

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 636
PROPOSED COMMITTEE SUBSTITUTE S636-PCS15291-ST-3

Short Title: Donor Privacy.

(Public)

Sponsors:

Referred to:

April 7, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE PRIVACY OF CHARITABLE DONORS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 55A-16-05 reads as rewritten:

5 "**§ 55A-16-05. Limitations on use of membership list.**

6 (a) Without consent of the board of directors, a membership list or any part thereof shall
7 not be obtained or used by any person for any purpose unrelated to a member's interest as a
8 member. Without limiting the generality of the foregoing, and without the consent of the board,
9 a membership list or any part thereof shall not ~~be~~ be used for any of the following:

- 10 (1) ~~Used to~~ To solicit money or property unless such money or property will be
11 used solely to solicit the votes of the members in an election to be held by the
12 ~~corporation;~~ corporation.
13 (2) ~~Used for~~ For any commercial ~~purpose;~~ or purpose.
14 (3) ~~Sold to~~ Sale or purchased ~~purchase~~ by any person.

15 (b) Without the consent of the person, the identity of any person donating monies or other
16 tangible goods to the nonprofit corporation shall not be disclosed by the nonprofit corporation.
17 This subsection shall not apply to disclosures required by State or federal law, criminal
18 investigations, or orders of the court.

19 (c) The court, in an action brought under subsection (b) of this section, may award
20 reasonable attorneys' fees to the prevailing party."

21 SECTION 2. G.S. 132-1.1 is amended by adding a new subsection to read:

22 "(i) Nonprofit Donor Information. – Except as specifically required by State or federal
23 law, the identity of any person donating monies or other tangible goods to a nonprofit corporation
24 is confidential. The court, in an action brought under this subsection, may award reasonable
25 attorneys' fees to the prevailing party."

26 SECTION 3.(a) G.S. 55A-16-24 is amended by adding a new subsection to read:

27 "(c) G.S. 132.1.1(i) shall apply to any attachments or other information submitted in
28 association with the Internal Revenue Service Form 990 or Form 990-EZ required under
29 subsection (a) of this section that identifies donors."

30 SECTION 3.(b) G.S. 58-3-6 is amended by adding a new subsection to read:

31 "(g) G.S. 132.1.1(i) shall apply to any attachments or other information submitted in
32 association with the Internal Revenue Service Form 990 or Form 990-EZ required under
33 subsection (c) of this section that identifies donors."

34 SECTION 3.(c) G.S. 131E-214.14 is amended by adding a new subsection to read:



1 "(c) Donor Information. – G.S. 132.1.1(i) shall apply to any attachments or other
2 information submitted in association with the Internal Revenue Service Form 990 or Form
3 990-EZ required under subsection (a) of this section that identifies donors."

4 **SECTION 3.(d)** G.S. 131F-6 is amended by adding a new subsection to read:

5 "(c) Donor Information. – G.S. 132.1.1(i) shall apply to any attachments or other
6 information submitted in association with the Internal Revenue Service Form 990 or Form
7 990-EZ required under subsection (a) of this section that identifies donors."

8 **SECTION 4.** G.S. 163-278.5 reads as rewritten:

9 "**§ 163-278.5. Scope of Article; severability.**

10 (a) The provisions of this Article apply to primaries and elections for North Carolina
11 offices and to North Carolina referenda and do not apply to primaries and elections for federal
12 offices or offices in other States or to non-North Carolina referenda. Any provision in this Article
13 that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect
14 elections for North Carolina offices or North Carolina referenda.

15 (b) The provisions of this Article are severable. If any provision is held invalid by a court
16 of competent jurisdiction, the invalidity does not affect other provisions of the Article that can
17 be given effect without the invalid provision.

18 (c) This section applies to ~~Articles and [Article]~~ Article 22M of the General Statutes this
19 Chapter to the same extent that it applies to this Article.

20 (d) G.S. 132.1.1(i) shall not apply to any disclosure of donor information required by this
21 Article or Article 22M of this Chapter."

22 **SECTION 5.(a)** G.S. 138A-34 reads as rewritten:

23 "**§ 138A-34. Use of information for private gain.**

24 (a) A public servant or legislative employee shall not use or disclose nonpublic
25 information gained in the course of, or by reason of, the public servant's or legislative employee's
26 official responsibilities in a way that would affect a personal financial interest of the public
27 servant or legislative employee, a member of the public servant's or legislative employee's
28 extended family, or a person or governmental unit with whom or business with which the public
29 servant or legislative employee is associated.

30 (b) A public servant or legislative employee shall not improperly use or improperly
31 disclose any confidential information.

32 (c) No public servant shall use or disclose in any way information gained in the course
33 of the public servant's official activities or by reason of the public servant's official position in
34 violation of G.S. 132-1.1(i)."

35 **SECTION 5.(b)** G.S. 120-87 reads as rewritten:

36 "**§ 120-87. Disclosure of confidential information.**

37 (a) No legislator shall use or disclose in any way confidential information gained in the
38 course of the legislator's official activities or by reason of the legislator's official position that
39 could result in financial gain for: (i) the legislator; (ii) a business with which the legislator is
40 associated; (iii) a nonprofit corporation or organization with which the legislator is associated;
41 (iv) a member of the legislator's immediate family; or (v) any other person.

42 (b) Repealed by Session Laws 2006-201, s. 4, effective January 1, 2007.

43 (c) No legislator shall use or disclose in any way confidential information gained in the
44 course of the legislator's official activities or by reason of the legislator's official position in
45 violation of G.S. 132-1.1(i)."

46 **SECTION 5.(c)** G.S. 14-234.1 reads as rewritten:

47 "**§ 14-234.1. Misuse of confidential information.**

48 (a) It is unlawful for any officer or employee of the State or an officer or an employee of
49 any of its political subdivisions, in contemplation of official action by himself or by a
50 governmental unit with which he is associated, or in reliance on information which was made

1 known to him in his official capacity and which has not been made public, to commit any of the
2 following acts:

3 (1) Acquire a pecuniary interest in any property, transaction, or enterprise or gain
4 any pecuniary benefit which may be affected by such information or official
5 action; or

6 (2) Intentionally aid another to do any of the above acts.

7 (a1) It is unlawful for any officer or employee of the State or an officer or employee of
8 any of its political subdivisions to use or disclose in any way confidential information gained in
9 the course of their official capacity in violation of G.S. 132-1.1(i).

10 (b) Violation of this section is a Class 1 misdemeanor."

11 **SECTION 5.(d)** This section becomes effective October 1, 2021, and applies to
12 offenses committed on or after that date.

13 **SECTION 6.** Except as otherwise provided, this act becomes effective October 1,
14 2021.