

SENATE BILL No. 308

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-7-8.

Synopsis: Professional fundraisers. Sets a July 1 expiration date for professional fundraiser registration renewals. Modifies information that registrants must provide to the attorney general.

Effective: July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 308



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 23-7-8-2 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person may not act as a
- 3 professional fundraiser consultant or professional solicitor for a
- 4 charitable organization unless the person has first registered with the
- 5 division. A person who applies for registration shall disclose the
- 6 following information while under oath:
- 7 (1) The names and addresses of all officers, employees, and
- 8 agents who are actively involved in fundraising or related
- 9 activities.
- 10 (2) The names and addresses of all persons who own a ten percent
- 11 (10%) or more interest in the registrant.
- 12 (3) A description of any other business related to fundraising
- 13 conducted by the registrant or any person who owns ten percent
- 14 (10%) or more interest.
- 15 (4) The name or names under which it intends to solicit
- 16 contributions.
- 17 (5) Whether the organization has ever had its registration denied,



1 suspended, revoked, or enjoined by any court or other
2 governmental authority.

3 (b) A registrant shall notify the division in writing within one
4 hundred eighty (180) days of any change in the information contained
5 in the registration. However, if requested by the division, the solicitor
6 has fifteen (15) days to notify the division of any change in the
7 information.

8 ~~(c)~~ Each registration is valid for one (1) year and may be renewed
9 for additional one (1) year periods upon application to the division and
10 payment of the renewal fee.

11 ~~(d)~~ (c) Before acting as a professional fundraiser consultant for a
12 particular charitable organization, the consultant must enter into a
13 written contract with the organization and file this contract with the
14 division. The contract must identify the services that the professional
15 fundraiser consultant is to provide, including whether the professional
16 fundraiser consultant will at any time have custody of contributions.

17 ~~(e)~~ (d) Before a professional solicitor engages in a solicitation, the
18 professional solicitor must have a contract which is filed with the
19 division. This contract must specify the percentage of gross
20 contributions which the charitable organization will receive or the
21 terms upon which a determination can be made as to the amount of the
22 gross revenue from the solicitation campaign that the charitable
23 organization will receive. The amount that the charitable organization
24 will receive must be expressed as a fixed percentage of the gross
25 revenue or as a reasonable estimate of the gross revenue. **of gross
26 revenue from the solicitation campaign that the charitable
27 organization will receive must be expressed as a fixed percentage
28 of the gross revenue or expressed as a reasonable estimate of the
29 percentage of the gross revenue. If a reasonable estimate is used,
30 the contract must clearly disclose the assumptions or a formula
31 upon which the estimate is based.** If a fixed percentage is used, the
32 percentage must exclude any amount that the charitable organization
33 is to pay as expenses of the solicitation campaign, including the cost of
34 the merchandise or services sold. If requested by the charitable
35 organization, the person who solicits must at the conclusion of a
36 charitable appeal provide to the charitable organization the names and
37 addresses of all contributors, the amount of each contribution, and a
38 final accounting of all expenditures. Such information may not be used
39 in violation of any trade secret laws. The contract must disclose the
40 average percentage of gross contributions collected on behalf of
41 charitable organizations that the charitable organizations received from
42 the professional solicitor for the three (3) years preceding the year in

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1 which the contract is formed.

2 ~~(f)~~ **(e)** Before beginning a solicitation campaign, a professional
3 solicitor must file a solicitation notice with the division. The notice
4 must include the following:

- 5 (1) A copy of the contract described in subsection ~~(e)~~: **(d)**.
6 (2) The projected dates when soliciting will begin and end.
7 (3) The location and telephone number from where solicitation
8 will be conducted.
9 (4) The name and residence address of each person responsible
10 for directing and supervising the conduct of the campaign.
11 However, the division shall not divulge the residence address
12 unless ordered to do so by a court of competent jurisdiction, or in
13 furtherance of the prosecution of a violation under this chapter.
14 (5) If the solicitation is one described under section 7(a)(2) of this
15 chapter, the solicitation notice must include a copy of the required
16 written authorization.

17 ~~(g)~~ **(f)** Not later than ninety (90) days after a solicitation campaign
18 other than a campaign for which a written authorization has been filed
19 under subsection ~~(f)(5)~~; has ended **and not later than ninety (90) days**
20 **after the anniversary of the commencement of a solicitation**
21 **campaign lasting more than one (1) year**, a professional solicitor
22 shall submit the following information concerning the campaign to the
23 division:

- 24 (1) The total gross amount of money raised by the professional
25 solicitor and the charitable organization from donors.
26 (2) The total amount of money paid to or retained by the
27 professional solicitor.
28 (3) The total amount of money, not including the amount
29 identified under ~~subsection (g)(2)~~; **subdivision (2)**, paid by the
30 charitable organization as expenses as part of the solicitation
31 campaign.
32 (4) The total amount of money paid to or retained by the
33 charitable organization after the amounts identified under
34 ~~subsection (g)(2)~~ **subdivision (2)** and ~~(g)(3)~~ **(3)** are deducted.

35 The division may deny or revoke the registration of a professional
36 solicitor who fails to comply with this subsection.

37 ~~(h)~~ **(g)** The charitable organization on whose behalf the professional
38 solicitor is acting must certify that the information filed under
39 subsections ~~(f)~~ **(e)** and ~~(g)~~ **(f)** is true and complete to the best of its
40 knowledge.

41 ~~(i)~~ **(h)** At the beginning of each solicitation call, a professional
42 fundraiser consultant and a professional solicitor must state all of the

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1 following:

2 (1) The name of the company for whom the professional
3 fundraiser consultant or professional solicitor is calling.

4 (2) The name of the professional fundraiser consultant or
5 professional solicitor.

6 (3) The phone number and address of the location from which the
7 professional fundraiser consultant or professional solicitor is
8 making the telephone call.

9 (4) The percentage of the charitable contribution that will be
10 expended for charitable purposes after administrative costs and
11 the costs of making the solicitation have been satisfied.

12 SECTION 2. IC 23-7-8-7 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who solicits
14 charitable contributions may not:

15 (1) use the fact of registration as an endorsement by the state;

16 (2) **misrepresent that the person is an officer or employee of
17 a public safety agency;**

18 (3) use the name "police", "law enforcement", "trooper", "rescue
19 squad", "firemen", or "firefighter" unless a bona fide police, law
20 enforcement, rescue squad, or fire department authorizes its use
21 in writing;

22 ~~(3)~~ (4) misrepresent to anyone that the contribution will be used
23 for a charitable purpose if the person has reason to believe the
24 contribution will not be used for a charitable purpose;

25 ~~(4)~~ (5) misrepresent to anyone that another person endorses the
26 solicitation unless that person has consented in writing to the use
27 of the person's name for the purpose of endorsing the solicitation;

28 ~~(5)~~ (6) misrepresent to anyone that the contribution is solicited on
29 behalf of anyone other than the charitable organization that
30 authorized the solicitation; or

31 ~~(6)~~ (7) collect or attempt to collect a contribution in person or by
32 means of a courier unless:

33 (A) the solicitation is made in person and the collection or
34 attempt to collect is made at the time of the solicitation; or

35 (B) the contributor has agreed to purchase goods or items in
36 connection with the solicitation, and the collection or attempt
37 to collect is made at the time of delivery of the goods or items.

38 (b) A person who solicits charitable contributions shall not represent
39 that tickets to events will be donated for use by another, unless the
40 following requirements have been met:

41 (1) The paid solicitor has commitments, in writing, from
42 charitable organizations stating that they will accept donated

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1 tickets and specifying the number of tickets they are willing to
2 accept.
3 (2) No more contributions for donated tickets are solicited than
4 the number of ticket commitments received from charitable
5 organizations.

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