

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH50213-LB-224 (04/01)

Short Title: No Charitable Fndn. Donations to For-Profits. (Public)

Sponsors: Representative Luebke.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW THAT CHARITABLE FOUNDATIONS MAY NOT DONATE TO FOR-PROFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55A-13-02 reads as rewritten:

"§ 55A-13-02. Authorized distributions.

(a) A corporation may pay reasonable amounts to its members, directors, or officers for services rendered or other value received and may confer benefits upon its members in conformity with its purposes.

(b) Subject to the provisions of subsection (d) of this section:

(1) A corporation may make distributions to any entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to a charitable or religious corporation, the United States, a state or an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section.

(2) Any corporation other than a charitable or religious corporation may make distributions to any domestic or foreign corporation. Specifically, a charitable corporation may not make any gift or grant to a for-profit corporation.

(3) Except as otherwise prohibited by statute, a corporation not operated for profit, the membership of which is limited to the owners or occupants of real property in a condominium, cooperative housing corporation, or other real property development, having as its primary purposes the management, operation, preservation, maintenance, and

1 repair of common areas and improvements upon the real property
2 owned by the members and the corporation or organization, may make
3 distribution to its members of excess or surplus membership dues,
4 fees, or assessments remaining after the payment of or provisions for
5 common expenses and any prepayment of reserves; provided that these
6 distributions are in proportion to the dues, fees, or assessments
7 collected from the members.

8 (c) Subject to the provisions of subsection (d) of this section, a corporation other
9 than a charitable or religious corporation may make distributions to purchase its
10 memberships.

11 (d) A corporation shall not make any distribution under subsection (b) or (c) of
12 this section if at the time of or as a result of such distribution:

13 (1) The corporation would not be able to pay its debts as they become due
14 in the usual course of business; or

15 (2) The corporation's total assets would be less than the sum of its total
16 liabilities."

17 **SECTION 2.** This act is effective when it becomes law.