

Senate Commerce and Labor Committee 1

Amendment No. 1 to SB2212

Johnson
Signature of Sponsor

AMEND Senate Bill No. 2212

House Bill No. 1975*

by deleting all language after the caption and substituting instead the following:

WHEREAS, Tennessee law requires nonprofit corporations organized under the Tennessee Nonprofit Corporation Act to use their assets to fulfill their charitable purposes and not for the benefit of private parties; and

WHEREAS, certain nonprofit corporations organized and operated under Tennessee law are licensed or chartered as regional or local chapters, councils, or other designations, by separate legal entities in the form of nonprofit foreign corporations operating nationally; and

WHEREAS, the terms of some of these license or charter agreements reflect a profound imbalance of power that fails to give regard to the legitimate interests and charitable purposes of Tennessee nonprofit corporations; and

WHEREAS, the General Assembly has a significant interest in protecting the assets of Tennessee nonprofit corporations; and

WHEREAS, it is the intent of the General Assembly that Tennessee nonprofit corporations be protected from risk of loss of their licenses or charters from national nonprofit corporations for reasons that are not based on good cause; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 48, Chapter 53, is amended by adding the following as a new part:

(a) This part shall be known and may be cited as the "Nonprofit Fair Asset Protection Act."

(b) Notwithstanding any provision of law to the contrary, it is unlawful for:

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(1) A national nonprofit corporation that has received a charter under 36 U.S.C. Subt. II, Pt. B, to terminate, revoke, suspend, or fail to renew a license or charter affiliating a Tennessee nonprofit corporation with the national nonprofit corporation absent good cause;

(2) A national nonprofit corporation that has received a charter under 36 U.S.C. Subt. II, Pt. B, to discriminate against a licensed or chartered affiliated Tennessee nonprofit corporation by imposing requirements not imposed on other similarly situated affiliates of the national nonprofit corporation; or

(3) A national nonprofit corporation that has received a charter under 36 U.S.C. Subt. II, Pt. B, to act indirectly to accomplish what would be otherwise prohibited under this part.

(c) For the purpose of this part, "good cause" means to exclude any refusal or failure by the Tennessee nonprofit corporation to make purchases of or to contract to make purchases of goods or services where the board of directors of the Tennessee nonprofit corporation determines, according to the standards set forth in § 48-58-301, that making a purchase or contracting to make a purchase is not in the best interest of the Tennessee nonprofit corporation or is commercially unreasonable.

(d) Any condition, stipulation, provision, or term of any agreement that is in conflict with this part or that would purport to waive or restrict the application of any provision of this part is void and unenforceable.

(e) Nothing in this part abrogates or amends the standards for directors set forth in § 48-58-301.

(f) In addition to any other remedies or rights of actions, a Tennessee nonprofit corporation that is injured by a violation or threatened violation of this part may bring a private right of action for injunctive relief and to recover costs and reasonable attorneys' fees if the Tennessee nonprofit corporation is the prevailing party in the action.

(g) All ordinances, resolutions, rules, or requirements of any type that are in conflict with this part are void and unenforceable.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.