

# SENATE BILL No. 1115

March 18, 2004, Introduced by Senators GEORGE, GARCIA, PATTERSON, ALLEN, BIRKHOLZ, CHERRY, TOY, BROWN, JELINEK, GILBERT, SWITALSKI, KUIPERS, GOSCHKA, McMANUS and BRATER and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

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, 19c, 19d, 22a, 23a, 23b, and  
23c; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

An act to regulate organizations and persons soliciting or  
collecting contributions for charitable purposes; to require  
registration ~~— and~~ disclosure of information ~~and licensing~~  
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, a  
8 subdivision, agency, or instrumentality of federal, state, or  
9 local government, or a religious organization incorporated or  
10 established for religious purposes.

11 (ii) A candidate, candidate committee, or committee as those  
12 terms are defined in section 3 of the Michigan campaign finance  
13 act, 1976 PA 388, MCL 169.203.

14 (iii) An authorized committee, political committee, or  
15 principal campaign committee as those terms are defined in 2 USC  
16 431.

17 (iv) A political party as described in section 560a of the  
18 Michigan election law, 1954 PA 116, MCL 168.560a.

19 (b) "Charitable purpose" means any of the following:

20 (i) A purpose described in section 501(c)(3) of the internal  
21 revenue code of 1986.

22 (ii) A benevolent, philanthropic, educational, scientific,  
23 public health, humane, religious, or other eleemosynary  
24 objective.

25 (c) "Charitable sales promotion" means an advertising or  
26 sales campaign representing that proceeds from the sale or use of  
27 the goods or services offered will benefit, in whole or in part,

1 a charitable organization or charitable purpose, or that the  
2 seller or vendor will make a payment to a charitable organization  
3 or for a charitable purpose.

4 (d) "Commercial coventurer" means a person who conducts  
5 charitable sales promotions. A person who enters into a  
6 licensing arrangement in which a charitable organization allows  
7 the person to use the charitable organization's name for a fee is  
8 a commercial coventurer.

9 (e) ~~—(b)—~~ "Contribution" means the promise, grant, or payment  
10 of money or property of any kind or value, including ~~—premises~~  
11 **the promise** to pay. ~~, except payments by members of an~~  
12 ~~organization for membership fees, dues, fines, or assessments, or~~  
13 ~~for services rendered to individual members, if membership in the~~  
14 ~~organization confers a bona fide right, privilege, professional~~  
15 ~~standing, honor, or other direct benefit, other than the right to~~  
16 ~~vote, elect officers, or hold offices, and except money or~~  
17 ~~property received from a governmental authority or foundation~~  
18 ~~restricted as to use.~~ Contribution includes that portion of  
19 membership fees, dues, or assessments that exceed the monetary  
20 value of membership benefits available to a dues payer whether or  
21 not the membership benefits are used, and membership fees, dues,  
22 or assessments that are paid primarily to support the charitable  
23 organization's activities and not to obtain benefits of more than  
24 nominal monetary value. Contribution does not include any of the  
25 following:

26 (i) A grant or contract from any governmental agency or a  
27 restricted grant from a foundation.

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

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

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

9       (f) ~~—(e)—~~ "Person" means an individual, organization, group,  
10 association, partnership, corporation, **limited liability company**,  
11 trust, or any combination of them.

12       (g) "Professional fund-raiser" means a person, including a  
13 subcontractor, who for compensation or other consideration  
14 conducts, manages, or carries on a drive or campaign to solicit  
15 contributions for or on behalf of a charitable organization,  
16 religious organization, or any other person except a person  
17 described in subdivision (a) (iv); or who engages in the business  
18 of or holds himself or herself out as independently engaged in  
19 the business of soliciting contributions for charitable  
20 purposes. A bona fide officer or employee of a charitable  
21 organization, or a person whose service to a charitable  
22 organization is limited to providing advice, research, or writing  
23 is not a professional fund-raiser.

24       (h) "Solicit" and "solicitation" mean the following:

25       (i) A direct or indirect request for a contribution based on  
26 the representation that the contribution will or may be used for  
27 a charitable purpose or to benefit a charitable organization,

1 whether or not the person making the solicitation receives a  
2 contribution. The term includes any of the following methods of  
3 securing contributions:

4 (A) An oral or written request.

5 (B) Distributing, circulating, mailing, posting, or  
6 publishing a handbill, written advertisement, or other  
7 publication that directly or by implication seeks to obtain a  
8 contribution.

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

13 (D) The sale, attempted sale, or offer to sell an  
14 advertisement, advertising space, a book, a coupon, a magazine, a  
15 membership, merchandise, a subscription, a ticket, or other item  
16 in connection with a request for a charitable organization or  
17 purpose.

18 (E) A receptacle for contributions, such as honor boxes,  
19 vending machines, wishing wells, or contribution boxes, where a  
20 charitable purpose is used, referred to, or implied as an  
21 inducement to make a contribution or purchase.

22 (ii) Receiving contributions that are solicited from the  
23 public by a person other than the charitable organization and  
24 transferred to that charitable organization.

25 (iii) Receiving an allocation from a community chest, united  
26 fund, or similar organization.

27 (i) ~~—(d)—~~ "Soliciting material" means printed or similar

1 material, including but not limited to labels, posters,  
2 television scripts, radio scripts, or **other text or** recordings  
3 used in soliciting funds from the public.

4 (j) ~~—(e)—~~ "Solicitor" means a person who solicits on behalf  
5 of a charitable organization.

6 ~~—(f)— "Professional fund raiser" means a person who for~~  
7 ~~compensation or other consideration plans, conducts, manages, or~~  
8 ~~carries on a drive or campaign of soliciting contributions for or~~  
9 ~~on behalf of a charitable organization, religious organization,~~  
10 ~~or any other person; or who engages in the business of or holds~~  
11 ~~himself out as independently engaged in the business of~~  
12 ~~soliciting contributions for such purposes. A bona fide officer~~  
13 ~~or employee of a charitable organization is not a professional~~  
14 ~~fund raiser unless his salary or other compensation is computed~~  
15 ~~on the basis of funds to be raised or actually raised.~~

16 ~~—— (g) "Professional solicitor" means a person who is employed~~  
17 ~~or retained for compensation by a professional fund raiser to~~  
18 ~~solicit contributions for charitable purposes.~~

19 ~~—— (h) "Prohibited transaction" is that dealing, activity,~~  
20 ~~conduct, administration, or management of the charitable~~  
21 ~~organization or by any of its officers, trustees, personnel, or~~  
22 ~~related persons which may be prohibited as constituting activity~~  
23 ~~contrary to proper administration of the charitable organization~~  
24 ~~or conduct of a fund raising campaign or solicitation by a~~  
25 ~~professional fund raiser or solicitor.~~

26 (k) "Vendor" means a person other than a charitable  
27 organization who conducts charitable sales promotions or

1 solicitation campaigns through vending machines, honor boxes,  
 2 novelty machines, or similar devices, that represents that it  
 3 benefits a charitable organization or a charitable purpose  
 4 through a portion of the proceeds, a fixed dollar amount, or any  
 5 other manner.

6       Sec. 3. (1) ~~Before a solicitation, a~~ A charitable  
 7 organization ~~which~~ **that** is not ~~an~~ exempt ~~organization and~~  
 8 ~~which is not described in~~ **from registration and reporting**  
 9 **pursuant to** section 13 ~~, which~~ **and that** solicits or intends to  
 10 solicit or receives or intends to receive contributions from  
 11 persons by any means ~~whatsoever,~~ shall ~~file~~ **have not less**  
 12 **than 2 directors, trustees, or members and shall register** with  
 13 the attorney general upon forms prescribed by ~~him, an~~  
 14 ~~application for a license. It~~ **the attorney general, together**  
 15 **with all necessary information.** The registration shall include  
 16 the following information:

17       (a) The name of the organization and ~~the~~ **any** name ~~under~~  
 18 ~~which it intends~~ **used by that organization** to solicit  
 19 contributions.

20       (b) The ~~principal~~ address of the **principal office of the**  
 21 organization and the address of any office in this state. If the  
 22 organization does not maintain a principal office, the name and  
 23 address of the person having custody of its financial records.

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

26       (c) ~~(d)~~ Where and when the organization was legally  
 27 established ~~,~~ **and** the form of its organization. ~~, and its tax~~



1 ~~exempt status.~~

2 (d) The organization's federal tax exempt status and, with  
3 its initial application, a copy of its internal revenue service  
4 determination letter.

5 (e) ~~The~~ A statement of the organization's purpose ~~for~~  
6 ~~which it is organized~~ and the purposes for which contributions  
7 to be solicited will be used.

8 (f) ~~The fiscal year date of the organization~~ Methods by  
9 which solicitations will be made.

10 (g) ~~Whether the organization is or has ever been enjoined~~  
11 ~~from soliciting contributions~~ The names and addresses of all  
12 professional fund-raisers with whom the organization has  
13 contracted.

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

17 (i) ~~Copies of contracts between charitable organizations and~~  
18 ~~professional fund raisers relating to financial compensation or~~  
19 ~~profit to be derived by the professional fund raisers. When the~~  
20 ~~contract is executed after filing of application statement, a~~  
21 ~~copy shall be filed within 10 days of the date of execution. If~~  
22 the principal office of the organization is not in this state,  
23 the address and telephone number of a resident agent in this  
24 state.

25 (j) ~~Other information as required by rule.~~ Whether the  
26 organization or any of its officers, directors, or principals is,  
27 or has ever been, enjoined, fined, convicted, or subject to any

1 other sanction or penalty as a result of soliciting contributions  
2 in any state or country, or whether such proceedings are  
3 pending.

4 (k) Whether an officer, director, or employee of the  
5 charitable organization owns a 10% or greater interest in a  
6 professional fund-raiser, or is an agent or contractor for a  
7 professional fund-raiser, during a period of time when the  
8 professional fund-raiser is under contract with the charitable  
9 organization to solicit funds.

10 (l) Financial information necessary for the attorney general  
11 to prepare reports for the legislature or the public if the  
12 information is not included in the organization's internal  
13 revenue service form 990, 990-EZ, or 990-PF, or if the  
14 organization is not required to file an internal revenue service  
15 form 990, 990-EZ, or 990-PF pursuant to subsection (2).

16 (2) The charitable organization shall provide the following  
17 information with its registration:

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

1 return shall be completed fully and properly pursuant to internal  
2 revenue service instructions and shall include all required  
3 information, attachments, schedules, and exhibits. If an  
4 organization is not required to file form 990-EZ with the  
5 internal revenue service because of insufficient gross receipts,  
6 that organization is not required to include that form or a pro  
7 forma return with its registration.

8 (b) Financial statements prepared according to generally  
9 accepted accounting principles that have been audited by an  
10 independent certified public accountant if the amount of  
11 contributions received by the charitable organization during its  
12 fiscal year reported on its federal tax return is \$250,000.00 or  
13 more. If contributions as reported on the charitable  
14 organization's internal revenue service form 990, 990-EZ, or  
15 990-PF are \$100,000.00 or more, but less than \$250,000.00,  
16 financial statements either reviewed or audited by an independent  
17 certified public accountant shall be provided. The amount of  
18 contributions received by the organization includes direct and  
19 indirect public support as shown on the internal revenue service  
20 form 990, 990-EZ, or 990-PF, less any restricted grants from  
21 foundations included in the federal tax return, plus net special  
22 fund-raising events revenue. The attorney general may waive this  
23 requirement 1 time for a charitable organization.

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

27 (a) If gross receipts from all sources were less than

1 \$25,000.00 in the fiscal year reported on the registration, there  
2 is no fee.

3 (b) If gross receipts from all sources were at least  
4 \$25,000.00 but less than \$100,000.00 in the fiscal year reported  
5 on the registration, \$20.00.

6 (c) If gross receipts from all sources were at least  
7 \$100,000.00 but less than \$500,000.00 in the fiscal year reported  
8 on the registration, \$50.00.

9 (d) If gross receipts from all sources were at least  
10 \$500,000.00 but less than \$1,000,000.00 in the fiscal year  
11 reported on the registration, \$100.00.

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

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

24 (4) A charitable organization's registration is effective  
25 immediately upon receipt by the attorney general of the  
26 information and fees required under this act.

27 Sec. 3a. (1) The charitable organizations and solicitations

1 fund is created within the state treasury.

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

5 (a) Registration fees collected under this act.

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

7 (c) Fines and penalties assessed and collected under this  
8 act.

9 (d) Any other source.

10 (3) The state treasurer shall direct the investment of the  
11 charitable organizations and solicitations fund and shall credit  
12 to the charitable organizations and solicitations fund interest  
13 and earnings from charitable organizations and solicitations fund  
14 investments.

15 (4) Money in the charitable organizations and solicitations  
16 fund at the close of the fiscal year shall remain in the  
17 charitable organizations and solicitations fund and shall not  
18 lapse to the general fund.

19 (5) The department of attorney general shall expend money  
20 from the charitable organizations and solicitations fund, upon  
21 appropriation, only for expenditures directly related to  
22 gathering and providing the public with information regarding  
23 persons subject to this act. Information regarding persons  
24 subject to this act shall be disseminated to the public under the  
25 plan developed pursuant to section 23b.

26 Sec. 4. (1) ~~True~~ A true and correct ~~copies~~ copy of ~~the~~  
27 ~~contracts of~~ a contract with a professional ~~fund raisers~~

1 **fund-raiser** shall be kept on file in the offices of the  
2 charitable organization and the professional ~~fund-raiser~~  
3 **fund-raiser** during the term of ~~employment~~ **the contract** and for  
4 6 years ~~subsequent to the date~~ **after** the solicitation of  
5 contributions provided for ~~therein~~ **in the contract** actually  
6 terminates.

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

11 (3) A charitable organization shall take reasonable steps to  
12 ensure that a professional fund-raiser with whom it has  
13 contracted to solicit funds in this state is registered in this  
14 state as a professional fund-raiser.

15 Sec. 5. (1) ~~An application~~ **The attorney general shall**  
16 **review a registration that is submitted** in proper form ~~and~~  
17 ~~supported by material information~~ **together with the information**  
18 **and registration fee** required ~~shall be examined by the attorney~~  
19 ~~general under this act.~~ If the ~~application and supporting~~  
20 ~~material conforms~~ **registration, information, and registration**  
21 **fee conform** to the requirements of this act, ~~and the rules,~~ the  
22 attorney general shall ~~issue a license to~~ **register** the  
23 charitable organization, ~~within 30 days, except where~~  
24 **professional fund-raiser, or vendor unless** the charitable  
25 organization, **professional fund-raiser, or vendor** has  
26 ~~materially misrepresented or omitted information~~ required  
27 **information** or the **charitable organization, professional**

1 fund-raiser, or vendor has ~~acted~~ violated or is ~~acting in~~  
2 ~~violation of~~ violating this act or rules promulgated ~~hereunder~~  
3 under this act. The attorney general shall notify the charitable  
4 organization, professional fund-raiser, or vendor of any  
5 omissions or deficiencies in its registration or renewal of  
6 registration within 60 days of receipt.

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

12 (2) ~~(3) A license issued to a professional fund raiser,~~  
13 ~~professional solicitor, or a charitable organization, its agents~~  
14 ~~and representatives may be suspended or revoked by the~~ The  
15 attorney general may suspend or rescind the registration of a  
16 charitable organization, professional fund-raiser, or vendor and  
17 an agent or representative of a charitable organization,  
18 professional fund-raiser, or vendor for violation of this act,  
19 ~~or rules promulgated hereunder,~~ including, but not limited to,  
20 misrepresentation or omission of information required under  
21 section 3, after reasonable notice and opportunity to be heard.  
22 The attorney general may suspend on an emergency basis, without  
23 hearing, ~~any license issued to a professional fund raiser,~~  
24 ~~professional solicitor, or a charitable organization when~~ the  
25 registration of a charitable organization, professional  
26 fund-raiser, or vendor if the attorney general specifies in the  
27 notice of emergency suspension the reasons and grounds indicating

1 a violation of this act or ~~any~~ a rule ~~which~~ promulgated under  
2 this act that constitutes the emergency. The notice shall set  
3 forth that, ~~within 48 hours,~~ at a designated time and place, a  
4 prompt hearing shall be held on whether the ~~license~~  
5 registration should be permanently suspended or ~~revoked~~  
6 rescinded. The ~~professional fund raiser, professional~~  
7 ~~solicitor, or~~ charitable organization, professional fund-raiser,  
8 or vendor may show compliance with ~~the requirements of~~ this act  
9 or the rules promulgated under this act and ~~shall have~~ has the  
10 burden of ~~adducing the evidence~~ proof in establishing that  
11 compliance.

12 Sec. 6. A charitable organization, professional  
13 fund-raiser, or vendor shall notify the attorney general within  
14 30 days of any change in the information required to be furnished  
15 under ~~section 3~~ this act. ~~A report shall be filed and signed~~  
16 ~~by the president or other authorized officer and the chief fiscal~~  
17 ~~officer of the organization.~~

18 Sec. 7. (1) ~~The license of a charitable organization shall~~  
19 ~~expire 1 year after the date of issuance. A charitable~~  
20 ~~organization desiring renewal of a license shall file with the~~  
21 ~~attorney general a renewal application and supporting information~~  
22 ~~on or before 30 days prior to the expiration date. A registered~~  
23 charitable organization shall report on its previous fiscal year  
24 and renew its registration within 6 months after the close of its  
25 fiscal year. A renewal registration and report shall be on a  
26 form prescribed by the attorney general and shall include the  
27 information and any fee required under this act.



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

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

18       (4) If a charitable organization receives an extension of  
19 time to file the charitable organization's internal revenue  
20 service form 990, 990-EZ, or 990-PF, the attorney general shall  
21 extend the charitable organization's time for filing the report  
22 required under subsection (3) or its registration for a similar  
23 period of time.

24       Sec. 8. (1) ~~Documents required to be filed with the~~  
25 ~~attorney general shall be open to public inspection. Persons~~  
26 ~~subject to this act shall maintain accurate and detailed books~~  
27 ~~and records at the office of the resident agent or the principal~~

1 ~~office which shall be open to inspection at all reasonable times~~  
2 ~~by the attorney general or his authorized representative.~~ A  
3 registration, annual report, or other information required to be  
4 provided to or filed with the attorney general under this act is  
5 a public record in the office of the attorney general open to  
6 inspection.

7       (2) A charitable organization, professional fund-raiser, or  
8 vendor shall maintain, for not less than 3 years from the date  
9 prepared, accurate and detailed records to provide the  
10 information required under this act. All records are open to  
11 inspection at all reasonable times by the attorney general and  
12 copies of the records shall be provided to the attorney general  
13 upon request.

14       (3) A charitable organization or person, including a vendor,  
15 commercial coventurer, professional fund-raiser, or person  
16 described in section 23a, that solicits contributions, raises  
17 funds, or conducts sales promotions for a charitable purpose,  
18 shall maintain at the place designated in its registration or, if  
19 not a charitable organization, at its principal place of  
20 business, the original records or true copies of the records  
21 pertaining to all money or other property collected from  
22 residents of this state and to the disbursement of that money or  
23 property. The records shall be preserved for not less than 3  
24 years from the date prepared.

25       (4) A file in the office of the attorney general regarding a  
26 closed enforcement action or a settlement in a civil case under  
27 this act is open to public inspection and copying. A provision

1 or requirement of confidentiality or sealing of records as a  
2 condition of settlement of an enforcement or civil action under  
3 this act is prohibited.

4 Sec. 9. If a local, county, or area division of a  
5 charitable organization is directly supervised and controlled by  
6 a superior or parent organization ~~—, which~~ **that** is incorporated  
7 ~~—, or~~ qualified to do business **in this state**, or **is** doing  
8 business ~~—within—~~ **in** this state, the local, county, or area  
9 division **of that charitable organization** is not required to  
10 register under section 3 if the superior or parent organization  
11 ~~—files an application statement—~~ **registers** on behalf of the  
12 local, county, or area division in addition to or as part of ~~—its~~  
13 ~~application statement. When an application statement has been~~  
14 **the superior or parent organization's registration. If a**  
15 **registration is** filed by a superior or parent organization, it  
16 shall file the annual report required under ~~—sections 14 and 16~~  
17 **this act** on behalf of the local, county, or area division in  
18 ~~—such—~~ **the** detail ~~—as—~~ required by the ~~—rules—~~ **attorney general.**

19 Sec. 10. The attorney general may promulgate rules  
20 necessary for the administration of this act ~~—in accordance with~~  
21 ~~and subject to Act No. 306 of the Public Acts of 1969, as~~  
22 ~~amended, being sections 24.201 to 24.315 of the Michigan Compiled~~  
23 ~~Laws—~~ **under the administrative procedures act of 1969, 1969**  
24 **PA 306, MCL 24.201 to 24.328.** Emergency rules may not be  
25 promulgated. ~~—pursuant to this act.~~

26 Sec. 11. (1) ~~—An application for a license—~~ **The attorney**  
27 **general** shall not ~~—be accepted from—~~ **register** a charitable

1 organization, **professional fund-raiser, or vendor** located in  
2 another state or country unless ~~it~~ **that charitable**  
3 **organization, professional fund-raiser, or vendor** first  
4 designates a resident agent in this state ~~for the acceptance of~~  
5 **to accept** process issued by any court.

6 (2) A charitable organization, person, **vendor, or**  
7 professional ~~fund-raiser, or professional solicitor, soliciting~~  
8 ~~contributions in this state but not maintaining an office within~~  
9 ~~the state shall be~~ **fund-raiser subject to this act** is subject to  
10 service of process as follows:

11 (a) By service on its ~~registered~~ **resident** agent within  
12 ~~the~~ **this** state, or if there is no ~~registered~~ **resident** agent,  
13 then upon the person ~~who has been~~ designated in the  
14 ~~application statement~~ **registration** as having custody of books  
15 and records within this state, **or upon an officer of the**  
16 **organization at its principal office.** ~~When~~ If service is  
17 effected upon the person designated in the registration,  
18 ~~statement~~ a copy of the process shall be mailed to the  
19 charitable organization, **person, vendor, or professional**  
20 **fund-raiser** at its last known address.

21 (b) ~~When a charitable organization has solicited~~  
22 ~~contributions in this state but does not maintain an office~~  
23 ~~within the state, have a registered agent within this state and~~  
24 ~~have a designated person having custody of its books and records~~  
25 ~~within the state, or when a registered agent or person having~~  
26 ~~custody of its books and records within the state cannot be found~~  
27 ~~as shown by the return of the sheriff of the county in which the~~

1 ~~registered agent or person having custody of books and records~~  
 2 ~~has been represented by the charitable organization as~~  
 3 ~~maintaining an office, If service cannot be effected as provided~~  
 4 ~~by this section,~~ service may be made as otherwise provided by law  
 5 or court rules.

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

12 Sec. 12. Upon **the** initial filing of ~~an application~~  
 13 ~~statement pursuant to a registration under~~ section 3, the  
 14 attorney general may suspend for a reasonable, specifically  
 15 designated time the filing of reports otherwise required ~~by~~  
 16 ~~sections 14 and 15~~ **under this act** as to a particular charitable  
 17 ~~corporation, trust, or~~ organization, ~~incorporated or~~  
 18 ~~established for charitable purposes,~~ upon written application  
 19 filed with the attorney general, and after the attorney general  
 20 has determined and acquiesced by a written statement that the  
 21 ~~interest of the~~ public **interest** will not be prejudiced.  
 22 ~~thereby.~~

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

26 (a) A person who requests a contribution for the relief or  
 27 benefit of an individual, specified by name at the time of the

1 solicitation, if the contributions collected are turned over to  
2 the named beneficiary after deducting reasonable expenses for  
3 costs of solicitation, if any, and if all ~~fun-raising~~  
4 **fund-raising** functions are carried on by persons who are unpaid,  
5 directly or indirectly, for their services.

6 (b) A ~~person who~~ **charitable organization that** does not  
7 intend to solicit and receive and does not actually receive  
8 contributions in excess of ~~\$8,000.00~~ **\$25,000.00** during ~~any~~  
9 ~~12 month period if all of its fund raising functions are carried~~  
10 ~~on by persons who are unpaid for their services and if the~~  
11 ~~organization makes available to its members and the public a~~  
12 ~~financial statement of its activities for the most recent fiscal~~  
13 ~~year. If the gross contributions received during any 12 month~~  
14 ~~period exceed \$8,000.00, the person shall file an application for~~  
15 ~~license with required supporting information as provided in~~  
16 ~~section 3 within 30 days after the date it has received total~~  
17 ~~contributions in excess of \$8,000.00. its fiscal year. A~~  
18 **charitable organization shall register as required under this act**  
19 **within 30 days after the date the charitable organization**  
20 **receives total contributions of more than \$25,000.00 during its**  
21 **fiscal year. This subdivision only applies if all of the**  
22 **charitable organization's fund-raising functions are carried on**  
23 **by persons who are not paid for their services.**

24 (c) An organization that does not invite the general public  
25 to become a member of the organization and confines solicitation  
26 activities to solicitation drives solely among its members and  
27 the members' immediate families. ~~, if the drives are not held~~

1 ~~more frequently than quarterly.~~ "Immediate family" **for purposes**  
2 **of this subdivision** means the grandparents, parents, spouse,  
3 brothers, sisters, children, and grandchildren **of a member.**

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

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

13 (f) An organization that receives funds from a charitable  
14 organization ~~licensed~~ **registered** under this act that does not  
15 solicit or intend to solicit or receive or intend to receive  
16 contributions from persons other than ~~a~~ **the registered**  
17 charitable organization, if the organization makes available to  
18 its members and the public a financial statement of its  
19 activities for ~~the~~ **its** most recent fiscal year.

20 (g) ~~A licensed hospital, hospital based foundation, and~~  
21 ~~hospital auxiliary that solicit funds solely for 1 or more~~  
22 ~~licensed hospitals~~ **A booster group or a parent-teacher**  
23 **organization that is recognized by the public school, nonpublic**  
24 **school, or school district that it is organized to support.**

25 (h) ~~A nonprofit service organization that is exempt from~~  
26 ~~taxation pursuant to a provision of the United States internal~~  
27 ~~revenue code other than section 501(c)(3), whose principal~~

1 ~~purpose is not charitable, but solicits from time to time funds~~  
 2 ~~for a charitable purpose by members of the organization who are~~  
 3 ~~not paid for the solicitation. The funds shall be wholly used~~  
 4 ~~for the charitable purposes for which they were solicited, and~~  
 5 ~~the organization shall file with the attorney general a federal~~  
 6 ~~form 990 or 990 AR.~~ **A public school, nonpublic school,**  
 7 **preschool, or institution of higher education.**

8 ~~(i) A nonprofit corporation whose stock is wholly owned by a~~  
 9 ~~religious or fraternal society that owns and operates facilities~~  
 10 ~~for the aged and chronically ill in which no part of the net~~  
 11 ~~income from the operation of the corporation inures to the~~  
 12 ~~benefit of a person other than the residents.~~

13 ~~—— (j) Charitable organizations licensed by the department of~~  
 14 ~~social services that serve children and families.~~

15 ~~(i) —(k) A person registered under and complying with the~~  
 16 ~~requirements of the public safety solicitation act, 1992 PA 298,~~  
 17 **MCL 14.301 to 14.327.**

18 Sec. 16. The attorney general may **conditionally** continue  
 19 ~~under conditions~~ the ~~license~~ **registration** of ~~an a~~  
 20 **charitable** organization, professional ~~fund-raiser, or~~  
 21 ~~professional solicitor which~~ **fund-raiser, or vendor that** fails  
 22 to comply with this act ~~including failure to comply with the~~  
 23 ~~rules regarding prohibited transactions, standards of~~  
 24 ~~solicitation, conduct, or administration~~ **or rules promulgated**  
 25 **under this act.**

26 Sec. 17. (1) ~~A person shall not act as a professional fund~~  
 27 ~~raiser for a charitable organization or charitable purpose before~~



1 ~~he has filed an application for a license with the attorney~~  
2 ~~general or after the expiration or cancellation of a license or~~  
3 ~~renewal thereof. Applications for license shall be in writing,~~  
4 ~~under oath, in the form prescribed by the attorney general. The~~  
5 ~~applicant when making application, shall file with and have~~  
6 ~~approved by the attorney general a bond in which the applicant~~  
7 ~~shall be the principal obligor, in the sum of \$10,000.00. The~~  
8 ~~bond shall run to the people of the state and to any person~~  
9 ~~including charitable organizations who may have a cause of action~~  
10 ~~against the obligor of the bond for any malfeasance or~~  
11 ~~misfeasance in the conduct of the solicitation. The aggregate~~  
12 ~~limit of liability of the surety to the state and to all the~~  
13 ~~persons shall not exceed the sum of the bond. Application for~~  
14 ~~renewal of licenses when effected shall be for a period of 1~~  
15 ~~year, or a part thereof, expiring on June 30, and may be renewed~~  
16 ~~for additional 1 year periods upon written application, under~~  
17 ~~oath, in the form prescribed by the attorney general and the~~  
18 ~~filing of the bond. A professional fund-raiser shall not solicit~~  
19 ~~or receive donations for a charitable purpose or on behalf of a~~  
20 ~~charitable organization or religious organization, before~~  
21 ~~registering with the attorney general, or after the expiration,~~  
22 ~~suspension, revocation, or denial of a registration.~~

23 (2) ~~A person shall not act as a professional solicitor in~~  
24 ~~the employ of a professional fund raiser required to be licensed~~  
25 ~~before he has registered with the attorney general or after the~~  
26 ~~expiration or cancellation of registration. Application for The~~  
27 ~~registration or reregistration of a professional fund-raiser~~

1 shall be in writing ~~—, under oath, in the~~ on a form prescribed  
2 by the attorney general ~~—.~~ Registration or reregistration when  
3 effected shall be for a period of 1 year, or a part thereof,  
4 expiring on June 30, and may be renewed upon written application,  
5 under oath, in the form prescribed by the attorney general for  
6 additional 1 year periods. and shall be accompanied by a payment  
7 of a \$200.00 fee. Information provided to the attorney general  
8 on the registration form shall include all of the following:

9 (a) All names currently used by the professional  
10 fund-raiser.

11 (b) The address and telephone number of the principal office  
12 of the professional fund-raiser and of each office it maintains  
13 in this state.

14 (c) If the principal address of the professional fund-raiser  
15 is not in this state, the address and telephone number of a  
16 resident agent in this state.

17 (d) Where and when the professional fund-raiser was legally  
18 established and the form of its organization. If a professional  
19 fund-raiser is incorporated, the registration form shall include  
20 the name and business or home address of all officers and  
21 directors. If a professional fund-raiser is a sole  
22 proprietorship, limited liability company, or partnership, the  
23 registration form shall include the name and business or home  
24 address of the owner, all members and managers, or all partners,  
25 respectively.

26 (e) The name, address, and telephone number of anyone with  
27 direct responsibility for solicitation activity in this state.

1           (f) Whether the professional fund-raiser or any of its  
2 officers, directors, or principals is, or has ever been,  
3 enjoined, fined, convicted, or subject to any other sanction or  
4 penalty as a result of soliciting contributions in any state or  
5 country.

6           (g) A concise description of the principal methods by which  
7 the professional fund-raiser is, or will be, soliciting  
8 contributions.

9           (h) The name, address, and telephone number of any charitable  
10 organization for which the professional fund-raiser has agreed to  
11 solicit funds or provide services as a professional fund-raiser  
12 on any campaign in this state.

13           (i) A complete copy of any agreement between the professional  
14 fund-raiser and a charitable organization.

15           (j) A complete copy of any subcontract agreement between the  
16 professional fund-raiser and a person that will act as a  
17 professional fund-raiser on behalf of a charitable organization,  
18 religious organization, or any other person soliciting for a  
19 charitable purpose.

20           (k) Whether an officer, director, or employee of a charitable  
21 organization owns a 10% or greater interest in the professional  
22 fund-raiser, or is an agent or contractor for the professional  
23 fund-raiser, during a period of time when the professional  
24 fund-raiser is under contract with that charitable organization  
25 to solicit funds, and whether that information has been fully  
26 disclosed to the board of directors or other governing body of  
27 the charitable organization.

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

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

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

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

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

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

18       (4) The attorney general may accept an irrevocable letter of  
19 credit in lieu of a bond required under subsection (3) if the  
20 irrevocable letter of credit is issued by a financial institution  
21 that is authorized to transact business in this state and the  
22 irrevocable letter of credit is insured by the federal deposit  
23 insurance corporation, the federal savings and loan insurance  
24 corporation, or the national credit union association. An  
25 irrevocable letter of credit shall be submitted in the form  
26 prescribed by the attorney general and shall expire not less than  
27 1 year after the professional fund-raiser's registration

1 expires.

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

15       (6) A professional fund-raiser's registration is effective  
16 immediately upon receipt by the attorney general of the  
17 information and fees required under this act. A registration  
18 expires 1 year after the registration is effective. A  
19 professional fund-raiser's registration is renewable by filing a  
20 renewal registration and paying a \$200.00 fee.

21       Sec. 18. (1) ~~A person shall not use for the purpose of~~  
22 ~~soliciting contributions the name of another person, except that~~  
23 ~~of an officer, director, or trustee of the charitable~~  
24 ~~organization by or for which contributions are solicited, without~~  
25 ~~the consent of such other person.~~ A charitable organization,  
26 professional fund-raiser, commercial coventurer, vendor, person  
27 described in section 23a, or an employee or agent of a charitable

1 organization, professional fund-raiser, commercial coventurer,  
2 vendor, or person described in section 23a shall not do any of  
3 the following:

4 (a) Engage in a method, act, or practice in violation of this  
5 act or a rule promulgated under this act, any restriction,  
6 condition, or limitation placed on a registration, or a final  
7 order or cease and desist order.

8 (b) Represent or imply that a person soliciting contributions  
9 or other funds for a charitable organization has a sponsorship,  
10 approval, status, affiliation, or other connection with a  
11 charitable organization or charitable purpose that the person  
12 does not have.

13 (c) Represent or imply that a contribution is for or on  
14 behalf of a charitable organization, or using an emblem, device,  
15 or printed material belonging to or associated with a charitable  
16 organization, without first obtaining written authorization from  
17 that charitable organization.

18 (d) Use a name, symbol, or statement so closely related or  
19 similar to a name, symbol, or statement used by another  
20 charitable organization or governmental agency that use of that  
21 name, symbol, or statement would tend to confuse or mislead a  
22 solicited person.

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

25 (f) Misrepresent or mislead any person in any manner to  
26 believe that a person on whose behalf a solicitation effort is  
27 conducted is a charitable organization or that the proceeds of a

1 solicitation effort are for charitable purposes.

2 (g) Misrepresent or mislead any person in any manner to  
3 believe that a person sponsors, endorses, or approves a  
4 solicitation effort if that person has not given written consent  
5 to the use of his or her name for that purpose.

6 (h) Misrepresent or mislead any person in any manner to  
7 believe that registration under this act constitutes endorsement  
8 or approval by this state or a department or agency of this  
9 state.

10 (i) Represent or imply that the amount or percentage of a  
11 contribution that a charitable organization will receive for a  
12 charitable program after costs of solicitation are paid is  
13 greater than the amount or percentage of a contribution the  
14 charitable organization will actually receive.

15 (j) Divert or misdirect contributions to a purpose or  
16 organization other than that for which the funds were contributed  
17 or solicited.

18 (k) Falsely represent or imply that a donor will receive  
19 special benefits or treatment or that failure to make a  
20 contribution will result in unfavorable treatment.

21 (l) Misrepresent or mislead any person in any manner to  
22 believe that a contribution is eligible for tax advantages unless  
23 that contribution qualifies for those tax advantages and all  
24 disclosures required by law are made.

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

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

4       (o) Represent that funds solicited will be used for a  
5 particular charitable purpose if those funds are not used for the  
6 represented purpose.

7       (p) Solicit contributions, conduct a sales promotion, or  
8 otherwise operate in this state as a charitable organization,  
9 professional fund-raiser, or vendor unless the information  
10 required under this act is filed with the attorney general as  
11 required under this act.

12       (q) Aid, abet, or otherwise permit a person to solicit  
13 contributions or conduct a sales promotion in this state unless  
14 the person soliciting contributions or conducting the sales  
15 promotion has complied with the requirements of this act.

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

19       (s) Fail to remove a person's name from any donor or mail  
20 list utilized by a charitable organization or professional  
21 fund-raiser for solicitation purposes if that person requests  
22 that his or her name be removed from that list.

23       ~~(2) A person has used the name of another person for the~~  
24 ~~purpose of soliciting contributions if the latter person's name~~  
25 ~~is listed on stationery, an advertisement, brochure, or in~~  
26 ~~correspondence by which a contribution is solicited by or on~~  
27 ~~behalf of a charitable organization or the name is listed or~~



1 ~~referred to in connection with a request for a contribution as~~  
2 ~~one who has contributed to, sponsored, or indorsed the~~  
3 ~~organization or its activities.~~

4       (2) ~~—(3)—~~ This section does not prevent the publication of  
5 names of contributors without their written consent in an annual  
6 or other periodic report issued by a charitable organization for  
7 the purpose of reporting on its operations and affairs to its  
8 membership or for the purpose of reporting contributions to  
9 contributors.

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

15       (3) ~~—(5)—~~ A charitable organization, whether **or not** exempt  
16 ~~or not~~ from this act, shall supply to each solicitor and each  
17 solicitor shall have in **his or her** immediate possession  
18 identification ~~which~~ **that** sets forth the name of the solicitor  
19 and the name of the charitable organization on whose behalf the  
20 solicitation is conducted.

21       **Sec. 19. (1) Before conducting a charitable sales promotion**  
22 **or solicitation campaign, a vendor shall register with the**  
23 **attorney general on a form prescribed by the attorney general.**  
24 **The registration shall include, but is not limited to, the**  
25 **following information:**

26       (a) **The name of the vendor and any other corporate, business,**  
27 **or trade names used by the vendor.**

1           (b) The address and telephone number of the principal office  
2 of the vendor.

3           (c) If the vendor is not a sole proprietorship, where and  
4 when the vendor was legally established and the form of its  
5 organization.

6           (d) A concise description of the principal methods by which  
7 the vendor intends to conduct its charitable sales promotion or  
8 solicitation campaign in Michigan.

9           (e) The name, address, and telephone number of each  
10 charitable organization with which the vendor has contracted.

11           (f) A complete copy of any agreement between the vendor and a  
12 charitable organization.

13           (2) A vendor shall pay a fee of \$50.00 with its  
14 registration.

15           (3) A vendor's registration is effective immediately upon the  
16 attorney general's receipt of the information and fees required  
17 under this act.

18           (4) A vendor's registration shall expire 1 year after its  
19 registration is effective.

20           (5) A vendor shall not conduct a charitable sales promotion  
21 or solicitation campaign in which it uses the name of a  
22 charitable organization that is not registered in this state.

23           Sec. 19a. A vendor shall report to the attorney general the  
24 total dollar sales of each charitable sales promotion or  
25 solicitation campaign conducted in this state and the amount paid  
26 to each charitable organization with its renewal registration or  
27 within 30 days after the conclusion of a charitable sales

1 promotion or solicitation campaign in this state if no further  
2 charitable sales promotion or solicitation campaign is intended.

3       Sec. 19b. A vendor shall prominently display the following  
4 information on each vending machine, honor box, novelty machine,  
5 or similar device through which that vendor conducts a charitable  
6 sales promotion or solicitation campaign:

7       (a) The name of the vendor and the fact that the vendor owns  
8 the vending machine, honor box, novelty machine, or similar  
9 device.

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

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

14       Sec. 19c. (1) Before making an oral request for a  
15 contribution and contemporaneously with a written request for a  
16 contribution, the charitable organization, professional  
17 fund-raiser, or vendor soliciting the contribution shall disclose  
18 the name and location by city and state of each charitable  
19 organization on behalf of which the solicitation is made. If a  
20 solicitation is made by direct personal contact, the information  
21 required under this section shall also be disclosed prominently  
22 on any written document exhibited to the person solicited. If a  
23 solicitation is made by radio, television, letter, telephone, or  
24 any other means not involving personal contact, the information  
25 required under this section shall be disclosed prominently in the  
26 solicitation. The information required under this section shall  
27 also be disclosed prominently on any invoices, bills, fulfillment

1 requests, letters, pamphlets, or brochures used to obtain payment  
2 of a pledge or promise to make a contribution.

3       (2) In addition to the information required under subsection  
4 (1), a professional fund-raiser that orally solicits  
5 contributions in this state shall also disclose the professional  
6 fund-raiser's name as filed with the attorney general and a  
7 statement that the solicitation is being conducted by a  
8 professional fund-raiser. The information required under this  
9 subsection shall be provided in the same manner as the  
10 information required under subsection (1).

11       Sec. 19d. A person required to register under this act is  
12 subject to a late fee of \$1.00 per day up to a maximum late fee  
13 of \$100.00 if any of the following occur:

14       (a) A charitable organization fails to file a report on or  
15 before the date its registration expires as provided in section  
16 7(1) unless an extension has been granted under section 7(4).

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

19       (c) A vendor fails to file a campaign financial report or  
20 campaign sales report as required under section 19a.

21       (d) A charitable organization, professional fund-raiser, or  
22 vendor fails to cure a defect in its registration or annual  
23 report within 30 days after notice by the attorney general that a  
24 correction or additional information is required.

25       Sec. 20. (1) The attorney general may, ~~institute in~~  
26 addition to any other action authorized by law, bring an action  
27 ~~in any circuit court to enjoin preliminarily or permanently a~~

1 ~~charitable organization, professional fund raiser, solicitor, or~~  
2 ~~other person who: (a) Engages in a method, act, or practice in~~  
3 ~~violation of this act or any of the rules promulgated hereunder.~~  
4 ~~(b) Employs or uses in a solicitation or collection of~~  
5 ~~contributions for a charitable organization on behalf of any~~  
6 ~~other person for a charitable purpose a device, scheme, or~~  
7 ~~artifice to defraud, or for obtaining money or property by means~~  
8 ~~of any false pretense, deception, representation, or promise. an~~  
9 ~~act or practice prohibited under this act. After finding that a~~  
10 ~~person has engaged in or is engaging in a prohibited act or~~  
11 ~~practice, a court may enter any necessary order or judgment,~~  
12 ~~including, but not limited to, an injunction, an order of~~  
13 ~~restitution, or an award of reasonable attorney fees and costs.~~  
14 ~~A court may award to this state a civil penalty of \$10,000.00 or~~  
15 ~~less for each violation of this act. A court need not find~~  
16 ~~irreparable harm to enter an injunction, but need only find a~~  
17 ~~violation of this act or find that an injunction would promote~~  
18 ~~the public interest.~~

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

1       (3) ~~The attorney general may exercise the authority granted~~  
2 ~~in this section against a charitable organization or person which~~  
3 ~~or who operates under the guise or pretense of being an~~  
4 ~~organization or person exempted by this act and is not in fact an~~  
5 ~~organization or person entitled to such an exemption.~~ In  
6 addition to any other action authorized by law, the attorney  
7 general may issue a cease and desist order, issue a notice of  
8 intended action, or take other action in the public interest.  
9 The attorney general may accept an assurance of discontinuance of  
10 any method, act, or practice in violation of this act from any  
11 person alleged to be engaged in or to have been engaged in that  
12 method, act, or practice. An assurance of discontinuance may  
13 include a stipulation for the voluntary payment of the costs of  
14 investigation, for an amount to be held in escrow pending the  
15 outcome of an action or as restitution to an aggrieved person, or  
16 for the voluntary payment to another person if in the public  
17 interest. An assurance of discontinuance shall be in writing and  
18 shall be filed with the circuit court for Ingham county. An  
19 action resolved by an assurance of discontinuance may be reopened  
20 by the attorney general at any time for enforcement by a court or  
21 for further proceedings in the public interest. Evidence of a  
22 violation of an assurance of discontinuance is prima facie  
23 evidence of a violation of this act in any subsequent proceeding  
24 brought by the attorney general.

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

27       (a) Placement of a restriction or condition on the person's

1 registration.

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

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

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

7 (5) The attorney general shall, before suspending or revoking  
8 a registration, provide the person against whom the penalty is to  
9 be imposed an opportunity for a hearing in accordance with the  
10 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
11 24.328.

12 (6) A person who suffers a loss as a result of a violation of  
13 this act may exercise any right or remedy created under section  
14 11 of the Michigan consumer protection act, 1976 PA 331,  
15 MCL 445.911.

16 Sec. 21. (1) The attorney general may investigate ~~the~~  
17 ~~operations or conduct of charitable organizations, professional~~  
18 ~~fund raisers, or professional solicitors subject to this act. He~~  
19 ~~may require a person, corporation, institution, or association,~~  
20 ~~and the officers, members, and employees and agents thereof, to~~  
21 ~~appear at a named time and place in the county designated by the~~  
22 ~~attorney general or where the person resides or is found, to give~~  
23 ~~information under oath and to produce books, memoranda, papers,~~  
24 ~~records, documents of title, evidence of assets, liabilities,~~  
25 ~~receipts, or disbursements in the possession or control of the~~  
26 ~~person ordered to appear.~~ a complaint from any person in  
27 whatever manner the attorney general considers appropriate and

1 may investigate on his or her own initiative a charitable  
2 organization, professional fund-raiser, vendor, commercial  
3 coventurer, or person described in section 23a. The attorney  
4 general may require a person or an officer, member, employee, or  
5 agent of a person to appear at a time and place specified by the  
6 attorney general to give information under oath and to produce  
7 books, memoranda, papers, records, documents, or evidence of  
8 assets, liabilities, receipts, or disbursements in the possession  
9 of the person ordered to appear.

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



1 the court ~~shall be punished~~ **is punishable** by that court as ~~a~~  
2 contempt. The investigation may be ~~made~~ **conducted** by ~~or~~  
3 ~~before~~ an assistant attorney general **or other person** designated  
4 ~~in writing~~ by the attorney general. ~~to conduct the~~  
5 ~~investigation.~~ The attorney general or ~~the assistant attorney~~  
6 ~~general acting in his behalf~~ **other designated person** may  
7 administer the necessary oath or affirmation to witnesses.

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

11 Sec. 22a. If an oral pledge or promise to make a  
12 contribution is the result of a telephone or door-to-door  
13 solicitation, that pledge or promise to make a contribution is  
14 unenforceable.

15 Sec. 23. (1) A person who does any of the following is  
16 guilty of a misdemeanor punishable by a fine of not more than  
17 ~~\$500.00~~ **\$5,000.00**, or imprisonment for not more than 6 months,  
18 or both:

19 (a) Violates this act.

20 (b) Solicits ~~and~~ **or** receives public donations, or sells  
21 memberships in this state for ~~and~~ **or** on behalf of any  
22 organization, institution, or association subject to the  
23 provisions of this act ~~and which~~ **that** is not ~~duly licensed~~  
24 ~~pursuant to~~ **registered under** this act.

25 (c) Solicits funds under a ~~license~~ **registration** and  
26 ~~thereafter~~ diverts the ~~same~~ **funds** to purposes other than that  
27 for which the funds were contributed.

1       (2) This section ~~shall~~ **does** not ~~be construed to~~ limit or  
2 restrict prosecution under the general criminal statutes of ~~the~~  
3 **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.** The attorney general shall prepare and deliver a  
13 report to the senate and to the house of representatives that  
14 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       Sec. 23c. The prosecuting attorney for a county may  
5 investigate and prosecute a person subject to this act in the  
6 same manner as the attorney general.

7       Enacting section 1. Sections 14 and 22 of the charitable  
8 organizations and solicitations act, 1975 PA 169, MCL 400.284 and  
9 400.292, are repealed.