

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 704
Judiciary II Senate Committee Substitute Adopted 6/13/89

Short Title: Charitable Solicitation Law.

(Public)

Sponsors:

Referred to:

March 20, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CHARITABLE SOLICITATION LICENSURE ACT.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S.131C-4 reads as rewritten:

5 "**§ 131C-4. Licensure required for charitable solicitation.**

6 (a) Any person who solicits charitable contributions shall apply for and obtain an
7 annual license from the Department of Human Resources. A person who is authorized
8 to solicit on behalf of a licensed or exempt person is not required to obtain a license
9 under this section.

10 (b) A person ~~other than a professional solicitor or professional fund-raising counsel~~
11 may solicit charitable contributions after filing the completed application until the
12 Department notifies him that the application has been denied and he waives or exhausts
13 his administrative and judicial remedies under Chapter 150B.

14 (c) A person who has been denied a license and has waived or exhausted his
15 administrative and judicial remedies under Chapter 150B shall not solicit charitable
16 contributions until another application has been filed with the Department and a license
17 issued by the Department."

18 Sec. 2. G.S. 131C-6 reads as rewritten:

19 "**§ 131C-6. Licensure required for professional fund-raising counsel and**
20 **professional solicitor.**

21 Any person who acts as a professional fund-raising counsel or professional solicitor
22 shall apply for and obtain an annual license from the Department, ~~and shall not act as a~~
23 ~~professional fund-raising counsel or professional solicitor until after obtaining such~~

1 ~~license~~Department. A person who is authorized to act on behalf of a licensed
2 professional fund-raising counsel or a licensed professional solicitor is not required to
3 obtain a license under this section."

4 Sec. 3. G.S. 131C-16.1 reads as rewritten:

5 **"§ 131C-16.1. Mandatory disclosures.**

6 During any solicitation by a professional solicitor, and before requesting or
7 appealing either directly or indirectly for any charitable contribution, the name of the a
8 professional solicitor and the name of the person soliciting shall ~~disclose~~ be disclosed to
9 the person ~~solicited~~ solicited.

10 (1) ~~His name;~~ and

11 (2) ~~The name of the professional solicitor or professional fund-raising counsel~~
12 ~~by whom he is employed and the address of his employer; and~~

13 (3) ~~The average of the percentage of gross receipts actually paid to the persons~~
14 ~~established for a charitable purpose by the professional fund-raising counsel or~~
15 ~~professional solicitor conducting the solicitation for all charitable sales promotions~~
16 ~~conducted in this State by that professional fund-raising counsel or professional~~
17 ~~solicitor for the past 12 months, or for all completed charitable sales promotions where~~
18 ~~the professional fund-raising counsel or professional solicitor has been soliciting funds~~
19 ~~for less than 12 months."~~

20 Sec. 4. G.S. 131C-17.2 is repealed.

21 Sec. 5. G.S. 131C-21.1 reads as rewritten:

22 **"§ 131C-21.1. Other remedies.**

23 (a) The solicitation of charitable contributions by a professional solicitor or
24 professional fund-raising counsel or by an agent, employee, or servant thereof without
25 making the disclosures required by G.S. 131C-16, and G.S. 131C-16.1 shall be
26 considered an unfair or deceptive trade practice, as prohibited by G.S. 75-1.1, and any
27 person solicited, to whom these disclosures were not made, and who made a charitable
28 contribution in response to such solicitation shall have a right of action on account of
29 such injury done under G.S. 75-16 and G.S. 75-16.1 against the offending professional
30 solicitor or professional fund-raising ~~counsel~~ counsel or an employee of either. There is
31 no right of action under this section against a person established for a charitable
32 purpose. In any action under this subsection, the measure of damages shall be the
33 amount of the contribution made by the person solicited.

34 (b) The Attorney General may bring a civil action as provided in Article 1 of
35 Chapter 75 in order to protect the public from the unfair trade practice or practices
36 described in subsection (a). In prosecuting this civil action, the Attorney General may
37 make use of any and all powers, remedies, and civil penalties provided under Article 1
38 of Chapter 75.

39 (c) ~~After notice and an opportunity for a hearing in accordance with Chapter~~
40 ~~150B of the General Statutes, the Secretary may order a professional fund-raising~~
41 ~~counsel or a professional solicitor who has charged an unreasonable and excessive fund-~~
42 ~~raising fee to pay to the charitable organization that was charged the unreasonable and~~
43 ~~excessive fee the difference between the fee charged and a reasonable and nonexcessive~~
44 ~~fee.~~

1 (d) ~~The Secretary of Human Resources may commence the proceedings provided~~
2 ~~for in subsection (c) where he is requested to do so in writing by the chief executive~~
3 ~~officer of any person established for a charitable purpose within 60 days after the last~~
4 ~~payment of money to the person established for a charitable purpose by the professional~~
5 ~~fund-raising counsel or professional solicitor."~~

6 Sec. 6. This act shall become effective October 1, 1989, and applies to
7 licenses issued on or after that date.