

This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable organizations.



Formation, Elections, Operation, and Dissolution

Nonprofit Corporations

The Florida Not For Profit Corporation Act is FL ST T. XXXVI, Ch. 617.

Nonprofit Unincorporated Associations

No relevant statute found.

Election of Directors

The articles of incorporation must include a statement of the manner in which the directors are to be elected or appointed. In lieu thereof, the articles of incorporation may provide that the method of election of directors be stated in the bylaws.

Fla. Stat. Ann. § 617.0202(d).

Director Term

The articles of incorporation or bylaws may provide that directors be divided into classes. Each director shall hold office for the term to which he or she is elected or appointed and until his or her successor has been elected or appointed and qualified or until his or her earlier resignation, removal from office, or death. Fla. Stat. Ann. § 617.0806.

Meeting and Quorum Requirements

Quorum (Members): As determined by the bylaws or certificate of incorporation. Fla. Stat. Ann. § 617.0701.

Quorum (Directors): Unless the articles of incorporation or the bylaws require a different number, a quorum of a board of directors consists of a majority of the number of directors prescribed by the

articles of incorporation or the bylaws. Directors younger than 18 years of age may not be counted toward a quorum. The articles of incorporation may authorize a quorum of a board of directors to consist of less than a majority but no fewer than one-third of the prescribed number of directors determined under the articles of incorporation or the bylaws. Fla. Stat. Ann. § 617.0824.

Failure to hold an annual meeting does not cause forfeiture or give cause for dissolution of the corporation, nor does such failure affect otherwise valid corporate acts, except as provided in section 617.1430 in the case of a deadlock among the directors or the members. Statutes appear to imply an expected annual meeting, however. Fla. Stat. Ann. § 617.0701.

Officer Requirements

A corporation shall have the officers described in its articles of incorporation or its bylaws who shall be elected or appointed at such time and for such terms as is provided in the articles of incorporation or the bylaws. In the absence of any such provisions, all officers shall be elected or appointed by the board of directors annually. Fla. Stat. Ann. § 617.0840.

Officer Term

No relevant statute found.

Dissolution

Dissolution is governed by Fla. Stat. Ann. § 617.1401 et seq.

Fla. Stat. Ann. §§ 617.1430 and 617.1431 outline the grounds and procedure for judicial dissolution.

Duties, Indemnification, and Interested Transactions

Director Duties

All corporate powers must be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation. Fla. Stat. Ann. § 617.0801.

1) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner he or she reasonably believes to be in the best interests of the corporation. Fla. Stat. Ann. § 617.0830.

Officer Duties

Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of any officer

authorized by the bylaws or the board of directors to prescribe the duties of other officers. Fla. Stat. Ann. § 617.0841.

Board Independence Requirements

No relevant statute found.

Interested Transactions

No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested shall be either void or voidable because of such relationship or interest, because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because his or her or their votes are counted for such purpose, if:

- (a) The fact of such relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves, or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors;
- (b) The fact of such relationship or interest is disclosed or known to the members entitled to vote on such contract or transaction, if any, and they authorize, approve, or ratify it by vote or written consent; or
- (c) The contract or transaction is fair and reasonable as to the corporation at the time it is authorized by the board, a committee, or the members. Fla. Stat. Ann. § 617.0832

Indemnification of Directors/Officers

Indemnification is governed by Fla. Stat. Ann. § 617.0831 which applies § 607.0850, regarding indemnification of officers, directors, employees, and agents to nonprofit corporations.

Loans to Directors, Officers, or Employees

Fla. Stat. Ann. § 617.0833. governs loans to employees, which are largely forbidden.

Notable Departures from Federal Law

Religious/Church Exemption

Religious institutions are not exempt from annual applications for tax exemption. Fla. Stat. Ann. § 196.011.

Healthcare "Plus Factors"

A corporation not for profit organized pursuant to the provisions of s. 2, chapter 87-296, Laws of Florida, must meet the following requirements:

- (1) At least 25 percent of its physicians must have a full-time contract for the provision of medical services with the corporation, be currently certified as specialists by the appropriate American specialty boards accredited by the Council on Medical Education of

the American Medical Association, and have clinical privileges at one or more hospitals in this state.

- (2) A hospital owned by a corporation organized pursuant to s. 2, chapter 87-296, Laws of Florida, must provide Medicaid and charity care. Fla. Stat. Ann. § 617.2002.

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

No relevant statute found.

Charitable Solicitation Requirements

Solicitation of contributions is regulated by Fla. Stat. Ann. §§ 496.01-496.424, the Solicitation of Contributions Act. The charitable organizations must be registered. Fla. Stat. Ann. § 496.405. Fla. Stat. Ann. § 496.411 outlines the disclosure requirements and duties of charitable organizations and sponsors.

State-Specific Retention Policies

A corporation shall keep as records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation. A corporation shall maintain accurate accounting records. A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members in alphabetical order by class of voting members. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. Fla. Stat. Ann. § 617.1601.

A corporation shall keep a copy of the following records: (a) Its articles of incorporation or restated articles of incorporation and all amendments to them currently in effect. (b) Its bylaws or restated bylaws and all amendments to them currently in effect. (c) The minutes of all members' meetings and records of all action taken by members without a meeting for the past 3 years. (d) Written communications to all members generally or all members of a class within the past 3 years, including the financial statements furnished for the past 3 years under s. 617.1605. (e) A list of the names and business street, or home if there is no business street, addresses of its current directors and officers. (f) Its most recent annual report delivered to the Department of State under s. 617.1622. Fla. Stat. Ann. § 617.1601.

Personal Information Collection and Protection Laws

A corporation may deny any demand for inspection made pursuant to sub§ (2) if the demand was made for an improper purpose, or if the demanding member has within 2 years preceding his or her demand sold or offered for sale any list of members of the corporation or any other corporation, has aided or abetted any person in procuring any list of members for any such purpose, or has improperly used any information secured through any prior

examination of the records of the corporation or any other corporation. Fla. Stat. Ann. § 617.1602(5).

Whistleblower Protection

Fla. Stat. Ann. § 448.102 provides protection against employer retaliatory actions against employees.

State Volunteer Liability Law

Fla. Stat. Ann. § 768.1355 governs protection from liability for volunteer work with nonprofit organizations.

Independent Audit Requirements

No relevant statute found.

State Filing Requirements

A filed document must fulfill the filing requirements of Fla. Stat. Ann. § 617.01201.

Annual reports are required. Fla. Stat. Ann. § 617.1622.

Model Acts

Uniform Prudent Management of Institutional Funds Act

Adopted

Uniform Prudent Investor Act

Adopted

Tax Exemptions

Income Tax

Nonprofit organizations are not subject to income tax so long as they are not subject to federal income tax. Fla. Stat. Ann. § 220.13(2)(h).

Sales and Use Taxation

Florida exempts 501(c)(3) organizations from state sales and use tax "when such leases or purchases are used in carrying on their customary nonprofit activities." Fla. Stat. Ann. § 212.08(7)(p).

Property Tax Exemption

Hospitals, nursing homes, and homes for special services are exempt from property taxes when used for direct medical services. Fla. Stat. Ann. § 196.197.

Nonprofit homes for the aged are also exempted if meeting certain criteria. Fla. Stat. Ann. § 196.1975.

Miscellaneous Exemptions

N/A.

General Disclosure:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0600-0699/0617/0617.html

Disclaimer

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