

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 940  
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Short Title: Charitable Solicitations.

(Public)

Sponsors:

Referred to:

April 21, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO REWRITE THE CHARITABLE SOLICITATIONS ACT.  
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 131C of the General Statutes is repealed.

5 Sec. 2. The General Statutes are amended by adding a new Chapter to read:

6 **"CHAPTER 131F.**

7 **"SOLICITATION OF CONTRIBUTIONS.**

8 **"ARTICLE 1.**

9 **"GENERAL PROVISIONS.**

10 **"§ 131F-1. Purpose.**

11 The General Assembly recognizes the right of persons or organizations to conduct  
12 solicitation activities. It is the intent of the General Assembly to protect the public by  
13 requiring full disclosure by persons who solicit contributions from the public of the  
14 purposes for which the contributions are solicited and how the contributions are actually  
15 used. It is the intent of the General Assembly to prohibit deception, fraud, and  
16 misrepresentation in the solicitation and reporting of contributions.

17 **"§ 131F-2. Definitions.**

18 The following definitions apply in this Chapter:

- 1           (1) 'Association' means any voluntary statewide organization of persons  
2 for common ends especially as in an organized group working together  
3 or periodically meeting because of common interests, beliefs, or  
4 professions. These associations may serve charitable organizations  
5 including environmental, health, educational, humane, patriotic,  
6 scientific, artistic, social welfare, and civic.
- 7           (2) 'Charitable' means for a benevolent purpose, including environmental,  
8 health, educational, humane, patriotic, scientific, artistic, social  
9 welfare, and civic.
- 10          (3) 'Charitable organization' means any person who has or holds out as  
11 having a section 501(c)(3) tax exempt determination by the Internal  
12 Revenue Service and operates for a charitable purpose, or a person  
13 who is or holds himself out to be established for a charitable or civic  
14 purpose; or a person who employs a charitable or civic appeal as the  
15 basis of a solicitation, or employs an appeal that suggests there is a  
16 charitable or civic purpose for the appeal. 'Charitable organization'  
17 includes a chapter, branch, area office, or similar affiliate soliciting  
18 contributions within the State for a charitable organization which has  
19 its principal place of business outside the State.
- 20          (4) 'Charitable sales promotion' means an advertising or sales campaign  
21 that represents that the purchase or use of goods or services offered by  
22 a coventurer is to benefit a charitable organization. The provision of  
23 advertising services alone to a charitable organization does not  
24 constitute a charitable sales promotion.
- 25          (5) 'Contribution' means a promise, pledge, grant of any money or  
26 property, financial assistance, or any other thing of value in response  
27 to a solicitation. 'Contribution' includes, in the case of a charitable  
28 organization or sponsor offering a good or service to the public, the  
29 excess of the price at which the charitable organization or sponsor or  
30 any person acting on behalf of the charitable organization or sponsor  
31 sells the good or service to the public over the fair market value of the  
32 good or service. 'Contribution' does not include bona fide fees, dues,  
33 or assessments paid by members if the membership is not conferred  
34 solely as consideration for making a contribution in response to a  
35 solicitation. 'Contribution' does not include funds obtained by a  
36 charitable organization or sponsor under government grants or  
37 contracts.
- 38          (6) 'Coventurer' means any person who, for compensation, conducts a  
39 charitable sales promotion or a sponsor sales promotion, other than in  
40 connection with the solicitation of contributions.
- 41          (7) 'Department' means the Department of Human Resources.
- 42          (8) 'Emergency service employees' means employees who are firefighters,  
43 ambulance drivers, emergency medical technicians, or paramedics.

- 1           (9) 'Federated fund-raising organization' means a federation of  
2 independent charitable organizations which have voluntarily joined  
3 together, including a united way, united arts fund, or community chest,  
4 for the purpose of raising and distributing contributions and where  
5 membership does not confer operating authority and control of the  
6 individual organization upon the federated group organization.
- 7           (10) 'Fund-raising consultant' means any person who meets all of the  
8 following:
- 9               a. Is retained by a charitable organization or sponsor for a fixed  
10 fee or rate under a written agreement to plan, manage, conduct,  
11 consult, or prepare material for the solicitation of contributions  
12 in this State.
- 13               b. Does not solicit contributions or employ, procure, or engage  
14 any person to solicit contributions.
- 15               c. Does not at any time have custody or control of contributions.
- 16           (11) 'Fund-raising costs' means those costs incurred in inducing others to  
17 make contributions to a charitable organization or sponsor for which  
18 the contributors will receive no direct economic benefit. Fund-raising  
19 costs include salaries, rent, acquiring and obtaining mailing lists,  
20 printing, mailing, all direct and indirect costs of soliciting, and the cost  
21 of unsolicited merchandise sent to encourage contributions.
- 22           (12) 'Law enforcement officers' means persons who are elected, appointed,  
23 or employed by the State or any political subdivision of the State and  
24 who meet either of the following:
- 25               a. Are vested with the authority to bear arms and make arrests and  
26 have primary responsibility to prevent and detect crime or  
27 enforce the criminal, traffic, or highway laws of the State.
- 28               b. Have responsibility for supervision, protection, care, custody, or  
29 control of inmates within a correctional institution.
- 30           (13) 'Membership' means the relationship of a person to an organization  
31 that entitles that person to the privileges, professional standing, honors,  
32 or other direct benefits of the organization in addition to the right to  
33 vote, elect officers, and hold office in the organization.
- 34           (14) 'Owner' means any person who has a direct or indirect interest in any  
35 fund-raising consultant or solicitor.
- 36           (15) 'Parent organization' means that part of a charitable organization or  
37 sponsor which coordinates, supervises, or exercises control over  
38 policy, fund-raising, and expenditures, or assists or advises one or  
39 more chapters, branches, or affiliates of a charitable organization or  
40 sponsor.
- 41           (16) 'Person' means any individual, organization, trust, foundation,  
42 association, group, entity, partnership, corporation, society, or any  
43 combination of these acting as a unit.

1           (17) 'Religious institution' means any church, ecclesiastical, or  
2 denominational organization, or any established physical place for  
3 worship in this State at which nonprofit religious services and  
4 activities are regularly conducted, and any bona fide religious groups  
5 that do not maintain specific places of worship. 'Religious institution'  
6 includes any separate group or corporation that forms an integral part  
7 of a religious institution that is exempt from federal income tax under  
8 the provisions of section 501(c)(3) of the Internal Revenue Code, and  
9 that is primarily supported by funds solicited inside its own  
10 membership or congregation.

11           (18) 'Solicitation' means a request, directly or indirectly, for money,  
12 property, financial assistance, or any other thing of value on the plea or  
13 representation that it will be used for a charitable or sponsor purpose  
14 or will benefit a charitable organization or sponsor. 'Solicitation' may  
15 occur by any of the following methods:

16           a. Any oral or written request.

17           b. Any announcement to the press, radio, or television, by  
18 telephone or telegraph, or by any other communication device.

19           c. Distributing, posting, or publishing any handbill, written  
20 advertisement, or other publication that directly or by  
21 implication seeks to obtain any contribution.

22           d. Selling or offering or attempting to sell any good, service,  
23 chance, right, or any thing of value to benefit a charitable  
24 organization or sponsor.

25           The selling or offering or attempting to sell is a 'solicitation' whether or  
26 not the person making the solicitation receives any contribution. It is  
27 not a 'solicitation' when a person applies for a grant or an award to the  
28 government or to an organization that is exempt from federal income  
29 taxation under section 501(a) of the Internal Revenue Code and  
30 described in section 501(c) of the Internal Revenue Code.

31           (19) 'Solicitor' means any person who, for compensation, does not qualify  
32 as a fund-raising consultant and does either of the following:

33           a. Performs any service, including the employment or engagement  
34 of other persons or services, to solicit contributions for a  
35 charitable organization or sponsor.

36           b. Plans, conducts, manages, consults, whether directly or  
37 indirectly, in connection with the solicitation of contributions  
38 for a charitable organization or sponsor.

39           (20) 'Sponsor' means a person who is or holds out to others as soliciting  
40 contributions by the use of any name that implies affiliation with  
41 emergency service employees or law enforcement officers and who is  
42 not a charitable organization. 'Sponsor' includes a chapter, branch, or  
43 affiliate that has its principal place of business outside the State, if this

chapter, branch, or affiliate solicits or holds out to be soliciting contributions in this State.

(21) 'Sponsor purpose' means any program or endeavor performed to benefit emergency service employees or law enforcement officers.

(22) 'Sponsor sales promotion' means an advertising or sales campaign conducted by a coventurer who represents that the purchase or use of goods or services offered by the coventurer will be used for a sponsor purpose or donated to a sponsor. The provision of advertising services alone to a sponsor does not constitute a sponsor sales promotion.

### **"§ 131F-3. Exemptions.**

The following are exempt from the provisions of this Chapter:

(1) Any person who solicits charitable contributions for a religious institution.

(2) Solicitation of charitable contributions by the federal, State, or local government, or any of their agencies.

(3) Any person who receives less than twenty-five thousand dollars (\$25,000) in contributions in any calendar year and does not provide compensation to any officer, trustee, organizer, incorporator, fundraiser, or solicitor.

(4) Any educational institution, the curriculum of which, in whole or in part, is registered, approved, or accredited by the Southern Association of Colleges and Schools or an equivalent regional accrediting body, and any educational institution in compliance with Article 39 of Chapter 115C of the General Statutes, and any foundation or department having an established identity with any of these educational institutions.

(5) Any hospital licensed pursuant to Article 5 of Chapter 131E or Article 2 of Chapter 122C of the General Statutes and any foundation or department having an established identity with that hospital if the governing board of the hospital, authorizes the solicitation and receives an accounting of the funds collected and expended.

(6) Any noncommercial radio or television station.

(7) A qualified community trust as provided in 26 C.F.R. § 1.170A-9(e)(10) through (e)(14).

(8) A bona fide volunteer or bona fide employee or salaried officer of a charitable organization or sponsor.

(9) An attorney, investment counselor, or banker who advises a person to make a charitable contribution.

(10) A volunteer fire department, rescue squad, or emergency medical service.

### **"ARTICLE 2.**

#### **"CHARITABLE ORGANIZATIONS AND SPONSORS.**

### **"§ 131F-5. Licensure of charitable organizations and sponsors required.**

1       (a) License Required. – Unless exempted under G.S. 131F-3, a charitable  
2 organization, sponsor, or person that intends to solicit contributions in this State, to have  
3 funds solicited on its behalf, or to participate in a charitable sales promotion or sponsor  
4 sales promotion shall obtain a license by filing an application with the Department,  
5 obtaining approval of that application by the Department, and paying the applicable fee.

6       (b) Departmental Review. – The Department shall examine each application filed  
7 by a charitable organization or sponsor and shall determine whether the licensing  
8 requirements are satisfied. If the Department determines that the requirements are not  
9 satisfied, the Department shall notify the charitable organization or sponsor within 10  
10 days after its receipt of the application. If the Department does not notify the charitable  
11 organization or sponsor within 10 days, the application is deemed to be approved and  
12 the license shall be granted. Within seven days after receipt of a notification that the  
13 requirements are not satisfied, the charitable organization or sponsor may file a petition  
14 for a contested case. The State has the burden of proof in the contested case. The  
15 contested case hearing must be held within seven days after the petition is filed. A  
16 recommended decision must be made within three days of the hearing. A final decision  
17 must be made within two days after the recommended decision. The contested case  
18 hearing proceedings shall be conducted in accordance with Chapter 150B of the General  
19 Statutes except that the time limits and provisions set forth in this section shall prevail  
20 to the extent of any conflict. The applicant shall be permitted to continue to operate or  
21 continue operations pending judicial review of the Department's denial of the  
22 application. The Department shall make rules regarding the custody and control of any  
23 funds collected during the review period and disposal of such funds in the event the  
24 denial of the application is affirmed on appeal.

25       (c) License Renewal. – The license shall be renewed on an annual basis. Any  
26 change in information from the original application for a license shall be filed annually  
27 on or before the fifteenth day of the fifth calendar month after the close of each fiscal  
28 year in which the charitable organization or sponsor solicited in this State, or by the date  
29 of any applicable extension of the federal filing date, whichever is later, provided that  
30 extensions given under this section shall not exceed three months after the initial  
31 renewal date or eight months after the conclusion of the year for which financial  
32 information is due at the time of renewal. A charitable organization or sponsor whose  
33 federal filing date has been extended shall, within seven days after receipt, forward a  
34 copy of the document granting the extension to the Department.

35       (d) Extension of Time. – For good cause shown, the Department may extend the  
36 time for the license renewal and the annual filing of updated information for a period  
37 not to exceed 60 days, during which time the previous license shall remain in effect.

38 **"§ 131F-6. Information required for licensure.**

39       (a) Initial Information Required. – The initial application for a license for a  
40 charitable organization or sponsor shall be submitted on a form provided by the  
41 Department, signed under oath by the treasurer or chief fiscal officer of the charitable  
42 organization or sponsor, and shall include the following:

- 43               (1) The name of the charitable organization or sponsor, the purpose for  
44 which it is organized, the name under which it intends to solicit

- 1                    contributions, and the purpose for which the contributions to be  
2                    solicited will be used.
- 3            (2)        The principal street address and telephone number of the charitable  
4                    organization or sponsor and the street address and telephone numbers  
5                    of any offices in this State or, if the charitable organization or sponsor  
6                    does not maintain an office in this State, the name, street address, and  
7                    telephone number of the person who has custody of its financial  
8                    records. The parent organization that files a consolidated registration  
9                    statement under G.S. 131F-7 on behalf of its chapters, branches, or  
10                   affiliates shall additionally provide the street addresses and telephone  
11                   numbers of all of its locations in this State.
- 12           (3)        The names and street addresses of the officers, directors, trustees, and  
13                   the salaried executive personnel.
- 14           (4)        The date when the charitable organization's or sponsor's fiscal year  
15                   ends.
- 16           (5)        A list or description of the major program activities.
- 17           (6)        The names, street addresses, and telephone numbers of the individuals  
18                   or officers who have final responsibility for the custody of the  
19                   contributions and who will be responsible for the final distribution of  
20                   the contributions.
- 21           (7)        The name of the individuals or officers who are in charge of any  
22                   solicitation activities.
- 23           (8)        A financial report for the immediately preceding fiscal year upon a  
24                   form provided by the Department. The report shall include the  
25                   following:
- 26                   a.        The balance sheet.
- 27                   b.        A statement of support, revenue, and expenses, and any change  
28                   in the fund balance.
- 29                   c.        The names and addresses of any fund-raising consultant,  
30                   solicitor, and coventurer used, if any, and the amounts received  
31                   from each of them, if any.
- 32                   d.        A statement of expenses in the following categories:
- 33                            1.        Program.
- 34                            2.        Management and general.
- 35                            3.        Fund-raising.
- 36           (9)        In substitution for the financial report described in subdivision (8) of  
37                   this subsection, a charitable organization or sponsor may submit a  
38                   copy of its Internal Revenue Service Form 990 and Schedule A filed  
39                   for the preceding fiscal year, or a copy of its Form 990-EZ filed for the  
40                   preceding fiscal year.
- 41           (10)       A charitable organization or sponsor may include a financial report  
42                   which has been audited by an independent certified public accountant  
43                   or an audit with opinion by an independent certified public accountant.  
44                   In the event that a charitable organization or sponsor elects to file this,

- 1                    this optional filing shall be noted in the Department's annual report  
2                    submitted under G.S. 131F-25.
- 3            (11) A newly organized charitable organization or sponsor with no financial  
4            history shall file a budget for the current fiscal year.
- 5            (12) A statement indicating all of the following:
- 6                    a. Whether or not the charitable organization or sponsor is  
7                    authorized by any other state to solicit contributions.
- 8                    b. Whether or not the charitable organization or sponsor or any of  
9                    its officers, directors, trustees, or salaried executive personnel  
10                   have been enjoined in any jurisdiction from soliciting  
11                   contributions or have been found to have engaged in unlawful  
12                   practices in the solicitation of contributions or administration of  
13                   charitable assets.
- 14                   c. Whether or not the charitable organization or sponsor has had  
15                   its authority denied, suspended, or revoked by any  
16                   governmental agency, together with the reasons for the denial,  
17                   suspension, or revocation.
- 18                   d. Whether or not the charitable organization or sponsor has  
19                   voluntarily entered into an assurance of voluntary compliance  
20                   or agreement similar to that set forth in G.S. 131F-24(c),  
21                   together with a copy of that agreement.
- 22            (13) The names, street addresses, and telephone numbers of any solicitor,  
23            fund-raising consultant, or coventurer who is acting or has agreed to  
24            act on behalf of the charitable organization or sponsor, together with a  
25            statement setting forth the specific terms of the arrangements for  
26            salaries, bonuses, commissions, expenses, or other compensation to be  
27            paid the fund-raising consultant, solicitor, or coventurer.
- 28            (14) With initial licensing only, when and where the organization was  
29            established, the tax-exempt status of the organization, and a copy of  
30            any federal tax exemption determination letter. If the charitable  
31            organization or sponsor has not received a federal tax exemption  
32            determination letter at the time of initial licensing, a copy of the  
33            determination shall be filed with the Department within 30 days after  
34            receipt of the determination by the charitable organization or sponsor.  
35            If the organization is subsequently notified by the Internal Revenue  
36            Service of any challenge to its continued entitlement to federal tax  
37            exemption, the charitable organization or sponsor shall notify the  
38            Department of this fact within 30 days after receipt.
- 39            (b) Renewal Information Required. – A license shall be renewed on an annual  
40 basis. The charitable organization or sponsor shall submit any changes in the  
41 information submitted from the initial application.
- 42 **§ 131F-7. Consolidated application and renewal.**
- 43            (a) Election to File Consolidated Application. – Each chapter, branch, member,  
44 or affiliate of a parent organization or association that is required to obtain a license



1 under G.S. 131F-5 shall either file a separate application or shall report the required  
2 information to its parent organization or association. The parent organization or  
3 association may then file, on a form provided by the Department, a consolidated  
4 application for the parent organization or association and its chapters, branches,  
5 members, and affiliates located in this State.

6 (b) Consolidated Financial Information. – If all contributions received by  
7 chapters, branches, or affiliates are remitted directly into the parent organization's  
8 centralized accounting system from which all disbursements are made, the parent  
9 organization may submit one consolidated financial report as part of the application on a  
10 form provided by the Department.

11 (c) Renewal Information. – The parent organization or association may file the  
12 information required for a renewal of a license in a consolidated form provided by the  
13 Department.

14 **"§ 131F-8. License fees.**

15 (a) Required Fees. – Except as provided in subsections (b) and (c) of this section,  
16 every charitable organization or sponsor shall pay the following fees with each license  
17 application:

- 18 (1) Fifty dollars (\$50.00), if the contributions received for the last fiscal  
19 year were less than one hundred thousand dollars (\$100,000).
- 20 (2) One hundred dollars (\$100.00), if the contributions received for the  
21 last fiscal year were one hundred thousand dollars (\$100,000) or more,  
22 but less than two hundred thousand dollars (\$200,000).
- 23 (3) Two hundred dollars (\$200.00), if the contributions received for the  
24 last fiscal year were two hundred thousand dollars (\$200,000) or more.

25 (b) Exemption. – A licensed charitable organization or sponsor that received less  
26 than five thousand dollars (\$5,000) in the last calendar or fiscal year shall not pay a fee.

27 (c) Parent Organization. – A parent organization or association filing on behalf of  
28 one or more chapters, branches, members, or affiliates shall pay a single license fee for  
29 itself and its other chapters, branches, members, or affiliates. These license fees shall be  
30 imposed as follows:

- 31 (1) One hundred dollars (\$100.00) for a parent organization or association  
32 and one to five chapters, branches, members, or affiliates.
- 33 (2) Two hundred dollars (\$200.00) for a parent organization or association  
34 and 6 to 10 chapters, branches, members, or affiliates.
- 35 (3) Two hundred fifty dollars (\$250.00) for a parent organization or  
36 association and 11 to 15 chapters, branches, members, or affiliates.
- 37 (4) Four hundred dollars (\$400.00) for a parent organization or association  
38 and 16 or more chapters, branches, members, or affiliates.

39 (d) Late Filing. – A charitable organization or sponsor which fails to file the  
40 renewal information by the due date may be assessed an additional fee for the late filing.  
41 The late filing fee shall be established by rule of the Department and shall not exceed  
42 twenty-five dollars (\$25.00) for each month or part of a month after the date on which  
43 the information was due to be filed or after the period of extension granted for the filing.

44 **"§ 131F-9. Disclosure requirements of charitable organizations and sponsors.**

1       (a) Contributions for Expressed Purpose. – A charitable organization or sponsor  
2 shall solicit contributions only for the purpose expressed in its application and may  
3 apply contributions only in a manner substantially consistent with that purpose.

4       (b) Disclosures. – A charitable organization or sponsor soliciting in this State  
5 shall include all of the following disclosures at the point of solicitation:

6           (1) The name of the charitable organization and state of the principal place  
7 of business of the charitable organization or sponsor.

8           (2) A description of the purpose for which the solicitation is being made.

9           (3) Upon request, the name and either the address or telephone number of  
10 a representative to whom inquiries could be addressed.

11          (4) Upon request, the amount of the contribution which may be deducted  
12 as a charitable contribution under federal income tax laws.

13          (5) Upon request, the source from which a written financial statement may  
14 be obtained. The financial statement shall be for the immediate past  
15 fiscal year and shall be consistent with G.S. 131F-6. The written  
16 financial statement shall be provided within 14 days after the request  
17 and shall state the purpose for which funds are raised, the total amount  
18 of all contributions raised, the total costs and expenses incurred in  
19 raising contributions, the total amount of contributions dedicated to the  
20 stated purpose or disbursed for the stated purpose, and whether the  
21 services of another person or organization have been contracted to  
22 conduct solicitation activities.

23       (c) Printed Disclosure. – Every charitable organization or sponsor that is required  
24 to obtain a license under G.S. 131F-5 shall conspicuously display in capital letters in  
25 bold type of a minimum size 10 points, the following statement on every printed  
26 solicitation, written confirmation, receipt, or reminder of a contribution:

27       'A COPY OF THE LICENSE TO SOLICIT CHARITABLE CONTRIBUTIONS AS  
28 A CHARITABLE ORGANIZATION OR SPONSOR AND FINANCIAL  
29 INFORMATION MAY BE OBTAINED FROM THE DEPARTMENT OF HUMAN  
30 RESOURCES, SOLICITATION LICENSING BRANCH, BY CALLING (919) 733-  
31 4510. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR  
32 RECOMMENDATION BY THE STATE.'

33       When the solicitation consists of more than one piece, the statement shall be  
34 displayed prominently in the solicitation materials, but not necessarily on every page.

35                   **"ARTICLE 3.**

36                   **"FUND-RAISING CONSULTANTS, SOLICITORS, AND COVENTURERS.**

37                   **"§ 131F-15. License required for fund-raising consultant.**

38       (a) License Required. – Unless exempted under G.S. 131F-3, a person shall not  
39 act as a fund-raising consultant in this State unless that person has obtained a license  
40 from the Department.

41       (b) License Application. – Applications for a license or renewal of a license shall  
42 be submitted on a form provided by the Department, shall be signed under oath, and  
43 shall include the following:

- 1           (1)   The street address and telephone number of the principal place of  
2           business of the applicant and any street addresses of business locations  
3           in this State if the principal place of business is located outside this  
4           State.
- 5           (2)   The form of the applicant's business.
- 6           (3)   The names and residence addresses of all officers, directors, and  
7           owners.
- 8           (4)   Whether any of the owners, directors, officers, or employees of the  
9           applicant are related as parent, child, spouse, or sibling to any of the  
10          following individuals:
- 11          a.    Other directors, officers, owners, or employees of the applicant.  
12          b.    Any officer, director, trustee, or employee of any charitable  
13          organization or sponsor under contract to the applicant.  
14          c.    Any supplier or vendor providing goods or services to any  
15          charitable organization or sponsor under contract to the  
16          applicant.
- 17          (5)   Whether the applicant or any of the applicant's officers, directors,  
18          employees, or owners have, within the last five years, been convicted  
19          of any felony, or of any misdemeanor arising from the conduct of a  
20          solicitation for a charitable organization or sponsor or charitable or  
21          sponsor purpose, or been enjoined from violating a charitable  
22          solicitation law in this or any other state.
- 23          (c)   Fees. – The application for an initial or renewal license shall be accompanied  
24          by a license fee of two hundred dollars (\$200.00). A fund-raising consultant that is a  
25          partnership or corporation may obtain a license for and pay a single fee on behalf of all  
26          of its partners, members, officers, directors, agents, and employees. In that case, the  
27          names and street addresses of all of the officers, employees, and agents of the fund-  
28          raising consultant and all other persons with whom the fund-raising consultant has  
29          contracted to work under its direction shall be listed in the license application. Each  
30          license is valid for one year or a part of one year and expires on March 31 of each year.  
31          The license may be renewed on or before March 31 of each year for additional one-year  
32          periods upon application to the Department and payment of the license fee.
- 33          (d)   Contracts. – Every contract or agreement between a fund-raising consultant  
34          and a charitable organization or sponsor shall be in writing, signed by two authorized  
35          officials of the charitable organization or sponsor, and filed by the fund-raising  
36          consultant with the Department at least five days prior to the performance of any service  
37          by the fund-raising consultant. Solicitation under the contract or agreement shall not  
38          begin before the filing of the contract or agreement. The contract shall contain all of the  
39          following provisions:
- 40               (1)   A statement of the charitable purpose or sponsor purpose for which the  
41               solicitation campaign is being conducted.
- 42               (2)   A statement of the respective obligations of the fund-raising consultant  
43               and the charitable organization or sponsor.

- 1           (3) A clear statement of the fee that will be paid to the fund-raising  
2           consultant.  
3           (4) The effective and termination dates.  
4           (5) A statement that the fund-raising consultant shall not, at any time, have  
5           control or custody of contributions.

6           (e) Departmental Review. – The Department shall examine each application or  
7 renewal filed by a fund-raising consultant and determine whether the requirements are  
8 satisfied. If the Department determines that the requirements are not satisfied, the  
9 Department shall notify the fund-raising consultant within 10 days after its receipt of the  
10 application or renewal. If the Department does not respond within 10 days, the license  
11 is deemed approved. Within seven days after receipt of a notification that the license  
12 requirements are not satisfied, the applicant may file a petition for a contested case. The  
13 State has the burden of proof in the contested case. The contested case hearing must be  
14 held within seven days after the petition is filed. A recommended decision must be  
15 made within three days of the hearing. A final decision must be made within two days  
16 after the recommended decision. The contested case hearing proceedings shall be  
17 conducted in accordance with Chapter 150B of the General Statutes, except that the  
18 time limits and provisions set forth in this section shall prevail to the extent of any  
19 conflict. The applicant shall be permitted to continue to operate or continue operations  
20 pending judicial review of the Department's denial of the application. The Department  
21 shall make rules regarding the custody and control of any funds collected during the  
22 review period and disposal of such funds in the event the denial of the application is  
23 affirmed on appeal.

24           (f) Fund. – All license fees shall be paid to the Department and deposited into  
25 the Solicitation of Contributions Fund to be used to pay the costs incurred in  
26 administering and enforcing this Chapter.

27           (g) Change in Information. – Unless otherwise provided, any material change in  
28 information filed with the Department pursuant to this section shall be reported in  
29 writing to the Department within seven working days after the change occurred.

30 **"§ 131F-16. License required for solicitors.**

31           (a) Licensure Required. – Unless exempted under G.S. 131F-3, a person shall not  
32 act as a solicitor in this State unless that person has obtained a license from the  
33 Department and paid the applicable fees.

34           (b) Applications. – Applications for a license or renewal of a license shall be  
35 submitted on a form provided by the Department, shall be signed under oath, and shall  
36 include the following information:

- 37           (1) The street address and telephone number of the principal place of  
38 business of the applicant and any North Carolina street addresses if the  
39 principal place of business is located outside this State.  
40           (2) The form of the applicant's business.  
41           (3) The place and date when the applicant, if other than an individual, was  
42 legally established.  
43           (4) The names and residence addresses of all officers, directors, and  
44 owners.

- 1           (5) A statement as to whether any of the owners, directors, officers, or  
2 employees of the applicant are related as parent, spouse, child, or  
3 sibling to:  
4           a. Any other directors, officers, owners, or employees of the  
5 applicant.  
6           b. Any officer, director, trustee, or employee of any charitable  
7 organization or sponsor under contract to the applicant.  
8           c. Any supplier or vendor providing goods or services to any  
9 charitable organization or sponsor under contract to the  
10 applicant.
- 11           (6) A statement as to whether the applicant or any of the directors,  
12 officers, persons with a controlling interest in the applicant, or  
13 employees or agents involved in solicitation have been convicted,  
14 within the last five years, of any felony, or of a misdemeanor arising  
15 from the conduct of a solicitation for any charitable organization or  
16 sponsor or charitable or sponsor purpose, or been enjoined from  
17 violating a charitable solicitation law in this or any other state.
- 18           (7) The names of all persons in charge of any solicitation activity.
- 19       (c) Fees. – The application for an initial or renewal license shall be accompanied  
20 by a fee of two hundred dollars (\$200.00). A solicitor that is a partnership or  
21 corporation may register for and pay a single fee on behalf of all of the partners,  
22 members, officers, directors, agents, and employees. In that case, the names and street  
23 addresses of all the officers, employees, and agents of the solicitor and all other persons  
24 with whom the solicitor has contracted to work under that solicitor's direction, including  
25 solicitors, shall be listed in the license application or furnished to the Department within  
26 five days after the date of employment or contractual arrangement. Each license is valid  
27 for one year or a part of one year and expires on March 31 of each year. The license  
28 may be renewed on or before March 31 of each year for an additional one-year period  
29 upon application to the Department and payment of the license fee.
- 30       (d) Bond. – A solicitor shall, at the time of application or renewal of the license,  
31 file with and have approved by the Department a bond with a surety authorized to do  
32 business in this State and to which the solicitor is the principal obligor. The amount of  
33 the bond shall be determined as follows:
- 34           (1) Twenty thousand dollars (\$20,000), if the contributions received for  
35 the last fiscal year were less than one hundred thousand dollars  
36 (\$100,000).
- 37           (2) Thirty thousand dollars (\$30,000), if the contributions received for the  
38 last fiscal year were at least one hundred thousand dollars (\$100,000)  
39 but less than two hundred thousand dollars (\$200,000).
- 40           (3) Fifty thousand dollars (\$50,000), if the contributions received for the  
41 last fiscal year were at least two hundred thousand dollars (\$200,000).
- 42 The solicitor shall maintain the bond in effect as long as the license is in effect. The  
43 liability of the surety under the bond shall not exceed an all-time aggregate liability of  
44 fifty thousand dollars (\$50,000). The bond, which may be in the form of a rider to a

1 larger blanket liability bond, shall be payable to the State and to any person who may  
2 have a cause of action against the principal obligor of the bond for any liability arising  
3 out of a violation by the obligor of any provision of this Chapter or any rule adopted  
4 under this Chapter.

5 (e) Departmental Review. – The Department shall examine each application filed  
6 by a solicitor. If the Department determines that the requirements are not satisfied, the  
7 Department shall notify the solicitor within 10 days after its receipt of the application.  
8 If the Department does not respond within 10 days, the license is deemed approved.  
9 Within seven days after receipt of a notification that the requirements are not satisfied,  
10 the applicant may request a hearing. The state shall bear the burden of proof at such  
11 hearing. The hearing shall be held within seven days after receipt of the request. Any  
12 recommended order, if one is issued, shall be rendered within three days after the  
13 hearing. The final order shall then be issued within two days after the recommended  
14 order. If there is no recommended order, the final order shall be issued within five days  
15 after the hearing. The proceedings shall be conducted in accordance with Chapter 150B  
16 of the General Statutes, except that the time limits and provision set forth in this  
17 subsection prevail to the extent of any conflict. The applicant shall be permitted to  
18 continue to operate or continue operations pending judicial review of the Department's  
19 denial of the application. The Department shall make rules regarding the custody and  
20 control of any funds collected during the review period and disposal of such funds in the  
21 event the denial of the application is affirmed on appeal.

22 (f) Solicitation Notice. – No less than five days before commencing any  
23 solicitation campaign or event, the solicitor shall file with the Department a solicitation  
24 notice on a form provided by the Department. The notice shall be signed and sworn to  
25 by the contracting officer of the solicitor and shall include:

- 26 (1) A description of the solicitation event or campaign.
- 27 (2) Each location and telephone number from which the solicitation is to  
28 be conducted.
- 29 (3) The legal name and residence address of each person responsible for  
30 directing and supervising the conduct of the campaign.
- 31 (4) A statement as to whether the solicitor will, at any time, have custody  
32 of contributions.
- 33 (5) The account number and location of each bank account where receipts  
34 from the campaign are to be deposited.
- 35 (6) A full and fair description of the charitable or sponsor program for  
36 which the solicitation campaign is being carried out as provided in the  
37 contract between the solicitor and the charitable organization or  
38 sponsor.
- 39 (7) The fund-raising methods to be used.
- 40 (8) A copy of the contract executed in accordance with subsection (g) of  
41 this section.

42 (g) Contracts. – Each contract or agreement between a solicitor and a charitable  
43 organization or sponsor for each solicitation campaign shall be in writing, shall be  
44 signed by two authorized officials of the charitable organization or sponsor, one of

1 whom shall be a member of the organization's governing body and one of whom shall  
2 be the authorized contracting officer for the solicitor. Each contract or agreement shall  
3 contain all of the following provisions:

4 (1) A statement of the charitable or sponsor purpose and program for  
5 which the solicitation campaign is being conducted.

6 (2) A statement of the respective obligations of the solicitor and the  
7 charitable organization or sponsor.

8 (3) A statement of the guaranteed minimum percentage of the gross  
9 receipts from contributions which will be remitted to the charitable  
10 organization or sponsor. If the solicitation involves the sale of goods,  
11 services, or tickets to a fund-raising event, the percentage of the  
12 purchase price which will be remitted to the charitable organization or  
13 sponsor. Any stated percentage shall exclude any amount which the  
14 charitable organization or sponsor shall pay as fund-raising costs.

15 (4) A statement of the percentage of the gross revenue for which the  
16 solicitor shall be compensated. If the compensation of the professional  
17 solicitor is not contingent upon the number of contributions or the  
18 amount of revenue received, the compensation shall be expressed as a  
19 reasonable estimate of the percentage of the gross revenue, and the  
20 contract shall clearly disclose the assumptions upon which the estimate  
21 is based. The stated assumptions shall be based upon all of the  
22 relevant facts known to the solicitor regarding the solicitation to be  
23 conducted by the solicitor.

24 (5) The effective and termination dates of the contract.

25 (h) Financial Report. – Within 90 days after a solicitation campaign has been  
26 completed and on the anniversary of the commencement of a solicitation campaign  
27 lasting more than one year, the solicitor shall provide to the charitable organization or  
28 sponsor and file with the Department a financial report of the campaign, including the  
29 gross revenue received and an itemization of all expenses incurred. The report shall be  
30 completed on a form provided by the Department and shall be signed by an authorized  
31 official of the solicitor who shall certify under oath that the report is true and correct.

32 (i) Handling of Contributions. – Each contribution collected by or in the custody  
33 of the solicitor shall be solely in the name of the charitable organization or sponsor on  
34 whose behalf the contribution was solicited. Not later than two days after receipt of  
35 each contribution, the solicitor shall deposit the entire amount of the contribution in an  
36 account at a bank or other federally insured financial institution, which account shall be  
37 in the name of that charitable organization or sponsor. The charitable organization or  
38 sponsor shall have sole control of all withdrawals from the account and the solicitor  
39 shall not be given the authority to withdraw any deposited funds from the account.

40 (j) Records of Solicitors. – During each solicitation campaign, and for not less  
41 than three years after its completion, the solicitor shall maintain the following records:

42 (1) The date and amount of each contribution received and the name,  
43 address, and telephone number of each contributor.

- 1           (2) The name and residence street address of each employee, agent, and  
2           any other person, however designated, who is involved in the  
3           solicitation, the amount of compensation paid to each, and the dates on  
4           which the payments were made.
- 5           (3) A record of all contributions that at any time are in the custody of the  
6           solicitor.
- 7           (4) A record of all expenses incurred by the solicitor for the payment of  
8           which the solicitor is liable.
- 9           (5) A record of all expenses incurred by the solicitor for the payment of  
10          which the charitable organization or sponsor is liable.
- 11          (6) The location of each bank or financial institution in which the solicitor  
12          has deposited revenue from the solicitation campaign and the account  
13          number of each account in which the deposits were made.
- 14          (7) A copy of each pitch sheet or solicitation script used during the  
15          completed solicitation campaign.
- 16          (8) If a refund of a contribution has been requested, the name and address  
17          of each person requesting the refund. If a refund was made, the  
18          amount and the date it was made.

19          (k) Records of Tickets. – If the solicitor sells tickets to any event and represents  
20          that the tickets will be donated for use by another person, the solicitor shall maintain for  
21          at least three years the following records:

- 22               (1) The name and address of each contributor who purchases or donates  
23               tickets and the number of tickets purchased or donated by the  
24               contributor.
- 25               (2) The name and address of each organization that receives the donated  
26               tickets for the use of others, and the number of tickets received by the  
27               organization.

28          (l) Review of Records. – Any of the records described in this section shall be  
29          made available to the Department upon request and shall be furnished within 10 days  
30          after the request.

31          (m) Change in Information. – Unless otherwise provided in this Chapter, any  
32          change in any information filed with the Department under this section shall be reported  
33          in writing to the Department within seven days after the change occurs.

34          (n) License Rescinded. – Any person licensed as a solicitor shall permanently  
35          lose that person's license if it is determined that that person, any officer or director  
36          thereof, any person with a ten percent (10%) or greater interest therein, or any person  
37          the solicitor employs, engages, or procures to solicit for compensation, has been  
38          convicted in the last five years of a crime arising from the conduct of a solicitation for a  
39          charitable organization or sponsor or a charitable purpose or sponsor purpose.

40          "**§ 131F-17. Disclosure requirements of solicitors.**"

41          (a) General Disclosures. – A solicitor shall comply with the following  
42          disclosures:

- 43               (1) Prior to orally requesting a contribution or along with a written request  
44               for a contribution, a solicitor shall clearly disclose:



- 1           a.     The name of the solicitor as on file with the Department.  
2           b.     If the individual acting on behalf of the solicitor identifies  
3                 himself by name, the individual's legal name.  
4           c.     That the caller is a paid solicitor.  
5       (2)   In the case of a solicitation campaign conducted orally, whether by  
6             telephone or otherwise, any written confirmation, receipt, or reminder  
7             sent to any person who has contributed or has pledged to contribute,  
8             shall include a clear disclosure of the information required under  
9             subdivision (1) of this subsection.  
10       (3)   In addition to the information required by subdivision (1) of this  
11             subsection, any written confirmation, receipt, or reminder of  
12             contribution made pursuant to an oral solicitation and any written  
13             solicitation shall conspicuously state in capital letters in bold type of a  
14             minimum of 10 points:  
15             'A COPY OF THE LICENSE AND FINANCIAL INFORMATION  
16             OF THE SOLICITOR MAY BE OBTAINED FROM THE  
17             DEPARTMENT OF HUMAN RESOURCES, SOLICITATION  
18             LICENSING BRANCH, BY CALLING (919) 733-4510.  
19             REGISTRATION DOES NOT IMPLY ENDORSEMENT,  
20             APPROVAL, OR RECOMMENDATION BY THE STATE.'  
21             When the solicitation materials consist of more than one piece, the  
22             statement shall be displayed prominently in the solicitation materials,  
23             but not necessarily on every page.  
24       (4)   If requested by the person being solicited, the solicitor shall inform  
25             that person, in writing, within 14 days of the request, of the fixed  
26             percentage of the gross revenue or the reasonable estimate of the  
27             percentage of the gross revenue that the charitable organization or  
28             sponsor will receive as a benefit from the solicitation campaign.  
29       (5)   If requested by the person being solicited, the solicitor shall inform  
30             that person, in writing, within 14 days of the request, of the percentage  
31             of the contribution which may be deducted as a charitable contribution  
32             under federal income tax laws.  
33       (b)   Tickets. – A solicitor shall not represent that tickets to any event will be  
34             donated for use by another person, unless:  
35             (1)   The solicitor has the written commitments from persons stating that  
36                 they will accept donated tickets and specifying the number of tickets  
37                 they are willing to accept.  
38             (2)   The written commitments are filed with the Department prior to any  
39                 solicitation.  
40       The contributions solicited for donated tickets shall not be more than the amount  
41       representing the number of ticket commitments received from persons and filed with the  
42       Department. At least seven days before the date of the event, the solicitor shall give all  
43       donated tickets to each person that made the written commitment to accept them.  
44       "§ 131F-18. Requirements of coventurers.

1       (a) Written Consent. – Prior to the commencement of any charitable sales  
 2 promotion or sponsor sales promotion in this State conducted by a coventurer on behalf  
 3 of a charitable organization or sponsor, the coventurer shall obtain the written consent  
 4 of the charitable organization or sponsor whose name will be used during the charitable  
 5 sales promotion or sponsor sales promotion.

6       (b) Rules. – The Department may adopt rules requiring disclosure in advertising  
 7 for a charitable sales promotion or sponsor sales promotion of information relating to  
 8 the portion or amount that will benefit the charitable organization or sponsor or the  
 9 charitable purpose or sponsor purpose.

10       (c) Final Accounting. – A final accounting for each charitable sales promotion or  
 11 sponsor sales promotion shall be prepared by the coventurer following completion. The  
 12 final accounting shall be provided to the charitable organization or sponsor on whose  
 13 behalf the sales promotion was conducted within 10 days after a request by the  
 14 charitable organization or sponsor. The final accounting shall be kept by the coventurer  
 15 for a period of three years, unless the coventurer and the charitable organization or  
 16 sponsor mutually agree that the accounting should be kept by the charitable organization  
 17 or sponsor instead of the coventurer. A copy of the final accounting shall be provided  
 18 to the Department no later than 10 days after the Department requests it.

#### "ARTICLE 4.

#### "PROHIBITED ACTS AND ENFORCEMENT.

##### "§ 131F-20. Prohibited acts.

22       It is unlawful for any person to:

- 23       (1) Violate or fail to comply with the requirements of this Chapter.
- 24       (2) Act as a fund-raising consultant or solicitor after the expiration,  
 25 suspension, or revocation of that person's license.
- 26       (3) Enter into any contract or agreement with or employ a fund-raising  
 27 consultant or solicitor unless that fund-raising consultant or solicitor is  
 28 licensed by the Department.
- 29       (4) Knowingly file false or misleading information in any document  
 30 required to be filed with the Department or in response to any request  
 31 or investigation by the Department or the Attorney General.
- 32       (5) Make misrepresentations or misleading statements to the effect that  
 33 any other person sponsors or endorses the solicitation, approves of its  
 34 purpose, or is connected therewith, when that person has not given  
 35 written consent to the use of that person's name.
- 36       (6) Represent that a contribution is for or on behalf of a charitable  
 37 organization or sponsor, or to use any emblem, device, or printed  
 38 matter belonging to or associated with a charitable organization or  
 39 sponsor, without first being authorized in writing to do so by the  
 40 charitable organization or sponsor.
- 41       (7) Use a name, symbol, emblem, device, service mark, or statement so  
 42 closely related or similar to that used by another charitable  
 43 organization or sponsor that the use would mislead the public.

- 1           (8)    Falsely state that the person is a member of or a representative of a  
2           charitable organization or sponsor or falsely state or represent that the  
3           person is a member of or represents law enforcement officers or  
4           emergency service employees.
- 5           (9)    Misrepresent or mislead anyone by any manner, means, practice, or  
6           device to believe that the person on whose behalf the solicitation or  
7           sale is being conducted is a charitable organization or sponsor, or that  
8           any of the proceeds of the solicitation or sale will be used for  
9           charitable or sponsor purposes.
- 10          (10) Represent that a charitable organization or sponsor will receive a fixed  
11          or estimated percentage of the gross revenue from a solicitation  
12          campaign greater than that identified in filings with the Department  
13          under this Chapter, or that a charitable organization or sponsor will  
14          receive an actual or estimated dollar amount or percentage per unit of  
15          goods or services purchased or used in the charitable or sponsor sales  
16          promotion that is greater than that agreed to by the coventurer and the  
17          charitable organization or sponsor.
- 18          (11) Use or exploit the fact of registration or the filing of any report with  
19          any governmental agency to lead any person to believe that the  
20          registration in any manner constitutes an endorsement or approval by  
21          the State. However, use of the statement required in G.S. 131F-9(c) or  
22          G.S. 131F-17(a)(3) is not a prohibited use or exploitation.
- 23          (12) Make misrepresentations or misleading statements to the effect that the  
24          donation of a contribution or the display of any sticker, emblem, or  
25          insignia offered to contributors shall entitle a person to any special  
26          treatment by emergency service employees or law enforcement  
27          officers in the performance of their official duties.
- 28          (13) Solicit contributions from another person while wearing the uniform of  
29          an emergency service employee or law enforcement officer, or while  
30          on duty as an emergency service employee or law enforcement officer,  
31          except where the solicitation is for a charitable organization or sponsor  
32          or except when soliciting contributions to benefit an emergency  
33          service employee or law enforcement officer who has been injured in  
34          the line of duty or to benefit the family or dependents of an emergency  
35          service employee or law enforcement officer who has been killed in  
36          the line of duty.
- 37          (14) Solicit contributions on behalf of another person using any statement  
38          that the failure to make a contribution shall result in a reduced level of  
39          law enforcement services being provided to the public or the person  
40          solicited.
- 41          (15) Employ in any solicitation any device or scheme to defraud or to  
42          obtain a contribution by means of any deception, false pretense,  
43          misrepresentation, or false promise.

- 1           (16) Notify any other person by any means, as part of an advertising  
2           scheme or plan, that the other person has won a prize, received an  
3           award, or has been selected or is eligible to receive anything of value if  
4           the other person is required to purchase goods or services, pay any  
5           money to participate in, or submit to a promotion effort.
- 6           (17) Fail to provide complete and timely payment to a charitable  
7           organization or sponsor of the proceeds from a solicitation campaign  
8           or a charitable or sponsor sales promotion.
- 9           (18) Fail to apply contributions in a manner substantially consistent with  
10           the solicitation.
- 11           (19) Fail to identify the professional relationship to the person for whom  
12           the solicitation is being made.
- 13           (20) To send to any person a writing which simulates or resembles an  
14           invoice unless the intended recipient has contracted for goods,  
15           property, or services from the charitable organization or solicitor who  
16           sends the writing.

17 **"§ 131F-21. Violation as deceptive or unfair trade practice.**

18       Any person who commits an act or practice that violates any provision of this  
19 Chapter engages in an unfair trade practice in violation of G.S. 75-1.1.

20 **"§ 131F-22. Criminal penalties.**

21       Except as otherwise provided in this Chapter and in addition to any administrative or  
22 civil penalties, any person who willfully and knowingly violates a provision of this  
23 Chapter commits a Class 1 misdemeanor.

24 **"§ 131F-23. Enforcement.**

25       (a) Investigation. – The Department may conduct an investigation of any person  
26 whenever there is an allegation or appearance, either upon complaint or otherwise, that  
27 a violation of this Chapter or of any rule adopted or of any order issued pursuant to this  
28 Chapter has occurred or is about to occur.

29       (b) Subpoena Power. – The Department may issue and serve subpoenas and  
30 subpoenas **duces tecum** to compel the attendance of witnesses and the production of all  
31 books, accounts, records, and other documents and materials relevant to an examination  
32 or investigation. The Department, or its duly authorized representative, may administer  
33 oaths and affirmations to any person.

34       (c) Court Action. – In the event of substantial noncompliance with a subpoena or  
35 subpoena **duces tecum** issued or caused to be issued by the Department, the Department  
36 may petition the superior court of the county in which the person subpoenaed resides or  
37 has the principal place of business for an order requiring the subpoenaed person to  
38 appear and testify and to produce any books, accounts, records, and other documents as  
39 are specified in the subpoena **duces tecum**. The court may grant injunctive relief  
40 restraining the person from collecting contributions and any other relief, including the  
41 restraint by injunction or appointment of a receiver, or any transfer, pledge, assignment,  
42 or other disposition of the person's assets, or any concealment, alteration, destruction, or  
43 other disposition of subpoenaed books, accounts, records, or other documents and  
44 materials as the court deems appropriate, until the person or organization has fully

1 complied with the subpoena or subpoena **duces tecum** and the Department has  
2 completed its investigation or examination. The court may also order the person to  
3 produce a financial statement that has been audited by an independent certified public  
4 accountant. Costs incurred by the Department to obtain an order granting, in whole or  
5 in part, a petition for enforcement of a subpoena or subpoena **duces tecum** shall be  
6 taxed against the subpoenaed person and failure to comply with the order shall be  
7 contempt of court.

8 (d) **Violations.** – The Department may enter an order imposing one or more of  
9 the penalties set forth in subsection (e) of this section if the Department finds that a  
10 charitable organization, sponsor, fund-raising consultant, or solicitor, or their officers,  
11 agents, directors, or employees have engaged in any of the following acts:

- 12 (1) **Violated or is operating in violation of any of the provisions of this**  
13 Chapter or of the rules adopted or orders issued under this Chapter.
- 14 (2) **Made a false statement in an application, statement, or report required**  
15 to be filed under this Chapter.
- 16 (3) **Refused or failed, after notice, to produce any records or to disclose**  
17 any information required to be disclosed under this Chapter or the  
18 rules adopted by the Department.
- 19 (4) **Made a false statement in response to any request or investigation by**  
20 the Department or the Attorney General.

21 (e) **Penalties.** – Upon a finding as set forth in subsection (d) of this section, the  
22 Department may enter an order as follows:

- 23 (1) **Imposing an administrative penalty not to exceed one thousand dollars**  
24 (\$1,000) for each act or omission which constitutes a violation of this  
25 Chapter or a rule or an order.
- 26 (2) **Issuing a cease and desist order that directs that the person cease and**  
27 desist specified fund-raising activities.
- 28 (3) **Refusing to register or cancelling or suspending a registration.**
- 29 (4) **Placing the registrant on probation for a period of time, subject to such**  
30 conditions as the Department may specify.
- 31 (5) **Issuing of a letter of concern.**
- 32 (6) **Cancelling an exemption granted under G.S. 131F-3.**

33 (f) **Procedures.** – Except as otherwise provided in this section, the administrative  
34 proceedings which could result in the entry of an order imposing any of the penalties  
35 specified in subsection (e) of this section are governed by Chapter 150B of the General  
36 Statutes.

37 (g) **Disposition of Penalties.** – Penalties collected by the Department under  
38 subsection (e) of this section shall be credited to the General Fund as nontax revenue.

39 **§ 131F-24. Civil remedies and enforcement.**

40 (a) **Civil Remedies.** – In addition to other remedies authorized by law, the  
41 Attorney General may bring a civil action in superior court to enforce this Chapter.  
42 Upon a finding that any person has violated this Chapter, a court may make any  
43 necessary order or enter a judgment, including a temporary or permanent injunction, a  
44 declaratory judgment, the appointment of a master or receiver, the sequestration of

1 assets, the reimbursement of persons from whom contributions have been unlawfully  
2 solicited, the distribution of contributions in accordance with the charitable or sponsor  
3 purpose expressed in the registration statement or in accordance with the representations  
4 made to the person solicited, the reimbursement of the Department for attorneys' fees  
5 and costs, including investigative costs, and any other equitable relief the court finds  
6 appropriate. Upon a finding that any person has violated any provision of this Chapter,  
7 a court may enter an order imposing a civil penalty in an amount not to exceed ten  
8 thousand dollars (\$10,000) per violation.

9 (b) Attorney General. – The Attorney General may conduct any investigation  
10 necessary to bring a civil action under this section, including administering oaths and  
11 affirmations, subpoenaing witnesses or material, and collecting evidence.

12 (c) Voluntary Compliance. – The Attorney General may terminate an  
13 investigation or an action upon acceptance of a person's written assurance of voluntary  
14 compliance with this Chapter. Acceptance of an assurance may be conditioned on  
15 commitment to reimburse donors or to take other appropriate corrective action. An  
16 assurance is not evidence of a prior violation of any of this Chapter. Unless an  
17 assurance has been rescinded by agreement of the parties or voided by a court for good  
18 cause, subsequent failure to comply with the terms of an assurance is **prima facie**  
19 evidence of a violation of this Chapter.

## 20 "ARTICLE 5.

### 21 "MISCELLANEOUS.

#### 22 "§ 131F-25. Public information; annual report.

23 (a) Public Information Program. – The Department shall develop a public  
24 information program to further the purposes of this Chapter. The purpose of the  
25 program is to help the public recognize unlawful, misleading, deceptive, or fraudulent  
26 solicitations and make knowledgeable, informed decisions concerning contributions.

27 (b) Information to Be Included. – The program shall include information  
28 concerning:

29 (1) The laws governing solicitations, including licensing and disclosure  
30 requirements, prohibited acts, and penalties.

31 (2) The means by which the public can report suspected violations or file a  
32 complaint.

33 (3) Any other information the Department believes will assist the public in  
34 making knowledgeable and informed decisions concerning  
35 contributions.

36 (c) Annual Report. – The Department shall prepare an annual report to be  
37 submitted to the Governor, the President of the Senate, and the Speaker of the House of  
38 Representatives summarizing the information filed under this Chapter which the  
39 Department determines will assist the public in making informed and knowledgeable  
40 decisions concerning contributions. The report shall include the following:

41 (1) A list of complaints filed for which violations were found to have  
42 occurred in each of the following categories: charitable organizations,  
43 sponsors, solicitors, and fund-raising consultants.

1           (2) A list of the number of investigations by the Department, enforcement  
2           actions commenced under this Chapter, and the disposition of those  
3           actions.

4           (3) A list of those charitable organizations and sponsors that have  
5           voluntarily submitted an audited financial statement pursuant to G.S.  
6           131F-6(a)(10) or an audit with an opinion prepared by an independent  
7           certified public accountant.

8 **"§ 131F-26. Contributions solicited for, or accepted by or on behalf of, a named**  
9 **individual.**

10         (a) Trust Account Required. – Contributions solicited for, or accepted by or on  
11 behalf of, a named individual shall be deposited in a trust account opened by a trustee  
12 named in a properly established trust document.

13         (b) Use of Trust Funds. – Contributions deposited in the trust fund may be used  
14 only for the purpose for which the contributions were solicited; if the contributions are  
15 no longer needed for the purpose for which they were solicited, they may be used for  
16 another similar charitable purpose. The trustee may disburse funds from the trust  
17 account only after making a written record verifying the purpose for which the funds  
18 will be used accompanied by documentation of the identity of the payee and the  
19 justification for the payment. The Trustee shall retain these records for each  
20 disbursement from the trust account for a period of three years after the disbursement.

21 **"§ 131F-27. Records.**

22         Each charitable organization, sponsor, fund-raising consultant, and solicitor shall  
23 keep, for a period of at least three years, true and accurate records as to their activities in  
24 the State. The records shall be made available to the Department for inspection and  
25 shall be furnished no later than 10 days after the request was made.

26 **"§ 131F-28. Rule-making authority.**

27         The Department shall have the authority to adopt rules necessary for the  
28 implementation of this Chapter or to prevent false or deceptive statements or conduct in  
29 the solicitation of charitable contributions."

30           Sec. 3. This act becomes effective January 1, 1995.