

## **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.
- (6) "Coventurer" means any person who, for compensation, conducts a charitable sales promotion or a sponsor sales promotion, other than in connection with the solicitation of contributions.
  - (7) "Department" means the Department of the Secretary of State.
  - (8) "Emergency service employees" means employees who are firefighters, ambulance drivers, emergency medical technicians, or paramedics.
  - (9) "Federated fund-raising organization" means a federation of independent charitable organizations which have voluntarily joined together, including a united way, united arts fund, or community chest, for the purpose of raising and distributing contributions and where membership does not confer operating authority and control of the individual organization upon the federated group organization.
  - (10) "Fund-raising consultant" means any person who meets all of the following:
    - a. Is retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, consult, or prepare material for the solicitation of contributions in this State.
    - b. Does not solicit contributions or employ, procure, or engage any person to solicit contributions.
    - c. Does not at any time have custody or control of contributions.
  - (11) "Fund-raising costs" means those costs incurred in inducing others to make contributions to a charitable organization or sponsor for which the contributors will receive no direct economic benefit. Fund-raising costs include salaries, rent, acquiring and obtaining mailing lists, printing, mailing, all direct and indirect costs of soliciting, and the cost of unsolicited merchandise sent to encourage contributions.
  - (12) "Law enforcement officers" means persons who are elected, appointed, or employed by the State or any political subdivision of the State and who meet either of the following:
    - a. Are vested with the authority to bear arms and make arrests and have primary responsibility to prevent and detect crime or enforce the criminal, traffic, or highway laws of the State.
    - b. Have responsibility for supervision, protection, care, custody, or control of inmates within a correctional institution.
  - (12a) "Maintenance" means to keep in working order in order to ensure that something continues to work properly and includes regular checks and the completion of any required repairs and adjustments.
  - (13) "Membership" means the relationship of a person to an organization that entitles that person to the privileges, professional standing, honors, or other direct benefits of the organization in addition to the right to vote, elect officers, and hold office in the organization.

- (14) "Owner" means any person who has a direct or indirect interest in any fund-raising consultant or solicitor.
- (15) "Parent organization" means that part of a charitable organization or sponsor which coordinates, supervises, or exercises control over policy, fund-raising, and expenditures, or assists or advises one or more chapters, branches, or affiliates of a charitable organization or sponsor.
- (16) "Person" means any individual, organization, trust, foundation, association, group, entity, partnership, corporation, society, or any combination of these acting as a unit.
- (17) "Religious institution" means any church, ecclesiastical, or denominational organization, or any established physical place for worship in this State at which nonprofit religious services and activities are regularly conducted, and any bona fide religious groups that do not maintain specific places of worship. "Religious institution" includes any separate group or corporation that forms an integral part of a religious institution that is exempt from federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code, and that is primarily supported by funds solicited inside its own membership or congregation.
- (18) "Solicitation" means a request, directly or indirectly, for money, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable or sponsor purpose or will benefit a charitable organization or sponsor. "Solicitation" may occur by any of the following methods:
- a. Any oral or written request.
  - b. Any announcement to the press, radio, or television, by telephone or telegraph, or by any other communication device.
  - c. Distributing, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution.
  - d. Selling or offering or attempting to sell any good, service, chance, right, or any thing of value to benefit a charitable organization or sponsor. The selling or offering or attempting to sell is a "solicitation" whether or not the person making the solicitation receives any contribution. It is not a "solicitation" when a person applies for a grant or an award to the government or to an organization that is exempt from federal income taxation under section 501(a) of the Internal Revenue Code and described in section 501(c) of the Internal Revenue Code.
  - e. Placing or maintaining a collection receptacle in public view for the purpose of collecting donated clothing, household items, and other items for resale.
- (19) "Solicitor" means any person who, for compensation, does not qualify as a fund-raising consultant and does either of the following:
- a. Performs any service, including the employment or engagement of other persons or services, to solicit contributions for a charitable organization or sponsor.

- b. Plans, conducts, manages, consults, whether directly or indirectly, in connection with the solicitation of contributions for a charitable organization or sponsor.
- (20) "Sponsor" means a person who is or holds out to others as soliciting contributions by the use of any name that implies affiliation with emergency service employees or law enforcement officers and who is not a charitable organization. "Sponsor" includes a chapter, branch, or affiliate that has its principal place of business outside the State, if this chapter, branch, or affiliate solicits or holds out to be soliciting contributions in this State.
- (21) "Sponsor purpose" means any program or endeavor performed to benefit emergency service employees or law enforcement officers.
- (22) "Sponsor sales promotion" means an advertising or sales campaign conducted by a coventurer who represents that the purchase or use of goods or services offered by the coventurer will be used for a sponsor purpose or donated to a sponsor. The provision of advertising services alone to a sponsor does not constitute a sponsor sales promotion. (1981, c. 886, s. 1; 1985, c. 497, s. 2; 1993 (Reg. Sess., 1994), c. 759, s. 2; 1997-443, s. 11A.118(a); 1998-212, s. 12.14(b); 2011-319, ss. 1, 2.)

### **§ 131F-3. Exemptions.**

The following are exempt from the provisions of this Chapter:

- (1) Any person who solicits charitable contributions for a religious institution.
- (2) Solicitation of charitable contributions by the federal, State, or local government, or any of their agencies.
- (3) Any person who receives less than twenty-five thousand dollars (\$25,000) in contributions in any calendar year and does not provide compensation to any officer, trustee, organizer, incorporator, fund-raiser, or solicitor.
- (4) Any educational institution, the curriculum of which, in whole or in part, is registered, approved, or accredited by the Southern Association of Colleges and Schools or an equivalent regional accrediting body, any educational institution in compliance with Article 39 of Chapter 115C of the General Statutes, any foundation or department having an established identity with any of these educational institutions, and any organization with a membership that is composed solely of 20 or more educational institutions as defined under this Chapter.
- (5) Any hospital licensed pursuant to Article 5 of Chapter 131E or Article 2 of Chapter 122C of the General Statutes and any foundation or department having an established identity with that hospital if the governing board of the hospital, authorizes the solicitation and receives an accounting of the funds collected and expended.
- (6) Any noncommercial radio or television station.
- (7) A qualified community trust as provided in 26 C.F.R. § 1.170A-9(e)(10) through (e)(14).
- (8) A bona fide volunteer or bona fide employee or salaried officer of a charitable organization or sponsor.

- (9) An attorney, investment counselor, or banker who advises a person to make a charitable contribution.
- (10) A volunteer fire department, REACT (Radio Emergency Associated Communications Teams), rescue squad, or emergency medical service.
- (11) A Young Men's Christian Association or a Young Women's Christian Association.
- (12) A nonprofit continuing care facility licensed under Article 64 of Chapter 58 of the General Statutes.
- (13) Any tax exempt nonprofit fire or emergency medical service organization involved in the sale of goods or services that does not ask for a donation. (1981, c. 886, s. 1; 1983, c. 320, ss. 1, 2; 1991, c. 45, s. 24; 1993 (Reg. Sess., 1994), c. 759, s. 2; 1995 (Reg. Sess., 1996), c. 650, s. 1; 1997-329, s. 1; 2003-373, s. 3; 2005-230, s. 1; 2011-27, s. 1.)

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