

State laws for charitable organizations

Mississippi



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

Miss. Code Ann. Title 79, Chapter 11. Section 101 et seq. Mississippi Nonprofit Corporation Act.

Nonprofit Unincorporated Associations

Unincorporated associations are treated as 'entities' under Miss. Code Ann. § 79-11-127.

Election of Directors

A corporation may provide in its articles or bylaws for election of directors by members or delegates: (a) on the basis of chapter or other organization unit; (b) by region or other geographic unit; (c) by preferential voting; or (d) by any other reasonable method. Miss. Code Ann. § 79-11-225.

Director Term

The terms of directors may not exceed five years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms. Miss. Code Ann. § 79-11-239.

Meeting and Quorum Requirements

Quorum (Members): Unless § 79-11-101 et seq., the articles, or the bylaws provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter. Unless one-third or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual meeting

of members are those matters that are described in the meeting notice. Miss. Code Ann. § 79-11-217.

Quorum (Directors): Unless otherwise provided in this act, the articles or bylaws, a quorum of a board consists of a majority of the directors in office immediately before a meeting begins. Miss. Code Ann. § 79-11-263.

Annual meetings can be held in or outside the state. Miss. Code Ann. § 79-11-197.

Officer Requirements

The officers must be described in the bylaws or appointed by the board of directors in accordance with the bylaws. Miss. Code Ann. § 79-11-271.

Officer Term

No relevant statute found.

Dissolution

A majority of the incorporators or directors of a corporation that has no members may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering to the Secretary of State articles of dissolution. The corporation shall give notice of any meeting at which dissolution will be approved. The incorporators or directors shall adopt a plan of dissolution indicating to whom the assets owned or held will be distributed after all creditors have been paid. Miss. Code Ann. §§ 79-11-333:361.

Duties, Indemnification, and Interested Transactions

Director Duties

A director shall discharge his duties as a director, including his duties as a member of a committee, in accordance with his good faith belief that he is acting in the best interests of the corporation. Miss. Code Ann. § 79-11-267 (West)

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 an officer authorized by the board of directors to prescribe the duties of other officers. Miss. Code Ann. § 79-11-273.

Board Independence Requirements

No relevant statute found.

Interested Transactions

A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one (1) of the following is true: (a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved or ratified the transaction; (b) The material facts of the transaction and the director's interest were disclosed or known to the members entitled to vote and they authorized, approved or ratified the transaction; or (c) The transaction was fair to the corporation.

A conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved or ratified under this § by a single director. Miss. Code Ann. § 79-11-269.

Indemnification of Directors/Officers

Directors of charitable organizations as defined in § 79-11-501 shall not be liable to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for: (a) The amount of a financial benefit received by the director to which the director is not entitled; (b) An intentional infliction of harm; (c) A violation of § 79-11-270; or (d) An intentional violation of criminal law. Miss. Code Ann. § 79-11-267.

A corporation may indemnify an individual made a party to a proceeding because he is or was a director against liability incurred in the proceeding if: (a) he conducted himself in good faith; and (b) he in good faith believed: (i) in the case of conduct in his official capacity with the corporation that his conduct was in its best interests; and (ii) in all other cases, that his conduct was at least not opposed to its best interests; and (c) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful. Miss. Code Ann. § 79-11-281 (West)

Loans to Directors, Officers, or Employees

A corporation may not lend money to or guarantee the obligation of a director or officer of the corporation. The fact that a loan or guarantee is made does not affect the borrower's liability on the loan. Miss. Code Ann. § 79-11-282.

Notable Departures from Federal Law

Religious/Church Exemption

Religious societies must make annual filings. Miss. Code Ann. § 79-11-47.

See tax sections below.

Healthcare "Plus Factors"

Under current law, Mississippi requires nonprofit hospitals to maintain "one or more charity wards that are for charity patients" as a condition of property tax exemption. Miss. Code Ann. §27-31-1(f).

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members. Miss. Code Ann. § 79-11-195.

Charitable Solicitation Requirements

Registration and certification are required. Regulation of Charitable Solicitations is governed by Miss. Code Ann. §§ 79-11-501:529.

State-Specific Retention Policies

A corporation shall keep at its principal office records, including minutes of all meetings of its members and board of directors, record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors; accounting records, and records of its members. Miss. Code Ann. § 79-11-283.

Personal Information Collection and Protection Laws

No relevant statute found.

Whistleblower Protection

Whistleblower protection statute limited to public employees. Miss. Code Ann. § 25-9-171 et seq.

State Volunteer Liability Law

A qualified volunteer shall not be held vicariously liable for the negligence of another in connection with or as a consequence of his volunteer activities. A qualified volunteer who renders assistance to a participant in, or a recipient, consumer or user of the services or benefits of a volunteer activity shall not be liable for any civil damages for any personal injury or property damage caused to a person as a result of any acts or omissions committed in good faith except: (a) where the qualified volunteer engages in acts or omissions which are intentional, willful, wanton, reckless or grossly negligent; or (b) where the qualified volunteer negligently operates a motor vehicle, aircraft, boat or other powered mode of conveyance. Miss. Code Ann. § 95-9-1 (West)

Independent Audit Requirements

No relevant statute found.

State Filing Requirements

Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall upon request deliver to the

Secretary of State a status report on a form prescribed and furnished by the Secretary of State that sets forth:

(a) The name of the corporation and the jurisdiction under whose law it is incorporated; (b) The information required by § 79-35-5(a); (c) The address of its principal office; (d) The names and business or residence addresses of its directors and principal officers; (e) A brief description of the nature of its activities; and (f) Whether or not it has members. Within 90 days of the request.

The Secretary of State may request a status report from time to time, but not more frequently than once every five (5) years, beginning five (5) years from the date upon which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Miss. Code Ann. § 79-11-391.

for any purpose. Please note that the information provided within may not be accurate for many reasons, including but not limited to changes in applicable legal authority and the applicability of such authority in any particular circumstance is highly fact-specific and open to multiple interpretations. The information presented here is accurate as of 10/26/2016.

Model Acts

Uniform Prudent Management of Institutional Funds Act

Adopted

Uniform Prudent Investor Act

Adopted

Tax Exemptions

Income Tax

Nonprofits of certain types, listed in Miss. Code Ann. § 27-7-29 do not need to pay taxes.

Sales and Use Taxation

In general nonprofits are subject to sales tax except for certain specified sales described in Miss. Code Ann. § 27-65-111.

Property Tax Exemption

Property owned by nonprofit organizations are exempt from property tax in certain circumstances, as are religious institutions. Miss. Code Ann. § 27-31-1 governs exemptions from property tax.

Miscellaneous Exemptions

Fire departments are exempt from excise taxes on gas. Miss. Code Ann. § 27-55-12.

General Resource:

<http://law.justia.com/codes/mississippi/2015/title-79/chapter-11/>

Disclaimer

This manual is intended to be used as a practical and informative guide only, and is not a substitute for the advice of legal counsel. It is not to be considered comprehensive or to be used as legal authority