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# HOUSE BILL No. 1390

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 23-7.

**Synopsis:** Disclosure of charity administration expenses. Requires a person who, for financial consideration, solicits contributions for certain charitable organizations to disclose in a written or oral solicitation the estimated percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the cost of making the solicitation have been satisfied. Provides an exclusion for a person who solicits contributions for: (1) a charitable institution that received less than \$250,000 during the previous year in contributions; or (2) a church, synagogue, mosque, or certain religious organizations. Requires an officer or employee of certain charitable organizations to disclose in a written or oral solicitation the estimated percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the cost of making the solicitation have been satisfied. Provides an exclusion for: (1) a charitable institution that received less than \$250,000 during the previous year in contributions; or (2) a church, synagogue, mosque or certain religious organizations. Provides that the disclosure requirement does not apply to a volunteer of a charitable organization. Provides that the consumer protection division of the attorney general's office may investigate charitable organization disclosure complaints. Provides that the attorney general's office may bring an action to enjoin disclosure violations. Provides that a court may order a charitable organization to pay the reasonable costs of investigation and prosecution incurred by the attorney general and may award the state civil penalties up to \$500 for each violation.

**Effective:** July 1, 2011.

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## Heuer, Borders

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January 18, 2011, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1390



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 23-7-8-6 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A professional solicitor
- 3 subject to registration under this chapter or a person who is employed
- 4 to solicit or act on behalf of a professional solicitor subject to
- 5 registration under this chapter shall disclose at the time of the
- 6 solicitation and before the donor agrees to make a contribution:
- 7 (1) the name and, upon request, the address of the charitable
- 8 organization that is being represented;
- 9 (2) the fact that the person soliciting the contribution is, or is
- 10 employed by, a professional solicitor, and the fact that the
- 11 professional solicitor is compensated;
- 12 (3) the full name of the professional solicitor and, upon request,
- 13 the telephone number the person being solicited can call to
- 14 confirm the information provided under this section; ~~and~~
- 15 (4) the charitable purpose for which the funds are being raised;
- 16 **and**
- 17 **(5) in the case of a solicitation for, or on behalf of an**



1 organization described in Section 501(c)(3) of the federal  
2 Internal Revenue Code that received at least two hundred  
3 fifty thousand dollars (\$250,000) in contributions during the  
4 previous year, the estimated percentage of the charitable  
5 contribution that will be expended for charitable purposes  
6 after administrative costs and the costs of making the  
7 solicitation have been satisfied. This subdivision does not  
8 apply to a solicitation for or on behalf of a religious  
9 organization (as defined in IC 23-7-8.5-4).

10 (b) If a person solicits in writing or in person, the disclosures  
11 required by subsection (a)(1), ~~and~~ (a)(2), **and (a)(5)** shall be in writing.  
12 If a person solicits by telephone, the disclosures required by subsection  
13 (a)(1), ~~and~~ (a)(2), **and (a)(5)** shall be made orally.

14 (c) A written confirmation shall be mailed within ten (10) days after  
15 each solicitation in which a contribution has been given. This  
16 confirmation must include the disclosures required under subsection  
17 (a)(1), ~~and~~ (a)(2), **and (a)(5)**.

18 (d) All disclosures required by this section must be clear and  
19 conspicuous.

20 (e) A contributor has the right to cancel a pledge for monetary  
21 contribution at any time prior to making the contribution.

22 SECTION 2. IC 23-7-8.5 IS ADDED TO THE INDIANA CODE  
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2011]:

25 **Chapter 8.5. Charitable Organization Solicitation Disclosures.**

26 **Sec. 1. (a) Except as provided in subsection (b), this chapter**  
27 **applies to a charitable organization described in Section 501(c)(3)**  
28 **of the Internal Revenue Code.**

29 **(b) This chapter does not apply to the following:**

30 **(1) A charitable organization that received less than two**  
31 **hundred fifty thousand dollars (\$250,000) during the previous**  
32 **year in contributions.**

33 **(2) A religious organization.**

34 **Sec. 2. Except as otherwise provided in this chapter, the**  
35 **definitions in IC 23-7-8 apply throughout this chapter.**

36 **Sec. 3. As used in this chapter, "charitable organization" means**  
37 **any organization described in Section 501(c)(3) of the Internal**  
38 **Revenue Code.**

39 **Sec. 4. As used in this chapter, "religious organization" refers**  
40 **to a church, synagogue, mosque, association or convention of**  
41 **churches, or a religious order or religious organization that is an**  
42 **integral part of a church, that is tax exempt under Section**

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1 501(c)(3) of the Internal Revenue Code and is exempt from filing  
2 an annual return under Section 6033 of the Internal Revenue Code.

3 Sec. 5. (a) An officer or a bona fide employee of a charitable  
4 organization shall disclose at the time the officer or employee  
5 solicits a charitable contribution, and before the donor agrees to  
6 make a contribution, the estimated percentage of the charitable  
7 contribution that will be expended for charitable purposes after  
8 administrative costs and the costs of making the solicitation have  
9 been satisfied.

10 (b) If an officer or a bona fide employee of a charitable  
11 organization solicits in writing or in person, the disclosure required  
12 by subsection (a) must be in writing. If an officer or a bona fide  
13 employee of a charitable solicits by telephone, the disclosure  
14 required by subsection (a) must be made orally.

15 (c) This section does not apply to a volunteer of a charitable  
16 organization.

17 Sec. 6. (a) The division may receive, investigate, and prosecute  
18 complaints concerning the activities of charitable organizations  
19 that have or may have violated this chapter. All complaints must  
20 be in writing, signed by the complainant, and filed with the  
21 division.

22 (b) The attorney general may subpoena witnesses and send for  
23 and compel the production of books, records, papers, and  
24 documents of a charitable organization, for the furtherance of any  
25 investigation under this chapter. The circuit or superior court  
26 located in the county where the subpoena is to be issued shall  
27 enforce any such subpoena by the attorney general.

28 (c) The attorney general may bring an action to enjoin a  
29 violation of this chapter. In the action, the court may order a  
30 person who has violated this chapter to pay the reasonable costs of  
31 investigation and prosecution incurred by the attorney general,  
32 and may award the state civil penalties of up to five hundred  
33 dollars (\$500) for each violation. To obtain an order for injunctive  
34 relief, the division is not required to establish irreparable harm but  
35 only a violation of a statute or that the requested order promotes  
36 the public interest. It is an affirmative defense to the assessment of  
37 civil penalties under this subsection that the defendant acted under  
38 a good faith misunderstanding concerning the requirements of this  
39 chapter.

40 (d) A charitable organization:

41 (1) whose principal place of business is outside Indiana or that  
42 is organized under the laws of another state; and

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1           **(2) that solicits contributions from persons in Indiana;**  
2           **is subject to this chapter and is considered to have appointed the**  
3           **secretary of state as its agent for service of process. All service of**  
4           **process under this subsection shall be made on the secretary of**  
5           **state under Rule 4.19 of the Indiana Rules of Trial Procedure.**

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