

Chapter 131F.
Solicitation of Contributions.
Article 1.
General Provisions.

§ 131F-1. Purpose.

The General Assembly recognizes the right of persons or organizations to conduct solicitation activities. It is the intent of the General Assembly to protect the public by requiring full disclosure by persons who solicit contributions from the public of the purposes for which the contributions are solicited and how the contributions are actually used. It is the intent of the General Assembly to prohibit deception, fraud, and misrepresentation in the solicitation and reporting of contributions. (1981, c. 886, s. 1; 1993 (Reg. Sess., 1994), c. 759, s. 2.)

§ 131F-2. Definitions.

The following definitions apply in this Chapter:

- (1) "Association" means any voluntary statewide organization of persons for common ends especially as in an organized group working together or periodically meeting because of common interests, beliefs, or professions. These associations may serve charitable organizations including environmental, health, educational, humane, patriotic, scientific, artistic, social welfare, and civic.
- (2) "Charitable" means for a benevolent purpose, including environmental, health, educational, humane, patriotic, scientific, artistic, social welfare, and civic.
- (3) "Charitable organization" means any person who has or holds out as having a section 501(c)(3) tax exempt determination by the Internal Revenue Service and operates for a charitable purpose, or a person who is or holds himself out to be established for a charitable or civic purpose; or a person who employs a charitable or civic appeal as the basis of a solicitation, or employs an appeal that suggests there is a charitable or civic purpose for the appeal. "Charitable organization" includes a chapter, branch, area office, or similar affiliate soliciting contributions within the State for a charitable organization which has its principal place of business outside the State.
- (4) "Charitable sales promotion" means an advertising or sales campaign that represents that the purchase or use of goods or services offered by a coventurer is to benefit a charitable organization. The provision of advertising services alone to a charitable organization does not constitute a charitable sales promotion.
- (4a) "Collection Receptacle" means an unattended box, bin, canister, or other similar container used for the solicitation and collection of clothing and household goods and other miscellaneous items.
- (5) "Contribution" means a promise, pledge, grant of any money or property, financial assistance, or any other thing of value in response to a solicitation. "Contribution" includes, in the case of a charitable organization or sponsor offering a good or service to the public, the excess of the price at which the charitable organization or sponsor or any person acting on behalf of the charitable organization or sponsor sells the good or service to the public over the fair market value of the good or service. "Contribution" does not include bona fide fees, dues, or assessments paid by members if the membership is not conferred solely as consideration for making a contribution in response to a solicitation. "Contribution" does not include funds obtained by a charitable organization or sponsor under government grants or contracts.

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

1 which nonprofit religious services and activities are regularly conducted, and
2 any bona fide religious groups that do not maintain specific places of
3 worship. "Religious institution" includes any separate group or corporation
4 that forms an integral part of a religious institution that is exempt from
5 federal income tax under the provisions of section 501(c)(3) of the Internal
6 Revenue Code, and that is primarily supported by funds solicited inside its
7 own membership or congregation.

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

- 13 a. Any oral or written request.
- 14 b. Any announcement to the press, radio, or television, by telephone or
15 telegraph, or by any other communication device.
- 16 c. Distributing, posting, or publishing any handbill, written
17 advertisement, or other publication that directly or by implication
18 seeks to obtain any contribution.
- 19 d. Selling or offering or attempting to sell any good, service, chance,
20 right, or any thing of value to benefit a charitable organization or
21 sponsor.

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

- 28 e. Placing or maintaining a collection receptacle in public view for the
29 purpose of collecting donated clothing, household items, and other
30 items for resale.

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

- 33 a. Performs any service, including the employment or engagement of
34 other persons or services, to solicit contributions for a charitable
35 organization or sponsor.
- 36 b. Plans, conducts, manages, consults, whether directly or indirectly, in
37 connection with the solicitation of contributions for a charitable
38 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 emergency
41 service employees or law enforcement officers and who is not a charitable
42 organization. "Sponsor" includes a chapter, branch, or affiliate that has its
43 principal place of business outside the State, if this chapter, branch, or
44 affiliate solicits or holds out to be soliciting contributions in this State.

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

47 (22) "Sponsor sales promotion" means an advertising or sales campaign
48 conducted by a coventurer who represents that the purchase or use of goods
49 or services offered by the coventurer will be used for a sponsor purpose or
50 donated to a sponsor. The provision of advertising services alone to a
51 sponsor does not constitute a sponsor sales promotion. (1981, c. 886, s. 1;

1 1985, c. 497, s. 2; 1993 (Reg. Sess., 1994), c. 759, s. 2; 1997-443, s.
2 11A.118(a); 1998-212, s. 12.14(b); 2011-319, ss. 1, 2.)

3
4 **§ 131F-3. Exemptions.**

5 The following are exempt from the provisions of this Chapter:

- 6 (1) Any person who solicits charitable contributions for a religious institution.
7 (2) Solicitation of charitable contributions by the federal, State, or local
8 government, or any of their agencies.
9 (3) Any person who receives less than twenty-five thousand dollars (\$25,000) in
10 contributions in any calendar year and does not provide compensation to any
11 officer, trustee, organizer, incorporator, fund-raiser, or solicitor.
12 (4) Any educational institution, the curriculum of which, in whole or in part, is
13 registered, approved, or accredited by the Southern Association of Colleges
14 and Schools or an equivalent regional accrediting body, any educational
15 institution in compliance with Article 39 of Chapter 115C of the General
16 Statutes, any foundation or department having an established identity with
17 any of these educational institutions, and any organization with a
18 membership that is composed solely of 20 or more educational institutions
19 as defined under this Chapter.
20 (5) Any hospital licensed pursuant to Article 5 of Chapter 131E or Article 2 of
21 Chapter 122C of the General Statutes and any foundation or department
22 having an established identity with that hospital if the governing board of the
23 hospital, authorizes the solicitation and receives an accounting of the funds
24 collected and expended.
25 (6) Any noncommercial radio or television station.
26 (7) A qualified community trust as provided in 26 C.F.R. § 1.170A-9(e)(10)
27 through (e)(14).
28 (8) A bona fide volunteer or bona fide employee or salaried officer of a
29 charitable organization or sponsor.
30 (9) An attorney, investment counselor, or banker who advises a person to make
31 a charitable contribution.
32 (10) A volunteer fire department, REACT (Radio Emergency Associated
33 Communications Teams), rescue squad, or emergency medical service.
34 (11) A Young Men's Christian Association or a Young Women's Christian
35 Association.
36 (12) A nonprofit continuing care facility licensed under Article 64 of Chapter 58
37 of the General Statutes.
38 (13) Any tax exempt nonprofit fire or emergency medical service organization
39 involved in the sale of goods or services that does not ask for a donation.
40 (1981, c. 886, s. 1; 1983, c. 320, ss. 1, 2; 1991, c. 45, s. 24; 1993 (Reg. Sess.,
41 1994), c. 759, s. 2; 1995 (Reg. Sess., 1996), c. 650, s. 1; 1997-329, s. 1;
42 2003-373, s. 3; 2005-230, s. 1; 2011-27, s. 1.)

43
44 **§ 131F-4. Reserved for future codification purposes.**

45
46 Article 2.

47 Charitable Organizations and Sponsors.

48 **§ 131F-5. Licensure of charitable organizations and sponsors required.**

49 (a) License Required. – Unless exempted under G.S. 131F-3, a charitable organization,
50 sponsor, or person that intends to solicit contributions in this State, to have funds solicited on
51 its behalf, or to participate in a charitable sales promotion or sponsor sales promotion shall

1 obtain a license by filing an application with the Department, obtaining approval of that
2 application by the Department, and paying the applicable fee.

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

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

30 (d) Extension of Time. – For good cause shown, the Department may extend the time
31 for the license renewal and the annual filing of updated information for a period not to exceed
32 60 days, during which time the previous license shall remain in effect. (1981, c. 886, s. 1;
33 1985, c. 497, s. 3; 1987, c. 827, ss. 1, 239; 1989, c. 566, s. 1; 1993 (Reg. Sess., 1994), c. 759, s.
34 2; 2011-398, s. 47.)
35

36 **§ 131F-6. Information required for licensure.**

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

- 41 (1) The name of the charitable organization or sponsor, the purpose for which it
42 is organized, the name under which it intends to solicit contributions, and the
43 purpose for which the contributions to be solicited will be used.
- 44 (2) The principal street address and telephone number of the charitable
45 organization or sponsor and the street address and telephone numbers of any
46 offices in this State or, if the charitable organization or sponsor does not
47 maintain an office in this State, the name, street address, and telephone
48 number of the person who has custody of its financial records. The parent
49 organization that files a consolidated registration statement under G.S.
50 131F-7 on behalf of its chapters, branches, or affiliates shall additionally

1 provide the street addresses and telephone numbers of all of its locations in
2 this State.

- 3 (3) The names and street addresses of the officers, directors, trustees, and the
4 salaried executive personnel.
- 5 (4) The date when the charitable organization's or sponsor's fiscal year ends.
- 6 (5) A list or description of the major program activities.
- 7 (6) The names, street addresses, and telephone numbers of the individuals or
8 officers who have final responsibility for the custody of the contributions
9 and who will be responsible for the final distribution of the contributions.
- 10 (7) The name of the individuals or officers who are in charge of any solicitation
11 activities.
- 12 (8) A financial report for the immediately preceding fiscal year upon a form
13 provided by the Department. The report shall include the following:
14 a. The balance sheet.
15 b. A statement of support, revenue, and expenses, and any change in the
16 fund balance.
17 c. Repealed by Session Laws 1995 (Regular Session, 1996), c. 748, s.
18 1.3.
19 d. A statement of expenses in the following categories:
20 1. Program.
21 2. Management and general.
22 3. Fund-raising.
- 23 (9) In substitution for the information described in subdivisions (3), (4), (5), (6),
24 and (8) of this subsection, a charitable organization or sponsor may submit,
25 at the time the application is filed, a copy of its Internal Revenue Service
26 Form 990 and Schedule A filed for the preceding fiscal year, or a copy of its
27 Form 990-EZ filed for the preceding fiscal year.
- 28 (10) A charitable organization or sponsor may include a financial report which
29 has been audited by an independent certified public accountant or an audit
30 with opinion by an independent certified public accountant. In the event that
31 a charitable organization or sponsor elects to file this, this optional filing
32 shall be noted in the Department's annual report submitted under G.S.
33 131F-30.
- 34 (11) A newly organized charitable organization or sponsor with no financial
35 history shall file a budget for the current fiscal year.
- 36 (12) A statement indicating all of the following:
37 a. Whether or not the charitable organization or sponsor is authorized
38 by any other state to solicit contributions.
39 b. Whether or not the charitable organization or sponsor or any of its
40 officers, directors, trustees, or salaried executive personnel have been
41 enjoined in any jurisdiction from soliciting contributions or have
42 been found to have engaged in unlawful practices in the solicitation
43 of contributions or administration of charitable assets.
44 c. Whether or not the charitable organization or sponsor has had its
45 authority denied, suspended, or revoked by any governmental
46 agency, together with the reasons for the denial, suspension, or
47 revocation.
48 d. Whether or not the charitable organization or sponsor has voluntarily
49 entered into an assurance of voluntary compliance or agreement
50 similar to that set forth in G.S. 131F-24(c), together with a copy of
51 that agreement.

1 (13) The names, street addresses, and telephone numbers of any solicitor,
2 fund-raising consultant, or coventurer who is acting or has agreed to act on
3 behalf of the charitable organization or sponsor, together with a statement
4 setting forth the specific terms of the arrangements for salaries, bonuses,
5 commissions, expenses, or other compensation to be paid the fund-raising
6 consultant, solicitor, or coventurer, and the amounts received from each of
7 them, if any.

8 (14) With initial licensing only, when and where the organization was
9 established, the tax-exempt status of the organization, and a copy of any
10 federal tax exemption determination letter. If the charitable organization or
11 sponsor has not received a federal tax exemption determination letter at the
12 time of initial licensing, a copy of the determination shall be filed with the
13 Department within 30 days after receipt of the determination by the
14 charitable organization or sponsor. If the organization is subsequently
15 notified by the Internal Revenue Service of any challenge to its continued
16 entitlement to federal tax exemption, the charitable organization or sponsor
17 shall notify the Department of this fact within 30 days after receipt.

18 (b) Renewal Information Required. – A license shall be renewed on an annual basis.
19 The charitable organization or sponsor shall submit any changes in the information submitted
20 from the initial application. (1981, c. 886, s. 1; 1993 (Reg. Sess., 1994), c. 759, s. 2; 1995 (Reg.
21 Sess., 1996), c. 748, s. 1.3.)
22

23 **§ 131F-7. Consolidated application and renewal.**

24 (a) Election to File Consolidated Application. – Each chapter, branch, member, or
25 affiliate of a parent organization or association that is required to obtain a license under G.S.
26 131F-5 shall either file a separate application or shall report the required information to its
27 parent organization or association. The parent organization or association may then file, on a
28 form provided by the Department, a consolidated application for the parent organization or
29 association and its chapters, branches, members, and affiliates located in this State.

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

34 (c) Renewal Information. – The parent organization or association may file the
35 information required for a renewal of a license in a consolidated form provided by the
36 Department. (1993 (Reg. Sess., 1994), c. 759, s. 2.)
37

38 **§ 131F-8. License fees.**

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

- 41 (1) Fifty dollars (\$50.00), if the contributions received for the last fiscal year
42 were less than one hundred thousand dollars (\$100,000).
- 43 (2) One hundred dollars (\$100.00), if the contributions received for the last
44 fiscal year were one hundred thousand dollars (\$100,000) or more, but less
45 than two hundred thousand dollars (\$200,000).
- 46 (3) Two hundred dollars (\$200.00), if the contributions received for the last
47 fiscal year were two hundred thousand dollars (\$200,000) or more.

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

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

- 4 (1) One hundred dollars (\$100.00) for a parent organization or association and
5 one to five chapters, branches, members, or affiliates.
- 6 (2) Two hundred dollars (\$200.00) for a parent organization or association and 6
7 to 10 chapters, branches, members, or affiliates.
- 8 (3) Two hundred fifty dollars (\$250.00) for a parent organization or association
9 and 11 to 15 chapters, branches, members, or affiliates.
- 10 (4) Four hundred dollars (\$400.00) for a parent organization or association and
11 16 or more chapters, branches, members, or affiliates.

12 (d) Late Filing. – A charitable organization or sponsor which fails to file the renewal
13 information by the due date may be assessed an additional fee for the late filing. The late filing
14 fee shall be established by rule of the Department and shall not exceed twenty-five dollars
15 (\$25.00) for each month or part of a month after the date on which the information was due to
16 be filed or after the period of extension granted for the filing. (1981, c. 886, s. 1; 1993 (Reg.
17 Sess., 1994), c. 759, s. 2.)

18
19 **§ 131F-9. Disclosure requirements of charitable organizations and sponsors.**

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

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

- 25 (1) The name of the charitable organization and state of the principal place of
26 business of the charitable organization or sponsor.
- 27 (2) A description of the purpose for which the solicitation is being made.
- 28 (3) Upon request, the name and either the address or telephone number of a
29 representative to whom inquiries could be addressed.
- 30 (4) Upon request, the amount of the contribution which may be deducted as a
31 charitable contribution under federal income tax laws.
- 32 (5) Upon request, the source from which a written financial statement may be
33 obtained. The financial statement shall be for the immediate past fiscal year
34 and shall be consistent with G.S. 131F-6. The written financial statement
35 shall be provided within 14 days after the request and shall state the purpose
36 for which funds are raised, the total amount of all contributions raised, the
37 total costs and expenses incurred in raising contributions, the total amount of
38 contributions dedicated to the stated purpose or disbursed for the stated
39 purpose, and whether the services of another person or organization have
40 been contracted to conduct solicitation activities.

41 (c) Printed Disclosure. – Every charitable organization or sponsor that is required to
42 obtain a license under G.S. 131F-5 shall conspicuously display in type of a minimum size nine
43 points, the following statement on every printed solicitation, written confirmation, receipt, or
44 reminder of a contribution:

45 "Financial information about this organization and a copy of its license are available from
46 the State Solicitation Licensing Branch at [telephone number]. The license is not an
47 endorsement by the State."

48 The statement shall be made conspicuous by use of one or more of the following:
49 underlining, a border, or bold type. When the solicitation consists of more than one piece, the
50 statement shall be displayed prominently in the solicitation materials, but not necessarily on
51 every page.

1 (d) Collection Receptacle Disclosure. – Any person who is required to obtain a license
2 under any provision of this Chapter and who is soliciting donated clothing, household items,
3 and other items for resale through the use of a collection receptacle shall display on all sides of
4 each collection receptacle a permanent sign or label with the name of the charitable
5 organization or sponsor for whom the solicitation is made and the phone number or electronic
6 mail address of a contact at the charitable organization or sponsor. The sign or label shall be
7 placed on all sides of the collection receptacle with the required information printed in letters
8 that are no less than three inches in height and no less than one-half inch in width and in a color
9 that contrasts with the color of the collection receptacle so that the sign or label is clearly
10 visible. Upon request, the charitable organization or sponsor must provide the donor with
11 documentation of its tax exempt status and license issued under this Chapter. (1985, c. 497, s.
12 8; 1989, c. 566, s. 3; 1993 (Reg. Sess., 1994), c. 759, s. 2; 1995 (Reg. Sess., 1996), c. 748, s.
13 1.1; 2011-319, s. 3.)
14

15 **§ 131F-10. Disclosure requirements for other organizations.**

16 Any person who is not a charitable organization or sponsor and who places or maintains a
17 collection receptacle in public view for the purpose of collecting donated clothing, household
18 items, and other items for resale shall display on all sides of each collection receptacle a
19 permanent sign or label with the phone number or electronic mail address of a contact for the
20 person and the following statement: "This is not a charity. Donations made here support a
21 for-profit business and are not tax deductible." The sign or label shall be placed on all sides of
22 the collection receptacle with the required information printed in letters that are no less than
23 three inches in height and no less than one-half inch in width and in a color that contrasts with
24 the color of the collection receptacle so that the sign or label is clearly visible. Upon request,
25 the person must provide the donor with documentation of its license issued under this Chapter.
26 (2011-319, s. 4.)
27

28 **§ 131F-11. Reserved for future codification purposes.**

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30 **§ 131F-12. Reserved for future codification purposes.**

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32 **§ 131F-13. Reserved for future codification purposes.**

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34 **§ 131F-14. Reserved for future codification purposes.**
35

36 Article 3.

37 Fund-Raising Consultants, Solicitors, and Coventurers.

38 **§ 131F-15. License required for fund-raising consultant.**

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

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

- 45 (1) The street address and telephone number of the principal place of business of
46 the applicant and any street addresses of business locations in this State if
47 the principal place of business is located outside this State.
- 48 (2) The form of the applicant's business.
- 49 (3) The names and residence addresses of all officers, directors, and owners.

1 (4) Whether any of the owners, directors, officers, or employees of the applicant
2 are related as parent, child, spouse, or sibling to any of the following
3 individuals:

- 4 a. Other directors, officers, owners, or employees of the applicant.
- 5 b. Any officer, director, trustee, or employee of any charitable
6 organization or sponsor under contract to the applicant.
- 7 c. Any supplier or vendor providing goods or services to any charitable
8 organization or sponsor under contract to the applicant.

9 (5) Whether the applicant or any of the applicant's officers, directors,
10 employees, or owners have, within the last five years, been convicted of any
11 felony, or of any misdemeanor arising from the conduct of a solicitation for
12 a charitable organization or sponsor or charitable or sponsor purpose, or
13 been enjoined from violating a charitable solicitation law in this or any other
14 state.

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

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

- 31 (1) A statement of the charitable purpose or sponsor purpose for which the
32 solicitation campaign is being conducted.
- 33 (2) A statement of the respective obligations of the fund-raising consultant and
34 the charitable organization or sponsor.
- 35 (3) A clear statement of the fee that will be paid to the fund-raising consultant.
- 36 (4) The effective and termination dates.
- 37 (5) A statement that the fund-raising consultant shall not, at any time, have
38 control or custody of contributions.

39 (e) Departmental Review. – The Department shall examine each application or renewal
40 filed by a fund-raising consultant and determine whether the requirements are satisfied. If the
41 Department determines that the requirements are not satisfied, the Department shall notify the
42 fund-raising consultant within 10 days after its receipt of the application or renewal. If the
43 Department does not respond within 10 days, the license is deemed approved. Within seven
44 days after receipt of a notification that the license requirements are not satisfied, the applicant
45 may file a petition for a contested case. The State has the burden of proof in the contested case.
46 The contested case hearing must be held within seven days after the petition is filed. A final
47 decision must be made within five days of the hearing. The contested case hearing proceedings
48 shall be conducted in accordance with Chapter 150B of the General Statutes, except that the
49 time limits and provisions set forth in this section shall prevail to the extent of any conflict. The
50 applicant shall be permitted to continue to operate or continue operations pending judicial
51 review of the Department's denial of the application. The Department shall make rules

1 regarding the custody and control of any funds collected during the review period and disposal
2 of such funds in the event the denial of the application is affirmed on appeal.

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

6 (g) Change in Information. – Unless otherwise provided, any material change in
7 information filed with the Department pursuant to this section shall be reported in writing to the
8 Department within seven working days after the change occurred. (1981, c. 886, s. 1; 1985, c.
9 497, s. 1; 1989, c. 566, s. 2; 1993 (Reg. Sess., 1994), c. 759, s. 2; 2011-398, s. 48.)

10
11 **§ 131F-16. License required for solicitors.**

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

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

- 18 (1) The street address and telephone number of the principal place of business of
19 the applicant and any North Carolina street addresses if the principal place of
20 business is located outside this State.
- 21 (2) The form of the applicant's business.
- 22 (3) The place and date when the applicant, if other than an individual, was
23 legally established.
- 24 (4) The names and residence addresses of all officers, directors, and owners.
- 25 (5) A statement as to whether any of the owners, directors, officers, or
26 employees of the applicant are related as parent, spouse, child, or sibling to:
 - 27 a. Any other directors, officers, owners, or employees of the applicant.
 - 28 b. Any officer, director, trustee, or employee of any charitable
29 organization or sponsor under contract to the applicant.
 - 30 c. Any supplier or vendor providing goods or services to any charitable
31 organization or sponsor under contract to the applicant.
- 32 (6) A statement as to whether the applicant or any of the directors, officers,
33 persons with a controlling interest in the applicant, or employees or agents
34 involved in solicitation have been convicted, within the last five years, of
35 any felony, or of a misdemeanor arising from the conduct of a solicitation
36 for any charitable organization or sponsor or charitable or sponsor purpose,
37 or been enjoined from violating a charitable solicitation law in this or any
38 other state.
- 39 (7) The names of all persons in charge of any solicitation activity.

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

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

- 5 (1) Twenty thousand dollars (\$20,000), if the contributions received for the last
6 fiscal year were less than one hundred thousand dollars (\$100,000).
- 7 (2) Thirty thousand dollars (\$30,000), if the contributions received for the last
8 fiscal year were at least one hundred thousand dollars (\$100,000) but less
9 than two hundred thousand dollars (\$200,000).
- 10 (3) Fifty thousand dollars (\$50,000), if the contributions received for the last
11 fiscal year were at least two hundred thousand dollars (\$200,000).

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

18 (d1) In lieu of the bond required under subsection (d) of this section, a solicitor may
19 submit a certificate of deposit in the amount as for a bond pursuant to subsection (d) of this
20 section. The certificate of deposit shall be payable to the State and unrestrictedly endorsed to
21 the Department; or, in the case of a negotiable certificate of deposit, unrestrictedly endorsed to
22 the Department; or, in the case of a nonnegotiable certificate of deposit, assigned to the
23 Department in a form satisfactory to the Department. Access to the certificate of deposit in
24 favor of the State is subject to the same conditions as for a bond under subsection (d) of this
25 section and shall extend for a period not less than four years after the solicitor ceases activities
26 that are subject to this Chapter. The Department shall deliver to the State Treasurer certificates
27 of deposit submitted under this section.

28 (e) Departmental Review. – The Department shall examine each application filed by a
29 solicitor. If the Department determines that the requirements are not satisfied, the Department
30 shall notify the solicitor within 10 days after its receipt of the application. If the Department
31 does not respond within 10 days, the license is deemed approved. Within seven days after
32 receipt of a notification that the requirements are not satisfied, the applicant may request a
33 hearing. The state shall bear the burden of proof at such hearing. The hearing shall be held
34 within seven days after receipt of the request. Any recommended order, if one is issued, shall
35 be rendered within three days after the hearing. The final order shall then be issued within two
36 days after the recommended order. If there is no recommended order, the final order shall be
37 issued within five days after the hearing. The proceedings shall be conducted in accordance
38 with Chapter 150B of the General Statutes, except that the time limits and provision set forth in
39 this subsection prevail to the extent of any conflict. The applicant shall be permitted to continue
40 to operate or continue operations pending judicial review of the Department's denial of the
41 application. The Department shall make rules regarding the custody and control of any funds
42 collected during the review period and disposal of such funds in the event the denial of the
43 application is affirmed on appeal.

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

- 48 (1) A description of the solicitation event or campaign.
- 49 (2) Each location and telephone number from which the solicitation is to be
50 conducted.

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

13 (g) Contracts. – Each contract or agreement between a solicitor and a charitable
14 organization or sponsor for each solicitation campaign shall be in writing, shall be signed by
15 two authorized officials of the charitable organization or sponsor, one of whom shall be a
16 member of the organization's governing body and one of whom shall be the authorized
17 contracting officer for the solicitor. Each contract or agreement shall contain all of the
18 following provisions:

- 19 (1) A statement of the charitable or sponsor purpose and program for which the
20 solicitation campaign is being conducted.
- 21 (2) A statement of the respective obligations of the solicitor and the charitable
22 organization or sponsor.
- 23 (3) A statement of the guaranteed minimum percentage of the gross receipts
24 from contributions which will be remitted to the charitable organization or
25 sponsor. If the solicitation involves the sale of goods, services, or tickets to a
26 fund-raising event, the percentage of the purchase price which will be
27 remitted to the charitable organization or sponsor. Any stated percentage
28 shall exclude any amount which the charitable organization or sponsor shall
29 pay as fund-raising costs.
- 30 (4) A statement of the percentage of the gross revenue for which the solicitor
31 shall be compensated. If the compensation of the professional solicitor is not
32 contingent upon the number of contributions or the amount of revenue
33 received, the compensation shall be expressed as a reasonable estimate of the
34 percentage of the gross revenue, and the contract shall clearly disclose the
35 assumptions upon which the estimate is based. The stated assumptions shall
36 be based upon all of the relevant facts known to the solicitor regarding the
37 solicitation to be conducted by the solicitor.
- 38 (5) The effective and termination dates of the contract.

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

48 (i) Handling of Contributions. – Each contribution collected by or in the custody of the
49 solicitor shall be solely in the name of the charitable organization or sponsor on whose behalf
50 the contribution was solicited. Not later than two days after receipt of each contribution, the
51 solicitor shall deposit the entire amount of the contribution in an account at a bank or other

1 federally insured financial institution, which account shall be in the name of that charitable
2 organization or sponsor. The charitable organization or sponsor shall have sole control of all
3 withdrawals from the account and the solicitor shall not be given the authority to withdraw any
4 deposited funds from the account.

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

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

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

- 30 (1) The name and address of each contributor who purchases or donates tickets
31 and the number of tickets purchased or donated by the contributor.
- 32 (2) The name and address of each organization that receives the donated tickets
33 for the use of others, and the number of tickets received by the organization.

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

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

40 (n) License Rescinded. – Any person licensed as a solicitor shall permanently lose that
41 person's license if it is determined that that person, any officer or director thereof, any person
42 with a ten percent (10%) or greater interest therein, or any person the solicitor employs,
43 engages, or procures to solicit for compensation, has been convicted in the last five years of a
44 crime arising from the conduct of a solicitation for a charitable organization or sponsor or a
45 charitable purpose or sponsor purpose. (1981, c. 886, s. 1; 1985, c. 497, s. 1; 1989, c. 566, s. 2;
46 1993 (Reg. Sess., 1994), c. 759, s. 2; 1997-124, s. 1; 2003-373, s. 2.)
47

48 § 131F-17. Disclosure requirements of solicitors.

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

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

- a. The name of the solicitor as on file with the Department.
- b. If the individual acting on behalf of the solicitor identifies himself by name, the individual's legal name.
- c. That the caller is a paid solicitor.

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

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

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

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

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

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

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

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

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

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

§ 131F-18. Requirements of coventurers.

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

(b) Rules. – The Department may adopt rules requiring disclosure in advertising for a charitable sales promotion or sponsor sales promotion of information relating to the portion or

1 amount that will benefit the charitable organization or sponsor or the charitable purpose or
2 sponsor purpose.

3 (c) Final Accounting. – A final accounting for each charitable sales promotion or
4 sponsor sales promotion shall be prepared by the coventurer following completion. The final
5 accounting shall be provided to the charitable organization or sponsor on whose behalf the sales
6 promotion was conducted within 10 days after a request by the charitable organization or
7 sponsor. The final accounting shall be kept by the coventurer for a period of three years, unless
8 the coventurer and the charitable organization or sponsor mutually agree that the accounting
9 should be kept by the charitable organization or sponsor instead of the coventurer. A copy of
10 the final accounting shall be provided to the Department no later than 10 days after the
11 Department requests it. (1993 (Reg. Sess., 1994), c. 759, s. 2.)
12

13 **§ 131F-19. Reserved for future codification purposes.**

14
15 Article 4.

16 Prohibited Acts and Enforcement.

17 **§ 131F-20. Prohibited acts.**

18 It is unlawful for any person to:

- 19 (1) Violate or fail to comply with the requirements of this Chapter.
- 20 (2) Act as a fund-raising consultant or solicitor after the expiration, suspension,
21 or revocation of that person's license.
- 22 (3) Enter into any contract or agreement with or employ a fund-raising
23 consultant or solicitor unless that fund-raising consultant or solicitor is
24 licensed by the Department.
- 25 (4) Knowingly file false or misleading information in any document required to
26 be filed with the Department or in response to any request or investigation
27 by the Department or the Attorney General.
- 28 (5) Make misrepresentations or misleading statements to the effect that any
29 other person sponsors or endorses the solicitation, approves of its purpose, or
30 is connected therewith, when that person has not given written consent to the
31 use of that person's name.
- 32 (6) Represent that a contribution is for or on behalf of a charitable organization
33 or sponsor, or to use any emblem, device, or printed matter belonging to or
34 associated with a charitable organization or sponsor, without first being
35 authorized in writing to do so by the charitable organization or sponsor.
- 36 (7) Use a name, symbol, emblem, device, service mark, or statement so closely
37 related or similar to that used by another charitable organization or sponsor
38 that the use would mislead the public.
- 39 (8) Falsely state that the person is a member of or a representative of a
40 charitable organization or sponsor or falsely state or represent that the person
41 is a member of or represents law enforcement officers or emergency service
42 employees.
- 43 (9) Misrepresent or mislead anyone by any manner, means, practice, or device
44 to believe that the person on whose behalf the solicitation or sale is being
45 conducted is a charitable organization or sponsor, or that any of the proceeds
46 of the solicitation or sale will be used for charitable or sponsor purposes.
- 47 (10) Represent that a charitable organization or sponsor will receive a fixed or
48 estimated percentage of the gross revenue from a solicitation campaign
49 greater than that identified in filings with the Department under this Chapter,
50 or that a charitable organization or sponsor will receive an actual or
51 estimated dollar amount or percentage per unit of goods or services

1 purchased or used in the charitable or sponsor sales promotion that is greater
2 than that agreed to by the coventurer and the charitable organization or
3 sponsor.

- 4 (11) Use or exploit the fact of registration or the filing of any report with any
5 governmental agency to lead any person to believe that the registration in
6 any manner constitutes an endorsement or approval by the State. However,
7 use of the statement required in G.S. 131F-9(c) or G.S. 131F-17(a)(3) is not
8 a prohibited use or exploitation.
- 9 (12) Make misrepresentations or misleading statements to the effect that the
10 donation of a contribution or the display of any sticker, emblem, or insignia
11 offered to contributors shall entitle a person to any special treatment by
12 emergency service employees or law enforcement officers in the
13 performance of their official duties.
- 14 (13) Solicit contributions from another person while wearing the uniform of an
15 emergency service employee or law enforcement officer, or while on duty as
16 an emergency service employee or law enforcement officer, except where
17 the solicitation is for a charitable organization or sponsor or except when
18 soliciting contributions to benefit an emergency service employee or law
19 enforcement officer who has been injured in the line of duty or to benefit the
20 family or dependents of an emergency service employee or law enforcement
21 officer who has been killed in the line of duty.
- 22 (14) Solicit contributions on behalf of another person using any statement that the
23 failure to make a contribution shall result in a reduced level of law
24 enforcement services being provided to the public or the person solicited.
- 25 (15) Employ in any solicitation any device or scheme to defraud or to obtain a
26 contribution by means of any deception, false pretense, misrepresentation, or
27 false promise.
- 28 (16) Notify any other person by any means, as part of an advertising scheme or
29 plan, that the other person has won a prize, received an award, or has been
30 selected or is eligible to receive anything of value if the other person is
31 required to purchase goods or services, pay any money to participate in, or
32 submit to a promotion effort.
- 33 (17) Fail to provide complete and timely payment to a charitable organization or
34 sponsor of the proceeds from a solicitation campaign or a charitable or
35 sponsor sales promotion.
- 36 (18) Fail to apply contributions in a manner substantially consistent with the
37 solicitation.
- 38 (19) Fail to identify the professional relationship to the person for whom the
39 solicitation is being made.
- 40 (20) To send to any person a writing which simulates or resembles an invoice
41 unless the intended recipient has contracted for goods, property, or services
42 from the charitable organization or solicitor who sends the writing. (1981, c.
43 886, s. 1; 1993 (Reg. Sess., 1994), c. 759, s. 2.)
44

45 **§ 131F-21. Violation as deceptive or unfair trade practice.**

46 Any person who commits an act or practice that violates any provision of this Chapter
47 engages in an unfair trade practice in violation of G.S. 75-1.1. (1993 (Reg. Sess., 1994), c. 759,
48 s. 2.)
49

50 **§ 131F-22. Criminal penalties.**

1 Except as otherwise provided in this Chapter and in addition to any administrative or civil
2 penalties, any person who willfully and knowingly violates a provision of this Chapter commits
3 a Class 1 misdemeanor. (1981, c. 886, s. 1; 1993, c. 539, s. 952; 1993 (Reg. Sess., 1994), c.
4 759, s. 2.)

5
6 **§ 131F-23. Enforcement.**

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

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

16 (c) Court Action. – In the event of substantial noncompliance with a subpoena or
17 subpoena duces tecum issued or caused to be issued by the Department, the Department may
18 petition the superior court of the county in which the person subpoenaed resides or has the
19 principal place of business for an order requiring the subpoenaed person to appear and testify
20 and to produce any books, accounts, records, and other documents as are specified in the
21 subpoena duces tecum. The court may grant injunctive relief restraining the person from
22 collecting contributions and any other relief, including the restraint by injunction or
23 appointment of a receiver, or any transfer, pledge, assignment, or other disposition of the
24 person's assets, or any concealment, alteration, destruction, or other disposition of subpoenaed
25 books, accounts, records, or other documents and materials as the court deems appropriate,
26 until the person or organization has fully complied with the subpoena or subpoena duces tecum
27 and the Department has completed its investigation or examination. The court may also order
28 the person to produce a financial statement that has been audited by an independent certified
29 public accountant. Costs incurred by the Department to obtain an order granting, in whole or in
30 part, a petition for enforcement of a subpoena or subpoena duces tecum shall be taxed against
31 the subpoenaed person and failure to comply with the order shall be contempt of court.

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

- 36 (1) Violated or is operating in violation of any of the provisions of this Chapter
37 or of the rules adopted or orders issued under this Chapter.
38 (2) Made a false statement in an application, statement, or report required to be
39 filed under this Chapter.
40 (3) Refused or failed, after notice, to produce any records or to disclose any
41 information required to be disclosed under this Chapter or the rules adopted
42 by the Department.
43 (4) Made a false statement in response to any request or investigation by the
44 Department or the Attorney General.

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

- 47 (1) Imposing an administrative penalty not to exceed one thousand dollars
48 (\$1,000) for each act or omission which constitutes a violation of this
49 Chapter or a rule or an order.
50 (2) Issuing a cease and desist order that directs that the person cease and desist
51 specified fund-raising activities.

- 1 (3) Refusing to register or cancelling or suspending a registration.
- 2 (4) Placing the registrant on probation for a period of time, subject to such
- 3 conditions as the Department may specify.
- 4 (5) Issuing of a letter of concern.
- 5 (6) Cancelling an exemption granted under G.S. 131F-3.

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

9 (g) Disposition of Penalties. – The clear proceeds of penalties provided for in
10 subsection (e) of this section shall be remitted to the Civil Penalty and Forfeiture Fund in
11 accordance with G.S. 115C-457.2. (1993 (Reg. Sess., 1994), c. 759, s. 2; 1998-215, s. 81.)
12

13 **§ 131F-24. Civil remedies and enforcement.**

14 (a) Civil Remedies. – In addition to other remedies authorized by law, the Attorney
15 General may bring a civil action in superior court to enforce this Chapter. Upon a finding that
16 any person has violated this Chapter, a court may make any necessary order or enter a
17 judgment, including a temporary or permanent injunction, a declaratory judgment, the
18 appointment of a master or receiver, the sequestration of assets, the reimbursement of persons
19 from whom contributions have been unlawfully solicited, the distribution of contributions in
20 accordance with the charitable or sponsor purpose expressed in the registration statement or in
21 accordance with the representations made to the person solicited, the reimbursement of the
22 Department for attorneys' fees and costs, including investigative costs, and any other equitable
23 relief the court finds appropriate. Upon a finding that any person has violated any provision of
24 this Chapter, a court may enter an order imposing a civil penalty in an amount not to exceed ten
25 thousand dollars (\$10,000) per violation.

26 The clear proceeds of penalties imposed pursuant to this subsection shall be remitted to the
27 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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

31 (c) Voluntary Compliance. – The Attorney General may terminate an investigation or
32 an action upon acceptance of a person's written assurance of voluntary compliance with this
33 Chapter. Acceptance of an assurance may be conditioned on commitment to reimburse donors
34 or to take other appropriate corrective action. An assurance is not evidence of a prior violation
35 of any of this Chapter. Unless an assurance has been rescinded by agreement of the parties or
36 voided by a court for good cause, subsequent failure to comply with the terms of an assurance
37 is prima facie evidence of a violation of this Chapter. (1993 (Reg. Sess., 1994), c. 759, s. 2;
38 1998-215, s. 82.)
39

40 **§§ 131F-25 through 131F-29. Reserved for future codification purposes.**

41
42 Article 5.

43 Miscellaneous.

44 **§ 131F-30. Public information; annual report.**

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

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

- 50 (1) The laws governing solicitations, including licensing and disclosure
- 51 requirements, prohibited acts, and penalties.

- 1 (2) The means by which the public can report suspected violations or file a
2 complaint.
3 (3) Any other information the Department believes will assist the public in
4 making knowledgeable and informed decisions concerning contributions.

5 (c) Annual Report. – The Department shall prepare an annual report to be submitted to
6 the Governor, the President of the Senate, and the Speaker of the House of Representatives and
7 to be made available to the public by publishing it on the Department's web site, summarizing
8 the information filed under this Chapter which the Department determines will assist the public
9 in making informed and knowledgeable decisions concerning contributions. The report shall
10 include the following:

- 11 (1) A list of complaints filed for which violations were found to have occurred
12 in each of the following categories: charitable organizations, sponsors,
13 solicitors, and fund-raising consultants.
14 (2) A list of the number of investigations by the Department, enforcement
15 actions commenced under this Chapter, and the disposition of those actions.
16 (3) A list of those charitable organizations and sponsors that have voluntarily
17 submitted an audited financial statement pursuant to G.S. 131F-6(a)(10) or
18 an audit with an opinion prepared by an independent certified public
19 accountant.
20 (4) A list of all solicitors licensed under this Chapter and the fixed percentage of
21 the gross revenue that the charitable organization or sponsor will receive as a
22 benefit from the solicitation campaign, the reasonable estimate of the
23 percentage of the gross revenue that the charitable organization or sponsor
24 will receive as a benefit from the solicitation campaign, or the guaranteed
25 minimum percentage of the gross revenue that the charitable solicitation or
26 sponsor will receive as a benefit from the solicitation campaign as provided
27 in the contract between the solicitor and the charitable organization or
28 sponsor, whichever of these three amounts is least. This list shall appear in
29 order of percentages, from lowest to highest.

30 (d) Each year immediately following the submission of the report under subsection (c)
31 of this section, the Secretary of State shall issue that report as a press release to all print and
32 electronic news media that provide general coverage. (1993 (Reg. Sess., 1994), c. 759, s. 2;
33 2003-373, s. 1.)
34

35 **§ 131F-31. Contributions solicited for, or accepted by or on behalf of, a named**
36 **individual.**

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

40 (b) Use of Trust Funds. – Contributions deposited in the trust fund may be used only for
41 the purpose for which the contributions were solicited; if the contributions are no longer needed
42 for the purpose for which they were solicited, they may be used for another similar charitable
43 purpose. The trustee may disburse funds from the trust account only after making a written
44 record verifying the purpose for which the funds will be used accompanied by documentation
45 of the identity of the payee and the justification for the payment. The Trustee shall retain these
46 records for each disbursement from the trust account for a period of three years after the
47 disbursement. (1993 (Reg. Sess., 1994), c. 759, s. 2.)
48

49 **§ 131F-32. Records.**

50 Each charitable organization, sponsor, fund-raising consultant, and solicitor shall keep, for
51 a period of at least three years, true and accurate records as to their activities in the State. The

1 records shall be made available to the Department for inspection and shall be furnished no later
2 than 10 days after the request was made. (1981, c. 886, s. 1; 1993 (Reg. Sess., 1994), c. 759, s.
3 2.)
4

5 **§ 131F-33. Rule-making authority.**

6 The Department shall have the authority to adopt rules necessary for the implementation of
7 this Chapter or to prevent false or deceptive statements or conduct in the solicitation of
8 charitable contributions. (1981, c. 886, s. 1; 1993 (Reg. Sess., 1994), c. 759, s. 2.)