

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 877
SENATE BILL 728

AN ACT TO AMEND THE SOLICITATION OF CHARITABLE FUNDS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-75.3(12) is amended on line 2 by adding the word "and" before the word "assessments" and by deleting the following: ", etc.,".

Sec. 2. G.S. 108-75.3(15) is amended on line 3 by deleting the word and punctuation "advises," and on line 6 by adding the following sentence after the word and punctuation "services.":

"Such counsel shall not include any person who only conducts a study to determine the feasibility of undertaking the solicitation of contributions."

Sec. 3. G.S. 108-75.4 is amended on line 2 of subsection (a) by adding the words "and conditional licenses" after the word "licenses" and is amended on line 4 of subsection (b) by substituting the word "Department" for the word "Commission".

Sec. 4. G.S. 108-75.4 is amended by adding a new subsection to read as follows:

"(c) Each conditional license shall be valid throughout the State for a period of one year or less from the date of issue and may be renewed for additional one-year periods or less upon submission to the department of evidence of substantial improvement towards compliance with all the provisions of this Part and the rules and regulations promulgated hereunder."

Sec. 5. G.S. 108-75.5(c) is amended on lines 14 and 15 by deleting the following sentence:

"The Committee shall also recommend to the Commission the forms for license application and other forms required by this Part." and is further amended on line 19 by deleting the word "forms".

Sec. 6. G.S. 108-75.6(a) is amended on line 5 by deleting the words "the Commission" and inserting in lieu thereof the word "it".

Sec. 7. G.S. 108-75.6(a)(6) is amended on lines 2 and 4 by deleting the word "certified" and is amended on lines 16 and 17 by substituting the words and figure "twenty-five thousand dollars (\$25,000)" for the words and figure "fifteen thousand dollars (\$15,000)".

Sec. 8. G.S. 108-75.6(d) is amended on line 2 by substituting the word "Department" for "Commission" and is amended on line 3 by deleting the word "certified".

Sec. 9. G.S. 108-75.6 is amended by deleting subsection (h).

Sec. 10. G.S. 108-75.7(a)(1) is amended on lines 1 and 6 by deleting the words "corporation sole or other".

Sec. 11. G.S. 108-75.7(a)(1) is amended on line 9 by replacing the colon with a comma and by adding the following:

"nor shall such religious corporation, trust or organization established for religious purposes be exempt from filing a license application if its financial support is derived primarily from contributions solicited from persons other than its own members, excluding sales of printed or recorded religious materials:".

Sec. 12. G.S. 108-75.7(a)(4)(b) is rewritten to read as follows:

"A final accounting of receipts and disbursements is published in a newspaper of general circulation in the area in which the greatest amounts of contributions were received."

Sec. 13. G.S. 108-75.7(b) is rewritten to read as follows:

"Any charitable organization which is exempt from the licensing requirements of this act shall lose such exemption when it employs a professional solicitor."

Sec. 14. G.S. 108-75.8(a) is amended on lines 5 and 6 by substituting the word "Department" for the word "Commission".

Sec. 15. G.S. 108-75.8(c) is amended on line 6 by adding the following after the word and punctuation "effect.":

"An individual, including the applicant and a member of the board of directors of the applicant, who is a resident of this State and holds five thousand dollars (\$5,000) or more of equity in real property in this State, shall be a satisfactory surety."

Sec. 16. G.S. 108-75.9 is amended by deleting the last sentence.

Sec. 17. G.S. 108-75.10(b) is amended on lines 8 and 11 by substituting the words and figure "five percent (5%)" for the words and figure "fifteen percent (15%)".

Sec. 18. G.S. 108-75.11(a) is amended on lines 3 and 4 by substituting the words and figure "five percent (5%)" for the words and figure "fifteen percent (15%)".

Sec. 19. G.S. 108-75.13 is amended on line 6 by deleting the words and punctuation "after 10 days' written notice mailed to the charitable organization,".

Sec. 20. G.S. 108-75.14 is repealed.

Sec. 21. G.S. 108-75.18 is rewritten to read as follows:

"§ 108-75.18. Denial, suspension or revocation of license. — The secretary shall revoke, suspend or deny issuance of a license to a charitable organization, professional fund-raising counsel or professional solicitor at any time upon a finding that:

- (1) One or more of the statements in the application are not true.
- (2) The applicant is or has engaged in a fraudulent transaction or enterprise.
- (3) A solicitation would be a fraud upon the public.
- (4) An unreasonable percentage of the contributions solicited, or to be solicited, is not applied, or will not be applied to a charitable purpose.
- (5) The contributions solicited, or to be solicited, are not applied, or will not be applied to the purpose or purposes as represented in the license application.
- (6) Solicitation and fund-raising expenses (including not only payments to professional solicitors, but also payments to professional fund-raising counsel, and internal fund-raising and solicitation salaries and expenses) during the year immediately preceding the date of application have exceeded, or for the specific year in which the application is submitted will exceed, thirty-five percent (35%) of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund-raising activities or campaigns. As used in this subdivision and in G.S. 108-75.23, the term 'internal fund-raising and solicitation salaries and expenses' shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund-raising expense. In the event special facts or circumstances are presented showing that expenses higher than thirty-five percent (35%) were not or will not be unreasonable, the secretary has the discretion to allow such higher expense.
- (7) The applicant or licensee has failed to comply with any of the provisions of this Part, or with any rules and regulations adopted by the commission pursuant to this Part."

Sec. 22. G.S. 108-75.19(a) is amended in the next-to-last line by substituting the word "Secretary" for the words "chairman of the Commission".

Sec. 23. G.S. 108-75.19(b) is amended on lines 4 and 6 by substituting the word "Department" for the word "Commission".

Sec. 24. Subsections (c) and (d) of G.S. 108-75.19 are repealed.

Sec. 25. G.S. 108-75.20(e) is rewritten to read as follows:

"No person shall falsely denominate any membership fee or purchase price of tangible personal property or services sold, as a contribution or as a donation or in any other manner represent or falsely imply that the member or the purchaser of such tangible personal property or services will be entitled to an income tax deduction for his cost or any portion thereof."

Sec. 26. G.S. 108-75.22(a) is amended on lines 4 and 5 by deleting the words and punctuation "or otherwise violates the provisions of this Part or the rules and regulations of the Commission,"; is amended on line 6 by deleting the words "or violating"; is amended on line 10 by deleting the words "or if the existing violation is not discontinued"; and is amended by adding the following sentence to the end of the subsection:

"If any charitable organization, professional fund-raising counsel, or professional solicitor in any other way violates the provisions of this Part or the rules and regulations promulgated hereunder, the secretary may immediately deny issuance of a license or revoke or suspend the license, effective upon receipt of notice or return of notice undelivered, by mailing notice by registered or certified mail, with return receipt, to the last known address of the charitable organization, professional fund-raising counsel or professional solicitor."

Sec. 27. G.S. 108-75.22(e) is amended on lines 2, 3 and 4 by deleting the words "or the Commission (who shall have given due notice and full hearing to a charitable organization, professional fund-raising counsel or professional solicitor)".

Sec. 28. G.S. 108-75.24, as it appears in the 1975 Supplement to Volume 3A, is amended by adding the following sentence:

"Nothing in this section shall be deemed or construed to require that such ordinances or regulations be identical with the provisions of this Part, as amended, and the rules and regulations of the commission, provided that such ordinances or regulations are substantially as stringent as or require a higher standard of conduct than the provisions of this Part and the rules and regulations of the commission."

Sec. 29. G.S. 108-75.25 is rewritten to read as follows:

"This Part shall not apply to public-supported community foundations or public-supported community trusts as defined in the Internal Revenue Code of 1954, as amended, or regulations promulgated pursuant thereto."

Sec. 30. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.