

The House Committee on Judiciary offers the following substitute to HB 475:

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 implement additional requirements for use of collection
3 receptacles for donations; to provide additional penalties for violation of said chapter; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to charitable
8 solicitations, is amended by adding new subsections to Code Section 43-17-8.1, relating to
9 requirements for use of collection receptacles for donations, to read as follows:

10 "(e)(1) A person placing and operating any collection receptacle on property in which
11 such person has no ownership or leasehold interest shall, prior to such placement and
12 operation, obtain notarized, written permission from all owners of such property or all
13 holders of a leasehold interest in such property to place and operate such collection
14 receptacle on such property. Copies of such notarized, written permission shall be
15 maintained by the person placing and operating such collection receptacle and provided
16 to every owner or leaseholder of such property at any time upon request by any such
17 owner or leaseholder. If such permission is obtained from such property owner or
18 owners, the person placing and operating the collection receptacle shall provide written
19 notification to any leaseholders, tenants, or other occupants of such property of the
20 consent of such property owner or owners to such placement and operation. The
21 notarized, written permission required by this subsection shall include the signature of
22 the person placing and operating the collection receptacle, or such person's authorized
23 agent, and of all owners or leaseholders of the property, as applicable.

24 (2) A person with an existing collection receptacle located on property in which such
25 person has no ownership or leasehold interest shall have until December 31, 2017, to
26 comply with the requirements of this subsection.

27 (f)(1) Any owner or leaseholder of property on which a collection receptacle is placed
28 and operated in conformance with subsection (e) of this Code section may demand
29 removal of such collection receptacle in writing by United States mail, return receipt
30 requested, or statutory overnight delivery to the address listed on the collection receptacle
31 pursuant to this Code section. Such owner or leaseholder shall also send a copy of any
32 such demand to the office of the Secretary of State. The person placing the collection
33 receptacle shall remove the collection receptacle as well as any contents left in and
34 around the collection receptacle within 30 days of the date such demand is either
35 deposited in the United States mail, return receipt requested, or received by statutory
36 overnight delivery.

37 (2) If the person placing and operating the collection receptacle on another's property
38 fails to remove such collection receptacle as required by paragraph (1) of this subsection,
39 any owner or any leaseholder of such property shall have the immediate right to take
40 possession of, remove, and dispose of such collection receptacle and its contents without
41 incurring any civil or criminal liability for such actions. Any expenses incurred in such
42 removal and disposal by such owner or leaseholder shall be invoiced to, and paid by, the
43 person who placed and operated such collection receptacle on such property. The owner
44 or leaseholder may also request that law enforcement personnel take possession of,
45 remove, and dispose of such collection receptacle and the contents thereof. If law
46 enforcement personnel, in their discretion, honor such request, they will be immune from
47 any civil or criminal liability for such actions.

48 (g) Any owner or any leaseholder of the property may demand immediate removal of a
49 collection receptacle if the person who placed and operated the collection receptacle on the
50 property fails to comply with subsection (e) of this Code section.

51 (h) The person placing and operating the collection receptacle shall maintain such
52 receptacle in a structurally sound, clean, and sanitary condition, and regularly empty such
53 receptacle at least every two weeks. Such person shall also be responsible for ensuring that
54 no donations are present on the ground area surrounding the collection receptacle for a time
55 period exceeding 48 hours.

56 (i) Any owner or leaseholder of property who incurs expenses in removing or disposing
57 of any collection receptacle or its contents following the expiration of the period referred
58 to in paragraph (1) of subsection (f) of this Code section, or as a result of any violation of
59 this Code section, may bring a civil action to recover actual damages. The action shall be
60 brought in a court of competent jurisdiction in the county where the collection receptacle
61 was located, in the county in which the person who placed and operated the collection
62 receptacle conducts, transacts, or has transacted business, or, if such person cannot be
63 found in any of the foregoing locations, in the county in which such receptacle is located.

64 (j) Any violation of this Code section shall constitute a misdemeanor."

65 **SECTION 2.**

66 Said chapter is further amended by revising subparagraphs (a)(1)(A) and (a)(1)(B) of Code
67 Section 43-17-13, relating to requirements for use of collection receptacles for donations, as
68 follows:

69 "(A) Subject to notice and opportunity for hearing in accordance with Code Section
70 43-17-16, unless the right to notice is waived by the person against whom the sanction
71 is imposed, the Secretary of State may:

72 (i) Issue a cease and desist order against any person;

73 (ii) Censure the person if the person is registered as a paid solicitor;

74 (iii) Bar or suspend the person from association with a paid solicitor or charitable
75 organization; ~~or~~

76 (iv) Issue an order against a paid solicitor who willfully violates this chapter,
77 imposing a civil penalty up to a maximum of \$2,500.00 for a single violation or up
78 to \$25,000.00 for multiple violations in a single proceeding or a series of related
79 proceedings; or

80 (v) Regarding any willful act, practice, or transaction, issue an order imposing a civil
81 penalty up to a maximum of \$2,500.00 against any person for a single violation or
82 \$25,000.00 for multiple violations in a single proceeding or a series of related
83 proceedings;

84 (B) Imposition of the sanctions under this paragraph is limited as follows:

85 (i) If the Secretary of State revokes the registration of a charitable organization or
86 paid solicitor or bars a person from association with a charitable organization or paid
87 solicitor under subparagraph (A) of this paragraph, the imposition of that sanction
88 precludes imposition of the ~~sanction~~ sanctions specified in ~~division (iv)~~ divisions (iv)
89 and (v) of subparagraph (A) of this paragraph; and

90 (ii) The imposition by the Secretary of State of one or more sanctions under this
91 paragraph with respect to a specific violation precludes the Secretary of State from
92 later imposing any other sanctions under this paragraph with respect to the violation;"

93 **SECTION 3.**

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