

# HB184 INTRODUCED



1 ZG93RK-1  
2 By Representative Kiel  
3 RFD: State Government  
4 First Read: 22-Mar-23  
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SYNOPSIS:

Under existing law, every charitable organization physically located in this state which intends to solicit charitable contributions is required to register with the Attorney General.

This bill would prohibit any state agency or official from imposing any annual filing or reporting requirement on any charitable organization that is more stringent, restrictive, or expansive than the requirements of existing law.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to charitable organizations; to amend Section 13A-9-71, Code of Alabama 1975, to prohibit the imposition of certain filing or reporting requirements on certain charitable organizations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-9-71, Code of Alabama 1975, is amended to read as follows:

"§13A-9-71

(a) Every charitable organization, except those granted



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29 an exemption in subsection (f), which is physically located in  
30 this state, and which intends to solicit contributions in or  
31 from this state, or to have contributions solicited in this  
32 state, on its behalf, by other charitable organizations, paid  
33 solicitors, or commercial co-venturers in or from this state  
34 shall, prior to any solicitation, file a registration  
35 statement with the Attorney General upon a form prescribed by  
36 the Attorney General containing all of the following  
37 information:

38 (1) The name of the organization and the name or names  
39 under which it intends to solicit contributions.

40 (2) The names and addresses of the officers, directors,  
41 trustees, and executive personnel of the organization.

42 (3) The addresses of the organization and the addresses  
43 of any offices in this state. If the organization does not  
44 maintain an office, the name and address of the person having  
45 custody of its financial records.

46 (4) The place where and the date when the organization  
47 was legally established, the form of its organization, and its  
48 tax exempt status.

49 (5) The purposes for which the organization is  
50 organized and the purpose or purposes for which the  
51 contributions to be solicited will be used.

52 (6) The date on which the fiscal year of the  
53 organization ends.

54 (7) Whether the organization is authorized by any  
55 governmental authority to solicit contributions and whether it  
56 is or has ever been enjoined by any court from soliciting



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57 contributions.

58 (8) The names and addresses of any professional fund  
59 raisers and commercial co-venturers who are acting or have  
60 agreed to act on behalf of the organization.

61 (b) With the initial registration only, every  
62 charitable organization required to be registered shall also  
63 file with the Attorney General a copy of the charitable  
64 organizational charter, articles of organization or  
65 incorporation, agreement of association, instrument of trust,  
66 constitution or other organizational instrument and bylaws,  
67 and a statement setting forth the place where and the date  
68 when the organization was legally established, the form of  
69 this organization, and its tax exemption status attaching  
70 federal or state tax exemption determination letters.

71 (c) The registration form shall be signed by the  
72 president or other authorized officer and the chief fiscal  
73 officer of the organization.

74 (d) Every charitable organization required to register  
75 shall pay a fee of twenty-five dollars (\$25) to the Attorney  
76 General at the time of registration.

77 (e) The registration shall remain in effect unless it  
78 is either cancelled as provided in this section or withdrawn  
79 by the organization. Every registered organization shall  
80 notify the Attorney General within 10 days of any change in  
81 the information required to be furnished by the organization  
82 under subsection (a).

83 (f) The following persons shall not be required,  
84 pursuant to this article, to register with the Attorney



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85 General:

86 (1) Educational institutions and their authorized and  
87 related foundations.

88 (2) Religious organizations.

89 (3) Political organizations.

90 (4) Fraternal, patriotic, benevolent, social,  
91 educational, alumni, health care foundation, historical, and  
92 civil rights organizations, including fraternities and  
93 sororities and any auxiliaries associated with any such  
94 organizations.

95 (5) Civic leagues and civic organizations which solicit  
96 contributions solely from their own membership.

97 (6) Persons requesting any contributions for the relief  
98 of any individual, specified by the name at the time of the  
99 solicitation, if all of the contributions collected do not  
100 exceed ten thousand dollars (\$10,000) and, without any  
101 deductions, are turned over to the named beneficiary.

102 (7) Any charitable organization which does not intend  
103 to solicit and receive and does not actually receive  
104 contributions in excess of twenty-five thousand dollars  
105 (\$25,000) during a fiscal year of the organization, provided  
106 all of its fund raising functions are carried on by persons  
107 who are not paid for such services. If the gross contributions  
108 received by a charitable organization during any fiscal year  
109 of that organization are in excess of twenty-five thousand  
110 dollars (\$25,000), within 30 days after the date it receives  
111 total contributions in excess of twenty-five thousand dollars  
112 (\$25,000), the charitable organization shall register with the



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113 Attorney General as required by this section.

114 (8)a. Any charitable organization receiving an  
115 allocation from an incorporated community chest or united  
116 fund, provided all of the following requirements have been  
117 met:

118 1. The chest or fund is complying with this section  
119 relating to registration and filing of annual reports with the  
120 Attorney General.

121 2. The charitable organization does not actually  
122 receive, in addition to an allocation, contributions in excess  
123 of twenty-five thousand dollars (\$25,000) during the fiscal  
124 year.

125 3. All of the fund raising functions of the charitable  
126 organization are carried on by persons who are not paid for  
127 such services.

128 b. If the gross contributions other than the allocation  
129 received by the charitable organization during any fiscal year  
130 of the charitable organization are in excess of twenty-five  
131 thousand dollars (\$25,000), the charitable organization, ~~shall~~  
132 within 30 days after the date it receives the contributions in  
133 excess of twenty-five thousand dollars (\$25,000), shall  
134 register with the Attorney General as required by this  
135 section.

136 (9) A local post, camp, chapter, or similarly  
137 designated element, or a county unit of such elements of a  
138 bona fide veterans organization, which issues charters to  
139 local elements throughout this state, or a bona fide  
140 organization of volunteer firefighters, ambulance companies,



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141 or rescue squads, or a bona fide auxiliary or affiliate of  
142 such organizations, provided all of its fund raising  
143 activities are carried on by members of the organization,  
144 family members of the members of the organization, volunteers,  
145 or an affiliate of the organization and the members receive no  
146 compensation, directly or indirectly, therefor.

147 (g) Every charitable organization registered pursuant  
148 to subsection (a) ~~shall~~, within 90 days of the close of its  
149 fiscal year ending after the date on which the charitable  
150 organization files its initial registration pursuant to  
151 subsection (a), shall file an annual written report. Each  
152 annual report shall be sworn to under oath, shall be in the  
153 form prescribed by the Attorney General, and shall include a  
154 financial statement covering the fiscal year, clearly setting  
155 forth the gross income, expenses, and net income inuring to  
156 the benefit of the charitable organization, a balance sheet as  
157 of the close of the fiscal year, and a schedule of the  
158 activities carried on by the charitable organization in the  
159 performance of its purposes and the amounts expended thereon  
160 during the fiscal year. An organization may also meet this  
161 requirement by submitting a copy of the Form 990 submitted to  
162 the Internal Revenue Service as required by federal law. A fee  
163 of twenty-five dollars (\$25) payable to the Attorney General  
164 shall accompany the report at the time of filing.

165 (1) The Attorney General shall cancel the registration  
166 of any charitable organization ~~which~~ that fails within the  
167 time ~~herein~~ prescribed to comply with this ~~section~~ subsection,  
168 or fails to furnish any additional information requested by



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169 the Attorney General within the required time. The Attorney  
170 General may extend the time for filing the reports for a  
171 period not to exceed 180 days. Notice of cancellation pursuant  
172 to this subsection shall be mailed to the registrant at least  
173 15 days before the effective date thereof.

174 (2) All records, books, and reports maintained by any  
175 charitable organization registered or required to register  
176 pursuant to subsection (a) shall be available for inspection  
177 during normal business hours at the principal office of the  
178 organization, by the Attorney General, or the duly authorized  
179 representative of the Attorney General.

180 (h) No person shall act as a professional fund raiser  
181 or commercial co-venturer either before he or she registers  
182 with the Attorney General, or after the expiration or  
183 cancellation of his or her registration and prior to renewal  
184 thereof. Applications for registration and renewal shall be in  
185 writing, under oath, in the form prescribed by the Attorney  
186 General, and shall be accompanied by an annual fee in the  
187 amount of one hundred dollars (\$100).

188 (1) The applicant shall at the time of making  
189 application, file with, and have approved by the Attorney  
190 General, a bond in which the applicant shall be the principal  
191 obligor in the sum of ten thousand dollars (\$10,000) with one  
192 or more sureties whose liability in the aggregate as sureties  
193 will at least equal that sum. The bond shall run to the  
194 Attorney General for the use of the state and to any person  
195 who may have a cause of action against the obligor of the bond  
196 for any malfeasance or misfeasance in the conduct of the





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197 solicitation.

198           (2) Registration shall be for the period of one year,  
199 or a part thereof, expiring on the 30th day of September and  
200 may be renewed upon written application under oath, in the  
201 form prescribed by the Attorney General, the filing of the  
202 bond, and the payment of the fee prescribed for an additional  
203 one-year period. Applications, registrations, renewals, and  
204 bonds, when filed with the Attorney General, shall become  
205 public records in the Office of the Attorney General.

206           (3) A professional fund raiser or commercial  
207 co-venturer shall maintain accurate and current books and  
208 records of his or her activities while required to be  
209 registered under this section and until at least two years  
210 have elapsed at the end of the effective period of the  
211 registration to which they relate. He or she shall keep the  
212 books and records in his or her office available for  
213 inspection and examination by the Attorney General, or the  
214 duly authorized representative of the Attorney General.

215           (i) All contracts entered into between professional  
216 fund raisers or commercial co-venturers and charitable  
217 organizations shall be in writing. A true and correct copy of  
218 each contract shall be filed by the professional fund raiser  
219 or commercial co-venturer with the Attorney General within 10  
220 days after it is executed. No services shall be performed  
221 under a contract until the expiration of 15 days from the date  
222 the contract is filed with the Attorney General. Within 90  
223 days after the termination of the contract, the professional  
224 fund raiser or commercial co-venturer shall file a closing



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225 statement with the Attorney General disclosing gross receipts  
226 and all expenditures incurred in the performance of the  
227 contract.

228 (j) No person shall act as a professional solicitor in  
229 the employ of a professional fund raiser who is required to  
230 register pursuant to this section before he or she has  
231 registered with the Attorney General or after the expiration  
232 or cancellation of the registration or any renewal thereof.  
233 Application for registration shall be in writing, under oath,  
234 in the form prescribed by the Attorney General and shall be  
235 accompanied by a fee in the amount of twenty-five dollars  
236 (\$25). Registration when effected shall be for a period of one  
237 year, or a part thereof, expiring with the 30th day of  
238 September and may be renewed upon written application, under  
239 oath, in the form prescribed by the Attorney General and the  
240 payment of the fee prescribed herein for additional one-year  
241 periods. Applications for registration, when filed with the  
242 Attorney General, shall become public records in the Office of  
243 the Attorney General.

244 (k) Any charitable organization, professional fund  
245 raiser, professional solicitor, or commercial co-venturer  
246 which is subject to this article, having its principal place  
247 of business outside this state, or organized under and by  
248 virtue of the laws of a foreign state, shall be deemed to have  
249 irrevocably appointed the Secretary of State as its agent upon  
250 whom may be served any summons, subpoena, subpoena duces  
251 tecum, or other process directed to the charitable  
252 organization, professional fund raiser, professional



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253 solicitor, or commercial co-venturer, or any partner,  
254 principal officer, or director thereof, in any action or  
255 proceeding brought pursuant to this article. Service of  
256 process upon the Secretary of State shall be made by  
257 personally delivering a copy to the Office of the Secretary of  
258 State and depositing it with the Secretary of State or his or  
259 her agent. Service shall be sufficient if notice of the  
260 service and a copy of the process shall be forthwith sent by  
261 the Secretary of State to the charitable organization,  
262 professional fund raiser, commercial co-venturer, or other  
263 person to whom it is directed, by registered mail, with return  
264 receipt requested, to the last address known to the Secretary  
265 of State.

266 (l) No person, except an officer, director, or trustee  
267 of the charitable organization by or for whom contributions  
268 are solicited, shall for the purpose of soliciting  
269 contributions from persons in this state, use the name of any  
270 charitable organization without the consent of the charitable  
271 organization.

272 (m) A person shall be deemed to have used the name of a  
273 charitable organization for the purpose of soliciting  
274 contributions if the latter charitable organization's name is  
275 listed on any stationery, advertisement, brochure, or  
276 correspondence in or by which a contribution is solicited by  
277 or on behalf of a charitable organization or his or her name  
278 is listed or referred to in connection with a request for a  
279 contribution as one who has contributed to, sponsored, or  
280 endorsed the charitable organization or its activities.



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281 (n) Nothing contained in this section shall prevent the  
282 publication of names of contributors without their written  
283 consent in an annual or other periodic report issued by a  
284 charitable organization for the purpose of reporting its  
285 operations and affairs to its membership or for the purpose of  
286 reporting contributions to contributors.

287 (o) No charitable organization or professional fund  
288 raiser soliciting contributions shall use a name, symbol, or  
289 statement so closely related or similar to that used by  
290 another charitable organization or governmental agency that  
291 the use thereof would tend to confuse or mislead the public.

292 (p) Every individual in the process of soliciting funds  
293 shall identify himself or herself. If the individual is being  
294 paid for soliciting, he or she shall so inform the solicitee  
295 of his or her being so paid. This information shall be  
296 disclosed to the solicitee in a clear manner before attempting  
297 any solicitations.

298 (q) Any solicitor or person who knowingly violates ~~the~~  
299 ~~provisions of~~ this section shall be guilty of charitable  
300 fraud. The initial conviction of charitable fraud shall be a  
301 Class A misdemeanor. A second or subsequent conviction of  
302 charitable fraud shall be a Class C felony.

303 (r) In addition to all other remedies provided by law,  
304 the Attorney General, or a district attorney, may bring an  
305 action to enjoin the violation of this section. The Attorney  
306 General, or district attorney, may give at least 15 days  
307 written notice by registered or certified mail to the  
308 charitable organization, person, or persons violating the



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309 provisions hereof. The notice shall require that registration  
310 be accomplished or that the solicitation of funds be  
311 immediately terminated. The failure to immediately discontinue  
312 solicitation, or to register in accordance with this section,  
313 shall be unlawful and the charitable organizations or persons  
314 committing the violation shall forfeit and pay a penalty of  
315 not more than five thousand dollars (\$5,000) upon petition by  
316 the Attorney General or a district attorney acting in the name  
317 of the state. The Attorney General shall have the authority to  
318 formulate rules ~~and regulations~~ interpreting this section as  
319 necessary to the administration and enforcement of its  
320 provisions.

321 (s) (1) Except as required or authorized by federal law,  
322 no state agency or state official shall impose any annual  
323 filing or reporting requirement on any charitable  
324 organization, professional fund raiser, commercial  
325 co-venturer, or professional solicitor, or their agent, or any  
326 other entity regulated or specifically exempted from  
327 regulation under this article that is more stringent,  
328 restrictive, or expansive than the requirements authorized  
329 under state law.

330 (2) Notwithstanding subdivision (1), this subsection  
331 does not apply to state grants, state contracts, or state  
332 fraud investigations, and does not restrict enforcement  
333 actions against specific nonprofit organizations."

334 Section 2. This act shall become effective on the first  
335 day of the third month following its passage and approval by  
336 the Governor, or its otherwise becoming law.