

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 748
HOUSE BILL 1166

AN ACT TO MODIFY THE REQUIRED DISCLOSURE STATEMENT AND ELIMINATE DUPLICATIVE REPORTING REQUIREMENTS UNDER THE CHARITABLE SOLICITATIONS ACT AND TO MODIFY AND CLARIFY REQUIREMENTS FOR NONGOVERNMENTAL ENTITIES' ACCOUNTABILITY FOR STATE GRANTS.

The General Assembly of North Carolina enacts:

PART I. AMEND CHARITABLE SOLICITATIONS ACT

Section 1.1. G.S. 131F-9(c) reads as rewritten:

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

~~'A COPY OF THE LICENSE TO SOLICIT CHARITABLE CONTRIBUTIONS AS A CHARITABLE ORGANIZATION OR SPONSOR AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DEPARTMENT OF HUMAN RESOURCES, SOLICITATION LICENSING BRANCH, BY CALLING (919) 733-4510. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.'~~ 'Financial information about this organization 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 consists of more than one piece, the statement shall be displayed prominently in the solicitation materials, but not necessarily on every page."

Sec. 1.2. G.S. 131F-17(a)(3) reads as rewritten:

"(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 ~~capital letters in bold-type~~ of a minimum of ~~10-nine~~ points:

~~'A COPY OF THE LICENSE AND FINANCIAL INFORMATION OF THE SOLICITOR MAY BE OBTAINED FROM THE DEPARTMENT OF HUMAN RESOURCES, SOLICITATION LICENSING BRANCH, BY CALLING (919) 733-4510.'~~

~~REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.'~~

'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."

Sec. 1.3. G.S. 131F-6 reads as rewritten:

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

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

- (1) The name of the charitable organization or sponsor, the purpose for which it is organized, the name under which it intends to solicit contributions, and the purpose for which the contributions to be solicited will be used.
- (2) The principal street address and telephone number of the charitable organization or sponsor and the street address and telephone numbers of any offices in this State or, if the charitable organization or sponsor does not maintain an office in this State, the name, street address, and telephone number of the person who has custody of its financial records. The parent organization that files a consolidated registration statement under G.S. 131F-7 on behalf of its chapters, branches, or affiliates shall additionally provide the street addresses and telephone numbers of all of its locations in this State.
- (3) The names and street addresses of the officers, directors, trustees, and the salaried executive personnel.
- (4) The date when the charitable organization's or sponsor's fiscal year ends.
- (5) A list or description of the major program activities.
- (6) The names, street addresses, and telephone numbers of the individuals or officers who have final responsibility for the custody of the contributions and who will be responsible for the final distribution of the contributions.
- (7) The name of the individuals or officers who are in charge of any solicitation activities.
- (8) A financial report for the immediately preceding fiscal year upon a form provided by the Department. The report shall include the following:
 - a. The balance sheet.

- b. A statement of support, revenue, and expenses, and any change in the fund balance.
 - c. ~~The names and addresses of any fund-raising consultant, solicitor, and coventurer used, if any, and the amounts received from each of them, if any.~~
 - d. A statement of expenses in the following categories:
 - 1. Program.
 - 2. Management and general.
 - 3. Fund-raising.
- (9) In substitution for the ~~financial report information~~ described in ~~subdivision (8)~~ subdivisions (3), (4), (5), (6), and (8) of this subsection, a charitable organization or sponsor may ~~submit~~ submit, at the time the application is filed, a copy of its Internal Revenue Service Form 990 and Schedule A filed for the preceding fiscal year, or a copy of its Form 990-EZ filed for the preceding fiscal year.
- (10) A charitable organization or sponsor may include a financial report which has been audited by an independent certified public accountant or an audit with opinion by an independent certified public accountant. In the event that a charitable organization or sponsor elects to file this, this optional filing shall be noted in the Department's annual report submitted under G.S. 131F-30.
- (11) A newly organized charitable organization or sponsor with no financial history shall file a budget for the current fiscal year.
- (12) A statement indicating all of the following:
- a. Whether or not the charitable organization or sponsor is authorized by any other state to solicit contributions.
 - b. Whether or not the charitable organization or sponsor or any of its officers, directors, trustees, or salaried executive personnel have been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or administration of charitable assets.
 - c. Whether or not the charitable organization or sponsor has had its authority denied, suspended, or revoked by any governmental agency, together with the reasons for the denial, suspension, or revocation.
 - d. Whether or not the charitable organization or sponsor has voluntarily entered into an assurance of voluntary compliance or agreement similar to that set forth in G.S. 131F-24(c), together with a copy of that agreement.
- (13) The names, street addresses, and telephone numbers of any solicitor, fund-raising consultant, or coventurer who is acting or has agreed to act on behalf of the charitable organization or sponsor, together with a statement setting forth the specific terms of the arrangements for

salaries, bonuses, commissions, expenses, or other compensation to be paid the fund-raising consultant, solicitor, or ~~coventurer~~, coventurer, and the amounts received from each of them, if any.

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

(b) **Renewal Information Required.** – A license shall be renewed on an annual basis. The charitable organization or sponsor shall submit any changes in the information submitted from the initial application."

PART II. NONPROFITS/STATE FUNDS ACCOUNTABILITY

Sec. 2.1. G.S. 143-6.1 reads as rewritten:

"§ 143-6.1. ~~Information from private organizations receiving State funds; information from State departments and agencies providing State funds. Reports on use of State funds by non-State entities.~~

(a) **Disbursement and Use of State Funds.** – Every corporation, organization, and institution ~~which receives, uses that receives, uses, or expends any State funds shall use or expend such the funds only for the purposes for which such State funds they were appropriated by the General Assembly or collected by the State. State funds include federal funds that flow through the State. For the purposes of this section, the term 'grantee' means a corporation, organization, or institution that receives, uses, or expends any State funds. The State may not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee if that grantee has failed to provide any reports or financial information previously required by this section. In addition, before disbursing the funds, the Office of State Budget and Management may require the grantee to supply information demonstrating that the grantee is capable of managing the funds in accordance with law and has established adequate financial procedures and controls. All financial statements furnished to the State Auditor pursuant to this section, and any audits or other reports prepared by the State Auditor, are public records.~~

(b) **State Agency Reports.** – A State agency that receives State funds and then disburses the State funds to a grantee must identify the grantee to the State Auditor, unless the funds were for the purchase of goods and services. The State agency must submit documents to the State Auditor in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.

(c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or expends between fifteen thousand dollars (\$15,000) and one hundred thousand dollars (\$100,000) in State funds annually, except when the funds are for the purchase of goods or services, must file annually with the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting shall be in the form required by the disbursing agency. Each State agency shall develop a format for these accountings and shall obtain the State Auditor's approval of the format.

(d) Grantee Audit Reports. – A grantee that receives, uses, or expends State funds in the amount of one hundred thousand dollars (\$100,000) or more annually, except when the funds are for the purchase of goods or services, must file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statement must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(e) Federal Reporting Requirements. – Federal law may require a grantee to make additional reports with respect to funds for which reports are required under this section. Notwithstanding the provisions of this section, a grantee may satisfy the reporting requirements of subsection (c) of this section by submitting a copy of the report required under federal law with respect to the same funds or by submitting a copy of the report described in subsection (d) of this section.

(f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor.

~~Each corporation, organization, and institution which receives, uses or expends State funds in the amount of twenty five thousand dollars (\$25,000) or more annually, except when the funds are for the purchase of goods or services, shall file annually with the State Auditor and with the Joint Legislative Commission on Governmental Operations financial statements for that year in which twenty five thousand dollars (\$25,000) or more in State funds were received, used, or expended. These financial statements shall be audited in accordance with the auditing standards prescribed by the State Auditor, and the audit report shall be received by the State Auditor within six months after the end of the private organization's year in which twenty five thousand dollars (\$25,000) or more were received, used, or expended. Each corporation, organization, and institution shall furnish to the State Auditor for audit all books, records and other information as shall be necessary for the State Auditor to account fully for the use and expenditure of State funds. Each such corporation, organization, and institution shall furnish such additional financial or budgetary information as shall be requested by the State Auditor or by the Joint Legislative Commission on Governmental Operations.~~

~~The State shall not disburse State funds appropriated by the General Assembly or collected by the State for use by any corporation, organization, or institution until that corporation, organization, or institution has provided all the reports and financial information required by this section. All financial statements furnished to the State Auditor or to the Joint Legislative Commission on Governmental Operations pursuant to this section, and any audits or other reports prepared by the State Auditor, shall be public records.~~

~~Each State department and agency shall identify to the State Auditor each corporation, organization, and institution to which State funds received by the department or agency have been provided, except for the purchase of goods and services, and submit documents to the State Auditor for approval in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.~~

~~The receipt, use or expenditure of State funds by a corporation, organization, and institution shall not, in and of itself, make or constitute such corporation, organization, or institution a State agency."~~

Sec. 2.2. Section 11 of Chapter 324 of the 1995 Session Laws is repealed.

PART III. EFFECTIVE DATES

Sec. 3.1. Section 1.3 of Part I and Part II of this act become effective July 1, 1996. The remainder of this act is effective upon ratification. Effective until January 1, 1998, a document that complies with the requirements of G.S. 131F-9(c) or G.S. 131F-17(a)(3) as in effect before ratification of this act shall be considered to comply with the requirements of the respective statute as amended by this act.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives