

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1036**

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

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Sponsors: Representative Luebke.

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Referred to: Ways and Means.

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April 10, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE LAW THAT CHARITABLE FOUNDATIONS MAY  
3 NOT DONATE TO FOR-PROFITS.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 55A-13-02. Authorized distributions.**

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

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

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

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

23 (3) Except as otherwise prohibited by statute, a corporation not operated  
24 for profit, the membership of which is limited to the owners or  
25 occupants of real property in a condominium, cooperative housing  
26 corporation, or other real property development, having as its primary  
27 purposes the management, operation, preservation, maintenance, and  
28 repair of common areas and improvements upon the real property  
29 owned by the members and the corporation or organization, may make

1 distribution to its members of excess or surplus membership dues,  
2 fees, or assessments remaining after the payment of or provisions for  
3 common expenses and any prepayment of reserves; provided that these  
4 distributions are in proportion to the dues, fees, or assessments  
5 collected from the members.

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

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

- 11 (1) The corporation would not be able to pay its debts as they become due  
12 in the usual course of business; or  
13 (2) The corporation's total assets would be less than the sum of its total  
14 liabilities."

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