

The Senate Committee on Regulated Industries and Utilities offered 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 revise penalties and provide additional penalties for violation
4 of said chapter; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to charitable
8 solicitations, is amended by revising paragraph (4.1) of Code Section 43-17-2, relating to
9 definitions, as follows:
10

11 "(4.1) 'Collection receptacle' means an unattended container, located outdoors, for the
12 purpose of collecting donations of clothing, books, personal or household items, or other
13 goods. Such term shall not include containers used for the purpose of collecting
14 monetary donations."

SECTION 2.

15 Said chapter is further amended by adding new subsections to Code Section 43-17-8.1,
16 relating to requirements for use of collection receptacles for donations, to read as follows:
17

18 "(e)(1) A person placing and operating any collection receptacle on property in which
19 such person has no ownership or leasehold interest shall, prior to such placement and
20 operation, obtain notarized, written permission from all owners of such property, a
21 property management service, or all holders of a leasehold interest in such property to
22 place and operate such collection receptacle on such property. Copies of such notarized,
23 written permission shall be maintained by the person placing and operating such
24 collection receptacle and provided to every owner or leaseholder of such property at any
25 time upon request by any such owner or leaseholder. If such permission is obtained from

26 such property owner or owners, the person placing and operating the collection receptacle
27 shall provide written notification to any leaseholders, tenants, or other occupants of such
28 property of the consent of such property owner or owners to such placement and operation.
29 The notarized, written permission required by this subsection shall include the signature of
30 the person placing and operating the collection receptacle, or such person's authorized agent,
31 and of all owners or leaseholders of the property, as applicable.

32 (2) A person with an existing collection receptacle located on property in which such
33 person has no ownership or leasehold interest shall have until December 31, 2018, to
34 comply with the requirements of this subsection.

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

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

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

59 (h) The person placing and operating the collection receptacle shall maintain such
60 receptacle in a structurally sound, clean, and sanitary condition and regularly empty such
61 receptacle at least every two weeks. Such person shall also be responsible for ensuring that

62 no donations are present on the ground area surrounding the collection receptacle for a time
 63 period exceeding 48 hours.

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

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

73 **SECTION 3.**

74 Said chapter is further amended by revising subparagraphs (a)(1)(A) and (a)(1)(B) of Code
 75 Section 43-17-13, relating to penalties, cease and desist orders, injunctions, restitution,
 76 appointment and powers of receiver, and subpoenas, as follows:

77 "(A) Subject to notice and opportunity for hearing in accordance with Code Section
 78 43-17-16, unless the right to notice is waived by the person against whom the sanction
 79 is imposed, the Secretary of State may:

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

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

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

84 (iv) Issue an order against a paid solicitor who willfully violates this chapter,
 85 imposing a civil penalty up to a maximum of \$2,500.00 for a single violation or up
 86 to ~~\$25,000.00~~ \$5,000.00 for multiple violations in a single proceeding or a series of
 87 related proceedings; or

88 (v) Regarding any willful act, practice, or transaction, issue an order imposing a civil
 89 penalty up to a maximum of \$2,500.00 against any person for a single violation or
 90 \$5,000.00 for multiple violations in a single proceeding or a series of related
 91 proceedings;

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

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

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

102 **SECTION 4.**
103 All laws and parts of laws in conflict with this Act are repealed.