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AB-488 Charitable organizations: charitable fundraising platforms and platform charities. (2021-2022)

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Assembly Bill No. 488

CHAPTER 616

An act to amend, repeal, and add Sections 12581, 12586.1, 12587, 12598, 12599, 12599.1, 12599.2, and 12599.6 of, and to add Sections 12599.9 and 12599.10 to, the Government Code, relating to charitable organizations.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 488, Irwin. Charitable organizations: charitable fundraising platforms and platform charities.

The Supervision of Trustees and Fundraisers for Charitable Purposes Act governs charitable corporations, unincorporated associations, trustees, commercial fundraisers, fundraising counsel, commercial coventurers, and other legal entities holding or soliciting property for charitable purposes over which the state or the Attorney General has enforcement and supervisory powers. The act requires certain entities to register with and to file specified items with the Attorney General's Registry of Charitable Trusts. Additionally, the act requires registration forms and written reports to be filed with the Attorney General under oath, in accordance with rules and regulations. Under the act, any person who violates any of the act's provisions with intent to deceive or defraud any charity or individual is liable for a specified civil penalty. The act also authorizes the Attorney General to impose other specified civil penalties for related acts and omissions.

The act prohibits specified acts and practices in the planning, conduct, or execution of any solicitation or charitable sales promotion including misrepresenting or misleading anyone in any manner to believe that another 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. The act also prohibits representing that any part of the contributions solicited by a charitable organization 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.

This bill, beginning January 1, 2023, would establish that charitable fundraising platforms and platform charities are trustees for charitable purposes subject to the Attorney General's supervision. The bill would define "charitable fundraising platform" to mean certain legal entities that use the internet to provide a website, service, or other platform to persons in this state, and perform, permit, or otherwise enable certain acts of solicitation to occur. A "platform charity" would be defined to mean a trustee or charitable corporation as defined under the act that facilitates described acts of solicitation on a charitable fundraising platform.

The bill would require a charitable fundraising platform, before soliciting, permitting, or otherwise enabling solicitations, to register with the Attorney General's Registry of Charitable Trusts, under oath, on a form provided by the Attorney General. The bill would require persons or entities that meet the definition of a charitable fundraising platform and platform charity to register as a charitable fundraising platform. The bill would require annual renewal of registration. The bill would require the Attorney General to impose registration and renewal fees and deposit revenues in the Registry of Charitable Trusts Fund, for use as specified.

The bill would require a charitable fundraising platform to file annual reports, under oath, with the registry on a form provided by the Attorney General. The bill would restrict a charitable fundraising platform or platform charity to soliciting, permitting, or otherwise enabling solicitations, or receiving, controlling, or distributing funds from donations for recipient or other charitable organizations in good standing, as defined. The bill would require a charitable fundraising platform or platform charity that performs, permits, or otherwise enables specific acts of solicitation, before a person can complete a donation or select or change a recipient charitable organization, to provide prescribed conspicuous disclosures that prevent a likelihood of deception, confusion, or misunderstanding.

The bill would require a charitable fundraising platform or platform charity that solicits, permits, or otherwise enables solicitations to obtain the written consent of a recipient charitable organization before using its name in a solicitation, as prescribed. Written consent would not be required for certain acts of solicitation if specific requirements are met. The bill would require a charitable fundraising platform or platform charity, after donors contribute donations based on certain solicitations, to promptly provide a tax donation receipt in accordance with specified provisions. The bill would prohibit a charitable fundraising platform or platform charity from diverting or otherwise misusing the donations received through solicitation on the charitable fundraising platform, and require the entity to hold them in a separate account and to ensure donations and grants of recommended donations are sent promptly to recipient charitable organizations with an accounting of any fees imposed for processing the funds and in accordance with rules and regulations.

The bill would require the Attorney General to establish rules and regulations they determine to be necessary for the administration of the bill's provisions, in accordance with prescribed requirements.

The bill would make conforming changes to the act. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12581 of the Government Code is amended to read:

12581. This article applies to all charitable corporations, unincorporated associations, 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.

This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 2. Section 12581 is added to the Government Code, to read:

12581. This article applies to all charitable corporations, unincorporated associations, trustees, and other legal entities holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, commercial coventurers, charitable fundraising platforms, and platform charities over which the state or the Attorney General has enforcement or supervisory powers. This article shall not apply to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9.

This section shall become operative on January 1, 2023.

SEC. 3. Section 12586.1 of the Government Code is amended to read:

12586.1. In addition to a registration fee, a charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer may be assessed a late fee or an additional fee of twenty-five dollars (\$25) for each month or part of the month after the date on which the registration statement and financial report were due to be filed or after the period of extension granted for the filing if the charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer does any of the following:

(a) Exists and operates in California without being registered.

(b) Solicits contributions in California without being registered or, if applicable, bonded.

(c) Fails to file its first report no later than four months and 15 days following the close of each calendar or fiscal year and has not requested an extension of time to file the annual report.

(d) Fails to file its subsequent annual report no later than four months and 15 days following the close of each calendar or fiscal year subsequent to the filing of the first report and has not requested an extension of time to file the annual report.

(e) Fails to file its annual registration/renewal form within the time specified by the Attorney General irrespective of other report filing requirements.

(f) Fails to correct the deficiencies in its registration or annual report within 10 days of receipt of written notice of those deficiencies.

This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 4. Section 12586.1 is added to the Government Code, to read:

12586.1. In addition to a registration fee, a charitable corporation or trustee, commercial fundraiser, fundraising counsel, coventurer, charitable fundraising platform, or platform charity may be assessed a late fee or an additional fee of twenty-five dollars (\$25) for each month or part of the month after the date on which the registration statement and financial report were due to be filed or after the period of extension granted for the filing, if the charitable corporation or trustee, commercial fundraiser, fundraising counsel, coventurer, charitable fundraising platform, or platform charity does any of the following:

(a) Exists and operates in California without being registered.

(b) Solicits contributions in California without being registered or, if applicable, bonded.

(c) Fails to file its first report no later than four months and 15 days following the close of each calendar or fiscal year and has not requested an extension of time to file the annual report.

(d) Fails to file its subsequent annual report no later than four months and 15 days following the close of each calendar or fiscal year subsequent to the filing of the first report and has not requested an extension of time to file the annual report.

(e) Fails to file its annual registration/renewal form within the time specified by the Attorney General irrespective of other report filing requirements.

(f) Fails to correct the deficiencies in its registration or annual report within 10 days of receipt of written notice of those deficiencies.

This section shall become operative on January 1, 2023.

SEC. 5. Section 12587 of the Government Code is amended to read:

12587. The Attorney General may make additional rules and regulations necessary for the administration of this article, provided that any assessment of an annual registration or renewal fee from charitable trustees and corporations, commercial fundraisers, fundraising counsel, and commercial coventurers subject to this article, authorized by statute or regulation, shall be used by the Department of Justice solely to operate and maintain the Attorney General's Registry of Charitable Trusts and provide public access via the Internet to reports filed with the Attorney General.

This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 6. Section 12587 is added to the Government Code, to read:

12587. The Attorney General may make additional rules and regulations necessary for the administration of this article, provided that any assessment of an annual registration or renewal fee from charitable trustees and corporations, commercial fundraisers, fundraising counsel, commercial coventurers, charitable fundraising platforms, and platform charities subject to this article, authorized by statute or regulation, shall be used by the Department of Justice solely to operate and maintain the Attorney General's Registry of Charitable Trusts and provide public access via internet website to reports filed with the Attorney General.

This section shall become operative on January 1, 2023.

SEC. 7. Section 12598 of the Government Code is amended to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

(4) Sections 8111, 11703, 15004, 15409, 15680 to 15685, inclusive, 16060 to 16062, inclusive, 16064, and 17200 to 17210, inclusive, of the Probate Code.

(5) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, and Sections 17500 and 17535 of the Business and Professions Code.

(6) Sections 319, 326.5, and 532d of the Penal Code.

(b) The Attorney General shall be entitled to recover from defendants named in a charitable trust enforcement action all reasonable attorney's fees and actual costs incurred in conducting that action, including, but not limited to, the costs of auditors, consultants, and experts employed or retained to assist with the investigation, preparation, and presentation in court of the charitable trust enforcement action.

(c) Attorney's fees and costs shall be recovered by the Attorney General pursuant to court order. When awarding attorneys' fees and costs, the court shall order that the attorney's fees and costs be paid by the charitable organization and the individuals named as defendants in or otherwise subject to the action, in a manner that the court finds to be equitable and fair.

(d) Upon a finding by the court that a lawsuit filed by the Attorney General was frivolous or brought in bad faith, the court may award the defendant charity the costs of that action.

(e) (1) The Attorney General may refuse to register or may revoke or suspend the registration of a charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer whenever the Attorney General finds that the charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer has violated or is operating in violation of any provisions of this article.

(2) All actions of the Attorney General shall be taken subject to the rights authorized pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2.

(f) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 8. Section 12598 is added to the Government Code, to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

(4) Sections 8111, 11703, 15004, 15409, 15680 to 15685, inclusive, 16060 to 16062, inclusive, 16064, and 17200 to 17210, inclusive, of the Probate Code.

(5) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, and Sections 17500 and 17535 of the Business and Professions Code.

(6) Sections 319, 326.5, and 532d of the Penal Code.

(b) The Attorney General shall be entitled to recover from defendants named in a charitable trust enforcement action all reasonable attorney's fees and actual costs incurred in conducting that action, including, but not limited to, the costs of auditors,

consultants, and experts employed or retained to assist with the investigation, preparation, and presentation in court of the charitable trust enforcement action.

(c) Attorney's fees and costs shall be recovered by the Attorney General pursuant to court order. When awarding attorney's fees and costs, the court shall order that the attorney's fees and costs be paid by the charitable organization and the individuals named as defendants in or otherwise subject to the action, in a manner that the court finds to be equitable and fair.

(d) Upon a finding by the court that a lawsuit filed by the Attorney General was frivolous or brought in bad faith, the court may award the defendant charity the costs of that action.

(e) (1) The Attorney General may refuse to register or may revoke or suspend the registration of a charitable corporation or trustee, commercial fundraiser, fundraising counsel, coventurer, charitable fundraising platform, or platform charity whenever the Attorney General finds that the charitable corporation or trustee, commercial fundraiser, fundraising counsel, coventurer, charitable fundraising platform, or platform charity has violated or is operating in violation of any provision of this article.

(2) All actions of the Attorney General shall be taken subject to the rights authorized pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2.

(f) This section shall become operative on January 1, 2023.

SEC. 9. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" means 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.

(4) 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, but is disqualified as a fundraising counsel for charitable purposes pursuant to subdivision (a) of Section 12599.1.

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 that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions to an account under the sole control of the charitable organization.

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, or means of payment, 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. No separate fee shall be charged by the Attorney General for electronic registration, electronic renewal, or electronic repayment of fees.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts 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 no later than 30 days after the close of the preceding calendar year.

(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, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, a commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts a notice on a form prescribed by the Attorney General that sets forth all of the following:

- (1) The name, address, and telephone number of the commercial fundraiser for charitable purposes.
- (2) The name, address, and telephone number of the charitable organization with whom the commercial fundraiser has contracted.
- (3) The fundraising methods to be used.
- (4) The projected dates when performance under the contract will commence and terminate.
- (5) The name, address, and telephone number of the person responsible for directing and supervising the work of the commercial fundraiser under the contract.

(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, that shall be signed by the authorized contracting officer for the commercial fundraiser and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and 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 to the commercial fundraiser and a good faith 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 to 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.

(7) A provision that requires that each contribution in the control or custody of the commercial fundraiser shall in its entirety and within five working days of its receipt comply with either of the following:

(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.

(B) Be delivered to the charitable organization in person, by United States 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) If the commercial fundraiser proposes 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, the maximum dollar amount of those payments shall be set forth in the contract. "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 includes all of the following statements:

(A) 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.

(B) The charitable organization may cancel the contract by serving a written notice of cancellation on the commercial fundraiser.

(C) 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.

(D) 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.

(E) The charitable organization shall be entitled to recover all funds collected after the date of cancellation.

(11) A provision that includes all of the following statements:

(A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.

(B) 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.

(C) In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser up to 30 days after the effective service of the notice.

(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 do any of the following:

(A) Make any material misrepresentations in the course of solicitations or with respect to the charitable organization.

(B) Are found by the charitable organization to have been convicted of a crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or a felony.

(C) 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.

(j) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. "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 facsimile. 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.

(k) 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.

(l) No person may act as a commercial fundraiser for charitable purposes if that person, any officer or director of that person's business, any person with a controlling interest in the business, 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 crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or felony.

(m) A commercial fundraiser for charitable purposes shall not solicit in the state 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.

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

(o) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 10. Section 12599 is added to the Government Code, to read:

12599. (a) "Commercial fundraiser for charitable purposes" means 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.

(4) 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, but is disqualified as a fundraising counsel for charitable purposes pursuant to subdivision (a) of Section 12599.1.

(5) Uses the internet to provide an internet website, service, or other platform to persons in this state, and performs, permits, or otherwise enables acts of solicitation to occur as specified in paragraph (1) of subdivision (a) of Section 12599.9, but is disqualified as a charitable fundraising platform pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 12599.9.

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 a "charitable fundraising platform" as defined in paragraph (1) of subdivision (a) of Section 12599.9, that is not disqualified as a charitable fundraising platform pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 12599.9. 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 that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions to an account under the sole control of the charitable organization.

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, or means of payment, 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. No separate fee shall be charged by the Attorney General for electronic registration, electronic renewal, or electronic repayment of fees.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts 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 no later than 30 days after the close of the preceding calendar year.

(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, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, a commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts a notice on a form prescribed by the Attorney General that sets forth all of the following:

(1) The name, address, and telephone number of the commercial fundraiser for charitable purposes.

(2) The name, address, and telephone number of the charitable organization with whom the commercial fundraiser has contracted.

(3) The fundraising methods to be used.

(4) The projected dates when performance under the contract will commence and terminate.

(5) The name, address, and telephone number of the person responsible for directing and supervising the work of the commercial fundraiser under the contract.

(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, that shall be signed by the authorized contracting officer for the commercial fundraiser and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Attorney General's 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 to the commercial fundraiser and a good faith 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 to 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.

(7) A provision that requires that each contribution in the control or custody of the commercial fundraiser shall in its entirety and within five working days of its receipt comply with either of the following:

(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.

(B) Be delivered to the charitable organization in person, by United States 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) If the commercial fundraiser proposes 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, the maximum dollar amount of those payments shall be set forth in the contract. "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 includes all of the following statements:

(A) 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.

(B) The charitable organization may cancel the contract by serving a written notice of cancellation on the commercial fundraiser.

(C) 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.

(D) 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.

(E) The charitable organization shall be entitled to recover all funds collected after the date of cancellation.

(11) A provision that includes all of the following statements:

(A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.

(B) 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.

(C) In the event of termination under this subdivision, the charitable organization shall be liable for services provided by the commercial fundraiser up to 30 days after the effective service of the notice.

(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 do any of the following:

(A) Make any material misrepresentations in the course of solicitations or with respect to the charitable organization.

(B) Are found by the charitable organization to have been convicted of a crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or a felony.

(C) 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.

(j) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. "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 facsimile. 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.

(k) 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.

(l) No person may act as a commercial fundraiser for charitable purposes if that person, any officer or director of that person's business, any person with a controlling interest in the business, 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 crime arising from the conduct of a solicitation for a charitable organization or purpose punishable as a misdemeanor or felony.

(m) A commercial fundraiser for charitable purposes shall not solicit in the state 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.

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

(o) This section shall become operative on January 1, 2023.

SEC. 11. Section 12599.1 of the Government Code is amended to read:

12599.1. (a) "Fundraising counsel for charitable purposes" is defined as any individual, corporation, unincorporated association, or other legal entity who is described by all of the following:

(1) For compensation, other than as a percentage of the funds, assets, or property received as a result of a solicitation campaign, 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. An individual, corporation, unincorporated association, or other legal entity is deemed to receive or control funds, assets, or property if any of the following apply:

(A) It has the right to approve or veto any payment from an escrow account to which funds received from a solicitation for charitable purposes are subject.

(B) It maintains an interest in an account into which solicited funds are deposited.

(C) It has the right to access funds, assets, or property received from a solicitation for charitable purposes and held by a caging company.

(D) It has any ownership or management interest in any other entity that receives or controls the funds, assets, or property solicited for charitable purposes, including, but not limited to, an escrow agent or caging company, but not including any federally insured financial institution.

(E) It receives any financial benefit, directly or indirectly, from any other individual or entity that receives or controls the funds, assets, or property solicited for charitable purposes, other than the trustee or charitable corporation soliciting the funds, assets, or property for charitable purposes.

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

Any individual, corporation, unincorporated association, or other legal entity who, 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, but does not meet the qualifications of a fundraising counsel for charitable purposes in this subdivision, shall be deemed to be a commercial fundraiser for charitable purposes as described in subdivision (a) of Section 12599, unless excluded by that section.

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 that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions into an account under the sole control of the charitable organization.

(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, or means of payment, 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, unincorporated association, or other legal entity that complied with the requirements of subdivision (f).

(e) Not less than 10 working days prior to the commencement of the performance of any service for a charitable organization by a fundraising counsel for charitable purposes, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, the fundraising counsel shall file with the Attorney General's Registry of Charitable Trusts a notice on a form prescribed by the Attorney General that sets forth all of the following:

- (1) The name, address, and telephone number of the fundraising counsel for charitable purposes.
- (2) The name, address, and telephone number of the charitable organization with whom the fundraising counsel has contracted.
- (3) The projected dates when performance under the contract will commence and terminate.
- (4) The name, address, and telephone number of the person responsible for directing and supervising the work of the fundraising counsel under the contract.

(f) There shall be a written contract between a fundraising counsel for charitable purposes and a charitable organization for each service to be performed by the fundraising counsel for the charitable organization, that shall be signed by the authorized

contracting officer for the fundraising counsel and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and 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 this state 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 includes all of the following statements:
 - (A) 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.
 - (B) The charitable organization may cancel the contract by serving a written notice of cancellation on the fundraising counsel.
 - (C) 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 includes all of the following statements:
 - (A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.
 - (B) 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.
 - (C) 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.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 12. Section 12599.1 is added to the Government Code, to read:

12599.1. (a) "Fundraising counsel for charitable purposes" is defined as any individual, corporation, unincorporated association, or other legal entity who is described by all of the following:

(1) For compensation, other than as a percentage of the funds, assets, or property received as a result of a solicitation campaign, 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. An individual, corporation, unincorporated association, or other legal entity is deemed to receive or control funds, assets, or property if any of the following apply:

(A) It has the right to approve or veto any payment from an escrow account to which funds received from a solicitation for charitable purposes are subject.

(B) It maintains an interest in an account into which solicited funds are deposited.

(C) It has the right to access funds, assets, or property received from a solicitation for charitable purposes and held by a caging company.

(D) It has any ownership or management interest in any other entity that receives or controls the funds, assets, or property solicited for charitable purposes, including, but not limited to, an escrow agent or caging company, but not including any federally insured financial institution.

(E) It receives any financial benefit, directly or indirectly, from any other individual or entity that receives or controls the funds, assets, or property solicited for charitable purposes, other than the trustee or charitable corporation soliciting the funds, assets, or property for charitable purposes.

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

Any individual, corporation, unincorporated association, or other legal entity who, 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, but does not meet the qualifications of a fundraising counsel for charitable purposes in this subdivision, shall be deemed to be a commercial fundraiser for charitable purposes as described in subdivision (a) of Section 12599, unless excluded by that section.

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 that holds, as a depository, funds received as a result of a solicitation for charitable purposes, or an escrow agent or caging company that receives or controls funds received as a result of a solicitation for charitable purposes. For purposes of this section, a caging company is a business that receives contributions, processes donor mail, and deposits all contributions into an account under the sole control of the charitable organization.

(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).

(7) A person or entity that meets the definition of both a fundraising counsel for charitable purposes and a charitable fundraising platform as defined in paragraph (1) of subdivision (a) of Section 12599.9 is disqualified as a fundraising counsel for charitable purposes, and shall only be a charitable fundraising platform.

(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 Attorney General's 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, or means of payment, 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, unincorporated association, or other legal entity that complied with the requirements of subdivision (f).

(e) Not less than 10 working days prior to the commencement of the performance of any service for a charitable organization by a fundraising counsel for charitable purposes, or not later than commencement of solicitation for solicitations to aid victims of emergency hardship or disasters, the fundraising counsel shall file with the Attorney General's Registry of Charitable Trusts a notice on a form prescribed by the Attorney General that sets forth all of the following:

(1) The name, address, and telephone number of the fundraising counsel for charitable purposes.

(2) The name, address, and telephone number of the charitable organization with whom the fundraising counsel has contracted.

(3) The projected dates when performance under the contract will commence and terminate.

(4) The name, address, and telephone number of the person responsible for directing and supervising the work of the fundraising counsel under the contract.

(f) There shall be a written contract between a fundraising counsel for charitable purposes and a charitable organization for each service to be performed by the fundraising counsel for the charitable organization, that shall be signed by the authorized contracting officer for the fundraising counsel and by an official of the charitable organization who is authorized to sign by the organization's governing body. The contract shall be available for inspection by the Attorney General and shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Attorney General's 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 this state 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 includes all of the following statements:

(A) 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.

(B) The charitable organization may cancel the contract by serving a written notice of cancellation on the fundraising counsel.

(C) 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 includes all of the following statements:

(A) Following the initial 10-day cancellation period, the charitable organization may terminate the contract by giving 30 days' written notice.

(B) 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.

(C) 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.

(g) 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.

(h) 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.

(i) 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.

(j) This section shall become operative on January 1, 2023.

SEC. 13. Section 12599.2 of the Government Code is amended to read:

12599.2. (a) "Commercial coventurer" is defined as any person who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds, assets, or property for charitable organizations or charitable purposes, and who represents to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit a charitable organization or will be used for a charitable purpose.

(b) A commercial coventurer is a trustee as defined in Section 12582. Notwithstanding the requirements of Sections 12585 and 12586, a commercial coventurer is not required to register or file periodic reports with the Attorney General provided that the commercial coventurer:

(1) Has a written contract with a trustee or charitable corporation subject to this article, signed by two officers of the trustee or charitable corporation, prior to representing to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit the trustee or charitable corporation or will be used for a charitable purpose.

(2) Within 90 days after commencement of those representations, and at the end of each successive 90-day period during which the representations are made, transfers to that trustee or charitable corporation subject to this article all funds, assets, or property received as a result of the representations.

(3) Provides in conjunction with each transfer required by paragraph (2) a written accounting to the trustee or charitable corporation subject to this article of all funds, assets, or property received sufficient to enable the trustee or charitable corporation (A) to determine that representations made to the public on its behalf have been adhered to accurately and completely, and (B) to prepare its periodic report filed with the Attorney General pursuant to Section 12586.

(c) A commercial coventurer that does not meet the requirements of paragraphs (1), (2), and (3) of subdivision (b) shall register and report to the Attorney General on forms required by the Attorney General. An annual registration or renewal fee of two hundred dollars (\$200) shall be required for registration or renewal of registration of a commercial coventurer, 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, or means of payment, as needed pursuant to this section.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 14. Section 12599.2 is added to the Government Code, to read:

12599.2. (a) "Commercial coventurer" is defined as any person or entity who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds, assets, or property for charitable organizations or charitable purposes, and who represents to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit a charitable organization or will be used for a charitable purpose. A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform under subparagraph (A), (B), (C), or (E) of paragraph (1) of subdivision (a) of Section 12599.9 shall be only a charitable fundraising platform. A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform solely under subparagraph (D) of paragraph (1) of subdivision (a) of Section 12599.9 shall be only a commercial coventurer when the acts of solicitation through an internet website, service, or other platform to persons in this state are for six or fewer recipient charitable organizations per calendar year, and the commercial coventurer complies with subdivision (b). Otherwise, this person or entity shall only be a charitable fundraising platform.

(b) A commercial coventurer is a trustee as defined in Section 12582. Notwithstanding the requirements of Sections 12585 and 12586, a commercial coventurer is not required to register or file periodic reports with the Attorney General provided that the commercial coventurer:

(1) Has a written contract with a trustee or charitable corporation subject to this article, signed by two officers of the trustee or charitable corporation, prior to representing to the public that the purchase or use of any goods, services, entertainment, or any other thing of value will benefit the trustee or charitable corporation or will be used for a charitable purpose.

(2) Within 90 days after commencement of those representations, and at the end of each successive 90-day period during which the representations are made, transfers to that trustee or charitable corporation subject to this article all funds, assets, or property received as a result of the representations.

(3) Provides in conjunction with each transfer required by paragraph (2) a written accounting to the trustee or charitable corporation subject to this article of all funds, assets, or property received sufficient to enable the trustee or charitable corporation (A) to determine that representations made to the public on its behalf have been adhered to accurately and completely, and (B) to prepare its periodic report filed with the Attorney General pursuant to Section 12586.

(c) A commercial coventurer that does not meet the requirements of paragraphs (1), (2), and (3) of subdivision (b) shall register and report to the Attorney General on forms required by the Attorney General. An annual registration or renewal fee of two hundred dollars (\$200) shall be required for registration or renewal of registration of a commercial coventurer, 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, or means of payment, as needed pursuant to this section.

(d) This section shall become operative on January 1, 2023.

SEC. 15. Section 12599.6 of the Government Code is amended to read:

12599.6. (a) 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.

(b) A charitable organization must establish and exercise control over its fundraising activities conducted for its benefit, including approval of all written contracts and agreements, and must ensure that fundraising activities are conducted without coercion.

(c) 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 Attorney General's Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of any solicitation.

(d) 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 Attorney General's Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of the solicitation.

(e) Each contribution in the control or custody of a commercial fundraiser for charitable purposes shall in its entirety and within five working days of receipt (1) 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, (2) be delivered to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.

(f) 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 Attorney General's 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 name, symbol, emblem, statement, or other material stating, suggesting, or implying to a reasonable person that the contribution is to or for the benefit of a particular charitable organization when that is not the fact.

(4) 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.

(5) 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.

(6) 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.

(7) 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."

(8) 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.

(9) 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 items that could be used for display on a motor vehicle, and that suggest affiliation with, or endorsement by any public safety personnel or a group comprising such personnel.

(10) (A) 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:

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

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

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

(B) 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 subparagraph (A) in written form and in conspicuous type.

(11) Representing that any part of the contributions solicited by a charitable organization 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 one authorized officer, director, or trustee of the charitable organization.

(12) 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 either of the following:

(i) The number of ticket commitments the charitable organization or commercial fundraiser has received from charitable organizations.

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

(g) A person shall not knowingly submit for filing on behalf of any charitable organization any statement, report, financial statement, attachment, or other information to be filed with the Attorney General that contains information, a statement, or an omission that is false or misleading.

(h) A ticket commitment from a charitable organization alone, as described in clause (i) of subparagraph (B) of paragraph (12) of subdivision (f), does not constitute written consent to use of the organization's name in the solicitation campaign.

(i) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 16. Section 12599.6 is added to the Government Code, to read:

12599.6. (a) 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.

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

(c) 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 Attorney General's Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of any solicitation.

(d) 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 Attorney General's Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of the solicitation.

(e) Each contribution in the control or custody of a commercial fundraiser for charitable purposes shall in its entirety and within five working days of receipt (1) 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, (2) be delivered to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.

(f) 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 Attorney General's 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 name, symbol, emblem, statement, or other material stating, suggesting, or implying to a reasonable person that the contribution is to or for the benefit of a particular charitable organization when that is not the fact.

(4) 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.

(5) 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. Written consent is not needed if the requirements of Section 12599.9 are met.

(6) 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.

(7) 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 internet website at <https://oag.ca.gov/charities>. Registration does not imply endorsement."

(8) 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.

(9) 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 items that could be used for display on a motor vehicle, and that suggest affiliation with, or endorsement by any public safety personnel or a group comprising such personnel.

(10) (A) 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:

- (i) The publication is a for-profit, commercial enterprise.
- (ii) The true name of the solicitor and the fact that the solicitor is a professional solicitor.
- (iii) The publication is not affiliated with or sponsored by any charitable organization.

(B) 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 subparagraph (A) in written form and in conspicuous type.

(11) Representing that any part of the contributions solicited will be given or donated to any 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 one authorized officer, director, trustee, or other duly authorized representative of the charitable organization. Written consent is not needed if the requirements of Section 12599.9 are met.

(12) 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 either of the following:

- (i) The number of ticket commitments the charitable organization or commercial fundraiser has received from charitable organizations.
- (ii) The total attendance capacity of the site of the event.

(g) A person shall not knowingly submit for filing on behalf of any charitable organization any statement, report, financial statement, attachment, or other information to be filed with the Attorney General that contains information, a statement, or an omission that is false or misleading.

(h) A ticket commitment from a charitable organization alone, as described in clause (i) of subparagraph (B) of paragraph (12) of subdivision (f), does not constitute written consent to use of the organization's name in the solicitation campaign.

(i) This section shall become operative on January 1, 2023.

SEC. 17. Section 12599.9 is added to the Government Code, to read:

12599.9. (a) For purposes of this section:

(1) "Charitable fundraising platform" means any person, corporation, unincorporated association or other legal entity that uses the internet to provide an internet website, service, or other platform to persons in this state, and performs, permits, or otherwise enables acts of solicitation to occur, which includes the following and any similar activity:

(A) Lists or references by name one or more recipient charitable organizations to receive donations or grants of recommended donations made by donors who use the platform.

(B) Permits persons who use the platform to solicit donations for or recommend donations to be granted to one or more recipient charitable organizations through peer-to-peer charitable fundraising.

(C) Permits persons who use the platform to select one or more recipient charitable organizations to receive donations or grants of recommended donations made by a platform, platform charity, or other third party person, based on purchases made or other activity performed by persons who use the platform.

(D) Lists or references by name one or more recipient charitable organizations to receive donations or grants of recommended donations made by the platform based on purchases made or other activity performed by persons who use the platform.

(E) Provides to charitable organizations a customizable internet-based website, software as a service, or other platform that allows charitable organizations to solicit or receive donations on or through the platform, including through peer-to-peer charitable fundraising. The customizable platform provided by the charitable fundraising platform does not include the charitable organization's own platform, but may integrate with the charitable organization's platform.

(2) "Charitable fundraising platform" does not include:

(A) A charitable organization's own platform that solicits donations only for itself.

(B) A vendor that solely provides technical or supportive services to a charitable fundraising platform so that the charitable fundraising platform can function and operate, including vendors used for hosting or domain services, security certificates, internet access, internet application development, or digital payment processing. If that vendor also performs, permits, or otherwise enables acts of solicitation described by paragraph (1) on its own platform to persons in this state, it is a charitable fundraising platform for its own platform.

(C) A sponsoring organization of donor-advised funds, as defined in subdivision (d) of Section 4966 of the Internal Revenue Code, that solicits donors to open donor-advised fund accounts or similar accounts, receives recommendations from donors on charitable organizations that may receive grants of funds previously contributed to the sponsoring organization for a donor's donor-advised fund account, and the sponsoring organization does not list or reference by name one or more recipient charitable organizations for solicitation purposes on its platform for persons who do not have advisory privileges with respect to the granting of funds in a donor-advised fund of the sponsoring organization.

(D) A person or entity that meets the definition of both a commercial fundraiser for charitable purposes and a charitable fundraising platform shall be only a commercial fundraiser for charitable purposes when the person or entity for compensation performs any of the following acts of solicitation:

(i) Direct mail solicitation, excluding electronic mail or messages.

(ii) Estate gift or estate planning solicitation.

(iii) In-person solicitation through a fundraising event, door-to-door or other public spaces, or a vending machine or similar equipment that does not use a person to perform the solicitation.

(iv) Noncash solicitation.

(v) Nonincidental acts of solicitation that are not internet based, including solicitation through print, radio, or television.

(vi) Solicitation involving receiving something of value, or a chance to win something of value, in connection with a donation.

(vii) Telephone solicitation.

(E) A person or entity that meets the definition of both a commercial coventurer and a charitable fundraising platform solely under subparagraph (D) of paragraph (1) shall be only a commercial coventurer when the acts of solicitation through an internet website, service, or other platform to persons in this state are for six or fewer recipient charitable organizations per calendar year, and the commercial coventurer complies with subdivision (b) of Section 12599.2.

(3) "Good standing" means that a platform charity, recipient charitable organization, or other charitable organization's tax-exempt status has not been revoked by the Internal Revenue Service, or the Franchise Tax Board, or is not prohibited from soliciting or operating in the state by the Attorney General.

(4) "Peer-to-peer charitable fundraising" means a solicitation campaign created by a person to support a recipient charitable organization, through or with other assistance provided by a charitable fundraising platform or platform charity.

(5) "Platform charity" means a trustee as defined in Section 12582 or a charitable corporation as defined in Section 12582.1 that facilitates acts of solicitation on a charitable fundraising platform, which includes either of the following and any similar activity:

(A) Solicits donations through a charitable fundraising platform for itself from donors who use the charitable fundraising platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations.

(B) Grants funds to recipient charitable organizations based on purchases made or other activity performed by persons who use a charitable fundraising platform.

(6) "Platform charity" does not include a sponsoring organization of donor-advised funds, as defined in subdivision (d) of Section 4966 of the Internal Revenue Code, that solicits donors to open donor-advised fund accounts or similar accounts, receives recommendations from donors on charitable organizations that may receive grants of funds previously contributed to the sponsoring organization for a donor's donor-advised fund account, and the sponsoring organization does not list or reference by name one or more recipient charitable organizations for solicitation purposes on its platform for persons who do not have advisory privileges with respect to the granting of funds in a donor-advised fund of the sponsoring organization.

(7) "Recipient charitable organization" means a trustee as defined in Section 12582 or a charitable corporation as defined in Section 12582.1, that is listed or referenced by name on a charitable fundraising platform or by a platform charity for solicitation purposes.

(b) (1) A charitable fundraising platform is a trustee for charitable purposes subject to the Attorney General's supervision. A charitable fundraising platform shall, before soliciting, permitting, or otherwise enabling solicitations, register with the Attorney General's Registry of Charitable Trusts, under oath, on a form provided by the Attorney General. Persons or entities that meet the definition of a charitable fundraising platform and platform charity shall register as a charitable fundraising platform.

(2) Registration shall be renewed each year. The Attorney General shall impose a registration and renewal fee, which shall be deposited and used in accordance with Section 12587.1.

(3) A platform charity is a trustee for charitable purposes subject to the Attorney General's supervision. A platform charity shall register as a trustee in accordance with Section 12585 when not already registered. When a charitable fundraising platform partners with a platform charity, the platform charity shall promptly notify the Attorney General's Registry of Charitable Trusts of the partnership, unless previously specified through the registration of the platform charity or charitable fundraising platform.

(c) A charitable fundraising platform or platform charity shall file annual reports, under oath, with the Attorney General's Registry of Charitable Trusts on a form provided by the Attorney General. The reports shall:

(1) Enable the Attorney General to ascertain whether charitable funds have been properly solicited, received, held, controlled, or distributed in compliance with this article, including, but not limited to, providing information on the number of donations made, the amounts raised, the length of time for distributing donations or grants of recommended donations, the fees charged by or through a charitable fundraising platform or platform charity, and information on recipient charitable organizations or other charitable organizations that were sent or were not sent donations or grants of recommended donations.

(2) Not require the disclosure of personally identifiable information of donors or other persons using a charitable fundraising platform.

(d) (1) A platform charity shall have good standing in order to facilitate acts of solicitation on a charitable fundraising platform.

(2) A charitable fundraising platform or platform charity shall only solicit, permit, or otherwise enable solicitations, or receive, control, or distribute funds from donations for recipient charitable organizations or other charitable organizations in good standing. To determine good standing of recipient charitable organizations or other charitable organizations, a charitable fundraising platform or platform charity may rely on electronic lists periodically published by the Internal Revenue Service, the Franchise Tax Board, and the Attorney General's Registry of Charitable Trusts, provided that the lists are in a machine-readable structured data format. If any such agency does not publish such a list, then a charitable fundraising platform or platform charity is not required to comply with this paragraph for that applicable agency for the length of time that agency's list is unavailable.

(e) A charitable fundraising platform or platform charity that performs, permits, or otherwise enables acts of solicitation described by subparagraph (A), (B), or (C), of paragraph (1) of subdivision (a) shall, before a person can complete a donation or select or change a recipient charitable organization, provide conspicuous disclosures that prevent a likelihood of deception, confusion, or misunderstanding, including, but not limited to, the following:

(1) A statement that donations are made to the charitable fundraising platform, the platform charity, the recipient charitable organization, or the person engaging in peer-to-peer charitable fundraising, whichever is applicable.

(2) A statement that a recipient charitable organization may not receive donations or grants or recommended donations, with an explanation identifying the most pertinent reasons under which a recipient charitable organization may not receive the funds. This disclosure is not required when there are no circumstances under which a recipient charitable organization may not receive the funds. The explanation may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected.

(3) The maximum length of time it takes to send the donation or a grant of the recommended donation to a recipient charitable organization with an explanation as to the length of time, unless the donation is sent contemporaneously to a recipient charitable organization after the donation is made. The explanation as to the maximum length of time may be provided through a conspicuous hyperlink, so long as the disclosure is conspicuous when the hyperlink is selected.

(4) The fees or other amounts, if any, deducted from or added to the donation or a grant of the recommended donation that are charged or retained by the charitable fundraising platform, platform charity, or any other partnering vendor, other than digital payment processing fees. This disclosure is not required for acts of solicitation described in subparagraph (C) of paragraph (1) of subdivision (a) when no fees or amounts are deducted or added.

(5) A statement as to the tax deductibility of the donation. This disclosure is not required for acts of solicitation described by subparagraph (C) of paragraph (1) of subdivision (a).

(f) (1) A charitable fundraising platform or platform charity that solicits, permits, or otherwise enables solicitations shall obtain the written consent of a recipient charitable organization before using its name in a solicitation. Written consent shall be provided directly to the charitable fundraising platform or platform charity, or may be provided to a charitable fundraising platform or platform charity and apply to any partnering charitable fundraising platforms expressly identified in an agreement providing consent, by one authorized officer, director, trustee, or other duly authorized representative of the recipient charitable organization.

(2) Written consent pursuant to paragraph (1) shall not be required for acts of solicitation described in subparagraphs (A), (B), or (C), of paragraph (1) of subdivision (a) if, in addition to all provisions of this section and rules or regulations established under Section 12599.10, all of the following are met:

(A) The charitable fundraising platform or platform charity shall only reference the recipient charitable organization's name, address, telephone number, internet website, including through a hyperlink, employer identification number, corporation or organization number, or registration number with the Attorney General's Registry of Charitable Trusts, classification in the National Taxonomy of Exempt Entities system, publicly available information from the recipient charitable organization's tax or information returns filed with the Internal Revenue Service, publicly available information from the recipient charitable organization's reports filed with the Attorney General's Registry of Charitable Trusts, or other information set forth in rules or regulations established under Section 12599.10, if any.

(B) The charitable fundraising platform or platform charity shall conspicuously disclose before persons can complete a donation, or select or change a recipient charitable organization, that the recipient charitable organization has not provided consent or permission for the solicitation, and has not reviewed or approved the content generated by persons engaging in peer-to-peer charitable fundraising, when applicable.

(C) The charitable fundraising platform or platform charity shall remove any recipient charitable organization from its list or any solicitation regarding the recipient charitable organization upon written request by the recipient charitable organization, and verification that the request is legitimate. Requests shall be promptly verified and it shall take no longer than three business days for removal to occur after verification is completed.

(D) The charitable fundraising platform or platform charity shall not require that a recipient charitable organization consent to any solicitations as a condition for accepting a donation or grant of a recommended donation.

(g) After donors contribute donations based on solicitations described by subparagraph (A) or (B) of paragraph (1) of subdivision (a), the charitable fundraising platform or platform charity shall promptly provide a tax donation receipt in accordance with Sections 17510.3 and 17510.4 of the Business and Professions Code.

(h) The charitable fundraising platform or platform charity shall not divert or otherwise misuse the donations received through solicitation on the charitable fundraising platform, and shall hold them in a separate account or accounts from other funds belonging to the charitable fundraising platform or platform charity. The charitable fundraising platform or platform charity shall promptly ensure donations and grants of recommended donations are sent to recipient charitable organizations with an accounting of any fees imposed for processing the funds, and in accordance with any rules and regulations established under Section 12599.10.

(i) When a charitable fundraising platform or platform charity contracts with vendors to solicit, receive, control, process, distribute, and otherwise account for donations on the charitable fundraising platform, the contracts shall be available for inspection by the Attorney General.

(j) This section shall become operative on January 1, 2023.

SEC. 18. Section 12599.10 is added to the Government Code, to read:

12599.10. (a) The Attorney General shall establish rules and regulations necessary for the administration of Section 12599.9, which shall include, but are not limited to, all of the following:

(1) The additional acts of solicitation that meet the definition of a charitable fundraising platform or platform charity, as needed, in order to address changes in technology and charitable fundraising through platforms.

(2) The content of the form and other information to be provided by a charitable fundraising platform for registration and in annual reports filed with the Attorney General's Registry of Charitable Trusts, including all of the following:

(A) The manner and timing of the filing of registration and reports.

(B) The handling of confidential, trade secret, or personal information provided.

(C) The circumstances under which partnering charitable fundraising platforms or platform charities may submit an annual report on behalf of other charitable fundraising platforms, taking into consideration the benefits and expenses of submitting individual reports for charitable fundraising platforms as compared to consolidated reports for charitable fundraising platforms that partner with platform charities.

(D) The payment of fees to cover the reasonable costs to administer and enforce Section 12599.9.

(3) The requirements for any written agreement between a recipient charitable organization and a charitable fundraising platform or a platform charity that provides consent for or otherwise applies to solicitations for donations, including permitting those agreements to be entered into electronically.

(4) The requirements for holding donations or distributing donations and grants of recommended donations, including all of the following:

(A) (i) The maximum length of times it takes to send the donated funds, taking into consideration the acts of solicitation described in paragraph (1) of subdivision (a), the number of donations made through a charitable fundraising platform or platform charity, whether donations are made to the charitable fundraising platform, platform charity, recipient charitable organizations, other charitable organizations, or persons engaging in peer-to-peer charitable fundraising, whether the recipient charitable organization has provided consent for a solicitation, whether further verification information is requested to prevent fraud, and whether donations are sent to alternate recipient charitable organizations.

(ii) For charitable fundraising platforms as defined in subparagraph (C) or (D) of paragraph (1) of subdivision (a) of Section 12599.9, the length of time to send donations or grants of recommended donations to the recipient charitable organization shall be no less than on a quarterly basis and subject to any minimum amounts, not to exceed ten dollars (\$10), as disclosed pursuant to paragraphs (2) and (3) of subdivision (e) of Section 12599.9. Regardless of the minimum amount, donations or grants of recommended donations to the recipient charitable organization shall be sent after four consecutive quarters, unless the recipient charitable organization is not eligible to receive the funds, as disclosed pursuant to paragraphs (2) and (3) of subdivision (e) of Section 12599.9.

(B) The circumstances under which donors or persons may be contacted to provide alternate recipient charitable organizations or notified when the donated funds are sent.

(C) The circumstances when donor or personal information may be provided to recipient charitable organizations.

(b) This section shall become operative on January 1, 2022.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.