

Article 3.

Fund-Raising Consultants, Solicitors, and Coventurers.

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

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

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

- (1) The street address and telephone number of the principal place of business of the applicant and any street addresses of business locations in this State if the principal place of business is located outside this State.
- (2) The form of the applicant's business.
- (3) The names and residence addresses of all officers, directors, and owners.
- (4) Whether any of the owners, directors, officers, or employees of the applicant are related as parent, child, spouse, or sibling to any of the following individuals:
 - a. Other directors, officers, owners, or employees of the applicant.
 - b. Any officer, director, trustee, or employee of any charitable organization or sponsor under contract to the applicant.
 - c. Any supplier or vendor providing goods or services to any charitable organization or sponsor under contract to the applicant.
- (5) Whether the applicant or any of the applicant's officers, directors, employees, or owners have, within the last five years, been convicted of any felony, or of any misdemeanor arising from the conduct of a solicitation for a charitable organization or sponsor or charitable or sponsor purpose, or been enjoined from violating a charitable solicitation law in this or any other state.

(c) Fees. – The application for an initial or renewal license shall be accompanied by a license fee of two hundred dollars (\$200.00). A fund-raising consultant that is a partnership or corporation may obtain a license for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees. In that case, the names and street addresses of all of the officers, employees, and agents of the fund-raising consultant and all other persons with whom the fund-raising consultant has contracted to work under its direction shall be listed in the license application. Each license is valid for one year or a part of one year and expires on March 31 of each year. The license may be renewed on or before March 31 of each year for additional one-year periods upon application to the Department and payment of the license fee.

(d) Contracts. – Every contract or agreement between a fund/y-raising consultant and a charitable organization or sponsor shall be in writing, signed by two authorized officials of the charitable organization or sponsor, and filed by the fund-raising consultant with the Department at least five days prior to the performance of any service by the fund-raising consultant. Solicitation under the contract or agreement shall not begin before the filing of the contract or agreement. The contract shall contain all of the following provisions:

- (1) A statement of the charitable purpose or sponsor purpose for which the solicitation campaign is being conducted.
- (2) A statement of the respective obligations of the fund-raising consultant and the charitable organization or sponsor.
- (3) A clear statement of the fee that will be paid to the fund-raising consultant.
- (4) The effective and termination dates.

1 (5) A statement that the fund-raising consultant shall not, at any time, have
2 control or custody of contributions.

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

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

21 (g) Change in Information. – Unless otherwise provided, any material change in
22 information filed with the Department pursuant to this section shall be reported in writing to the
23 Department within seven working days after the change occurred. (1981, c. 886, s. 1; 1985, c.
24 497, s. 1; 1989, c. 566, s. 2; 1993 (Reg. Sess., 1994), c. 759, s. 2; 2011-398, s. 48.)
25

26 **§ 131F-16. License required for solicitors.**

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

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

- 33 (1) The street address and telephone number of the principal place of business of
34 the applicant and any North Carolina street addresses if the principal place of
35 business is located outside this State.
- 36 (2) The form of the applicant's business.
- 37 (3) The place and date when the applicant, if other than an individual, was
38 legally established.
- 39 (4) The names and residence addresses of all officers, directors, and owners.
- 40 (5) A statement as to whether any of the owners, directors, officers, or
41 employees of the applicant are related as parent, spouse, child, or sibling to:
 - 42 a. Any other directors, officers, owners, or employees of the applicant.
 - 43 b. Any officer, director, trustee, or employee of any charitable
44 organization or sponsor under contract to the applicant.
 - 45 c. Any supplier or vendor providing goods or services to any charitable
46 organization or sponsor under contract to the applicant.
- 47 (6) A statement as to whether the applicant or any of the directors, officers,
48 persons with a controlling interest in the applicant, or employees or agents
49 involved in solicitation have been convicted, within the last five years, of
50 any felony, or of a misdemeanor arising from the conduct of a solicitation
51 for any charitable organization or sponsor or charitable or sponsor purpose,

1 or been enjoined from violating a charitable solicitation law in this or any
2 other state.

3 (7) The names of all persons in charge of any solicitation activity.

4 (c) Fees. – The application for an initial or renewal license shall be accompanied by a
5 fee of two hundred dollars (\$200.00). A solicitor that is a partnership or corporation may
6 register for and pay a single fee on behalf of all of the partners, members, officers, directors,
7 agents, and employees. In that case, the names and street addresses of all the officers,
8 employees, and agents of the solicitor and all other persons with whom the solicitor has
9 contracted to work under that solicitor's direction, including solicitors, shall be listed in the
10 license application or furnished to the Department within five days after the date of
11 employment or contractual arrangement. Each license is valid for one year or a part of one year
12 and expires on March 31 of each year. The license may be renewed on or before March 31 of
13 each year for an additional one-year period upon application to the Department and payment of
14 the license fee.

15 (d) Bond. – A solicitor shall, at the time of application or renewal of the license, file
16 with and have approved by the Department a bond with a surety authorized to do business in
17 this State and to which the solicitor is the principal obligor. The amount of the bond shall be
18 determined as follows:

19 (1) Twenty thousand dollars (\$20,000), if the contributions received for the last
20 fiscal year were less than one hundred thousand dollars (\$100,000).

21 (2) Thirty thousand dollars (\$30,000), if the contributions received for the last
22 fiscal year were at least one hundred thousand dollars (\$100,000) but less
23 than two hundred thousand dollars (\$200,000).

24 (3) Fifty thousand dollars (\$50,000), if the contributions received for the last
25 fiscal year were at least two hundred thousand dollars (\$200,000).

26 The solicitor shall maintain the bond in effect as long as the license is in effect. The liability of
27 the surety under the bond shall not exceed an all-time aggregate liability of fifty thousand
28 dollars (\$50,000). The bond, which may be in the form of a rider to a larger blanket liability
29 bond, shall be payable to the State and to any person who may have a cause of action against
30 the principal obligor of the bond for any liability arising out of a violation by the obligor of any
31 provision of this Chapter or any rule adopted under this Chapter.

32 (d1) In lieu of the bond required under subsection (d) of this section, a solicitor may
33 submit a certificate of deposit in the amount as for a bond pursuant to subsection (d) of this
34 section. The certificate of deposit shall be payable to the State and unrestrictively endorsed to
35 the Department; or, in the case of a negotiable certificate of deposit, unrestrictively endorsed to
36 the Department; or, in the case of a nonnegotiable certificate of deposit, assigned to the
37 Department in a form satisfactory to the Department. Access to the certificate of deposit in
38 favor of the State is subject to the same conditions as for a bond under subsection (d) of this
39 section and shall extend for a period not less than four years after the solicitor ceases activities
40 that are subject to this Chapter. The Department shall deliver to the State Treasurer certificates
41 of deposit submitted under this section.

42 (e) Departmental Review. – The Department shall examine each application filed by a
43 solicitor. If the Department determines that the requirements are not satisfied, the Department
44 shall notify the solicitor within 10 days after its receipt of the application. If the Department
45 does not respond within 10 days, the license is deemed approved. Within seven days after
46 receipt of a notification that the requirements are not satisfied, the applicant may request a
47 hearing. The state shall bear the burden of proof at such hearing. The hearing shall be held
48 within seven days after receipt of the request. Any recommended order, if one is issued, shall
49 be rendered within three days after the hearing. The final order shall then be issued within two
50 days after the recommended order. If there is no recommended order, the final order shall be
51 issued within five days after the hearing. The proceedings shall be conducted in accordance

1 with Chapter 150B of the General Statutes, except that the time limits and provision set forth in
2 this subsection prevail to the extent of any conflict. The applicant shall be permitted to continue
3 to operate or continue operations pending judicial review of the Department's denial of the
4 application. The Department shall make rules regarding the custody and control of any funds
5 collected during the review period and disposal of such funds in the event the denial of the
6 application is affirmed on appeal.

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

- 11 (1) A description of the solicitation event or campaign.
- 12 (2) Each location and telephone number from which the solicitation is to be
13 conducted.
- 14 (3) The legal name and residence address of each person responsible for
15 directing and supervising the conduct of the campaign.
- 16 (4) A statement as to whether the solicitor will, at any time, have custody of
17 contributions.
- 18 (5) The account number and location of each bank account where receipts from
19 the campaign are to be deposited.
- 20 (6) A full and fair description of the charitable or sponsor program for which the
21 solicitation campaign is being carried out as provided in the contract
22 between the solicitor and the charitable organization or sponsor.
- 23 (7) The fund-raising methods to be used.
- 24 (8) A copy of the contract executed in accordance with subsection (g) of this
25 section.

26 (g) Contracts. – Each contract or agreement between a solicitor and a charitable
27 organization or sponsor for each solicitation campaign shall be in writing, shall be signed by
28 two authorized officials of the charitable organization or sponsor, one of whom shall be a
29 member of the organization's governing body and one of whom shall be the authorized
30 contracting officer for the solicitor. Each contract or agreement shall contain all of the
31 following provisions:

- 32 (1) A statement of the charitable or sponsor purpose and program for which the
33 solicitation campaign is being conducted.
- 34 (2) A statement of the respective obligations of the solicitor and the charitable
35 organization or sponsor.
- 36 (3) A statement of the guaranteed minimum percentage of the gross receipts
37 from contributions which will be remitted to the charitable organization or
38 sponsor. If the solicitation involves the sale of goods, services, or tickets to a
39 fund-raising event, the percentage of the purchase price which will be
40 remitted to the charitable organization or sponsor. Any stated percentage
41 shall exclude any amount which the charitable organization or sponsor shall
42 pay as fund-raising costs.
- 43 (4) A statement of the percentage of the gross revenue for which the solicitor
44 shall be compensated. If the compensation of the professional solicitor is not
45 contingent upon the number of contributions or the amount of revenue
46 received, the compensation shall be expressed as a reasonable estimate of the
47 percentage of the gross revenue, and the contract shall clearly disclose the
48 assumptions upon which the estimate is based. The stated assumptions shall
49 be based upon all of the relevant facts known to the solicitor regarding the
50 solicitation to be conducted by the solicitor.
- 51 (5) The effective and termination dates of the contract.

1 (h) Financial Report. – Within 90 days after a solicitation campaign has been completed
2 and on the anniversary of the commencement of a solicitation campaign lasting more than one
3 year, the solicitor shall provide to the charitable organization or sponsor and file with the
4 Department a financial report of the campaign, including the gross revenue received, an
5 itemization of all expenses incurred, and the fixed percentage of the gross revenue that the
6 charitable organization or sponsor received as a benefit from the solicitation campaign. The
7 report shall be completed on a form provided by the Department and shall be signed by an
8 authorized official of the solicitor who shall certify under oath that the report is true and
9 correct.

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

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

- 20 (1) The date and amount of each contribution received and the name, address,
21 and telephone number of each contributor.
- 22 (2) The name and residence street address of each employee, agent, and any
23 other person, however designated, who is involved in the solicitation, the
24 amount of compensation paid to each, and the dates on which the payments
25 were made.
- 26 (3) A record of all contributions that at any time are in the custody of the
27 solicitor.
- 28 (4) A record of all expenses incurred by the solicitor for the payment of which
29 the solicitor is liable.
- 30 (5) A record of all expenses incurred by the solicitor for the payment of which
31 the charitable organization or sponsor is liable.
- 32 (6) The location of each bank or financial institution in which the solicitor has
33 deposited revenue from the solicitation campaign and the account number of
34 each account in which the deposits were made.
- 35 (7) A copy of each pitch sheet or solicitation script used during the completed
36 solicitation campaign.
- 37 (8) If a refund of a contribution has been requested, the name and address of
38 each person requesting the refund. If a refund was made, the amount and the
39 date it was made.

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

- 43 (1) The name and address of each contributor who purchases or donates tickets
44 and the number of tickets purchased or donated by the contributor.
- 45 (2) The name and address of each organization that receives the donated tickets
46 for the use of others, and the number of tickets received by the organization.

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

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

4 (n) License Rescinded. – Any person licensed as a solicitor shall permanently lose that
5 person's license if it is determined that that person, any officer or director thereof, any person
6 with a ten percent (10%) or greater interest therein, or any person the solicitor employs,
7 engages, or procures to solicit for compensation, has been convicted in the last five years of a
8 crime arising from the conduct of a solicitation for a charitable organization or sponsor or a
9 charitable purpose or sponsor purpose. (1981, c. 886, s. 1; 1985, c. 497, s. 1; 1989, c. 566, s. 2;
10 1993 (Reg. Sess., 1994), c. 759, s. 2; 1997-124, s. 1; 2003-373, s. 2.)
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12 **§ 131F-17. Disclosure requirements of solicitors.**

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

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

16 a. The name of the solicitor as on file with the Department.

17 b. If the individual acting on behalf of the solicitor identifies himself by
18 name, the individual's legal name.

19 c. That the caller is a paid solicitor.

20 (2) In the case of a solicitation campaign conducted orally, whether by
21 telephone or otherwise, any written confirmation, receipt, or reminder sent to
22 any person who has contributed or has pledged to contribute, shall include a
23 clear disclosure of the information required under subdivision (1) of this
24 subsection.

25 (3) In addition to the information required by subdivision (1) of this subsection,
26 any written confirmation, receipt, or reminder of contribution made pursuant
27 to an oral solicitation and any written solicitation shall conspicuously state in
28 type of a minimum of nine points:

29 "Financial information about the solicitor and a copy of its license are
30 available from the State Solicitation Licensing Branch at [telephone
31 number]. The license is not an endorsement by the State."

32 The statement shall be made conspicuous by use of one or more of the
33 following: underlining, a border, or bold type. When the solicitation
34 materials consist of more than one piece, the statement shall be displayed
35 prominently in the solicitation materials, but not necessarily on every page.

36 (4) If requested by the person being solicited, the solicitor shall inform that
37 person, in writing, within 14 days of the request, of the fixed percentage of
38 the gross revenue or the reasonable estimate of the percentage of the gross
39 revenue that the charitable organization or sponsor will receive as a benefit
40 from the solicitation campaign.

41 (5) If requested by the person being solicited, the solicitor shall inform that
42 person, in writing, within 14 days of the request, of the percentage of the
43 contribution which may be deducted as a charitable contribution under
44 federal income tax laws.

45 (b) Tickets. – A solicitor shall not represent that tickets to any event will be donated for
46 use by another person, unless:

47 (1) The solicitor has the written commitments from persons stating that they will
48 accept donated tickets and specifying the number of tickets they are willing
49 to accept.

50 (2) The written commitments are filed with the Department prior to any
51 solicitation.

1 The contributions solicited for donated tickets shall not be more than the amount representing
2 the number of ticket commitments received from persons and filed with the Department. At
3 least seven days before the date of the event, the solicitor shall give all donated tickets to each
4 person that made the written commitment to accept them. (1993 (Reg. Sess., 1994), c. 759, s. 2;
5 1995 (Reg. Sess., 1996), c. 748, s. 1.2.)
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7 **§ 131F-18. Requirements of coventurers.**

8 (a) Written Consent. – Prior to the commencement of any charitable sales promotion or
9 sponsor sales promotion in this State conducted by a coventurer on behalf of a charitable
10 organization or sponsor, the coventurer shall obtain the written consent of the charitable
11 organization or sponsor whose name will be used during the charitable sales promotion or
12 sponsor sales promotion.

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

17 (c) Final Accounting. – A final accounting for each charitable sales promotion or
18 sponsor sales promotion shall be prepared by the coventurer following completion. The final
19 accounting shall be provided to the charitable organization or sponsor on whose behalf the sales
20 promotion was conducted within 10 days after a request by the charitable organization or
21 sponsor. The final accounting shall be kept by the coventurer for a period of three years, unless
22 the coventurer and the charitable organization or sponsor mutually agree that the accounting
23 should be kept by the charitable organization or sponsor instead of the coventurer. A copy of
24 the final accounting shall be provided to the Department no later than 10 days after the
25 Department requests it. (1993 (Reg. Sess., 1994), c. 759, s. 2.)
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27 **§ 131F-19. Reserved for future codification purposes.**