

# Nonprofit Compliance Requirements When Fundraising Online

By Ron Barrett

August 2024



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## Overview of Presentation

- Charitable solicitation registrations and exemptions from registration
- Online filings and efforts to simplify
- Impact of online fundraising on registration
- Charitable renewals and consequences of noncompliance



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# Charitable Solicitation Registrations and Exemptions



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## Frequently Asked Questions

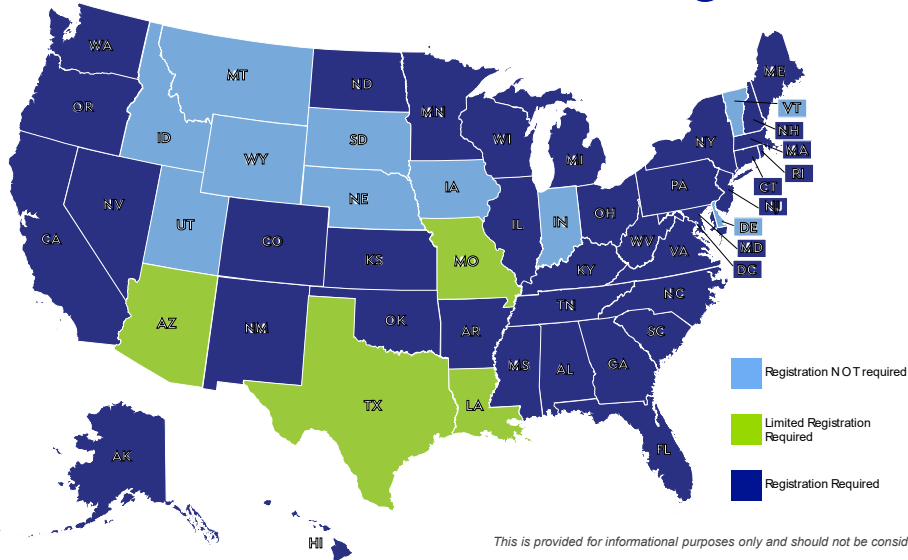
- What is charitable solicitation registration?
- Why is registration required?
- When should registration occur?
- Who must register?
- Where is registration required?
- How is this different from corporate “registration” and compliance?



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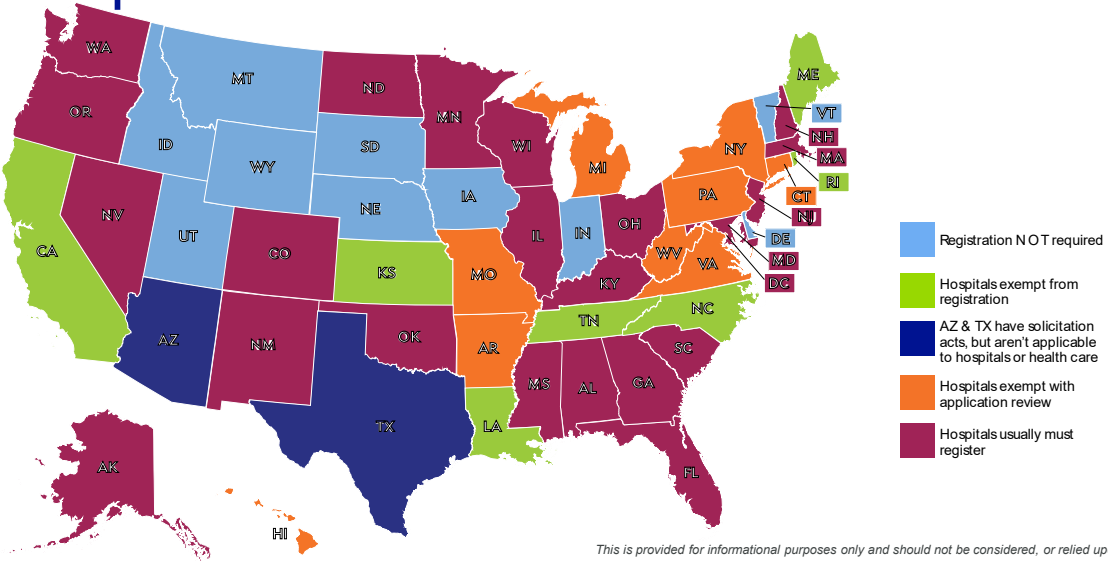
# Charitable Solicitation Registration



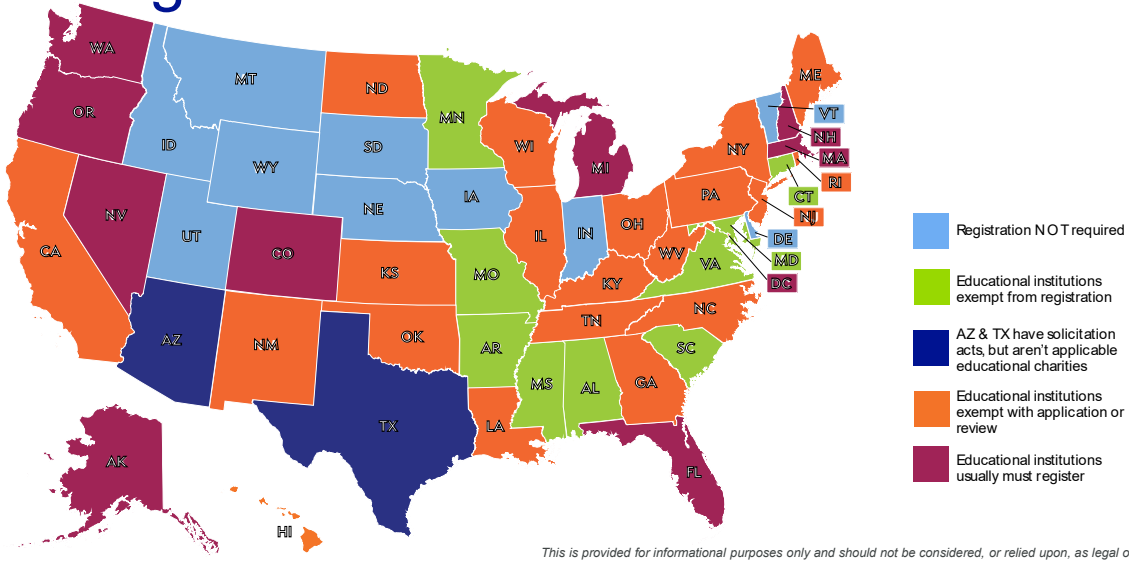
# Charitable Registration Exemptions

**Exemptions:** They exist (industry-based, monetary threshold, political groups, etc.) but [there's a catch.](#)

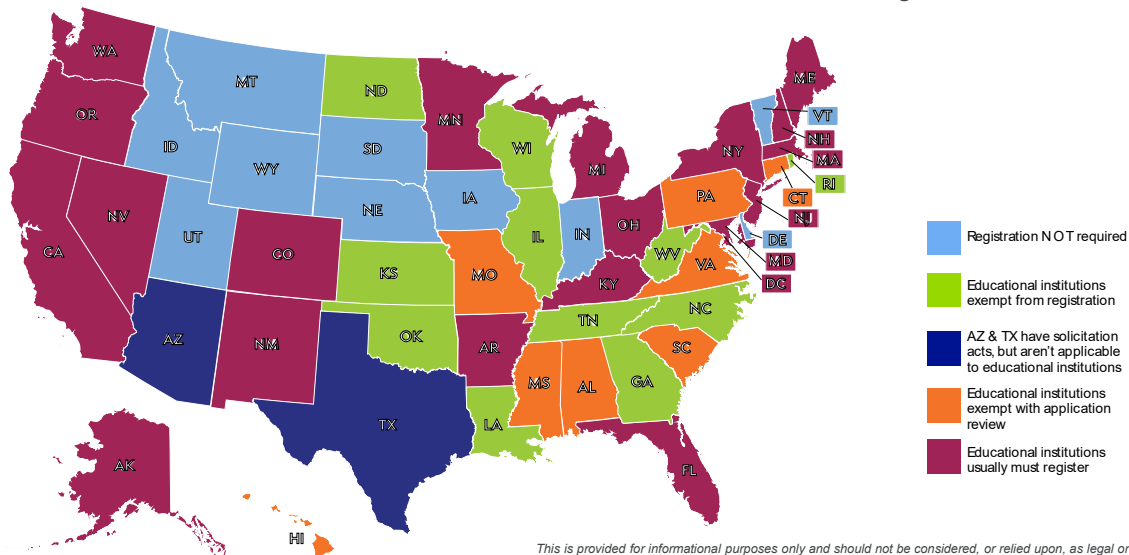
# Hospitals Charitable Registration and Exemptions



# Colleges and Universities Charitable Registration and Exemptions



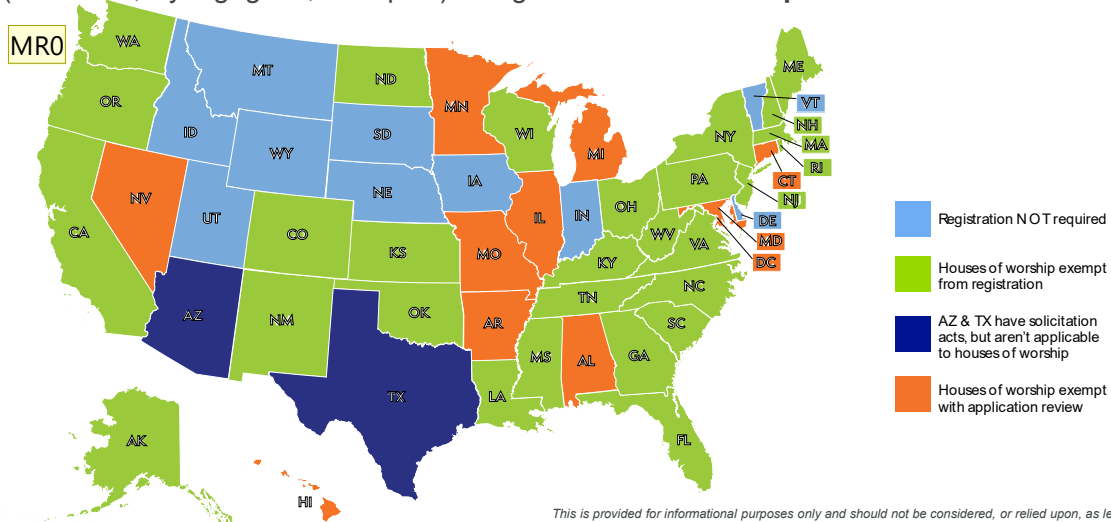
# Educational Foundations Charitable Registration and Exemptions



*This is provided for informational purposes only and should not be considered, or relied upon, as legal or tax advice.*



# Houses of Worship (Churches, Synagogues, Mosques) if Organization is Not Required to File Form 990 With IRS



*This is provided for informational purposes only and should not be considered, or relied upon, as legal or tax advice.*



## Slide 10

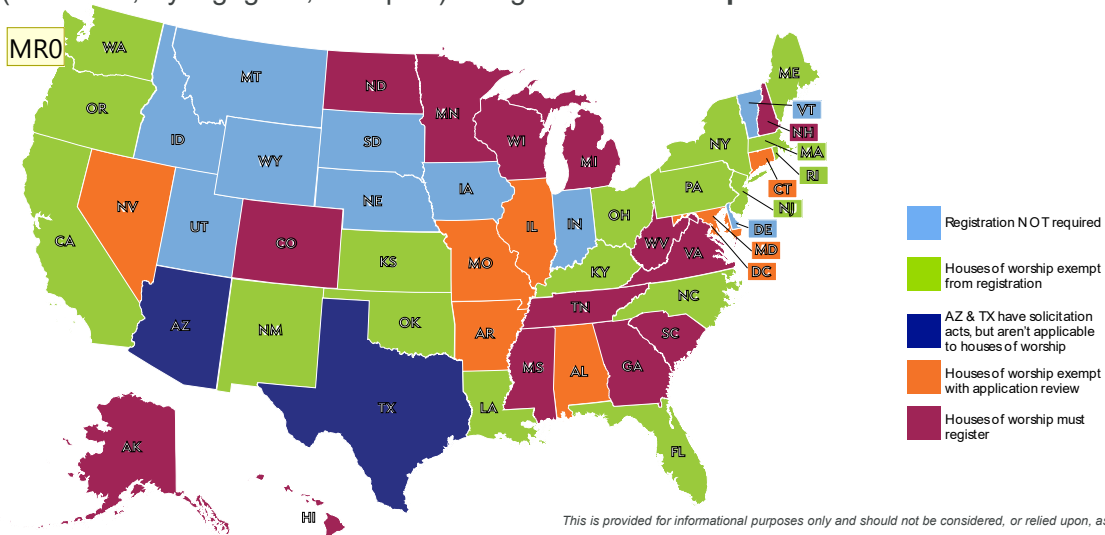
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**MRO** Capitalized each word to keep consistent.  
Michelle Ranken, 2024-03-27T13:49:37.684

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:50:41.513

# Houses of Worship

(Churches, Synagogues, Mosques) if Organization is Required to File Form 990 With IRS



*This is provided for informational purposes only and should not be considered, or relied upon, as legal or tax advice.*



# Online Filings and Efforts to Simplify



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**MRO** Capitalized each word  
Michelle Ranken, 2024-03-27T13:50:25.545

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T15:02:01.048



## Digital Filings

- Online filing required in: AK, CO, DC, HI, MA\*, MD, MS, NJ, NY, NM, ND, OH, TN and WI\*
- Online filing available in: AL, CA\*, CT, FL, GA, ME, MA\*, MI, NH, NC, OK, OR\*, PA, RI, SC, WA and WV
- Email filing: AR, KS, MI, MN and NV

- \*For renewal filings only
- \*For initial filing only

## Is There a Unified Form or Online Filing Portal for Charitable Registration?

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- MR0**    **Uncapitalized**  
Michelle Ranken, 2024-03-27T13:52:59.379
- RB0 0**    **Okay, thanks**  
Ron Barrett, 2024-03-27T15:01:40.689
- MR1**    **Deleted extra space**  
Michelle Ranken, 2024-03-27T13:53:11.835
- RB1 0**    **Okay, thanks**  
Ron Barrett, 2024-03-27T15:01:46.158
- LN2**    **Removed UT per Ron's request**  
Lawrence Neves, 2024-04-23T14:55:24.135

### Slide 14

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- MR0**    **Capitalized**  
Michelle Ranken, 2024-03-27T13:55:20.040
- RB0 0**    **Okay, thanks**  
Ron Barrett, 2024-03-27T15:01:26.001

## Yes, There is a Form...<sup>MR0</sup> and a Portal Was in the Works!

- **Unified Registration Statement**
  - Novice filers often experience rejection
  - When to use and not use the URS
  - The URS...then, now and beyond
- **The Single Portal (Multistate Registration and Filing Portal)**<sup>MR1</sup>
  - NASCO, Guidestar and CityBase
  - Launched October 1, 2018 (CT and GA)
  - Efforts derailed by COVID
  - H.R.3245: Nonprofit Stakeholders Engaging and Advancing Together (SEAT) Act of 2023 <sup>MR2</sup>
  - Getting states on board will be a difficult process

## What Are Some Strategies Nonprofits Can Take to Limit Charitable Registration?

<sup>MR0</sup>

## Slide 15

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**MR0** Deleted em dash and replaced with ellipses.  
Michelle Ranken, 2024-03-27T13:58:11.405

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:59:46.966

**MR1** Deleted extra space  
Michelle Ranken, 2024-03-27T13:59:04.985

**RB1 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:59:55.123

**MR2** Deleted em dash and replaced with colon  
Michelle Ranken, 2024-03-27T13:59:36.096

**RB2 0** Okay, thanks  
Ron Barrett, 2024-03-27T15:00:05.545

## Slide 16

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**MR0** Capitalized  
Michelle Ranken, 2024-03-27T14:00:49.755

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:53:02.479

## A Strategic Approach Can Reduce Risks and Limit Costs

- Register to solicit (charitable vs. corporate) in your home state/where you are domiciled
- Consider neighboring states
- Missouri (501c3, 501c7 and 501c8 exempt with one-time exemption request)

## A Strategic Approach Can Reduce Risks and Limit Costs (Cont.)

- Don't worry about AZ (unless veterans), DE, ID, IN, IA, LA (unless you use solicitors), MT, NE, SD, TX (unless it is for public safety, law enforcement or veterans), UT, VT and WY
- Follow the money...and the people
- Consider the embarrassment factor
- Drive 55?

**Slide 18**

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**LNO** ADDED UT per Ron's request  
Lawrence Neves, 2024-04-23T14:55:46.715

# Impact of Online Fundraising on Charitable Registration MRO



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## Does Our “Donate Now” Button Trigger the Need for Nationwide Charitable Registration?

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**MRO** Removed period  
Michelle Ranken, 2024-03-27T14:02:46.806

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:53:29.965

## Slide 20

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**MRO** Capitalized  
Michelle Ranken, 2024-03-27T14:03:26.292

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:51:32.024

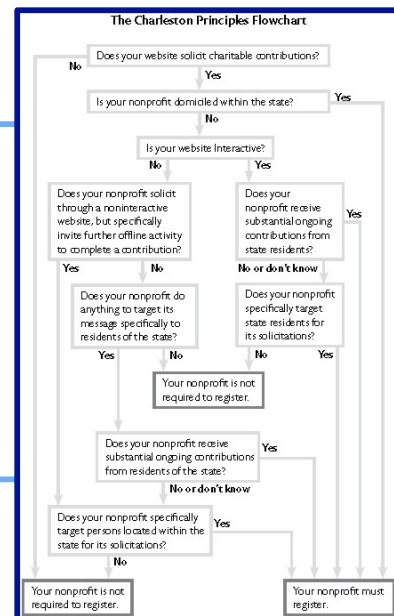


# Maybe, But it Depends...

- **The challenge:** How to apply old statutes to Internet-era fundraising
- CO, FL, MS, NH and TN have weighed in very clearly
- The Charleston Principles (non-binding advisory guidelines on use of Internet to solicit)
  - Static vs. Interactive website (mostly moot now)
  - Registration required if:
    - A website is used to solicit
    - You target specific state residents for contributions
    - You receive substantial contributions from state residents on a repeated and ongoing basis

## Source:

S. Fishman,  
R. Barrett, “*Nonprofit Fundraising Registration: Nolo’s 50-State Digital Guide*” (January 1, 2023)



## States That Have Adopted Elements of the Charleston Principles

- **Colorado:** Rules for the Administration of the Colorado Charitable Solicitations Act, 8 CCR 1505-9, Rule 9: **Application of Registration Requirements to Internet Solicitation** MR0
- **Mississippi:** Charities Act Rules, Title 1, Part 15, Rule 2.08: **Determination of Online Solicitation** MR1

## States That Have Adopted Elements of the Charleston Principles (Cont.)

- **New Hampshire:** Code of Admin. Rules, Jus 401.30: **Reasonable Minimum Contacts** MR0
- **Tennessee:** Regulation of the Solicitation of Funds for Charitable Purposes, 1360-03-01-.07: **Application of Registration Requirements to Internet Solicitation** MR1

## Slide 23

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**MR0** Deleted em dash and replaced with colon  
Michelle Ranken, 2024-03-27T14:05:26.952

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:54:06.795

**MR1** Deleted em dash and replaced with colon  
Michelle Ranken, 2024-03-27T14:06:02.750

**RB1 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:54:12.248

## Slide 24

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**MR0** Deleted em dash and replaced with colon  
Michelle Ranken, 2024-03-27T14:06:36.673

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:54:43.906

**MR1** Deleted em dash and replaced with colon  
Michelle Ranken, 2024-03-27T14:07:13.065

**RB1 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:59:17.777

## States That Have Adopted Elements of the Charleston Principles (Cont.)

- **Colorado:** An entity with a principal place of business outside of Colorado must register with the Secretary of State, unless it is exempt per section 6-16-104(6), C.R.S., if:
  - 9.4.2 The entity solicits contributions through an interactive website and the entity either:
    - (a) Specifically targets persons physically located in Colorado for solicitation, or
    - (b) Receives contributions from Colorado on a repeated and ongoing basis or a substantial basis through its website

**Repeated and ongoing basis** = 50 donations

**Substantial basis** = the lesser of \$25,000 or 1% of its total contributions

## States That Have Adopted Elements of the Charleston Principles (Cont.)

- **Mississippi:** Charitable organizations soliciting via the Internet or by email are considered to be soliciting in Mississippi if any of the following apply:
  - *Rule 2.08 (A)(3)* The charitable organization solicits donations via the Internet or by email, by providing a “Donate Now” button or any other indirect form of solicitation and either:
    - a) Receives, or intends to receive, in the charitable organization’s fiscal year, contributions in the amount of at least **\$25,000** from Mississippi residents, or
    - b) Receives contributions from 25 or more Mississippi residents in **MR0** charitable organization’s fiscal year **MR1**

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**MR0** Is this a direct quote from somewhere? If it is then feel free to disregard, but our style guide dictates that we don't typically spell out numbers

Michelle Ranken, 2024-03-27T14:11:36.793

**RB0 0** It's not a direct quote...agreed

Ron Barrett, 2024-03-27T14:55:53.315

**MR1** Same question as above

Michelle Ranken, 2024-03-27T14:13:10.906

**RB1 0** agreed

Ron Barrett, 2024-03-27T14:56:04.769

## States That Have Adopted Elements of the Charleston Principles (Cont.)

- **New Hampshire:** “Reasonable minimum contacts” means that a charitable trust:
  - (a) Conducts more than *de minimis* operations in New Hampshire;
  - (b) Specifically targets, through internet or non-internet means, New Hampshire residents to make donations, or;
  - (c) Receives donations from New Hampshire residents on a repeated and ongoing or a substantial basis
    - Except as described in Jus 402.01(c), any charitable trust that is not New Hampshire-based but has reasonable minimum contacts in New Hampshire shall register with the charitable trusts unit.

## States That Have Adopted Elements of the Charleston Principles (Cont.)

- **Tennessee:** An entity that is not domiciled within Tennessee must register in accordance with the law of Tennessee, unless exempt from the registration requirements, if:
  - (a) The entity solicits contributions through an interactive website, and
  - (b) Either the entity:
    - (i) Specifically targets persons physically located in Tennessee for solicitation, or
    - (ii) Receives contributions from Tennessee on a repeated and ongoing basis or a substantial basis through its website

**Repeated and ongoing basis** = 100 contributions in a year

**Substantial basis** = \$25,000 in online contributions in a year

# Florida's Disclosure Statement

s.496.411(3) Every charitable organization or sponsor that is required to register under s.496.405 or is exempt under s.496.406(1)(d) shall conspicuously display the following statement on every solicitation, confirmation, receipt or reminder of a contribution:

**“A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.”**

The statement must include a toll-free number and website for the division which can be used to obtain the registration information. If the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials.



29

29

# Florida's Disclosure Statement (Cont.)

- **If the solicitation occurs on a website**, the statement must be conspicuously displayed on any webpage that identifies a mailing address where contributions are to be sent, identifies a telephone number to call to process contributions or provides for online processing of contributions.



30

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## Other Questions to Consider?

- Do **email** marketing campaigns require state charitable registration when the physical addresses associated with the email are unknown?  
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- How does **social media**, **viral** and **mobile** fundraising impact the need to register?

## Other Questions to Consider? (Cont.)

- If a nonprofit is receiving unsolicited donations from out of state (i.e. it is not actively soliciting in those states), does that trigger a need for state charitable solicitation registration?
- If a nonprofit uses a fundraising service that acts as a **portal or platform** to direct public donations to charities, which of these organizations is required to register?



## Slide 31

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**MRO** Changed from "is"  
Michelle Ranken, 2024-03-27T14:17:29.493

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:56:51.193

# California Assembly Bill 488

Effective January 1, 2023, establishes that charitable fundraising platforms and platform charities are trustees for charitable purposes

- Establishes registration and reporting procedures (effective January 1, 2024)
- Specifies procedures for determining good standing
- Requires transparency disclosures on fundraising platforms
- Establishes requirements for consent agreements
- Establishes procedures for tax donation receipts and prompt distribution of funds to nonprofits
- Prohibits solicitations by fundraising platforms for nonprofits not in good standing with the Registry of Charitable Trusts

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33

33

## Recommended Resource



\*Offer is only valid on [nolo.com](https://nolo.com) using coupon code: SAVE20

Direct link:

<https://store.nolo.com/products/nonprofit-fundraising-registration.html>

 NOLO

## Nonprofit Fundraising Registration

Nolo's 50-State Digital Guide

DIGITAL GUIDE



1 - YEAR SUBSCRIPTION



34

34

## Slide 33

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**MRO** Spelled out date  
Michelle Ranken, 2024-03-27T14:28:49.220

**RB0 0** Okay, thanks  
Ron Barrett, 2024-03-27T14:57:27.444

## Helpful Resource

### Charitable Registrations and Exemptions Wizard (CREW)

Cogency Global's complimentary online system simplifies the process of determining state requirements for charitable registrations and exemptions for the following types of nonprofit organizations:

- Colleges, universities and educational foundations
- Hospitals
- Houses of worship (churches, synagogues, mosques, etc.)

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35

## More Helpful Resources

- National Association of State Charity Officials  
<http://www.nasconet.org>
- Cogency Global
- Forms Library and Filing Guidelines\*  
<https://www.cogencyglobal.com/corporate-forms-library>
- Corporate Transactions and Compliance Blog  
<https://www.cogencyglobal.com/blog>
- State Links\*  
<https://www.cogencyglobal.com/state-links>  
*\* Registration with Cogency Global required for access*

**Tip ... Do Not Use:**

**Multi-State Filer Project  
(URS and Filing Guidelines)**  
<http://www.multistatefiling.org>  
*These guidelines are very outdated!*



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**MRO**    **Uncapitalized**  
Michelle Ranken, 2024-03-27T14:38:00.396

**RB0 0**    **Okay, thanks**  
Ron Barrett, 2024-03-27T14:58:15.603

## Slide 36

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**MRO**    **Fixed typo**  
Michelle Ranken, 2024-03-27T14:38:21.756

**RB0 0**    **Okay, thanks**  
Ron Barrett, 2024-03-27T14:58:24.572

# Questions?

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at the Right Time,  
**Every Time.**<sup>®</sup>

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