

SENATE BILL 2846  
By Womack

AN ACT to amend Tennessee Code Annotated, Title 48, Chapter 101, Part 5, relative to Charitable solicitations.

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

SECTION 1. Tennessee Code Annotated, Section 48-101-501(6), is amended by deleting the first sentence of that subsection in its entirety and replacing it with the following language:

“Professional Fund Raising Counsel” means any person who, for compensation, plans, manages, advises, consults or prepares material for a charitable organization for the solicitation of contributions in this state, but who does not solicit contributions and does not employ, procure, or engage any person to solicit contributions on behalf of a charitable organization.

SECTION 2. Tennessee Code Annotated, Section 48-101-501(11), is amended by deleting the word “professional solicitor” and replacing it with the word “vendor”.

SECTION 3. Tennessee Code Annotated, Section 48-101-501(12), is amended by deleting the language “by means of an agreement with a charitable organization” and adding the language “or that a portion of the sales will be used for a charitable purpose” to the end of the first sentence.”

SECTION 4. Tennessee Code Annotated, Section 48-101-502(a)(2), is amended by deleting the language “five thousand dollars (\$5,000)” each place that it appears and replacing it with the language “twenty-five thousand dollars (\$25,000)”.

SECTION 5. Tennessee Code Annotated, Section 48-101-502(d), is amended by deleting the subsection in its entirety and replacing it with the following language:

“Any charitable organization which claims to be exempt from the registration provisions of this Act and which intends to or does solicit charitable contributions shall submit, to the secretary of state, a statement of the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. This statement shall be on a form prescribed by the secretary of state and shall be sworn to or affirmed by the principal officer of the charitable organization. No registration fee shall be required of any exempt charitable organization.”

SECTION 6. Tennessee Code Annotated, Section 48-101-504, is amended as follows:

1. Adding to caption the word “initial” before the words “registration statement” .
2. Deleting subsections (a)(6)(A) and (B).
3. Renumbering subsection (a)(8) to read subsection (a) (6).
4. Renumbering subsection (a)(9) to read subsection (a)(7).
5. Renumbering subsection (a)(10) to read subsection (a)(8).
6. Renumbering subsection (a)(11) to read subsection (a)(9).
7. Renumbering subsection (a)(12) to read subsection (a)(10).
8. Renumbering subsection (a)(13) to read subsection (a)(11).
9. Renumbering subsection (a)(14) to read subsection (a)(12).
10. Deleting the language in subsection (b) and replacing it with the following language:

“Except as otherwise herein provided, the registration forms and any other documents prescribed by the secretary of state shall be signed by two authorized officers of the charitable organization, and such forms and documents shall be verified

under oath and shall be accompanied by an initial registration fee of fifty dollars (\$50.00).”

11. Renumbering subsection (a)(7)(A)(B)(C) and (D) to read subsection (c)(1)(2)(3) and (4).

12. Adding the following language as subsection (d):

“Every charitable organization required to register pursuant to this part, having completed a fiscal year of operation, shall file with the secretary of state a financial report for its most recently completed fiscal year, in accordance with Tennessee Code Annotated, Section 48-101-506(b)(1) and (2) or (3).”

13. Renumbering subsection (d) to read subsection (e).

SECTION 7. Tennessee Code Annotated, Section 48-101-506, is amended as follows:

1. Adding to caption “Withdrawal of Registration”.

2. Deleting subsection (b) and replacing it with the following language:

“A renewal of registration shall be made in the same manner as the initial registration. The renewal registration statement shall be accompanied by the following:

(1)

(A) A copy of a financial statement on forms approved by the secretary of state. Such report shall also specifically identify the amount of funds raised and all costs and expenses incidental thereto, all publicity costs, and costs of allocation or disbursement of funds raised. This report shall be signed by at least two (2) authorized officers of the organization, one of whom shall be the chief fiscal officer. Such officers shall certify that such report is true and correct to the best of their knowledge;

(B) The secretary of state may accept, under such conditions as he may prescribe, a copy or duplicate original of any and all forms required to be filed by the organization with the United States Internal

Revenue Service and shall require, by regulation, such other information and documentation as the secretary of state may deem appropriate to describe how funds were raised and spent to substantiate the figures on the reported return, including an accountant's statement and proof that the return submitted to the secretary of state was in fact filed with the United States Internal Revenue Service;

(2) The annual report of every charitable organization which received excess of \$100,000.00 in gross revenue during its most recently completed fiscal year shall be accompanied by an audited financial statement presented in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereon;

(3) The annual report of every charitable organization receiving more than \$25,000 but less than \$100,000 shall be filed in accordance with subsection (1)(A) above and shall be accompanied by any and all of the forms required to be filed by a charitable organization with the United States Internal Revenue Service. At the request of the secretary of state, the organization shall submit an audited financial statement presented in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant."

3. Deleting subsection (c) and replacing it with this language:

"The registration renewal statement shall be signed by two authorized officers of the charitable organization, one of whom shall be the chief fiscal officer, and such forms and documents shall be verified under oath and shall be accompanied by a registration renewal fee in accordance with the following schedule:

Organization's Gross Revenue

Annual Filing Fee

\$0	-	\$48,999.99	\$100.00
\$49,000.00	-	\$99,999.99	\$150.00
\$100,000.00	-	\$249,999.99	\$200.00
\$250,000.00	-	\$499,999.99	\$250.00
\$500,000.00	-	ABOVE	\$300.00

For purposes of this subsection, “organization’s gross revenue” means the latest figures for annual gross revenue from whatever source reported by the organization to the secretary of state pursuant to subsection (b).”

4. Adding the following language to read subsection (d):

“Each charitable organization shall file all information required by this part with the secretary of state within six (6) months of the close of its fiscal year. The last day of the sixth month following the month in which the fiscal year of the organization ends shall be the anniversary date of the organization. All registrations shall expire each year on the anniversary date of the organization. Each annual registration application shall be received by the secretary of state on or before the anniversary date. Each charitable organization shall be required to supplement its registration application during the registration period as changes occur which affect the documentation required by 48-101-504(a).”

5. Adding the following language to read subsection (e):

“For good cause shown, the secretary of state may extend the time for the annual filing of the renewal statement and financial report for a period not to exceed 90 days, during which time the previous registration shall remain in effect. The request for an extension shall be filed before the expiration of the current registration period on forms prescribed by the secretary of state. Applicants will be assessed an additional \$25.00 per month late filing fee.”

6. Adding the following language to read subsection (f): “Any person that intends to continue to solicit contributions after its anniversary date and fails to renew its registration or exemption by the time of the expiration thereof or fails to request an extension in accordance with subsection (e) above is in violation of this part.”

7. Adding the following language to read subsection (g): “Any person that ceases solicitation activities after registration must notify the secretary of state of such fact within thirty (30) days after solicitation activities end. Within ninety (90) days after the end of the solicitation activities or ninety (90) days after its fiscal year ends, said person shall file with the secretary financial documentation, pursuant to subsection (b) above.”

SECTION 8. Tennessee Code Annotated, Section 48-101-508, is amended by deleting subsection (a) in its entirety and replacing it with the following language:

“Any applicant who is denied approval of registration or exemption may have a reconsideration of its denial by the secretary of state within ten (10) days from the date of notification of such denial. Within twenty (20) days from the date of notification of such denial after reconsideration, the aggrieved party may request, in writing, a hearing before the secretary of state. Said hearing shall be held within a reasonable time from the date of the request, unless the applicant requests a longer period in writing. Hearings shall be held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.”

SECTION 9. Tennessee Code Annotated, Section 48-101-512, is amended as follows:

1. Numbering the current provision to read subsection (a).
2. Adding the following language as subsection (b):

“On every printed solicitation or written confirmation, receipt and reminder of a contribution, the following statement must be conspicuously printed verbatim:

The official registration and financial information of (insert the legal name of the charity as registered with the department) may be obtained from the Secretary of State

of Tennessee by calling 000-000-0000 (toll free number). Registration does not imply endorsement.”

SECTION 10. Tennessee Code Annotated, Section 48-101-521(1), is amended by adding the following language “or for any charitable purpose” after the words “on behalf of a charitable organization” and by adding the following language before the language “For registration information regarding this vendor”: “Tennessee Vendor Registration #\_\_\_\_\_.

SECTION 11. This act shall take effect on July 1, 1996, the public welfare requiring it.