

17-1769. Same; unlawful acts and practices. The following acts and practices are hereby declared unlawful as applied to the planning, conduct or execution of any solicitation or charitable purpose:

- (a) Operating in violation of, or failing to comply with, any of the requirements of this act;
- (b) utilizing any deceptive acts or practices whether or not any person has in fact been misled. Deceptive acts or practices include, but are not limited to, the following:
 - (1) The intentional use in any solicitation of exaggeration, innuendo or ambiguity as to a material fact; and
 - (2) the intentional failure to state a material fact, or the intentional concealment, suppression or omission of a material fact in any solicitation;
- (c) utilizing any unconscionable acts or practices. An unconscionable act or practice violates this act whether it occurs before, during or after the solicitation.
 - (1) The unconscionability of an act or practice is a question for the court.
 - (2) In determining whether an act or practice is unconscionable, the court shall consider circumstances which the charitable organization or fund raiser knew or had reason to know including, but not limited to, the following:
 - (A) Taking advantage of a person's inability to reasonably protect such person's interests because of the person's physical infirmity, ignorance, illiteracy, inability to understand the language of a solicitation or similar factor; and
 - (B) using undue pressure in soliciting;
 - (d) utilizing any representation that implies the contribution is for or on behalf of a charitable organization or utilizing any emblem, device or printed matter belonging to or associated with a charitable organization, without obtaining authorization in writing from the charitable organization;
 - (e) utilizing a name, symbol or statement so closely related or similar to that used by another charitable organization that the use thereof would tend to confuse or mislead a solicited person, whether or not any person has in fact been misled;
 - (f) misrepresenting or misleading any person in any manner to believe that the person on whose behalf a solicitation or charitable purpose is being conducted is a charitable organization;
 - (g) using donations for purposes other than those stated in an organization's articles of incorporation or current registration statements filed with the secretary of state;
 - (h) using donations for purposes other than those stated in solicitations;
 - (i) using donations for other than charitable purposes;
 - (j) misrepresenting or misleading any person in any matter, to believe that any other person or governmental unit sponsors, endorses or approves such solicitation or charitable purpose when such other person has not given consent in writing to the use of such person's name for these purposes; and
 - (k) utilizing or exploiting the fact of registrations so as to lead any person to believe that such registration in any manner constitutes an endorsement or approval by the state.

History: L. 1988, ch. 96, § 11; L. 1990, ch. 84, § 5; July 1.