

# THE NONPROFIT INTEGRITY ACT OF 2004

Introduced by Senator Byron Sher, D-Stanford

Sponsored by Attorney General Bill Lockyer

*(Proposed Changes to California Law in Italics and Strikeouts)*

## Amend Government Code section 12581 to read as follows:

This article applies to all charitable corporations, *unincorporated associations*, ~~and~~ trustees, *and other legal entities* holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers, over which the state or the Attorney General has enforcement or supervisory powers. The provisions of this article shall not apply to any committee as defined in Section 82013 which is required to and does file any statement pursuant to the provisions of Article 2 (commencing with Section 84200) of Chapter 4 of Title 9.

## Amend Government Code section 12582 to read as follows:

“Trustee” means (a) any individual, group of individuals, corporation, *unincorporated association*, or other legal entity holding property in trust pursuant to any charitable trust, (b) any corporation *or unincorporated association* which has accepted property to be used for a particular charitable ~~corporate~~ purpose as distinguished from the general purposes of the corporation *or unincorporated association*, and (c) a corporation *or unincorporated association* formed for the administration of a charitable trust, pursuant to the directions of the settlor or at the instance of the trustee.

## Amend Government Code section 12584 to read as follows:

The Attorney General shall establish and maintain a register of charitable corporations, *unincorporated associations*, and trustees subject to this article and of the particular trust or other relationship under which they hold property for charitable purposes and, to that end, may conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing authorities, trustees, and other sources, whatever information, copies of instruments, reports, and records are needed for the establishment and maintenance of the register.

## Amend Government Code section 12585 to read as follows:

Every charitable corporation, *unincorporated association*, and trustee subject to this article ~~who has received property for charitable purposes~~ shall file with the Attorney General, ~~within six months after any part of the income or~~

~~principal is authorized or required to be applied to a charitable purpose, a copy of the articles of incorporation or other governing instrument that governs the operation of the corporation, unincorporated association, or trust within 30 days after the corporation, unincorporated association, or trustee initially receives property. providing for his title, powers or duties. If any part of the income or principal is authorized or required to be applied to a charitable purpose at the time this article takes effect, the filing shall be made within six months thereafter. A trustee is not required to register as long as the charitable interest in a trust is a future interest but shall do so within 30 days after any charitable interest in a trust becomes a present interest.~~

**Amend Government Code section 12586 to read as follows:**

(a) Except as otherwise provided and except corporate trustees which are subject to the jurisdiction of the Superintendent of Banks of the State of California or to the Comptroller of Currency of the United States, every charitable corporation, *unincorporated association*, and trustee subject to this article shall, in addition to filing copies of the instruments previously required, file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation, *unincorporated association*, or trustee, in accordance with rules and regulations of the Attorney General.

(b) The Attorney General shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The Attorney General may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the Attorney General and after the Attorney General has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the Attorney General, may be filed as a report required by this section.

(d) The first *periodic written report* for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than four (4) months and fifteen (15) days following the close of the first calendar or fiscal year in which ~~any part of the income or principal is authorized or required to be applied to a charitable purpose~~ *property is initially received*. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this article takes effect, the first report shall be filed at the close of the calendar or fiscal year in which it was registered with the Attorney General or not later than four (4) months and fifteen (15) days following the close of such calendar or fiscal period.

*(e) Every charitable corporation, unincorporated association, and trustee required to file reports with the Attorney General pursuant to this section that receives or accrues in any fiscal year gross revenue of \$500,000 or more shall:*

*(1) Prepare annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant in conformity with generally accepted auditing standards. The firm conducting the audit shall not provide any additional services to the entity that it audits, with the exception of preparation of tax returns. The audited financial statements shall be available for inspection by the Attorney General. Audited financial statements shall be made available to members of the public in response to a written or in-person request. If the request is made in person at the office of the organization, a copy shall be provided to the requester on the day of the request. If the request is made in writing, the organization shall provide a copy within 30 days of the request. Reasonable copying costs and the actual cost of postage may be charged if timely notice of the approximate cost and acceptable form of payment is provided to the requester. With the consent of the requester, the copy may be provided via the Internet.*

*(2) If it is a corporation, have an audit committee appointed by the board of directors from among its members. Members of the audit committee shall not serve on the finance committee, if any, and the audit committee shall not include any members of the staff, including the president or chief executive officer and the treasurer or chief financial officer. Members of the audit committee shall not receive any compensation from the corporation other than in their capacity as members of the board of directors and shall not have a material financial interest in any entity doing business with the corporation. Subject to the supervision of the board of directors, the audit committee shall be responsible for retaining and terminating the auditor and setting the auditor's compensation; shall confer with the auditor to satisfy its members that the financial affairs of the corporation are in order; and shall review and approve the audit.*

*(f) If, independent of the audit requirement set forth in subdivision (e)(1), a charitable corporation, unincorporated association, or trustee required to file*

*reports with the Attorney General pursuant to this section prepares financial statements that are audited by a certified public accountant, such audited financial statements shall be available for inspection by the Attorney General and shall be made available to members of the public in conformity with subdivision (e)(1).*

*(g) At least once each year, the board of directors of each charitable corporation shall review and approve the compensation, including benefits, of the corporation's president or chief executive officer and its treasurer or chief financial officer.*

**Add Government Code section 12598.1, to read as follows:**

*All who are required to register under this article shall maintain records regarding their activities for at least 10 years after the end of the registration period to which the records relate and shall make those records available for inspection upon demand by the Attorney General.*

**Amend Government Code section 12599 to read as follows:**

(a) "Commercial fundraiser for charitable purposes" is defined as any individual, corporation, *unincorporated association*, or other legal entity who for compensation does any of the following:

- (1) Solicits funds, assets, or property in this state for charitable purposes.
- (2) As a result of a solicitation of funds, assets, or property in this state for charitable purposes, receives or controls the funds, assets, or property solicited for charitable purposes.
- (3) Employs, procures, or engages any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

A commercial fundraiser for charitable purposes shall include any person, association of persons, corporation, or other entity that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include an individual who is employed by or under the control of a commercial fundraiser for charitable purposes registered with the Attorney General. A commercial fundraiser for charitable purposes shall not

include any federally insured financial institution which holds as a depository funds received as a result of a solicitation for charitable purposes.

As used in this section, “charitable purposes” includes any solicitation in which the name of any organization of law enforcement personnel, firefighters, or other persons who protect the public safety is used or referred to as an inducement for transferring any funds, assets, or property, unless the only expressed or implied purpose of the solicitation is for the sole benefit of the actual active membership of the organization.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds, assets, or property, including salvageable personal property, in California for charitable purposes, or prior to receiving and controlling any funds, assets, or property, including salvageable personal property, as a result of a solicitation in this state for charitable purposes, register with the Attorney General's Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. A registration or renewal fee of two hundred dollars (\$200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charitable Trusts at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee as needed pursuant to this section. The Attorney General's Registry of Charitable Trusts may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which a fundraiser intends to solicit funds or the sheriff's designee, no later than 30 days after the close of the preceding calendar year. Nothing in this section shall be construed as requiring the sheriff of any county, or the sheriff's designee, to maintain on file any annual financial report required pursuant to this subdivision.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds, assets, or property, solicited for charitable purposes on behalf of each charitable organization exempt from

taxation under Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds, assets, or property, solicited by the commercial fundraiser for charitable purposes:

(1) Total revenue.

(2) The fee or commission charged by the commercial fundraiser for charitable purposes.

(3) Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.

(4) Fundraising expenses.

(5) Distributions to the identified charitable organization or purpose.

(6) The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in the annual financial report.

(e) A commercial fundraiser for charitable purposes that obtains a majority of its inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code shall file with the Attorney General's Registry of Charitable Trusts, and not with the sheriff of any county, an annual financial report on a form provided by the Attorney General that is separate and distinct from forms filed by other commercial fundraisers for charitable purposes pursuant to subdivisions (c) and (d).

(f) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(g) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General's supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

*(h) Not less than 10 working days prior to the commencement of each solicitation campaign, event, or service, a commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts a copy of the contract described in subdivision (i).*

*(i) There shall be a written contract between a commercial fundraiser for charitable purposes and a charitable organization for each solicitation campaign, event, or service, which shall be signed by the authorized contracting officer for the commercial fundraiser and by two officials of the charitable organization who are authorized to sign by the organization's governing body. The contract shall contain all of the following provisions:*

*(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts unless the charitable organization is exempt from registration.*

*(2) A statement of the charitable purpose for which the solicitation campaign, event, or service is being conducted.*

*(3) A statement of the respective obligations of the commercial fundraiser and the charitable organization.*

*(4) If the commercial fundraiser is to be paid a fixed fee, a statement of the fee to be paid the commercial fundraiser and an accurate estimate of what percentage the fee will constitute of the total contributions received. The contract shall clearly disclose the assumptions upon which the estimate is based, and the stated assumptions shall be based upon all of the relevant facts known to the commercial fundraiser regarding the solicitation to be conducted by the commercial fundraiser.*

*(5) If a percentage fee is to be paid the commercial fundraiser, a statement of the percentage of the total contributions received that will be remitted to or retained by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of admissions to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any additional amounts that the charitable organization is obligated to pay as fundraising costs.*

*(6) The effective and termination dates of the contract and the date solicitation activity is to commence within the State of California.*

*(7) A requirement that each contribution in the control or custody of the commercial fundraiser shall in its entirety and within five days of its receipt*

*(A) Be deposited in an account at a bank or other federally insured financial institution that is solely in the name of the charitable organization and over which*

*the charitable organization has sole control of withdrawals or*

*(B) Be delivered to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.*

*(8) A statement that the charitable organization exercises control and approval over the content and frequency of any solicitation.*

*(9) A provision requiring, should the commercial fundraiser propose to make any payment in cash or in kind to any person or legal entity to secure any person's attendance at, or sponsorship, approval, or endorsement of, a charity fundraising event, that all such payments must be approved in advance in writing by the board of directors or chief executive officer of the charitable organization, that charitable funds or contributions shall not be used to make such payments where such payments have not been so approved, and that the commercial fundraiser must personally notify the person whose attendance, sponsorship, approval, or endorsement is sought of the requirement of approval and whether such approval has been obtained. "Charity fundraising event" means any gathering of persons, including but not limited to a party, banquet, concert, or show, that is held for the purpose or claimed purpose of raising funds for any charitable purpose or organization.*

*(10) A provision that the charitable organization has the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed; that the charitable organization may cancel the contract by serving a written notice of cancellation on the commercial fundraiser; that, if mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing; that any funds collected after effective notice that the contract has been canceled shall be deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature; and that the charitable organization shall be entitled to recover all funds collected after the date of cancellation.*

*(11) A provision that, following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice; that, if mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing; and that, in the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser to the effective date of the termination.*

*(12) A provision that, following the initial 10-day cancellation period, the charitable organization may terminate the contract at any time upon written notice, without payment or compensation of any kind to the commercial fundraiser, if the commercial fundraiser or its agents, employees, or*

*representatives (1) make any material misrepresentations in the course of solicitations or with respect to the charitable organization, (2) have been convicted of a felony, or of a misdemeanor, arising from the conduct of a solicitation for a charitable organization or purpose, (3) otherwise conduct fundraising activities in a manner that causes or could cause public disparagement of the charitable organization's good name or good will.*

*(13) Any other information required by the regulations of the Attorney General.*

~~(h) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser. "Percentage of total fundraising expenses," as used in this section, means the ratio of the total expenses of the fundraiser to the total revenue received by the fundraiser for the charitable purpose for which funds are being solicited, as reported on the most recent financial report filed with the Attorney General's Registry of Charitable Trusts. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.~~

~~(j) If the Attorney General issues a report to the public containing information obtained from registration forms or financial report forms filed by commercial fundraisers for charitable purposes, there shall be a separate section concerning commercial fundraisers for charitable purposes that obtain a majority of their inventory for sale by the purchase, receipt, or control for resale to the general public, of salvageable personal property solicited by an organization qualified to solicit donations pursuant to Section 148.3 of the Welfare and Institutions Code. The report shall include an explanation of the distinctions between these thrift store operations and other types of commercial fundraising.~~

*(k) No person may act as a commercial fundraiser for charitable purposes if that person, any officer or director thereof, any person with a controlling interest therein, or any person the commercial fundraiser employs, engages, or procures to solicit for compensation, has been convicted by a court of any state or the United States of a felony, or of a misdemeanor, arising from the conduct of a solicitation for a charitable organization or purpose.*

*(l) A commercial fundraiser for charitable purposes shall not solicit in the State of California on behalf of a charitable organization unless that charitable organization is registered, or is exempt from registration, with the Attorney General's Registry of Charitable Trusts.*

~~(j)~~(m) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

**Amend Government Code section 12599.1 to read as follows:**

(a) "Fundraising counsel for charitable purposes" is defined as any ~~person~~ *individual, corporation, unincorporated association, or other legal entity* who is described by all of the following:

(1) For compensation plans, manages, advises, counsels, consults, or prepares material for, or with respect to, the solicitation in this state of funds, assets or property for charitable purposes.

(2) Does not solicit funds, assets, or property for charitable purposes.

(3) Does not receive or control funds, assets, or property solicited for charitable purposes in this state.

(4) Does not employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.

(b) "Fundraising counsel for charitable purposes" does not include any of the following:

(1) An attorney, investment counselor, or banker who in the conduct of that person's profession advises a client when actually engaged in the giving of legal, investment, or financial advice.

(2) A trustee as defined in Section 12582 or 12583.

(3) A charitable corporation as defined in Section 12582.1, or any employee thereof.

(4) A person employed by or under the control of a fundraising counsel for charitable purposes, as defined in subdivision (a).

(5) A person, corporation, or other legal entity, engaged as an independent contractor directly by a trustee or a charitable corporation, that prints, reproduces, or distributes written materials prepared by a trustee, a charitable corporation, or any employee thereof, or that performs artistic or graphic services with respect to written materials prepared by a trustee, a charitable corporation, or any employee thereof, provided that the independent contractor does not perform any of the activities described in paragraph (1) of subdivision (a).

(6) A person whose total annual gross compensation for performing any activity described in paragraph (1) of subdivision (a) does not exceed twenty-five thousand dollars (\$25,000).

(c) A fundraising counsel for charitable purposes shall, prior to managing, advising, counseling, consulting, or preparing material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes, register with the Attorney General's Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of each calendar year in which the fundraising counsel for charitable purposes does business and shall be effective for one year.

A registration or renewal fee of two hundred dollars (\$200) shall be required for registration of a fundraising counsel for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charitable Trusts at the time of registration and renewal. The Attorney General may adjust the annual registration or renewal fee as needed pursuant to this section. The Attorney General's Registry of Charitable Trusts may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(d) A fundraising counsel for charitable purposes shall file annually with the Attorney General's Registry of Charitable Trusts on a form provided by the Attorney General, a report listing each person, corporation, *unincorporated association*, or other legal entity for whom the fundraising counsel has performed any services described in paragraph (1) of subdivision (a), and a statement certifying that the fundraising counsel had a written contract with each listed person, corporation, or other legal entity that ~~contained the following provisions:~~ *complied with the requirements of subdivision (e).*

~~(1) The legal name and address of the person, corporation, or other legal entity as registered with the Attorney General pursuant to this article, or if the person, corporation, or other legal entity is not registered with the Attorney General, the legal name and address of the person, corporation, or other legal entity as registered with the Secretary of State.~~

~~(2) A statement of the respective obligations of the fundraising counsel and the person, corporation, or other legal entity.~~

~~(3) A clear statement of the fees and any other form of compensation, including commissions or property, that will be paid to the fundraising counsel.~~

~~(4) The effective and termination dates of the contract and the date services will commence with respect to solicitation in this state of funds, assets, or property for charitable purposes.~~

~~(5) A statement that the person, corporation, or other legal entity exercises control and approval over the content and volume of any solicitation for charitable purposes.~~

~~(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable purposes, or employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.~~

~~(7) The signature of an authorized officer or director of the person, corporation, or other legal entity and the signature of the authorized contracting officer of the fundraising counsel.~~

*(e) Contracts for services between a charitable organization and a fundraising counsel shall be in writing and shall be filed by the fundraising counsel with the Attorney General's Registry of Charitable Trusts at least 10 working days prior to the performance by the fundraising counsel of any service. No services pursuant to the contract shall begin before the filing of the contract with the Registry of Charitable Trusts. The contract shall be signed by the authorized contracting officer for the fundraising counsel and by two officials of the charitable organization who are authorized to sign by the organization's governing body. The contract shall contain all of the following provisions:*

*(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts unless the charitable organization is exempt from registration.*

*(2) A statement of the charitable purpose for which the solicitation campaign is being conducted.*

*(3) A statement of the respective obligations of the fundraising counsel and the charitable organization.*

*(4) A clear statement of the fees and any other form of compensation, including commissions and property, that will be paid to the fundraising counsel.*

*(5) The effective and termination dates of the contract and the date services will commence with respect to solicitation in California of contributions for a charitable organization.*

*(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable purposes, or employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.*

*(7) A statement that the charitable organization exercises control and approval over the content and frequency of any solicitation.*

*(8) A provision that the charitable organization has the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed; that the charitable organization may cancel the contract by serving a written notice of cancellation on the fundraising counsel; and that, if mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing.*

*(9) A provision that, following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice; that, if mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing; and that, in the event of termination under this subdivision, the charitable organization shall be liable for services provided by the fundraising counsel to the effective date of the termination.*

*(10) Any other information required by the regulations of the Attorney General.*

~~(e)~~(f) It shall be unlawful for any fundraising counsel for charitable purposes to manage, advise, counsel, consult, or prepare material for, or with respect to, the solicitation in this state of funds, assets, or property for charitable purposes unless the fundraising counsel for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article.

~~(f)~~(g) A fundraising counsel for charitable purposes is subject to the Attorney General's supervision and enforcement to the same extent as a trustee for charitable purposes under this article.

~~(g)~~(h) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

**Add Government Code section 12599.3, to read as follows:**

*(a) No commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes shall contract with a charitable organization unless the commercial fundraiser or the fundraising counsel is registered with the Attorney General's Registry of Charitable Trusts. A contract with an unregistered commercial fundraiser or fundraising counsel shall be void.*

*(b) Whenever a charitable organization contracts with a commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes, the*

*charitable organization shall have the right to cancel the contract without cost, penalty, or liability for a period of 10 days following the date on which the contract is executed. Any provision in the contract that is intended to waive this right of cancellation shall be void and unenforceable.*

*(c) A charitable organization may cancel a contract pursuant to subdivision (b) by serving a written notice of cancellation on the fundraising counsel or commercial fundraiser. If mailed, service shall be by certified mail, return receipt requested, and cancellation shall be deemed effective upon the expiration of five calendar days from the date of mailing. The notice shall be sufficient if it indicates that the charitable organization does not intend to be bound by the contract.*

*(d) Whenever a charitable organization cancels a contract under the provisions of this section, it shall mail a duplicate copy of the notice of cancellation to the Registry of Charitable Trusts.*

*(e) Any funds collected after effective notice that a contract has been canceled shall be deemed to be held in trust for the benefit of the charitable organization without deduction for costs or expenses of any nature. A charitable organization shall be entitled to recover all funds collected after the date of cancellation.*

*(f) Following the initial 10-day cancellation period, a charitable organization may terminate a contract with a commercial fundraiser for charitable purposes or a fundraising counsel for charitable purposes by giving 30 days' written notice. If mailed, service of the notice shall be by certified mail, return receipt requested, and shall be deemed effective upon the expiration of five calendar days from the date of mailing. In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser or fundraising counsel to the effective date of the termination.*

*(g) Following the initial 10-day cancellation period, a charitable organization may terminate at any time upon written notice a contract with a commercial fundraiser for charitable purposes or a fundraising counsel for charitable purposes, without payment or compensation of any kind to the commercial fundraiser or fundraising counsel, if the commercial fundraiser or the fundraising counsel, or their agents, employees, or representatives (1) make any material misrepresentations in the course of solicitations or with respect to the charitable organization, (2) have been convicted of a felony, or of a misdemeanor, arising from the conduct of a solicitation for a charitable organization or purpose, (3) otherwise conduct fundraising activities in a manner that causes or could cause public disparagement of the charitable organization's good name or good will.*

**Add Government Code section 12599.6, to read as follows:**

*(a) Charitable organizations and commercial fundraisers for charitable purposes may accept contributions only for a charitable purpose that is expressed in the solicitation for contributions and that conforms to the charitable purpose expressed in the articles of incorporation or other governing instrument of the charitable organization and may apply the contributions only in a manner consistent with those purposes.*

*(b) Charitable organizations and commercial fundraisers for charitable purposes soliciting in the State of California shall make all of the following disclosures in any written solicitation and at the time of any oral solicitation:*

*(1) Their legal name and address as registered with the Attorney General's Registry of Charitable Trusts and, if different, the legal name and address of the charitable organization, as registered with the Registry of Charitable Trusts, on whose behalf the solicitation is being conducted. Any use of a project or program name in a solicitation shall be immediately followed by disclosure of the legal name of the charitable organization as registered with the Registry of Charitable Trusts.*

*(2) If requested, the name, address, and telephone number of a representative to whom inquiries can be addressed and from whom written information is available.*

*(3) A full, fair, and accurate description of the charitable purpose or purposes for which the contributions raised by the solicitation will be used and, if the solicitation is on behalf of a charitable organization, the legal name of the charitable organization as registered with the Registry of Charitable Trusts.*

*(4) If requested, the source from which a financial statement may be obtained. The financial statement shall be consistent with the annual financial report required under section 12586 and shall disclose assets, liabilities, net assets, revenue, and expenses for the preceding fiscal year. Expenses shall be separated into program services, administrative costs, and fundraising costs.*

*(5) A commercial fundraiser for charitable purposes shall disclose that the solicitation is being conducted by a commercial fundraiser for compensation and, if the individual acting on behalf of the commercial fundraiser identifies himself or herself by name, the individual's legal name, including first and last names.*

*(6) If requested orally or in writing by a person solicited, a commercial fundraiser for charitable purposes shall disclose (1) if the commercial fundraiser is being paid a fixed fee, the fee being paid the commercial fundraiser and an accurate estimate of what percentage the fee will constitute of the total contributions received, and (2) if the commercial fundraiser is being paid a*

*percentage fee, a statement of the percentage of the total contributions received that will be remitted to or retained by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of tickets to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any additional amount that the charitable organization is obligated to pay as fundraising costs. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail, e-mail, or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.*

*(c) Every printed solicitation and every written confirmation, receipt, or reminder of a contribution provided to any person shall include in 9-point typeface or larger a disclosure of the information required by subdivisions (b)(1), (2), (3), and (4), and the following statement verbatim:*

*“The official registration and financial information regarding (insert the legal name of the charity as registered with the Registry of Charitable Trusts) can be obtained from the Attorney General's website at <http://caag.state.ca.us/charities/>. Registration does not imply endorsement.”*

*(d) Charitable organizations and commercial fundraisers for charitable purposes shall not misrepresent the purpose of the charitable organization or the nature or purpose or beneficiary of a solicitation. A misrepresentation may be accomplished by words or conduct or failure to disclose a material fact.*

*(e) A charitable organization shall establish and exercise control over fundraising activities conducted for its benefit, including approval of all contracts and agreements, and shall assure that fundraising activities are conducted without coercion.*

*(f) A charitable organization shall not enter into any contract or agreement with, or employ, any commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes unless that commercial fundraiser or fundraising counsel is registered with the Registry of Charitable Trusts.*

*(g) A charitable organization shall not enter into any contract or agreement with, or raise any funds for, any charitable organization required to be registered pursuant to this act unless that charitable organization is registered with the Registry of Charitable Trusts.*

*(h) A charitable organization shall deposit each and every contribution raised on its behalf within five days of receipt into an account at a bank or other federally insured institution that is solely in its name and over which it has sole control of withdrawals. Each contribution in the control or custody of a commercial fundraiser for charitable purposes shall in its entirety and within five days of receipt (A) be deposited in an account at a bank or other federally insured financial institution that is solely in the name of the charitable organization on whose behalf the contribution was solicited and over which the charitable organization has sole control of withdrawals or (B) be delivered to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.*

*(i) Regardless of injury, the following acts and practices are prohibited in the planning, conduct, or execution of any solicitation or charitable sales promotion:*

*(1) Operating in violation of, or failing to comply with, any of the requirements of this act or regulations or orders of the Attorney General, or soliciting contributions after registration with the Registry of Charitable Trusts has expired or has been suspended or revoked.*

*(2) Using any unfair or deceptive acts or practices or engaging in any fraudulent conduct that creates a likelihood of confusion or misunderstanding.*

*(3) Using any representation that implies the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter belonging to or associated with a charitable organization, without first being authorized in writing to do so by the charitable organization.*

*(4) Using a name, symbol, or statement so closely related or similar to that used by another charitable organization or another person that the use would tend to confuse or mislead a solicited person.*

*(5) Misrepresenting or misleading anyone in any manner to believe that the person on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for charitable purposes when that is not the fact.*

*(6) Misrepresenting or misleading anyone in any manner to believe that any other person sponsors, endorses, or approves a charitable solicitation or charitable sales promotion when that person has not given consent in writing to the use of the person's name for these purposes.*

*(7) Misrepresenting or misleading anyone in any manner to believe that goods or services have endorsement, sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has endorsement, sponsorship, approval, status, or affiliation that the person does not have.*

*(8) Using or exploiting the fact of registration with the Attorney General's Registry of Charitable Trusts so as to lead any person to believe that the registration in any manner constitutes an endorsement or approval by the Attorney General. The use of the following statement is not prohibited:*

*"The official registration and financial information regarding (insert the legal name of the charity as registered with the Registry of Charitable Trusts) can be obtained from the Attorney General's website at <http://caag.state.ca.us/charities/>. Registration does not imply endorsement."*

*(9) Representing directly or by implication that a charitable organization will receive an amount greater than the actual net proceeds reasonably estimated to be retained by the charity for its use.*

*(10) With respect to solicitations by commercial fundraisers for charitable purposes on behalf of law enforcement personnel, firefighters, or other persons who protect the public safety, issuing, offering, giving, delivering, or distributing any honorary membership cards, courtesy cards, or similar cards, or any stickers, emblems, plates, or other such items that could be used for display on a motor vehicle, and that suggest affiliation with, or endorsement by any such public safety personnel or a group comprising such personnel.*

*(11) Soliciting for advertising to appear in a for-profit publication that relates to, purports to relate to, or that could reasonably be construed to relate to, any charitable purpose without making the following disclosures at the time of solicitation:*

*(A) The publication is a for-profit, commercial enterprise.*

*(B) The true name of the solicitor and the fact that the solicitor is a professional solicitor.*

*(C) The publication is not affiliated with or sponsored by any charitable organization.*

*Where a sale of advertising has been made, the solicitor, prior to accepting any money for the sale, shall make to the purchaser the disclosures required by this subdivision in written form and in conspicuous type.*

*(12) Representing that any part of the contributions received will be given or donated to any other charitable organization unless that organization has consented in writing to the use of its name prior to the solicitation. The written consent shall be signed by two authorized officers, directors, or trustees of the charitable organization.*

*(13) Representing that tickets to events will be donated for use by another, unless all of the following requirements have been met:*

*(A) The charitable organization or commercial fundraiser has commitments, in writing, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.*

*(B) The donated tickets will not, when combined with other ticket donations, exceed the lesser of:*

*(i) The number of ticket commitments that have been received from charitable organizations.*

*(ii) The total attendance capacity of the site of the event.*

**Add Government Code section 12599.7, to read as follows:**

*(a) A commercial fundraiser for charitable purposes shall maintain during each solicitation campaign and for not less than 10 years following the completion of each solicitation campaign records containing the following information, which shall be available for inspection upon demand by the Attorney General:*

*(1) The date and amount of each contribution received as a result of the solicitation campaign and, for non-cash contributions, the name and address of each contributor.*

*(2) The name and residence address of each employee, agent, or other person involved in the solicitation campaign.*

*(3) Records of all revenue received and expenses incurred in the course of the solicitation campaign.*

*(4) For each account into which the commercial fundraiser deposited revenue from the solicitation campaign, the account number and the name and location of the bank or other financial institution in which the account was maintained.*

*(b) If a commercial fundraiser for charitable purposes sells tickets to an event and represents that tickets will be donated for use by another, the commercial fundraiser shall maintain for not less than 10 years following the completion of the event records containing the following information, which shall be available for inspection upon demand by the Attorney General:*

*(1) The number of tickets purchased and donated by each contributor.*

*(2) The name and address of all organizations receiving donated tickets for use by others, including the number of tickets received by each organization.*

**Add Government Code section 12599.8, to read as follows:**

*(a) No payments in cash or in kind may be made to any person or legal entity to secure any person's attendance at, or sponsorship, approval, or endorsement of, a charity fundraising event without the advance written approval of the board of directors or chief executive officer of each charitable organization for whose benefit the fundraising event is conducted. The person proposing to make such a payment shall personally notify the person whose attendance, sponsorship, approval, or endorsement is sought of the requirement of approval and whether it has been obtained. Upon suit by the Attorney General or by any charity whose approval was not obtained as provided in this section, any such payment that has not been so approved shall be paid over by the recipient to the charity or charities on whose behalf the payment was made.*

*(b) For the purpose of this section, "charity fundraising event" means any gathering of persons, including but not limited to a party, banquet, concert, or show, that is held for the purpose or claimed purpose of raising funds for any charitable purpose or organization.*

**Amend Business and Professions Code section 17510.3 to read as follows:**

~~(a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.~~

~~In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that the information as required below is contained in the printed material.~~

~~Information on the card or printed material shall be presented in at least 10-point type and shall include the following:~~

~~(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes.~~

~~(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.~~

~~(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.~~

~~(4) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expense.~~

~~(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of these expenses may be obtained by contacting the organization at the address disclosed.~~

*(a) A charity may accept contributions only for a charitable purpose that is expressed in the solicitation for contributions and that conforms to the charitable purpose expressed in the articles of incorporation or other governing instrument of the charitable organization and may apply the contributions only in a manner consistent with those purposes.*

*(b) A charity soliciting in the State of California shall include all of the following disclosures in any written solicitation and at the time of any oral solicitation:*

*(1) Its legal name and address as registered with the Attorney General's Registry of Charitable Trusts, and, if different, the legal name and address of the charity, as registered with the Registry of Charitable Trusts, on whose behalf the solicitation is being conducted. Any use of a project or program name in a solicitation shall be immediately followed by a disclosure of the legal name of the charity as registered with the Registry of Charitable Trusts.*

*(2) If requested, the name, address, and telephone number of a representative to whom inquiries can be addressed and from whom written information is available.*

*(3) A full, fair, and accurate description of the charitable purpose or purposes for which the contributions raised by the solicitation will be used.*

*(4) If requested, the source from which a financial statement may be obtained. The financial statement shall be consistent with the annual financial report required under Government Code section 12586 and shall disclose assets, liabilities, fund balances, revenue, and expenses for the preceding fiscal year. Expenses shall be separated into program services, administrative costs, and fundraising costs.*

*(5) A commercial fundraiser for charitable purposes shall disclose that the solicitation is being conducted by a commercial fundraiser for compensation and, if the individual acting on behalf of the commercial fundraiser identifies himself or herself by name, the individual's legal name, including first and last names.*

*(6) If requested orally or in writing by a person solicited, (A) if a commercial fundraiser is being used and is being paid a fixed fee, the fee being paid and an accurate estimate of what percentage the fee will constitute of the total contributions received, or (B) if a commercial fundraiser is being used and is being paid a percentage fee, the percentage of the total contributions received that will be remitted to or retained by the charitable organization, or, if the solicitation involves the sale of goods or services or the sale of tickets to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization. The stated percentage shall be calculated by subtracting from contributions received and sales receipts not only the commercial fundraiser's fee, but also any amount that the charitable organization is obligated to pay as fundraising costs. A commercial fundraiser for charitable purposes shall disclose this information in writing within five working days from receipt of a request by mail or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days.*

*(7) Every printed solicitation and every written confirmation, receipt, or reminder of a contribution provided to any person shall include in 9-point typeface or larger a disclosure of the information required by subdivisions (b)(1), (2), (3), and (4), and the following statement verbatim:*

*"The official registration and financial information regarding (insert the legal name of the charity as registered with the Registry of Charitable Trusts) can be obtained from the Attorney General's website at <http://caag.state.ca.us/charities/>. Registration does not imply endorsement."*

~~(6)~~(8) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law.

~~(7)~~(9) ~~If requested, The percentage dollar amount of the total purchase price or cash gift or purchase price which may be deducted as a charitable contribution under both federal and state law-, or if no portion amount is so deductible that the card shall state that "This contribution is not tax deductible."~~

~~(8)~~(10) If the organization making the solicitation represents any non-governmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," ~~or~~ "deputy sheriff," firefighter, or any other term denominating persons who protect the public safety, which would reasonably be understood to imply that the organization is composed of law enforcement or public safety personnel, ~~the solicitor shall give~~ the total number of members in the organization that are law enforcement or public safety personnel and the number of such members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the

statewide circulation of the publication in which the solicited ad will appear.

~~(9)~~(11) If the organization making the solicitation represents any non-governmental organization by any name which includes, but is not limited to, the term “veteran” or “veterans,” which would reasonably be understood to imply that the organization is composed of veterans, ~~the solicitor shall give~~ the total number of members of the organization and the number of members working or living within the county where the solicitation is being made. This paragraph does not apply to federally chartered or state incorporated veterans organization with 200 or more dues paying members or to a thrift store operated or controlled by a federally chartered or state incorporated veterans’ organization. This paragraph does not apply to any state incorporated community-based organization that provides direct services to veterans and their families and qualifies as a tax-exempt organization under Section 501(c)(3) or 501(c)(19) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

~~(b)~~(c) Knowing and willful noncompliance *with this section* by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable corporation or trustee shall subject the solicitor or seller to the penalties of the law.

~~(e)~~(d) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable corporation may comply with the disclosure provisions by providing the name and address of the charitable corporation on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of the organization, including its administration and fundraising costs, may be obtained by contacting the organization’s office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request.

~~(d)~~(e) A volunteer who receives no compensation of any type from, or in connection with a solicitation or sales solicitation by a charitable corporation which has qualified for a tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1954, and who is *under* 18 years of age ~~or younger~~, is not required to make any disclosures pursuant to this section.

~~(e)~~(f) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.