



SENATE BILL 429: Modify Charitable Solicitation Licensing Laws.

2023-2024 General Assembly

Committee: Senate Finance. If favorable, re-refer to **Date:** April 25, 2023
Judiciary. If favorable, re-refer to Rules and
Operations of the Senate

Introduced by: Sens. Moffitt, Woodard, Alexander **Prepared by:** Nicholas Giddings
Analysis of: First Edition Staff Attorney

OVERVIEW: *Senate Bill 429 would increase the amount of contributions allowed before a charitable organization must obtain a charitable solicitation license from \$25,000 to \$50,000 (i.e., organizations could receive up to \$50,000 before a license is required). The bill also would remove the requirement that applications for licensure and certain financial reports be notarized.*

CURRENT LAW: Under G.S. 131F-5, organizations that solicit contributions in the State must obtain a license from the NC Secretary of State. G.S. 131F-3 contains a list of exemptions from the licensure requirement, which includes any person who receives less than \$25,000 in contributions in any calendar year and does not provide compensation to any officer, trustee, organizer, incorporator, fund raiser, or solicitor.

Under G.S. 131F-5(c), licenses must be renewed annually. Any change in information from the original license application must be filed annually on or before the 15th day of the 5th calendar month after the close of each fiscal year in which the charitable organization or sponsor solicited in this State, or by the date of any applicable extension of the federal filing date, whichever is later. Extensions given under this subsection must not exceed 3 months after the initial renewal date or 8 months after the conclusion of the year for which financial information is due at the time of renewal. A charitable organization or sponsor whose federal filing date has been extended must, within 7 days after receipt, forward a copy of the document granting the extension to the Department.

Under G.S. 131F-5(d), the Department may extend the time for license renewal and the annual filing of updated information for a period not to exceed 60 days.

BILL ANALYSIS:

Section 1 would exempt additional charitable organizations from the requirement to obtain a charitable solicitation license from the NC Secretary of State. The bill would increase the maximum amount of contributions allowed before a license is required. Currently, a charitable organization must obtain a license if the organization receives more than \$25,000 in contributions. Senate Bill 429 would increase the threshold to \$50,000.

The exemption from obtaining a charitable solicitation license in G.S. 131F-5 would be further expanded by allowing compensation to be paid to an organizer or incorporator who is a licensed attorney or a licensed accountant.

The following information would now be evidence that an organization receives less than \$50,000 in contributions:

- IRS Form 990 or 990 EZ.

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Senate Bill 429

Page 2

- Copy of the message confirming submission of IRS Form 990-N.
- Current-year budget approved by its governing board and that includes projected revenue and projected expenses.
- Financial form developed by the NC Secretary of State.
- Other evidence satisfactory to the NC Secretary of State.

Section 2 would amend licensure renewals in G.S. 131F-5(c) by doing all of the following:

- Deleting language specifying that extensions must not exceed 3 months after the initial renewal date or 8 months after the end of the year in which financial information is due at the time of renewal.
- Providing that the federal filing date refers to the federal information tax form filing date.
- Providing that a license renewal application is "filed" as of the date on the affixed postmark, or if filed electronically, on the date it is sent.
- Requiring that a charitable organization or sponsor whose federal informational tax form has been extended by filing the federal application for automatic extension notify the Secretary of State that the license renewal period is extended by forwarding a copy of the application.

Section 2 would also allow the Secretary of State to extend the time for license renewal and filing of updated information for up to 60 days beyond the (i) 15th day of the 5th calendar month after the close of each fiscal year in which the charitable organization or sponsor solicited in this State or (ii) date of any applicable extension of the federal informational tax form filing date. It also would allow the Secretary of State to extend the time for a charitable organization or sponsor whose federal informational tax filing date has been extended under the federal application for automatic extension for an additional period up to 60 days.

Section 3 would amend the statutes dealing with applications for licensure for a charitable organization or sponsor, for a fundraising consultant, and for solicitors to provide that those applications must be signed, but do not need to be signed under oath. It also would provide that financial reports for solicitation campaigns must be certified, but not certified under oath.

EFFECTIVE DATE: Section 1 would be effective when it becomes law and would apply to requests for exemptions filed on or after that date. Section 2 would become effective October 1, 2023, and apply to license renewals filed on or after that date. The remainder of the act would be effective when it becomes law.