

House Bill 863

By: Representatives Dempsey of the 13th, Peake of the 137th, Smith of the 131st, Carter of the 175th, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to
2 charitable solicitations, so as to revise certain provisions related to charitable solicitations;
3 to require certain information be provided as part of the accounting relating to certain
4 contributions; to provide for applicability of provisions relating to disclosures required by
5 charitable organizations, paid solicitors, or solicitor agents; to provide requirements for use
6 of collection receptacles for certain donations; to define a certain term; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to charitable
11 solicitations, is amended by revising subsection (g) of Code Section 43-17-3, relating to
12 registration of paid solicitors, renewal, financial statements, denial of registration,
13 amendments, contracts, solicitation notices, accounting, deposit of contributions, and records,
14 as follows:

15 "(g) Within 90 days after a solicitation campaign has been completed, and on the
16 anniversary of the commencement of a solicitation campaign lasting more than one year,
17 the paid solicitor shall account to the charitable organization with whom it has contracted
18 and to the Secretary of State for all contributions collected and expenses paid. The
19 accounting shall be in the form of a written report, submitted to the charitable organization
20 and to the Secretary of State, shall be retained by the charitable organization for three
21 years, and shall contain the following information:

22 (1) The total gross receipts;

23 (2) A description of how the gross receipts were distributed, including an itemized list
24 of all expenses, commissions, and other costs of the fundraising campaign and the net
25 amount paid to the charitable organization for its charitable purposes after payment of all
26 fundraising expenses, commissions, and other costs;

27 (3) The signature of the charitable organization acknowledging its agreement with the
 28 accuracy of the report, or a statement from the paid solicitor stating the reasons why such
 29 signature has not been obtained within the prescribed period, including a summary of any
 30 communications from the charitable organization contesting the accuracy of the report;
 31 **and**

32 (4) With respect to any contributions of boats, motor vehicles, clothing, shoes, books,
 33 appliances, and other household items received as a result of solicitations by a paid
 34 solicitor:

35 (A) The names and addresses of any persons to whom such contributions were
 36 delivered by the paid solicitor, by the charitable organization whose name was used in
 37 connection with the solicitation, or by their agents; provided, however, this
 38 subparagraph shall not apply to consumer products which are delivered to a charitable
 39 organization to be sold at retail by the charitable organization with the proceeds of such
 40 sales being used to further the stated charitable purpose of the organization;

41 (B) The total consideration, if any, received by the paid solicitor, by the charitable
 42 organization, or by their agents from such persons for such contributions; and

43 (C) The manner in which such consideration was calculated; and

44 ~~(4)~~(5) Such other information as the Secretary of State by rule may require."

45 **SECTION 2.**

46 Said chapter is further amended by revising Code Section 43-17-8, relating to registration of
 47 paid solicitors and certain disclosures, as follows:

48 "43-17-8.

49 (a) Every charitable organization, paid solicitor, or solicitor agent required to be registered
 50 under this Code section, at the time of any solicitation that occurs in or from this state, shall
 51 include the following disclosures:

52 (1) The name and location of the paid solicitor and solicitor agent, if any;

53 (2) The name and location of the charitable organization for which the solicitation is
 54 being made;

55 (3) That the following information will be sent upon request:

56 (A) A full and fair description of the charitable program for which the solicitation
 57 campaign is being carried out and, if different, a full and fair description of the
 58 programs and activities of the charitable organization on whose behalf the solicitation
 59 is being carried out; and

60 (B) A financial statement or summary which shall be consistent with the financial
 61 statement required to be filed with the Secretary of State pursuant to Code Section
 62 43-17-5; and

63 (4) If made by a solicitor agent or paid solicitor, that the solicitation is being made by a
 64 paid solicitor on behalf of the charitable organization and not by a volunteer and inform
 65 the person being solicited that the contract disclosing the financial arrangements between
 66 the paid solicitor and the charity is on file with and available from the Secretary of State.
 67 (b) This Code section shall not apply to charitable solicitations subject to and in
 68 compliance with the provisions of Code Section 43-17-8.1."

69 **SECTION 3.**

70 Said chapter is further amended by adding a new Code section to read as follows:

71 "43-17-8.1.

72 (a) As used in this Code section, the term 'collection receptacle' means a container which
 73 is not regularly attended by a person representing the charitable organization soliciting a
 74 charitable donation for the purpose of collecting donations of clothing or other tangible
 75 items.

76 (b) When any person makes a solicitation of donation of goods and tangible items from
 77 the public by encouraging donations of such goods and items into a collection receptacle
 78 the provisions of this Code section shall apply to all such solicitations.

79 (c) If the collection receptacle is owned or operated entirely by a charitable organization
 80 exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue
 81 Code of 1986, the receptacle shall contain the following information in boldface letters at
 82 least two inches high on the front of the collection receptacle and directly underneath the
 83 deposit door stating:

84 (1) The name, address, telephone number, and website, if any, of the charitable
 85 organization that owns or operates the collection receptacle, from which persons may
 86 obtain additional information about the charitable organization, including the address of
 87 its principal office and its telephone number; and

88 (2) Whether or not the charitable organization is registered with the Secretary of State
 89 and, if it is registered, a statement that additional information may be obtained from the
 90 Secretary of State, including the charitable purpose for which the charitable organization
 91 exists.

92 (d) If the collection receptacle is owned or operated entirely or in part by a solicitor agent,
 93 a paid solicitor, or any entity other than a religious organization or a charitable
 94 organization, it shall be unlawful for any person to collect donations of goods or tangible
 95 items in a collection receptacle and resell the donated items for profit unless the collection
 96 receptacle prominently displays a statement in boldface letters at least two inches high
 97 located on the front of the collection receptacle and directly underneath the deposit door
 98 stating: 'DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL

99 BE RESOLD FOR PROFIT.' The name, address, telephone number, and website, if any,
 100 of the owner or operator shall also be printed in the same area in letters at least two inches
 101 high.

102 (e) If the collection receptacle is owned or operated entirely or in part by a solicitor agent,
 103 a paid solicitor, or any entity other than a religious organization or a charitable
 104 organization, it shall be unlawful for any person to collect donations of goods or tangible
 105 items in a collection receptacle and resell the donated items where some or all of the
 106 proceeds from the sale are directly given to one or more charitable organizations, unless
 107 the collection receptacle prominently displays a statement in boldface letters at least two
 108 inches high located on the front of the collection receptacle and directly underneath the
 109 deposit door stating: 'THIS COLLECTION BOX IS MAINTAINED BY _____ . THE
 110 ITEMS DEPOSITED IN THIS BOX WILL BE SOLD BY _____ HAS A
 111 CONTRACT WITH _____ [NAME OF CHARITABLE ORGANIZATION] TO PAY
 112 A PORTION OF THE PROCEEDS FROM THE SALE OF THESE ITEMS TO
 113 _____ [CHARITABLE ORGANIZATION]. FURTHER INFORMATION
 114 ABOUT THESE PAYMENTS CAN BE OBTAINED FROM _____ AT
 115 [ADDRESS AND TELEPHONE NUMBER OF PAID SOLICITOR] AND
 116 _____ [ADDRESS AND TELEPHONE NUMBER OF CHARITABLE
 117 ORGANIZATION]. IN ADDITION, FURTHER INFORMATION ABOUT
 118 _____ (NAME OF THE OWNER OR OPERATOR) AND THE
 119 CHARITABLE PURPOSE OF _____ [NAME OF CHARITABLE
 120 ORGANIZATION] CAN BE OBTAINED FROM THE SECRETARY OF STATE.'

121 (f) The Secretary of State may, by rule or regulation, specify additional contact
 122 information which may be required to be disclosed for use by the Secretary of State."

123 **SECTION 4.**

124 All laws and parts of laws in conflict with this Act are repealed.