

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 704

Short Title: Charitable Solicitation Law.

(Public)

---

Sponsors: Representative J. Crawford.

---

Referred to: Commerce.

---

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARITABLE SOLICITATION LICENSURE ACT.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

Any person who acts as a professional fund-raising counsel or professional solicitor shall apply for and obtain an annual license from the ~~Department, and shall not act as a professional fund-raising counsel or professional solicitor until after obtaining such license~~Department. A person who is authorized to act on behalf of a licensed

1 professional fund-raising counsel or a licensed professional solicitor is not required to  
2 obtain a license under this section."

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

4 **"§131C-16.1. Mandatory disclosures.**

5 During any solicitation and before requesting or appealing either directly or  
6 indirectly for any charitable contribution a professional solicitor shall disclose to the  
7 person ~~solicited~~: solicited his name and the name of the professional solicitor.

8 (1) His name; and

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

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

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

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

20 **"§ 131C-21.1. Other remedies.**

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

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

37 (c) ~~After notice and an opportunity for a hearing in accordance with Chapter~~  
38 ~~150B of the General Statutes, the Secretary may order a professional fund-raising~~  
39 ~~counsel or a professional solicitor who has charged an unreasonable and excessive fund-~~  
40 ~~raising fee to pay to the charitable organization that was charged the unreasonable and~~  
41 ~~excessive fee the difference between the fee charged and a reasonable and nonexcessive~~  
42 ~~fee.~~

43 (d) ~~The Secretary of Human Resources may commence the proceedings provided~~  
44 ~~for in subsection (c) where he is requested to do so in writing by the chief executive~~

1 ~~officer of any person established for a charitable purpose within 60 days after the last~~  
2 ~~payment of money to the person established for a charitable purpose by the professional~~  
3 ~~fund raising counsel or professional solicitor."~~

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