

1988

Session Law 88-068

Florida Senate & House of Representatives

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Florida Information Associates Florida Legislature Staff Analyses 1988 Sessions	<u>LAWS OF FLORIDA CHAPTER NO.</u> 88-0068
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<u>PRIME BILL NUMBER</u> 88/S0562 *	<u>TYPE OF BILL</u> general	<u>SPONSOR</u> Frank
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PRIME BILL TITLE (short title)

Charitable Contribution Solicitation

SIMILAR/IDENTICAL BILL SUBSTITUTED BY PRIME BILL: 88/H0515

<u>DOCUMENTATION REPRODUCED</u>	<u>Analysis</u>
PRIME SENATE COMMITTEE: Governmental Operations	()
----- FINAL SENATE COMMITTEE: Governmental Operations	(X)
----- PRIME HOUSE COMMITTEE: n/a	()
----- FINAL HOUSE COMMITTEE: n/a	()
----- SUBSTITUTED BILL: (88/H0515)	(X)
----- OTHER:	()

NOTE: Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

ADDITIONAL INFORMATION:

(FRM 25-12/88)

By Senator Frank

This publication was produced at an estimated page cost of 1.5 cents per page for the information of members of the legislature and the public.

1 A bill to be entitled

2 An act relating to solicitation of charitable

3 contributions; amending s. 496.04 and creating

4 s. 496.042, F.S.; requiring persons who solicit

5 contributions for a named individual above a

6 specified limit to register with the Department

7 of State; requiring certain reports; imposing

8 duties on such persons; specifying use of such

9 contributions; providing for penalties;

10 providing an effective date.

11

12 Be It Enacted by the Legislature of the State of Florida:

13

14 Section 1. Paragraph (a) of subsection (1) of section

15 496.04, Florida Statutes, is amended to read:

16 496.04 Exemption of certain charitable organizations,

17 institutions, and persons from provisions.--

18 (1)(a) The following charitable organizations,

19 institutions, and persons are exempt from the provisions of

20 ss. 496.01-496.136 if they do not employ professional

21 solicitors:

22 1. A charitable organization which does not receive

23 contributions in excess of \$10,000 during its fiscal year.

24 2. A charitable organization which solicits only

25 within its membership by the membership thereof. For the

26 purpose of this section, the term "membership" does not

27 include those persons who are granted memberships upon making

28 contributions as the result of solicitations.

29 3. A person soliciting contributions, who receives

30 less than a total of \$5,000, for the relief of any individual

31 specified by name at the time of the solicitation if all of

1 the contributions collected, without any deductions, are
2 turned over to the named beneficiary or promptly dedicated to
3 the use of the named beneficiary. A person soliciting such
4 contributions of \$5,000 or more is subject to the provisions
5 of s. 496.042.

6 4. A public educational institution which comprises a
7 part of the State University System or is operated by a
8 community college board of trustees under statutory authority
9 and rules of the State Board of Education or by a district
10 school board; a direct support organization authorized
11 pursuant to s. 240.299 or s. 240.331; and any parent-teacher
12 organization recognized by the educational institution.

13 5. A private educational institution accredited by the
14 Southern Association of Colleges and Schools.

15 Section 2. Section 496.042, Florida Statutes, is
16 created to read:

17 496.042 Registration of persons soliciting for named
18 individuals.--

19 (1) A person soliciting contributions for the benefit
20 of a named individual as specified in s. 496.04(1)(a)3. who
21 receives contributions of \$5,000 or more shall register with
22 the department and provide the following information:

23 (a) The name of the person soliciting contributions
24 and the purpose of solicitation.

25 (b) The mailing address and street address of the
26 person soliciting contributions.

27 (c) A disclosure statement as set forth in s. 496.051.
28 However, names, addresses, and identities of contributors and
29 amounts contributed by them shall not be required to be listed
30 in the disclosure statement.

31

1 (d) A semiannual financial report completely
2 disclosing all of the fiscal activities of the person
3 soliciting. The financial report shall specifically identify
4 the amount of contributions raised and all costs and expenses
5 incidental thereto, and all publicity costs and costs of
6 disbursement of contributions raised.

7 (2) A person soliciting such contributions shall
8 advise the person being solicited that the disclosure
9 statement and all other related documents are open to the
10 general public, in the office of the department, for
11 inspection at such times and under such conditions as the
12 department prescribes, as set forth in s. 496.081.

13 (3) Charitable contributions solicited by persons
14 registered pursuant to this section or income derived
15 therefrom shall be used solely for the purpose specified.

16 (4) A person soliciting such contributions shall, in
17 accordance with rules prescribed by the department and in such
18 form as will enable him accurately to provide the information
19 required, keep accurate fiscal records to verify the contents
20 of the disclosure statement and financial reports required by
21 this section.

22 (5) A person violating the provisions of this section
23 may be penalized pursuant to s. 496.13, including an
24 administrative fine of \$1,000 per violation.

25 (6) Charitable collections that are related for use,
26 in any way, to the relief of one individual specified by name
27 at the time of solicitation shall be covered by this section
28 if the aggregate amount collected is \$5,000 or more.

29 Section 3. This act shall take effect October 1, 1988.
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HOUSE SUMMARY

Requires persons who solicit contributions of \$5,000 or more for a named individual to register with the Department of State. Requires certain reports and imposes duties on such persons. Requires that contributions be used for the purpose specified. Provides for penalties.

By Representatives Lippman, Tobin, D. L. Jones

1 A bill to be entitled

2 An act relating to solicitation of charitable
3 contributions; amending s. 496.04 and creating
4 s. 496.042, F.S.; requiring persons who solicit
5 contributions for a named individual above a
6 specified limit to register with the Department
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8 duties on such persons; specifying use of such
9 contributions; providing for penalties;
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21 solicitors:

22 1. A charitable organization which does not receive
23 contributions in excess of \$10,000 during its fiscal year.

24 2. A charitable organization which solicits only
25 within its membership by the membership thereof. For the
26 purpose of this section, the term "membership" does not
27 include those persons who are granted memberships upon making
28 contributions as the result of solicitations.

29 3. A person soliciting contributions, who receives
30 less than a total of \$5,000, for the relief of any individual
31 specified by name at the time of the solicitation if all of

1 the contributions collected, without any deductions, are
2 turned over to the named beneficiary or promptly dedicated to
3 the use of the named beneficiary. A person soliciting such
4 contributions of \$5,000 or more is subject to the provisions
5 of s. 496.042.

6 4. A public educational institution which comprises a
7 part of the State University System or is operated by a
8 community college board of trustees under statutory authority
9 and rules of the State Board of Education or by a district
10 school board; a direct support organization authorized
11 pursuant to s. 240.299 or s. 240.331; and any parent-teacher
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26 person soliciting contributions.

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28 However, names, addresses, and identities of contributors and
29 amounts contributed by them shall not be required to be listed
30 in the disclosure statement.

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2 disclosing all of the fiscal activities of the person
3 soliciting. The financial report shall specifically identify
4 the amount of contributions raised and all costs and expenses
5 incidental thereto, and all publicity costs and costs of
6 disbursement of contributions raised.

7 (2) A person soliciting such contributions shall
8 advise the person being solicited that the disclosure
9 statement and all other related documents are open to the
10 general public, in the office of the department, for
11 inspection at such times and under such conditions as the
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13 (3) Charitable contributions solicited by persons
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16 (4) A person soliciting such contributions shall, in
17 accordance with rules prescribed by the department and in such
18 form as will enable him accurately to provide the information
19 required, keep accurate fiscal records to verify the contents
20 of the disclosure statement and financial reports required by
21 this section.

22 (5) A person violating the provisions of this section
23 may be penalized pursuant to s. 496.13, including an
24 administrative fine of \$1,000 per violation.

25 (6) Charitable collections that are related for use,
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This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

Florida House of Representatives - 1988

By the Committee on Regulatory Reform and Representatives
Lippman, Tobin, D. L. Jones

1 A bill to be entitled
2 An act relating to solicitation of charitable
3 contributions; amending s. 496.04 and creating
4 s. 496.042, F.S.; requiring persons who solicit
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19 institutions, and persons are exempt from the provisions of
20 ss. 496.01-496.136 if they do not employ professional
21 solicitors:

22 1. A charitable organization which does not receive
23 contributions in excess of \$10,000 during its fiscal year.

24 2. A charitable organization which solicits only
25 within its membership by the membership thereof. For the
26 purpose of this section, the term "membership" does not
27 include those persons who are granted memberships upon making
28 contributions as the result of solicitations.

29 3. A person soliciting contributions, who receives
30 less than a total of \$5,000, for the relief of any individual
31 specified by name at the time of the solicitation if all of

1 the contributions collected, without any deductions, are
2 turned over to the named beneficiary or promptly dedicated to
3 the use of the named beneficiary. A person soliciting such
4 contributions of \$5,000 or more is subject to the provisions
5 of s. 496.042.

6 4. A public educational institution which comprises a
7 part of the State University System or is operated by a
8 community college board of trustees under statutory authority
9 and rules of the State Board of Education or by a district
10 school board; a direct support organization authorized
11 pursuant to s. 240.299 or s. 240.331; and any parent-teacher
12 organization recognized by the educational institution.

13 5. A private educational institution accredited by the
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20 of a named individual as specified in s. 496.04(1)(a)3, who
21 receives contributions of \$5,000 or more shall register with
22 the department and provide the following information:

23 (a) The name of the person soliciting contributions
24 and the purpose of solicitation.

25 (b) The mailing address and street address of the
26 person soliciting contributions.

27 (c) A disclosure statement as set forth in s. 496.051.
28 However, names, addresses, and identities of contributors and
29 amounts contributed by them shall not be required to be listed
30 in the disclosure statement.

31

2 (d) A semiannual financial report which shall
3 specifically identify the amount of contributions raised and
4 all costs and expenses incidental thereto, and all publicity
5 costs and costs of disbursement of contributions raised.

6 (2) A person soliciting such contributions shall
7 advise the person being solicited that the disclosure
8 statement and all other related documents are open to the
9 general public, in the office of the department, for
10 inspection at such times and under such conditions as the
11 department prescribes, as set forth in s. 496.081.

12 (3) Charitable contributions solicited or accepted by
13 persons required to be registered pursuant to this section or
14 income derived therefrom shall be used solely for the purpose
15 specified, except that if the amount of funds received exceeds
16 the amount needed for the benefit of the named individual,
17 such excess may be used for the benefit of other individuals
18 who are in the same or similar circumstances.

19 (4) A person soliciting such contributions shall, in
20 accordance with rules prescribed by the department and in such
21 form as will enable him accurately to provide the information
22 required, keep accurate fiscal records to verify the contents
23 of the disclosure statement and financial reports required by
24 this section.

25 (5) A person violating the provisions of this section
26 may be penalized pursuant to s. 496.13, including an
27 administrative fine of \$1,000 per violation.

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30 at the time of solicitation shall be covered by this section
31 if the aggregate amount collected is \$5,000 or more.

Section 3. This act shall take effect October 1, 1988.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Hosack</u> <i>MLW</i>	<u>Stengle</u> <i>[Signature]</i>	1. <u>GO</u>	<u>Fav/3 amend.</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Solicitation of Charitable Contributions

BILL NO. AND SPONSOR:

SB 562 by Senator Frank

I. SUMMARY:

A. Present Situation:

Sections 496.01-496.136, F.S., establish the "Solicitation of Charitable Contributions Act," which provides for the regulation of charitable organizations, solicitors, and their employees. The regulations are administered by the Department of State.

Prior to any solicitation, charitable organizations and professional solicitors are required to register annually with the department. Annual registration fees range from \$25 to \$300, in accordance with s. 496.046, F.S. As provided in s. 496.051, F.S., each registration or renewal applicant must file a statement which discloses the purpose of the organization, financial information disclosing the contributions received, the purposes for which and manner in which they are spent, and the costs incurred in fundraising. This information is to be made available to interested persons upon request. The identities of contributors are to be made available to the department upon demand; however, this information is exempt from the Public Records Law.

The department may issue, deny, suspend, and revoke certificates of registration. The department may investigate any person or charitable organization to determine if there was a violation of the act. If the department finds that any person or charitable organization has violated the act, whether registered under the act or not, it may take prescribed actions such as imposing administrative fines or issuing an order to cease and desist.

Section 496.11, F.S., specifies that any person who willfully and knowingly violates the act is guilty of a first degree misdemeanor punishable by a maximum of 1 year in prison and a \$1,000 fine; a subsequent violation is a third degree felony, subject to punishment of up to 5 years in prison and a fine of \$5,000. Section 496.13, F.S., authorizes the department to impose administrative fines of up to \$1,000 for persons violating the act. Section 496.1315, F.S., provides that, upon the referral of the Department of State, if the Department of Legal Affairs finds contributions have been unlawfully solicited, the Department of Legal Affairs may bring an action for civil penalties of up to \$10,000, or may bring an action to recover contributions unlawfully solicited.

Section 496.04, F.S., exempts from the act certain charitable organizations, institutions, and persons from regulation if they do not employ a professional solicitor. Any person collecting charitable contributions for a specified individual is so exempt, if all of the contributions collected are turned over to or used for the named beneficiary.

B. Effect of Proposed Changes:

The Solicitation of Charitable Contributions Act would be amended to require persons who solicit contributions in an aggregate amount of \$5,000 or more for the relief of a named individual to register with the Department of State. Such solicitors would be required to disclose the purpose for which the contributions are solicited and to maintain certain financial records. The contributions, or income derived from the contributions, would be required to be used solely for the purposes specified. The department would have certain enforcement responsibilities, and violators of the provisions of the bill would be subject to penalties.

Registration requirements would be established for persons soliciting such contributions. Applicants would be required to provide prescribed information including the name and address of the person soliciting contributions. Applicants would be subject to the disclosure statement provisions in s. 496.051, F.S., and thus, would be required to provide the amount of the contributions received, the costs of fundraising incurred, and the amount of funds actually used for the stated purpose. Such applicants would not be required to pay a registration fee.

The registered solicitor of such funds would be required to submit semiannual financial reports identifying the amount of the contributions raised, and all costs and expenses incurred in raising and disbursing the funds. The registered solicitor, in accordance with department rules, would be required to keep accurate fiscal records to verify the contents of the disclosure statement and financial report.

Persons soliciting such funds would be required to advise persons being solicited that the disclosure statements and all other related documents would be open to the general public for inspection under conditions prescribed by the department. The identities of contributors would not be listed in the disclosure statement.

In accordance with s. 496.13, F.S., the department could deny, suspend, or revoke certificates of registration, and could enforce and impose certain penalties. The department would be authorized to investigate any person to determine if there has been a violation of the act, and could take action such as issuing a notice to cease and desist, or administering a fine of \$1,000 per violation. As well, as provided by s. 496.13, F.S., if the department has reason to believe that contributions were unlawfully solicited, it would be required to refer the matter to the Department of Legal Affairs, which could bring an action for civil penalties of up to \$10,000, or could bring an action to recover contributions unlawfully solicited.

II. ECONOMIC IMPACT AND FISCAL NOTE:**A. Public:**

None

B. Government:

Because those who raise money for specified individuals are currently exempt from registration requirements imposed by the Solicitation of Charitable Contributions Act, there is no data available on the number of such accounts. The Department of State estimates that there would be approximately 250 individuals soliciting funds in excess of \$5,000 on behalf of individuals.

According to the department, administering the bill would require three additional positions for which salaries and expenses are estimated to be approximately \$93,000 per year.

III. COMMENTS:

Recently, the Department of State investigated the use of funds raised for the purpose of providing liver transplants for young Ronnie Desillers, who died in 1987. The investigation indicated that the receipt and expenditure of funds were not well documented, and that monies were withdrawn from the account by the boy's mother for expenditures such as rental payments on her apartment. The current law does not address the manner in which contributions for specified individuals are permitted to be spent, nor does it provide for the balance of such funds upon the death of a specified individual for whose benefit the funds were raised.

Under the provisions of the bill on page 3, lines 1-3, solicitors would be required to submit semiannual financial reports to the department "completely disclosing all of the fiscal activities of the person soliciting." This would include all personal fiscal activities of the person, as well as his solicitation activities on behalf of the named individual.

IV. AMENDMENTS:

#1 by Governmental Operations:

Clarifies that semiannual financial reports filed by persons soliciting funds under the provisions of the act would identify only information pertaining to the collection and disbursement of such funds.

#2 by Governmental Operations:

Expands requirement that charitable contributions which are accepted by persons required to register under the act be used solely for a specified purpose to include charitable contributions accepted by such persons.

#3 by Governmental Operations:

Authorizes charitable contributions solicited for a named individual by persons who would be required to register under the act to be used for the benefit of other individuals who are in the same or similar circumstances if the amount of funds received exceed the amount needed for the named individual.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	<u>Hosack</u> <i>[Signature]</i>	<u>Stengle</u> <i>[Signature]</i>	1. <u>GO</u>	_____
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
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B. Effect of Proposed Changes:

The Solicitation of Charitable Contributions Act would be amended to require persons who solicit contributions in an aggregate amount of \$5,000 or more for the relief of a named individual to register with the Department of State. Such solicitors would be required to disclose the purpose for which the contributions are solicited and to maintain certain financial records. The contributions, or income derived from the contributions, would be required to be used solely for the purposes specified. The department would have certain enforcement responsibilities, and violators of the provisions of the bill would be subject to penalties.

Registration requirements would be established for persons soliciting such contributions. Applicants would be required to provide prescribed information including the name and address of the person soliciting contributions. Applicants would be subject to the disclosure statement provisions in s. 496.051, F.S., and thus, would be required to provide the amount of the contributions received, the costs of fundraising incurred, and the amount of funds actually used for the stated purpose. Such applicants would not be required to pay a registration fee.

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None

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IV. AMENDMENTS:

None

SB 562

Proposed Amendment from Sponsor

HB _____

No. _____
(reported favorably)

The Committee on...Gov. Operations...recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment # 1

On page3....., lines ...1-3..., strike all of said lines

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
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and insert:

(d) A semiannual financial report which shall specifically identify

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. __, taken up by committee: Adopted __ *
 * Offered by _____ Failed __ *

 (Amendment No. ____ Adopted __ Failed __ Date __/__/__)

SENATE COMMITTEE AMENDMENT

SB 562

No. 1
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page3....., lines ...1-3..., strike all of said lines

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes
			-	

and insert:

(d) A semiannual financial report which shall specifically identify

SENATE COMMITTEE AMENDMENT

SB 562

No. 2
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page 3, line 13, strike
the words "by persons"

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes

and insert:
or accepted by persons required to be

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. 2, taken up by committee: 04/18/88 Adopted X *
 * Offered by Senator Jenne Failed _ *

 (Amendment No. _____ Adopted ___ Failed ___ Date ___/___/___)

SENATE COMMITTEE AMENDMENT

SB 562

No. 3
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page 3, line 15, before
the period

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	Yes	No
				-

and insert:

, except that if the amount of funds received exceeds the amount needed for the benefit of the named individual, such excess may be used for the benefit of other individuals who are in the same or similar circumstances

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. 3, taken up by committee: 04/18/88 Adopted X *
 * Offered by Senator Jenne Failed *

 (Amendment No. Adopted Failed Date / /)

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
(As Revised by the Committee on Appropriations)
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

CS/HB 515

BILL #: CS/HB 515
RELATING TO: Solicitation of Charitable Contributions
SPONSOR(S): Committee on Regulatory Reform and Reps. Lippman, Tobin, and D.L.Jones
EFFECTIVE DATE: October 1, 1988
COMPANION BILL(S): SB 562, (Compare SB 380)
OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2) _____

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 496, Florida Statutes, the "Solicitation of Charitable Contributions Act", provides for the regulation of charitable organizations, solicitors and their employees. The regulation is administered by the Department of State. Prior to any solicitation, a charitable organization must register with the department. Financial records must be kept by the charitable organization.

A disclosure of the name, address and purpose of the organization, in addition to the contributions received and the amount of contributions actually used for the stated purposes, must be provided by the organization. The department is authorized to deny, suspend or revoke certificates of registration of organizations regulated under the act.

Any person collecting charitable contributions, in any amount, for a specified individual is exempt from regulation under s. 498.04.

B. EFFECT OF PROPOSED CHANGES:

House Bill 515 revises the regulation of charitable organizations to include a person collecting contributions for a specific individual, if the person collects a total of \$5,000 or more. A person soliciting contributions who receives less than \$5,000 will remain exempt from regulation under s. 496.04, F.S.

These revisions offer increased protection to persons being solicited for contributions and require additional reporting to, monitoring by, and enforcement by the department. Solicitors must also advise the person being solicited that a disclosure statement is available. The new section 496.042, F.S., sets forth the requirements and duties of such persons.

Contributions donated under express conditions must be used only under those conditions, unless the amount received exceeds the amount needed. Such excess

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may be used for the benefit of others in similar circumstances. Penalties for the violation of this section may include, but are not limited to, a fine

C. SECTION-BY-SECTION ANALYSIS:

See I.B.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 88-89 FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

EXPENDITURES:

Department of State

Division of Licensing

Operating Capital Outlay	\$27,156	\$ 0	\$ 0
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2. Recurring or Annualized Continuation Effects:

EXPENDITURES:

Department of State

Division of Licensing

Salaries and Benefits (2 FTE)	26,304	50,827	53,369
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Expenses	<u>7,956</u>	<u>10,929</u>	<u>11,475</u>
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Total	\$44,260	\$61,755	\$64,844
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3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

Expenditures:

Department of State

General Revenue Fund

General Revenue Fund	\$71,416	\$61,755	\$64,844
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

This bill is expected to have a positive effect on charitable contributions. By allowing the public to have more faith in solicitors and in the uses to which contributions will be put, the public may be more willing to donate.

IV. COMMENTS:

The Department of State may object to regulating these persons without charging a fee. It is recognized, however, that a fee could have a chilling effect on an individual's willingness to become involved in soliciting for a worthy individual, especially when 100 percent of the solicited funds must be used for the purpose specified. (Charitable organizations can pay for their solicitation activities from funds solicited.)

V. AMENDMENTS:

None

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Karen Zedeck and Richard Herring

Staff Director:

Cliff Nilson

FINANCE & TAXATION:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Jim Bridger

Staff Director:

James A. Zingale
Dr. James A. Zingale

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STORAGE NAME: 8sHB515.kzn
Date: 4-5-88

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

CS/HB 515

BILL #: CS/HB 515
RELATING TO: Solicitation of Charitable Contributions
SPONSOR(S): Committee on Regulatory Reform and Reps. Lippman, Tobin, and D.L.Jones
EFFECTIVE DATE: October 1, 1988
COMPANION BILL(S): SB 562, (Compare SB 380)
OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2) _____

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 496, Florida Statutes, the "Solicitation of Charitable Contributions Act", provides for the regulation of charitable organizations, solicitors and their employees. The regulation is administered by the Department of State. Prior to any solicitation, a charitable organization must register with the department. Financial records must be kept by the charitable organization.

A disclosure of the name, address and purpose of the organization, in addition to the contributions received and the amount of contributions actually used for the stated purposes, must be provided by the organization. The department is authorized to deny, suspend or revoke certificates of registration of organizations regulated under the act.

Any person collecting charitable contributions, in any amount, for a specified individual is exempt from regulation under s. 498.04.

B. EFFECT OF PROPOSED CHANGES:

House Bill 515 revises the regulation of charitable organizations to include a person collecting contributions for a specific individual, if the person collects a total of \$5,000 or more. A person soliciting contributions who receives less than \$5,000 will remain exempt from regulation under s. 496.04, F.S.

These revisions offer increased protection to persons being solicited for contributions and require additional reporting to, monitoring by, and enforcement by the department. Solicitors must also advise the person being solicited that a disclosure

statement is available. The new section 496.042, F.S., sets forth the requirements and duties of such persons.

Contributions donated under express conditions must be used only under those conditions, unless the amount received exceeds the amount needed. Such excess may be used for the benefit of others in similar circumstances. Penalties for the violation of this section may include, but are not limited to, a fine.

C. SECTION-BY-SECTION ANALYSIS:

See I.B.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

In 1986, the department registered only 122 professional solicitors and 1,529 charitable organizations. Based on those small numbers, this bill is expected to result in only a small workload increase to the department.

In the department's fiscal analysis of the bill, however, it has assumed that 250 previously exempt individuals per year will collect over \$5,000 in donations and be required to register. That represents a 15 percent increase over the total number of 1986 registrants. The department has stated that "the Division of Licensing did not have statistical data on numbers of individuals currently soliciting on behalf of other individuals where donations would exceed \$5,000."

Based on the department's unsupported assertion that there will be 250 new registrants, they estimate the non-recurring and first year cost of this bill to be over \$90,000.

2. Recurring or Annualized Continuation Effects:

The department will have an increased workload to register individuals who are no longer exempt. Expansion of the charitable solicitation law in 1987 resulted in the addition of 9 new staff positions and about one-quarter of a million dollars to the budget of the Division of Licensing.

It is not expected that the number of persons soliciting more than \$5,000 for a named individual will significantly more new staff or budget.

However, using the department's assumption of 250 new registrants, it has calculated the need for 3 new staff positions at an annual cost between \$90,000 and \$10,000.

3. Long Run Effects Other Than Normal Growth:

No long run effects are expected. Currently, the registration of charitable organizations and solicitors is estimated to account for only about 3 percent of the persons regulated by the Division of Licensing in the Department of State (1987 Auditor General report). That 3 percent of registrants does, however, account for about 22 percent of the complaints received by the division.

4. Appropriations Consequences:

None, unless the department's assumptions are used. Then a General Revenue appropriation to the department of \$90,000 to \$100,000 annually will be necessary. The department states that its "Division of Licensing Trust Fund revenues are extremely limited and would be unable to support the implementation of this bill."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

This bill specifies no registration fee for the individuals who will no longer be exempt. The language that removes the exemption makes those individuals subject only to the provisions of the new section 496.042, F.S., and not to the fee provisions of the law.

2. Direct Private Sector Benefits:

This bill is not expected to significantly reduce the amount of charitable solicitation on behalf of named individuals because the only new requirements are paperwork. It may have the effect of making such solicitation more common by requiring that it be conducted in an open, honest manner.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This bill is expected to have a positive effect on charitable contributions. By allowing the public to have more faith in solicitors and in the uses to which contributions will be put, the public may be more willing to donate.

IV. COMMENTS:

The Department of State may object to regulating these persons without charging a fee. It is recognized, however, that a fee could have a chilling effect on an individual's willingness to become involved in soliciting for a worthy individual, especially when 100 percent of the solicited funds must be used for the purpose specified. (Charitable organizations can pay for their solicitation activities from funds solicited.)


V. AMENDMENTS:

None.


VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Karen Zedeck  and Richard Herring

Staff Director:

Cliff Nilson 

FINANCE & TAXATION:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

STORAGE NAME: h0515-f.rr
Date: 6/10/88

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 515 (Passed as SB 562)

RELATING TO: Solicitation of Charitable Contributions

SPONSOR(S): Cmte. on Regulatory Reform and Reps. Lippman, Tobin, and D. L. Jones

EFFECTIVE DATE: October 1, 1988

DATE BECAME LAW: June 1, 1988

CHAPTER #: 88-68 Laws of Florida

COMPANION BILL(S): SB 562, (Compare SB 380)

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2) _____

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 496, Florida Statutes, the "Solicitation of Charitable Contributions Act", provides for the regulation of charitable organizations, solicitors and their employees. The regulation is administered by the Department of State. Prior to any solicitation, a charitable organization must register with the department. Financial records must be kept by the charitable organization.

A disclosure of the name, address and purpose of the organization, in addition to the contributions received and the amount of contributions actually used for the stated purposes, must be provided by the organization. The department is authorized to deny, suspend or revoke certificates of registration of organizations regulated under the act.

Any person collecting charitable contributions, in any amount, for a specified individual is exempt from regulation under s. 496.04.

B. EFFECT OF PROPOSED CHANGES:

House Bill 515 revises the regulation of charitable organizations to include a person collecting contributions for a specific individual, if the person collects a total of \$5,000 or more. A

person soliciting contributions who receives less than \$5,000 will remain exempt from regulation under s. 496.04, F.S.

These revisions offer increased protection to persons being solicited for contributions and require additional reporting to, monitoring by, and enforcement by the department. Solicitors must also advise the person being solicited that a disclosure statement is available. The new section 496.042, F.S., sets forth the requirements and duties of such persons.

Contributions donated under express conditions must be used only under those conditions, unless the amount received exceeds the amount needed. Such excess may be used for the benefit of others in similar circumstances. Penalties for the violation of this section may include, but are not limited to, a fine.

C. SECTION-BY-SECTION ANALYSIS:

See I.B.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 88-89 FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

EXPENDITURES:

Department of State			
Division of Licensing			
Operating Capital Outlay	\$27,156	\$ 0	\$ 0

2. Recurring or Annualized Continuation Effects:

EXPENDITURES:

Department of State			
Division of Licensing			
Salaries and Benefits (2 FTE)	26,304	50,827	53,369
Expenses	<u>7,956</u>	<u>10,929</u>	<u>11,475</u>
Total	\$44,260	\$61,755	\$64,844

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

Expenditures:

Department of State			
General Revenue Fund	\$71,416	\$61,755	\$64,844

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This bill is expected to have a positive effect on charitable contributions. By allowing the public to have more faith in solicitors and in the uses to which contributions will be put, the public may be more willing to donate.

IV. COMMENTS:

The Department of State may object to regulating these persons without charging a fee. It is recognized, however, that a fee could have a chilling effect on an individual's willingness to become involved in soliciting for a worthy individual, especially when 100 percent of the solicited funds must be used for the purpose specified. (Charitable organizations can pay for their solicitation activities from funds solicited.)


V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Karen Zedeck and Richard Merring

Staff Director:

Cliff Nilson 

APPROPRIATIONS:

Prepared by:

Jim Pridgeon

Staff Director:

Dr. James A. Zingale