

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 732  
PROPOSED COMMITTEE SUBSTITUTE H732-PCS40432-TMf-8

Short Title: Nonprofit Mergers/Incr.Charit.Solic.Exempts.

(Public)

Sponsors:

Referred to:

April 15, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES  
3 TO THE NORTH CAROLINA NONPROFIT CORPORATION ACT AFFECTING  
4 MERGERS AND TO INCREASE THE THRESHOLD TO BE EXEMPT FROM  
5 CHARITABLE SOLICITATION LICENSING REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 55A-11-02 reads as rewritten:

8 "§ 55A-11-02. **Limitations on mergers by charitable or religious corporations.**

9 (a) Without the prior approval of the superior court in a proceeding in which the Attorney  
10 General has been given written notice, a charitable or religious corporation may merge only with  
11 any of the following:

12 ...

13 (5) A limited liability company (i) whose sole member is a charitable or religious  
14 corporation or a foreign corporation that would qualify under this Chapter as  
15 a charitable or religious corporation and (ii) that is disregarded for income tax  
16 purposes and satisfies both of the following conditions:

17 a. The owner of the limited liability company is an organization that is  
18 exempt from income tax under section 501(c)(3) of the Internal  
19 Revenue Code of 1986 or any successor section.

20 b. The limited liability company is a nonprofit entity that would be  
21 eligible for an exemption under section 501(c)(3) of the Internal  
22 Revenue Code of 1986 or any successor section if it were not  
23 disregarded for income tax purposes.

24 ...."

25 SECTION 2. G.S. 55A-11-09 reads as rewritten:

26 "§ 55A-11-09. **Merger with unincorporated entity.**

27 (a) As used in this section, "business entity" means a domestic business corporation  
28 (including a professional corporation as defined in G.S. 55B-2), a foreign business corporation  
29 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign  
30 nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign  
31 limited partnership, a registered limited liability partnership or foreign limited liability  
32 partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether  
33 or not formed under the laws of this ~~State~~State, or a nonprofit association as defined in  
34 G.S. 59B-2 whether or not formed under the laws of this State.

35 ...



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1 (e1) If the surviving business entity is not a domestic limited liability company, a domestic  
2 business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when  
3 the merger takes effect the surviving business entity is deemed:

- 4 (1) To agree that it may be served with process in this State in any proceeding for  
5 enforcement of (i) any obligation of any merging domestic limited liability  
6 company, domestic business corporation, domestic nonprofit corporation,  
7 domestic limited partnership, or other partnership as defined in G.S. 59-36  
8 that is formed under the laws of this State, or nonprofit association as defined  
9 in G.S. 59B-2 that is formed under the laws of this State, (ii) the appraisal  
10 rights of shareholders of any merging domestic business corporation under  
11 Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the  
12 surviving business entity arising from the merger; and

13 ...."

14 **SECTION 3.** G.S. 131F-3 reads as rewritten:

15 "**§ 131F-3. Exemptions.**

16 The following are exempt from the provisions of this Chapter:

17 ...

- 18 (3) Any person who receives less than ~~twenty five thousand dollars (\$25,000)~~  
19 fifty thousand dollars (\$50,000) in contributions in any calendar year and does  
20 not provide compensation to any officer, trustee, organizer, incorporator,  
21 fund-raiser, or solicitor. Compensation to any organizer or incorporator does  
22 not include professional fees paid to licensed attorneys or licensed  
23 accountants. A charitable organization may demonstrate to the Department  
24 that it receives less than fifty thousand dollars (\$50,000) in contributions by  
25 providing any of the following:

- 26 a. A copy of its most recently completed and filed Internal Revenue  
27 Service Form 990 or Form 990-EZ or an applicable successor form.
- 28 b. A copy of its budget for the current year that was approved by its  
29 governing board and that includes projected revenue and projected  
30 expenses.
- 31 c. A completed financial form developed by the Department.
- 32 d. Any other evidence satisfactory to the Department.

33 ...."

34 **SECTION 4.** This act is effective when it becomes law.