, applies to the notice and hearing.

10 (b) At the hearing, the charitable organization or
11 professional fund-raiser shall have a reasonable opportunity to
12 rebut the attorney general's allegations and to produce evidence
13 to show compliance with this act or the rules promulgated under
14 this act.

15 (c) At a hearing held under subsection (3), the attorney
16 general has the burden of proof in establishing noncompliance
17 with this act or a rule promulgated under this act and that the
18 public health, safety, or welfare requires the emergency
19 suspension.

20 Sec. 6. A charitable organization, **professional**
21 **fund-raiser, or vendor** shall notify the attorney general within
22 30 days of any change in the information required to be furnished
23 under ~~section 3~~ **this act**. ~~A report shall be filed and signed~~
24 ~~by the president or other authorized officer and the chief fiscal~~
25 ~~officer of the organization.~~

26 Sec. 7. (1) ~~The license of a charitable organization shall~~
27 ~~expire 1 year after the date of issuance. A charitable~~

1 ~~organization desiring renewal of a license shall file with the~~
2 ~~attorney general a renewal application and supporting information~~
3 ~~on or before 30 days prior to the expiration date.~~ A registered
4 charitable organization shall report on its previous fiscal year
5 and renew its registration within 6 months after the close of its
6 fiscal year. A renewal registration and report shall be on a
7 form prescribed by the attorney general and shall include the
8 information and any fee required under this act.

9 (2) A charitable organization's registration shall expire if
10 the charitable organization's renewal registration and report is
11 not received within 18 months after the end of the fiscal year
12 reported on the organization's most recently filed registration
13 form unless the attorney general has extended the registration
14 under subsection (4).

15 (3) An organization previously registered under this act that
16 is no longer subject to the registration requirements of this act
17 shall file a financial report within 6 months of the close of the
18 most recently completed fiscal year in which the organization
19 solicited in this state unless the attorney general has extended
20 the period of time for filing the report pursuant to subsection
21 (4). The report shall include the financial information that
22 would be required to renew the organization's registration and
23 any reports on solicitation campaigns conducted by the charitable
24 organization through a professional fund-raiser as required under
25 section 17(5).

26 (4) If a charitable organization receives an extension of
27 time to file the charitable organization's internal revenue

1 service form 990, 990-EZ, or 990-PF, the attorney general shall
2 extend the charitable organization's time for filing the report
3 required under subsection (3) or its registration for a similar
4 period of time.

5 Sec. 8. (1) ~~Documents required to be filed with the~~
6 ~~attorney general shall be open to public inspection. Persons~~
7 ~~subject to this act shall maintain accurate and detailed books~~
8 ~~and records at the office of the resident agent or the principal~~
9 ~~office which shall be open to inspection at all reasonable times~~
10 ~~by the attorney general or his authorized representative. A~~
11 registration, annual report, or other information required to be
12 provided to or filed with the attorney general under this act is
13 a public record subject to the freedom of information act, 1976
14 PA 442, MCL 15.231 to 15.246. However, a schedule of
15 contributors or other list of donors to a charitable organization
16 provided to or filed with the attorney general is exempt from
17 disclosure under section 13 of that act, MCL 15.243.

18 (2) A charitable organization, professional fund-raiser, or
19 vendor shall maintain, for not less than 3 years from the date
20 prepared, accurate and detailed records to provide the
21 information required under this act. All records are open to
22 inspection at all reasonable times by the attorney general and
23 copies of the records shall be provided to the attorney general
24 upon request.

25 (3) A charitable organization or person, including a vendor,
26 commercial coventurer, professional fund-raiser, or person
27 described in section 23a, that solicits contributions, raises

1 funds, or conducts sales promotions for a charitable purpose,
2 shall maintain at the place designated in its registration or, if
3 not a charitable organization, at its principal place of
4 business, the original records or true copies of the records
5 pertaining to all money or other property collected from
6 residents of this state and to the disbursement of that money or
7 property. The records shall be preserved for not less than 3
8 years from the date prepared.

9 (4) A file in the office of the attorney general regarding a
10 closed enforcement action or a settlement in a civil case under
11 this act is open to public inspection and copying. A requirement
12 of confidentiality or sealing of records as a condition of an
13 assurance of discontinuance or settlement of an enforcement or
14 civil action under this act is prohibited unless it is limited to
15 protecting information about a donor or other private individual
16 that is exempt from disclosure under section 13 of the freedom of
17 information act, 1976 PA 442, MCL 15.243.

18 Sec. 9. If a local, county, or area division of a
19 charitable organization is directly supervised and controlled by
20 a superior or parent organization ~~—, which—~~ **that** is incorporated
21 ~~—, or~~ **or** qualified to do business **in this state**, or **is** doing
22 business ~~—within—~~ **in** this state, the local, county, or area
23 division **of that charitable organization** is not required to
24 register under section 3 if the superior or parent organization
25 ~~—files an application statement—~~ **registers** on behalf of the
26 local, county, or area division in addition to or as part of ~~—its~~
27 ~~application statement.~~ ~~When an application statement has been~~

1 **the superior or parent organization's registration. If a**
 2 **registration is** filed by a superior or parent organization, it
 3 shall file the annual report required under ~~sections 14 and 16~~
 4 **this act** on behalf of the local, county, or area division in
 5 ~~such~~ **the** detail ~~as~~ required by the ~~rules~~ **attorney general.**

6 Sec. 10. The attorney general may promulgate rules
 7 necessary for the administration of this act ~~in accordance with~~
 8 ~~and subject to Act No. 306 of the Public Acts of 1969, as~~
 9 ~~amended, being sections 24.201 to 24.315 of the Michigan Compiled~~
 10 ~~Laws~~ **under the administrative procedures act of 1969, 1969**
 11 **PA 306, MCL 24.201 to 24.328.** Emergency rules may not be
 12 promulgated. ~~pursuant to this act.~~

13 Sec. 11. ~~(1) An application for a license shall not be~~
 14 ~~accepted from a charitable organization located in another state~~
 15 ~~or country unless it first designates a resident agent in this~~
 16 ~~state for the acceptance of process issued by any court.~~

17 (1) ~~(2)~~ A charitable organization, person, **vendor, or**
 18 professional ~~fund raiser, or professional solicitor, soliciting~~
 19 ~~contributions in this state but not maintaining an office within~~
 20 ~~the state shall be~~ **fund-raiser subject to this act is** subject to
 21 service of process as follows:

22 (a) By service on its ~~registered~~ **resident** agent within
 23 ~~the~~ **this** state, or if there is no ~~registered~~ **resident** agent,
 24 then upon the person ~~who has been~~ designated in the
 25 ~~application statement~~ **registration** as having custody of books
 26 and records within this state, **or upon an officer of the**
 27 **organization at its principal office.** ~~When~~ If service is

1 effected upon the person designated in the registration,
2 ~~statement~~ a copy of the process shall be mailed to the
3 charitable organization, **person, vendor, or professional**
4 **fund-raiser** at its last known address.

5 (b) ~~When a charitable organization has solicited~~
6 ~~contributions in this state but does not maintain an office~~
7 ~~within the state, have a registered agent within this state and~~
8 ~~have a designated person having custody of its books and records~~
9 ~~within the state, or when a registered agent or person having~~
10 ~~custody of its books and records within the state cannot be found~~
11 ~~as shown by the return of the sheriff of the county in which the~~
12 ~~registered agent or person having custody of books and records~~
13 ~~has been represented by the charitable organization as~~
14 ~~maintaining an office,~~ **If service cannot be effected as provided**
15 **by this section,** service may be made as otherwise provided by law
16 or court rules.

17 (2) ~~(3)~~ Solicitation of a contribution within this state by
18 any means ~~—~~ is the agreement of the charitable organization,
19 person, **vendor, or** professional ~~fund raiser, or professional~~
20 ~~solicitor,~~ **fund-raiser** that any **service of** process ~~against it~~
21 ~~or him which is~~ served ~~in accordance with~~ **under** this section
22 is of the same legal force and effect as if served personally.

23 Sec. 12. Upon **the** initial filing of ~~an application~~
24 ~~statement pursuant to~~ **a registration under** section 3, the
25 attorney general may suspend for a reasonable, specifically
26 designated time the filing of reports otherwise required ~~by~~
27 ~~sections 14 and 15~~ **under this act** as to a particular charitable

1 ~~corporation, trust, or~~ organization, ~~incorporated or~~
2 ~~established for charitable purposes,~~ upon written application
3 filed with the attorney general, and after the attorney general
4 has determined and acquiesced by a written statement that the
5 ~~interest of the~~ public **interest** will not be prejudiced.
6 ~~thereby.~~

7 Sec. 13. The ~~licensing and financial statement~~
8 **registration and reporting** requirements of this act do not apply
9 to any of the following:

10 (a) A person who requests a contribution for the relief or
11 benefit of an individual, specified by name at the time of the
12 solicitation, if the contributions collected are turned over to
13 the named beneficiary after deducting reasonable expenses for
14 costs of solicitation, if any, and if all ~~fun-raising~~
15 **fund-raising** functions are carried on by persons who are unpaid,
16 directly or indirectly, for their services.

17 (b) A ~~person who~~ **charitable organization that** does not
18 intend to solicit and receive and does not actually receive
19 contributions in excess of ~~\$8,000.00~~ **\$25,000.00** during ~~any~~
20 ~~12-month period if all of its fund raising functions are carried~~
21 ~~on by persons who are unpaid for their services and if the~~
22 ~~organization makes available to its members and the public a~~
23 ~~financial statement of its activities for the most recent fiscal~~
24 ~~year. If the gross contributions received during any 12-month~~
25 ~~period exceed \$8,000.00, the person shall file an application for~~
26 ~~license with required supporting information as provided in~~
27 ~~section 3 within 30 days after the date it has received total~~

1 ~~contributions in excess of \$8,000.00.~~ **its fiscal year. A**
2 **charitable organization shall register as required under this act**
3 **within 30 days after the date the charitable organization**
4 **receives total contributions of more than \$25,000.00 during its**
5 **fiscal year. This subdivision only applies if all of the**
6 **charitable organization's fund-raising functions are carried on**
7 **by persons who are not paid for their services.**

8 (c) An organization that does not invite the general public
9 to become a member of the organization and confines solicitation
10 activities to solicitation drives solely among its members, ~~and~~
11 ~~the members'~~ **directors, trustees, or their** immediate families.
12 ~~, if the drives are not held more frequently than quarterly.~~
13 **"Immediate family" for purposes of this subdivision means the**
14 **grandparents, parents, spouse, brothers, sisters, children, and**
15 **grandchildren of a member, director, or trustee.**

16 (d) ~~An educational institution certified by the state board~~
17 ~~of education.~~ **A private foundation as that term is defined in**
18 **section 509(a) of the internal revenue code of 1986 that did not**
19 **receive contributions from more than 25 persons during its most**
20 **recent fiscal year.**

21 (e) A veterans' organization ~~incorporated under federal law~~
22 **chartered by congress, its duly authorized service foundation,**
23 **and a professional fund-raiser who fund-raises solely for that**
24 **service foundation.**

25 (f) An organization that receives funds from a charitable
26 organization ~~licensed~~ **registered** under this act that does not
27 solicit or intend to solicit or receive or intend to receive

1 contributions from persons other than ~~a~~ **the registered**
2 charitable organization, if the organization makes available to
3 its members and the public a financial statement of its
4 activities for ~~the~~ **its** most recent fiscal year.

5 (g) A licensed hospital, hospital based foundation, ~~and~~ **or**
6 hospital auxiliary that ~~solicit~~ **solicits** funds solely for 1 or
7 more licensed hospitals.

8 (h) ~~A nonprofit service organization that is exempt from~~
9 ~~taxation pursuant to a provision of the United States internal~~
10 ~~revenue code other than section 501(c)(3), whose principal~~
11 ~~purpose is not charitable, but solicits from time to time funds~~
12 ~~for a charitable purpose by members of the organization who are~~
13 ~~not paid for the solicitation. The funds shall be wholly used~~
14 ~~for the charitable purposes for which they were solicited, and~~
15 ~~the organization shall file with the attorney general a federal~~
16 ~~form 990 or 990 AR. A booster group or a parent-teacher~~
17 **organization that is recognized by the public school, nonpublic**
18 **school, or school district that it is organized to support.**

19 (i) ~~A nonprofit corporation whose stock is wholly owned by a~~
20 ~~religious or fraternal society that owns and operates facilities~~
21 ~~for the aged and chronically ill in which no part of the net~~
22 ~~income from the operation of the corporation inures to the~~
23 ~~benefit of a person other than the residents. A public school,~~
24 **nonpublic school, preschool, or institution of higher education**
25 **organized, incorporated, or formed under the laws of this state.**

26 ~~(j) Charitable organizations licensed by the department of~~
27 ~~social services that serve children and families.~~

1 (j) ~~(k)~~ A person registered under and complying with the
2 requirements of the public safety solicitation act, 1992 PA 298,
3 MCL 14.301 to 14.327.

4 Sec. 16. The attorney general may **conditionally** continue
5 ~~under conditions~~ the ~~license~~ **registration** of ~~an a~~
6 **charitable** organization, professional ~~fund raiser, or~~
7 ~~professional solicitor which~~ **fund-raiser, or vendor that** fails
8 to comply with this act ~~including failure to comply with the~~
9 ~~rules regarding prohibited transactions, standards of~~
10 ~~solicitation, conduct, or administration~~ **or rules promulgated**
11 **under this act.**

12 Sec. 17. (1) ~~A person shall not act as a professional fund~~
13 ~~raiser for a charitable organization or charitable purpose before~~
14 ~~he has filed an application for a license with the attorney~~
15 ~~general or after the expiration or cancellation of a license or~~
16 ~~renewal thereof. Applications for license shall be in writing,~~
17 ~~under oath, in the form prescribed by the attorney general. The~~
18 ~~applicant when making application, shall file with and have~~
19 ~~approved by the attorney general a bond in which the applicant~~
20 ~~shall be the principal obligor, in the sum of \$10,000.00. The~~
21 ~~bond shall run to the people of the state and to any person~~
22 ~~including charitable organizations who may have a cause of action~~
23 ~~against the obligor of the bond for any malfeasance or~~
24 ~~misfeasance in the conduct of the solicitation. The aggregate~~
25 ~~limit of liability of the surety to the state and to all the~~
26 ~~persons shall not exceed the sum of the bond. Application for~~
27 ~~renewal of licenses when effected shall be for a period of 1~~

1 ~~year, or a part thereof, expiring on June 30, and may be renewed~~
2 ~~for additional 1 year periods upon written application, under~~
3 ~~oath, in the form prescribed by the attorney general and the~~
4 ~~filing of the bond.~~ A professional fund-raiser shall not solicit
5 or receive donations for a charitable purpose or on behalf of a
6 charitable organization or religious organization, before
7 registering with the attorney general, or after the expiration,
8 suspension, revocation, or denial of a registration.

9 (2) ~~A person shall not act as a professional solicitor in~~
10 ~~the employ of a professional fund raiser required to be licensed~~
11 ~~before he has registered with the attorney general or after the~~
12 ~~expiration or cancellation of registration. Application for The~~
13 ~~registration or reregistration of a professional fund-raiser~~
14 shall be in writing ~~, under oath, in the~~ on a form prescribed
15 by the attorney general ~~.~~ Registration or reregistration when
16 effected shall be for a period of 1 year, or a part thereof,
17 expiring on June 30, and may be renewed upon written application,
18 under oath, in the form prescribed by the attorney general for
19 additional 1 year periods. and shall be accompanied by a payment
20 of a \$200.00 fee. Information provided to the attorney general
21 on the registration form shall include all of the following:

22 (a) All names currently used by the professional fund-raiser
23 and any names previously used by the professional fund-raiser.

24 (b) The address and telephone number of the principal office
25 of the professional fund-raiser and of each office it maintains
26 in this state.

27 (c) Where and when the professional fund-raiser was legally

1 established and the form of its organization. If a professional
2 fund-raiser is incorporated, the registration form shall include
3 the name and business or home address of all officers and
4 directors. If a professional fund-raiser is a sole
5 proprietorship, limited liability company, or partnership, the
6 registration form shall include the name and business or home
7 address of the owner, all members and managers, or all partners,
8 respectively.

9 (d) The name, address, and telephone number of anyone with
10 direct responsibility for solicitation activity in this state.

11 (e) Whether the professional fund-raiser or any of its
12 officers, directors, or principals is, or has ever been,
13 enjoined, fined, convicted, or subject to any other sanction or
14 penalty as a result of soliciting contributions in any state or
15 country.

16 (f) A concise description of the principal methods by which
17 the professional fund-raiser is, or will be, soliciting
18 contributions.

19 (g) The name, address, and telephone number of any charitable
20 organization for which the professional fund-raiser has agreed to
21 solicit funds or provide services as a professional fund-raiser
22 on any campaign in this state.

23 (h) A complete copy of any agreement between the professional
24 fund-raiser and a charitable organization.

25 (i) A complete copy of any subcontract agreement between the
26 professional fund-raiser and a person that will act as a
27 professional fund-raiser on behalf of a charitable organization,

1 religious organization, or any other person soliciting for a
2 charitable purpose.

3 (j) Whether an officer, director, or employee of a charitable
4 organization owns a 10% or greater interest in the professional
5 fund-raiser, or is an agent or contractor for the professional
6 fund-raiser, during a period of time when the professional
7 fund-raiser is under contract with that charitable organization
8 to solicit funds, and whether that information has been fully
9 disclosed to the board of directors or other governing body of
10 the charitable organization.

11 (3) Except as otherwise provided in subsection (4), a
12 professional fund-raiser that receives, has custody of, or has
13 access to funds solicited in this state for a charitable
14 organization shall include with a registration a \$25,000.00 bond
15 that meets all of the following:

16 (a) The professional fund-raiser is the principal obligor.

17 (b) The bond runs to the benefit of the people of this state
18 and to any person, including a charitable organization, that may
19 have a cause of action against the professional fund-raiser as a
20 result of the professional fund-raiser's conduct of any activity
21 subject to this act.

22 (c) The bond is obtained and submitted in the form prescribed
23 by the attorney general.

24 (d) A company authorized to engage in insurance activity in
25 this state issues the bond.

26 (e) The term of the bond does not expire until at least 1
27 year after the professional fund-raiser's registration expires.

1 (4) The attorney general may accept an irrevocable letter of
2 credit in lieu of a bond required under subsection (3) if the
3 irrevocable letter of credit is issued by a financial institution
4 that is authorized to transact business in this state and the
5 irrevocable letter of credit is insured by the federal deposit
6 insurance corporation, the federal savings and loan insurance
7 corporation, or the national credit union association. An
8 irrevocable letter of credit shall be submitted in the form
9 prescribed by the attorney general and shall expire not less than
10 1 year after the professional fund-raiser's registration
11 expires.

12 (5) Within 90 days after a solicitation campaign is
13 completed, or on the anniversary of the commencement of a
14 solicitation campaign lasting more than 1 year, a professional
15 fund-raiser that solicited contributions in this state on behalf
16 of a charitable organization shall file with the attorney general
17 a financial report for the campaign, including gross revenue and
18 an itemization of all expenses incurred on behalf of the
19 charitable organization. The report shall be submitted on a form
20 prescribed by the attorney general. An authorized official of
21 the professional fund-raiser and an authorized official of the
22 charitable organization shall sign the report, and each shall
23 certify, under oath, that the report is true to the best of his
24 or her knowledge.

25 (6) A professional fund-raiser's registration is effective
26 immediately upon receipt by the attorney general of the
27 information and fees required under this act. A registration

1 expires on the last day of the twelfth full calendar month after
2 the registration is effective. A professional fund-raiser's
3 registration is renewable by filing a renewal registration and
4 paying a \$200.00 fee.

5 Sec. 18. (1) ~~A person shall not use for the purpose of~~
6 ~~soliciting contributions the name of another person, except that~~
7 ~~of an officer, director, or trustee of the charitable~~
8 ~~organization by or for which contributions are solicited, without~~
9 ~~the consent of such other person.~~ A charitable organization,
10 professional fund-raiser, commercial coventurer, vendor, person
11 described in section 23a, or an employee or agent of a charitable
12 organization, professional fund-raiser, commercial coventurer,
13 vendor, or person described in section 23a shall not do any of
14 the following:

15 (a) Engage in a method, act, or practice in violation of this
16 act or a rule promulgated under this act, any restriction,
17 condition, or limitation placed on a registration, or a final
18 order or cease and desist order.

19 (b) Represent or imply that a person soliciting contributions
20 or other funds for a charitable organization has a sponsorship,
21 approval, status, affiliation, or other connection with a
22 charitable organization or charitable purpose that the person
23 does not have.

24 (c) Represent or imply that a contribution is for or on
25 behalf of a charitable organization, or using an emblem, device,
26 or printed material belonging to or associated with a charitable
27 organization, without first obtaining written authorization from

1 that charitable organization.

2 (d) Use a name, symbol, or statement so closely related or
3 similar to a name, symbol, or statement used by another
4 charitable organization or governmental agency that use of that
5 name, symbol, or statement would tend to confuse or mislead a
6 solicited person.

7 (e) Use a bogus, fictitious, or nonexistent organization,
8 address, or telephone number in any solicitation.

9 (f) Make a misrepresentation to a person by any manner that
10 would lead that person to believe that another person, on whose
11 behalf a solicitation effort is conducted, is a charitable
12 organization or that the proceeds of a solicitation effort are
13 for charitable purposes.

14 (g) Make a misrepresentation to a person by any manner that
15 would lead that person to believe that another person sponsors,
16 endorses, or approves a solicitation effort if that other person
17 has not given written consent to the use of his or her name for
18 that purpose.

19 (h) Make a misrepresentation to a person by any manner that
20 would lead that person to believe that registration under this
21 act constitutes endorsement or approval by this state or a
22 department or agency of this state.

23 (i) Represent or imply that the amount or percentage of a
24 contribution that a charitable organization will receive for a
25 charitable program after costs of solicitation are paid is
26 greater than the amount or percentage of a contribution the
27 charitable organization will actually receive.

1 (j) Divert or misdirect contributions to a purpose or
2 organization other than that for which the funds were contributed
3 or solicited.

4 (k) Falsely represent or imply that a donor will receive
5 special benefits or treatment or that failure to make a
6 contribution will result in unfavorable treatment.

7 (l) Make a misrepresentation to a person by any manner that
8 would lead that person to believe that a contribution is eligible
9 for tax advantages unless that contribution qualifies for those
10 tax advantages and all disclosures required by law are made.

11 (m) Falsely represent or imply that a person being solicited
12 or a family member or associate of a person being solicited has
13 previously made or agreed to make a contribution.

14 (n) Employ any device, scheme, or artifice to defraud or
15 obtain money or property from a person by means of a false,
16 deceptive, or misleading pretense, representation, or promise.

17 (o) Represent that funds solicited will be used for a
18 particular charitable purpose if those funds are not used for the
19 represented purpose.

20 (p) Solicit contributions, conduct a sales promotion, or
21 otherwise operate in this state as a charitable organization,
22 professional fund-raiser, or vendor unless the information
23 required under this act is filed with the attorney general as
24 required under this act.

25 (q) Aid, abet, or otherwise permit a person to solicit
26 contributions or conduct a sales promotion in this state unless
27 the person soliciting contributions or conducting the sales

1 promotion has complied with the requirements of this act.

2 (r) Fail to file the information and reports required under
3 this act or fail to provide any information requested by the
4 attorney general in a timely manner.

5 (s) Fail to comply with a person's request to remove, or not
6 to share, the person's personal information, including, but not
7 limited to, the person's name, address, telephone number, or
8 financial account information, from any list utilized by a
9 charitable organization or professional fund-raiser for
10 solicitation purposes; or selling, leasing, licensing, sharing,
11 or otherwise allowing any third-party access to any of the
12 person's personal information, except as specifically required by
13 law or court order.

14 (t) Solicit or receive a contribution or conduct a charitable
15 sales promotion for, or sell memberships in this state in, a
16 charitable organization subject to this act if that charitable
17 organization is not registered under this act.

18 (u) Submit any of the following to the attorney general in
19 the course of registration:

20 (i) A document or statement that purports to be signed,
21 certified, attested to, approved by, or endorsed by a person if
22 that signature, certification, attestation, approval, or
23 endorsement is not genuine or was not given by that person.

24 (ii) A document containing any materially false statement.

25 (v) Violate the terms of an assurance of discontinuance or
26 similar agreement accepted by the attorney general and filed with
27 the court under this act.

1 (w) For a charitable organization, fail to verify that all
2 professional fund-raisers with which the organization has
3 contracted for fund-raising services are currently registered
4 under this act.

5 (x) For a professional fund-raiser, fail to provide
6 verification of current registration status and inform any
7 charitable organization with which it has contracted for
8 fund-raising services of any changes affecting its registration
9 or bonding, in writing, within 14 days of the change.

10 (y) Submit financial statements, including IRS form 990 and
11 any other financial report required under this act, that contain
12 any misrepresentation with respect to the organization's
13 activities, operations, or use of charitable assets.

14 ~~(2) A person has used the name of another person for the~~
15 ~~purpose of soliciting contributions if the latter person's name~~
16 ~~is listed on stationery, an advertisement, brochure, or in~~
17 ~~correspondence by which a contribution is solicited by or on~~
18 ~~behalf of a charitable organization or the name is listed or~~
19 ~~referred to in connection with a request for a contribution as~~
20 ~~one who has contributed to, sponsored, or indorsed the~~
21 ~~organization or its activities.~~

22 (2) ~~-(3)-~~ This section does not prevent the publication of
23 names of contributors without their written consent in an annual
24 or other periodic report issued by a charitable organization for
25 the purpose of reporting on its operations and affairs to its
26 membership or for the purpose of reporting contributions to
27 contributors.

1 ~~(4) A charitable organization or professional fund raiser~~
2 ~~soliciting contributions shall not use a name, symbol, or~~
3 ~~statement so closely related or similar to that used by another~~
4 ~~charitable organization or governmental agency that would tend to~~
5 ~~confuse or mislead the public.~~

6 (3) ~~—(5)—~~ A charitable organization, whether **or not** exempt
7 ~~or not~~ from this act, shall supply to each solicitor and each
8 solicitor shall have in **his or her** immediate possession
9 identification ~~which~~ **that** sets forth the name of the solicitor
10 and the name of the charitable organization on whose behalf the
11 solicitation is conducted.

12 **Sec. 19. (1) A vendor shall not conduct a charitable sales**
13 **promotion or solicitation campaign in which it uses the name of a**
14 **charitable organization that is not registered in this state.**

15 (2) A vendor shall prominently display the following
16 information on each vending machine, honor box, novelty machine,
17 or similar device through which that vendor conducts a charitable
18 sales promotion or solicitation campaign:

19 (a) The name of the vendor and the fact that the vendor owns
20 the vending machine, honor box, novelty machine, or similar
21 device.

22 (b) The percentage of sales, if any, that a charitable
23 organization will receive.

24 (c) The amount that a charitable organization will receive
25 regardless of sales, if any.

26 **Sec. 19a. (1) Before making an oral request for a**
27 **contribution and contemporaneously with a written request for a**

1 contribution, the charitable organization, professional
2 fund-raiser, or vendor soliciting the contribution shall disclose
3 the name and location by city and state of each charitable
4 organization on behalf of which the solicitation is made. If a
5 solicitation is made by direct personal contact, the information
6 required under this section shall also be disclosed prominently
7 on any written document exhibited to the person solicited. If a
8 solicitation is made by radio, television, letter, telephone, or
9 any other means not involving personal contact, the information
10 required under this section shall be disclosed prominently in the
11 solicitation. The information required under this section shall
12 also be disclosed prominently on any invoices, bills, fulfillment
13 requests, letters, pamphlets, or brochures used to obtain payment
14 of a pledge or promise to make a contribution.

15 (2) In addition to the information required under subsection
16 (1), a professional fund-raiser that orally solicits
17 contributions in this state shall also disclose the professional
18 fund-raiser's name as filed with the attorney general and a
19 statement that the solicitation is being conducted by a
20 professional fund-raiser. The information required under this
21 subsection shall be provided in the same manner as the
22 information required under subsection (1).

23 Sec. 19b. (1) A person required to register under this act
24 is subject to a late fee under this section if any of the
25 following occur:

26 (a) A charitable organization fails to file a report on or
27 before the date its registration expires as provided in section

1 7(1) unless an extension has been granted under section 7(4).

2 (b) A professional fund-raiser fails to file a report as
3 required under section 17(5).

4 (c) A charitable organization or professional fund-raiser
5 fails to cure a defect in its registration or annual report
6 within 30 days after notice by the attorney general that a
7 correction or additional information is required.

8 (2) If a charitable organization or professional fund-raiser
9 is subject to a late fee for a violation of subsection (1)(a),
10 (b), or (c), and the failure to file or cure continues for more
11 than 7 days, the charitable organization shall pay a late fee to
12 the attorney general in the amount of \$1.00 per day for each day
13 the violation continues beyond 7 days, or an amount equal to 20%
14 of its registration fee under section 3, whichever is greater.

15 (3) The attorney general may waive a late fee under this
16 section if the late fee is the first late fee charged to a
17 charitable organization or professional fund-raiser under this
18 section.

19 Sec. 20. (1) The attorney general may, ~~institute in~~
20 ~~addition to any other action authorized by law, bring an action~~
21 ~~in any circuit court to enjoin preliminarily or permanently a~~
22 ~~charitable organization, professional fund raiser, solicitor, or~~
23 ~~other person who: (a) Engages in a method, act, or practice in~~
24 ~~violation of this act or any of the rules promulgated hereunder.~~
25 ~~(b) Employs or uses in a solicitation or collection of~~
26 ~~contributions for a charitable organization on behalf of any~~
27 ~~other person for a charitable purpose a device, scheme, or~~

1 ~~artifice to defraud, or for obtaining money or property by means~~
2 ~~of any false pretense, deception, representation, or promise. an~~
3 ~~act or practice prohibited under this act. After finding that a~~
4 ~~person has engaged in or is engaging in a prohibited act or~~
5 ~~practice, a court may enter any necessary order or judgment,~~
6 ~~including, but not limited to, an injunction, an order of~~
7 ~~restitution, or an award of reasonable attorney fees and costs.~~
8 ~~A court may award to this state a civil penalty of \$10,000.00 or~~
9 ~~less for each violation of this act. A court need not find~~
10 ~~irreparable harm to enter an injunction, but need only find a~~
11 ~~violation of this act or find that an injunction would promote~~
12 ~~the public interest.~~

13 (2) ~~In addition to any relief afforded under this section,~~
14 ~~the attorney general may exercise the authority to suspend or~~
15 ~~revoke a license issued pursuant to this act. A charitable~~
16 ~~organization, professional fund-raiser, or any other person who~~
17 ~~violates an injunction or other order entered under subsection~~
18 ~~(1) shall, in addition to any other remedy, pay to this state a~~
19 ~~civil penalty of not more than \$10,000.00 for each violation,~~
20 ~~which may be recovered in a civil action brought by the attorney~~
21 ~~general.~~

22 (3) ~~The attorney general may exercise the authority granted~~
23 ~~in this section against a charitable organization or person which~~
24 ~~or who operates under the guise or pretense of being an~~
25 ~~organization or person exempted by this act and is not in fact an~~
26 ~~organization or person entitled to such an exemption. In~~
27 ~~addition to any other action authorized by law, the attorney~~

1 general may issue a cease and desist order, issue a notice of
2 intended action, or take other action in the public interest.
3 The attorney general may accept an assurance of discontinuance of
4 any method, act, or practice in violation of this act from any
5 person alleged to be engaged in or to have been engaged in that
6 method, act, or practice. An assurance of discontinuance may
7 include a stipulation for the voluntary payment of the costs of
8 investigation, for an amount to be held in escrow pending the
9 outcome of an action or as restitution to an aggrieved person, or
10 for the voluntary payment to another person if in the public
11 interest. An assurance of discontinuance shall be in writing and
12 shall be filed with the circuit court for Ingham county. An
13 action resolved by an assurance of discontinuance may be reopened
14 by the attorney general at any time for enforcement by a court or
15 for further proceedings in the public interest. Evidence of a
16 violation of an assurance of discontinuance is prima facie
17 evidence of a violation of this act in any subsequent proceeding
18 brought by the attorney general.

19 (4) A person who has violated section 18 is subject to 1 or
20 more of the following penalties:

21 (a) Placement of a restriction or condition on the person's
22 registration.

23 (b) Denial, suspension, or revocation of a registration.

24 (c) A civil fine of not more than \$10,000.00 to be paid to
25 the attorney general.

26 (d) A requirement to take some type of affirmative action,
27 including the payment of restitution.

1 (5) The attorney general shall, before suspending or revoking
2 a registration, provide the person against whom the penalty is to
3 be imposed an opportunity for a hearing in accordance with the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328.

6 (6) A person who suffers a loss as a result of a violation of
7 this act may exercise any right or remedy created under section
8 11 of the Michigan consumer protection act, 1976 PA 331,
9 MCL 445.911.

10 Sec. 21. (1) The attorney general may investigate ~~the~~
11 ~~operations or conduct of charitable organizations, professional~~
12 ~~fund raisers, or professional solicitors subject to this act. He~~
13 ~~may require a person, corporation, institution, or association,~~
14 ~~and the officers, members, and employees and agents thereof, to~~
15 ~~appear at a named time and place in the county designated by the~~
16 ~~attorney general or where the person resides or is found, to give~~
17 ~~information under oath and to produce books, memoranda, papers,~~
18 ~~records, documents of title, evidence of assets, liabilities,~~
19 ~~receipts, or disbursements in the possession or control of the~~
20 ~~person ordered to appear.~~ a complaint from any person in
21 whatever manner the attorney general considers appropriate and
22 may investigate on his or her own initiative a charitable
23 organization, professional fund-raiser, vendor, commercial
24 coventurer, or person described in section 23a. The attorney
25 general may require a person or an officer, member, employee, or
26 agent of a person to appear at a time and place specified by the
27 attorney general to give information under oath and to produce

1 books, memoranda, papers, records, documents, or evidence of
2 assets, liabilities, receipts, or disbursements in the possession
3 of the person ordered to appear.

4 (2) When **requiring the attendance of a person**, the attorney
5 general ~~requires the attendance of a person, he~~ shall issue an
6 order setting forth the time when and the place where attendance
7 is required and shall ~~cause the same to be served~~ **serve the**
8 **order** upon the person in the manner provided for service of
9 process in civil cases at least 5 days before the date fixed for
10 attendance. The order shall have the same force and effect as a
11 subpoena and, upon application of the attorney general,
12 ~~obedience to~~ the order may be enforced by a court having
13 jurisdiction over the person ~~,~~ **or** the circuit court for the
14 county of Ingham ~~,~~ **or** for the county where the person receiving
15 ~~it~~ **the order** resides or is found, in the same manner as though
16 the notice were a subpoena. ~~In case of contumacy~~ **If a person**
17 **fails** or ~~refusal~~ **refuses** to obey the order issued by the
18 attorney general, the court may issue an order requiring the
19 person to appear before the court, ~~or~~ to produce documentary
20 evidence, ~~if so ordered,~~ or to give evidence ~~touching~~
21 **concerning** the matter in question. Failure to obey the order of
22 the court ~~shall be punished~~ **is punishable** by that court as ~~a~~
23 contempt. The investigation may be ~~made~~ **conducted** by ~~or~~
24 ~~before~~ an assistant attorney general **or other person** designated
25 ~~in writing~~ by the attorney general. ~~to conduct the~~
26 ~~investigation.~~ The attorney general or ~~the assistant attorney~~
27 ~~general acting in his behalf~~ **other designated person** may

1 administer the necessary oath or affirmation to witnesses.

2 (3) This act does not limit or restrict the powers or duties
3 of the attorney general that are authorized under any other
4 provision of law.

5 Sec. 22a. If an oral pledge or promise to make a
6 contribution is the result of a telephone or door-to-door
7 solicitation, that pledge or promise to make a contribution is
8 unenforceable.

9 Sec. 23. (1) A person who does any of the following is
10 guilty of a misdemeanor punishable by imprisonment for not more
11 than 6 months or a fine of not more than ~~-\$500.00, or~~
12 ~~imprisonment for not more than 6 months~~ \$5,000.00, or both, for
13 each violation:

14 ~~(a) Violates this act.~~

15 ~~— (b) Solicits and receives public donations, or sells~~
16 ~~memberships in this state for and on behalf of any organization,~~
17 ~~institution, or association subject to the provisions of this act~~
18 ~~and which is not duly licensed pursuant to this act.~~

19 ~~— (c) Solicits funds under a license and thereafter diverts the~~
20 ~~same to purposes other than that for which the funds were~~
21 ~~contributed.~~

22 (a) Knowingly misrepresents or misleads any person in any
23 manner to believe that a person on whose behalf a solicitation
24 effort is conducted is a charitable organization or that the
25 proceeds of a solicitation effort are for charitable purposes.

26 (b) Knowingly diverts or misdirects contributions to a
27 purpose or organization other than for which the funds were

1 contributed or solicited.

2 (c) Knowingly misrepresents that funds solicited or
3 contributed will be used for a specific charitable purpose.

4 (d) Knowingly misrepresents that a donor will receive special
5 benefits or treatment or that failure to make a contribution will
6 result in unfavorable treatment.

7 (e) Employs any device, scheme, or artifice to defraud or
8 obtain money or property from a person by means of a false,
9 deceptive, or misleading pretense, representation, or promise.

10 (f) Knowingly fails to file any information or report
11 required under this act.

12 (g) Engages in any of the following practices and wrongfully
13 obtains more than \$1,000.00 and less than \$5,000.00, in the
14 aggregate, as a result of the practice or practices:

15 (i) Knowingly misrepresents that a person soliciting
16 contributions or other funds for a charitable organization has a
17 sponsorship, approval, status, affiliation, or other connection
18 with a charitable organization or charitable purpose that the
19 person does not have.

20 (ii) Knowingly uses a name, symbol, or statement so closely
21 related or similar to a name, symbol, or statement used by
22 another charitable organization or governmental agency that use
23 of that name, symbol, or statement is confusing or misleading.

24 (iii) Knowingly uses a bogus, fictitious, or nonexistent
25 organization, address, or telephone number in any solicitation.

26 (iv) Knowingly misrepresents or misleads any person in any
27 manner to believe that a person on whose behalf a solicitation

1 effort is conducted is a charitable organization or that the
2 proceeds of a solicitation effort are for charitable purposes if
3 that is untrue.

4 (v) Knowingly misrepresents or misleads any person in any
5 manner to believe that a person or governmental agency sponsors,
6 endorses, or approves a solicitation effort if that person or
7 agency has not given written consent to the use of the person's
8 or agency's name for that purpose.

9 (vi) Knowingly misrepresents that the amount or percentage of
10 a contribution that a charitable organization will receive for a
11 charitable program after costs of solicitation are paid is
12 greater than the amount or percentage of the contribution the
13 charitable organization will actually receive.

14 (vii) Knowingly solicits contributions, conducts a sales
15 promotion, or otherwise operates in this state as a charitable
16 organization, professional fund-raiser, or vendor unless the
17 information required under this act is filed with the attorney
18 general as required under this act.

19 (viii) Aids, abets, or otherwise permits a person to solicit
20 contributions or conduct a sales promotion in this state unless
21 the person soliciting contributions or conducting the sales
22 promotion has complied with the requirements of this act.

23 (ix) Knowingly solicits or receives a contribution, conducts
24 a charitable sales promotion, or sells memberships in this state
25 for or on behalf of any charitable organization subject to the
26 provisions of this act that is not registered under this act.

27 (2) A person who does any of the following is guilty of a

1 felony punishable by imprisonment for not more than 5 years or a
2 fine of not more than \$20,000.00, or both, for each violation:

3 (a) Engages in any practice or practices described in
4 subsection (1)(a), (b), (c), or (e) if the amount of money
5 fraudulently collected or wrongfully diverted from the charitable
6 purpose for which the money was solicited exceeds, in the
7 aggregate, \$1,000.00.

8 (b) Engages in any practice or practices described in
9 subsection (1)(g) and wrongfully obtains more than \$5,000.00, in
10 the aggregate, as a result of the practice or practices.

11 (c) Knowingly submits any of the following in materials or
12 statements required under this act or requested by the attorney
13 general in the course of registration:

14 (i) Any document or statement purporting to have been signed,
15 certified, attested to, approved by, or endorsed by a person when
16 the signature, certification, attestation, approval, or
17 endorsement is not genuine or has not been given by that person.

18 (ii) Any document containing any materially false statement.

19 (3) For purposes of this section, a person is presumed to
20 have committed a violation knowingly if the attorney general
21 provided written notice identifying alleged violations to the
22 person before the acts or omissions in violation of subsection
23 (1) or (2) occurred.

24 (4) In addition to pursuing a criminal action under this
25 section, the attorney general may bring a civil action for
26 damages or equitable relief to enforce the provisions of this
27 act.

1 (5) ~~(2)~~ This section ~~shall~~ **does** not ~~be construed to~~
2 limit or restrict prosecution under the general criminal statutes
3 of ~~the~~ **this** state.

4 **Sec. 23a. (1) A person that is not a charitable**
5 **organization, a professional fund-raiser, a vendor, or a**
6 **volunteer supervised by a charitable organization, but that**
7 **solicits contributions, conducts a fund-raising event, or**
8 **conducts a sales promotion or campaign for a charitable purpose**
9 **is subject to this act.**

10 (2) A person subject to this act under subsection (1) is not
11 required to register or file reports required under this act.

12 **Sec. 23b. (1) The attorney general shall prepare and**
13 **deliver a report to the senate and to the house of**
14 **representatives that meets all of the following:**

15 (a) The report shall describe in detail a plan to educate the
16 public regarding charitable organizations and professional
17 fund-raisers operating in or soliciting contributions in this
18 state.

19 (b) The report shall include a description of the information
20 the attorney general intends to disseminate to the public and
21 shall include a plan to disseminate the information to the public
22 free of charge.

23 (c) The attorney general shall present the report to the
24 senate and to the house of representatives within 1 year after
25 the effective date of the amendatory act that added this
26 section.

27 (d) The attorney general shall implement the plan to

1 disseminate information included in the report not later than 1
2 year after presenting the report to the senate or the house of
3 representatives, whichever occurs later.

4 (2) The attorney general shall disseminate information
5 regarding persons subject to this act to the public under the
6 plan developed under subsection (1).

7 Sec. 23c. The prosecuting attorney for a county may
8 investigate and prosecute a person subject to this act in the
9 same manner as the attorney general.

10 Enacting section 1. Sections 14 and 22 of the charitable
11 organizations and solicitations act, 1975 PA 169, MCL 400.284 and
12 400.292, are repealed.