

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

ARTICLE 1. TELEPHONE SOLICITATIONS

Rule 1. Definitions

11 IAC 1-1-1 Applicability

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-2

Sec. 1. The definitions set forth at IC 24-4.7-2, as supplemented in this rule, apply throughout this title. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1854*)

11 IAC 1-1-2 “Contract made under a telephone sales call” defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-4-4; IC 24-4.7-4-5

Sec. 2. For the purposes of IC 24-4.7-4-4 and IC 24-4.7-4-5, a “contract made under a telephone sales call” does not include a contract for the sale, purchase, or mortgage of real estate if:

(1) the sale, purchase, or mortgage of real estate is not completed; and

(2) the payment or authorization of payment is not required;

solely as a result of the telephone sales call. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1854*)

11 IAC 1-1-3 “Division” defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-2-4

Sec. 3. As used in this title, “division” refers to the consumer protection division of the office of the attorney general. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-3; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1854*)

11 IAC 1-1-3.5 “Existing debt or contract” defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-1-1

Sec. 3.5. (a) For the purposes of IC 24-4.7-1-1, “existing debt or contract” means:

(1) a sum of money currently owed by the consumer who receives the telephone call to the telephone solicitor making the call or to the person who contracted, hired, or authorized the telephone solicitor making the call; or

(2) a legally binding agreement currently in effect between the consumer who receives the call and the telephone solicitor making the call or the person who contracted, hired, or authorized the telephone solicitor making the call.

(b) For the purposes of IC 24-4.7-1-1, an “existing debt or contract” does not include:

(1) an existing debt that the consumer has with a person other than the telephone solicitor making the call or the person who contracted, hired, or authorized the telephone solicitor making the call; or

(2) an existing contract that the consumer has with a person other than the telephone solicitor making the call or the person who contracted, hired, or authorized the telephone solicitor making the call.

(*Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-3.5; filed Feb 17, 2003, 9:54 a.m.: 26 IR 2300*)

11 IAC 1-1-4 “Express request” defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-1-1

Sec. 4. For the purposes of IC 24-4.7-1-1, “express request” means a specific grant of authority made by a residential

telephone subscriber at a verifiable date and time authorizing a telephone solicitor to make a telephone sales call to the residential telephone subscriber's residential telephone number. The grant of authority:

- (1) shall not be included as a condition of a contract for the sale of consumer goods or services;
- (2) shall not be given by a person other than the residential telephone subscriber to whom the call will be made; and
- (3) if in writing, must be set forth in a document that:
 - (A) is separate from any written contract between the residential telephone subscriber and the telephone solicitor authorized to make the telephone sales call;
 - (B) is printed in 12-point boldface type or larger; and
 - (C) contains only the grant of authority.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-4; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1854)

11 IAC 1-1-5 "Person" defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 4-6-9-8; IC 24-4.7-3-7

Sec. 5. As used in this title, "person" means an individual, an incorporated or unincorporated organization, an association, or any other legal entity. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-5; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)*

11 IAC 1-1-6 "Residential telephone number" defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7

Sec. 6. As used in this title and for the purposes of IC 24-4.7, "residential telephone number" means a number held or used by a residential telephone subscriber that terminates at that subscriber's place of residence. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-6; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)*

11 IAC 1-1-7 "Residential telephone subscriber" defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7

Sec. 7. As used in this title and for the purposes of IC 24-4.7, "residential telephone subscriber" means an individual:

- (1) who has subscribed to telephone service terminating at that individual's residence, or the individual's spouse; or
- (2) for whose use another person subscribes to telephone service terminating at the individual's place of residence.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-7; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)

11 IAC 1-1-8 "Telephone privacy list" defined

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-3

Sec. 8. As used in this title, "telephone privacy list" refers to the no telephone sales solicitation listing published by the division under IC 24-4.7-3. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-1-8; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)*

Rule 2. Telephone Solicitors' Maintenance of Records Related to Telephone Sales Solicitations

11 IAC 1-2-1 Telephone solicitors' required records

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7

Sec. 1. A telephone solicitor subject to IC 24-4.7 shall keep the following information as part of its business records:

- (1) the name and telephone number of each consumer contacted by a telephone sales call;
- (2) all substantially different advertising, brochures, telemarketing scripts, and promotional materials used in its solicitation of the consumer;
- (3) all express requests authorizing the telephone solicitor to contact the consumer; and
- (4) for all current and former employees directly involved in telephone sales, the employee's:
 - (A) name;
 - (B) last known home address;
 - (C) last known telephone number; and
 - (D) job title(s).

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-2-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)

11 IAC 1-2-2 Length of time telephone solicitors must retain records

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7

Sec. 2. A telephone solicitor shall keep the information in section 1 of this rule for two (2) years following the date the information first becomes part of its records. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-2-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)*

11 IAC 1-2-3 Attorney general's access to solicitor's records

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7

Sec. 3. Within ten (10) days of an oral or written request by the division, a telephone solicitor shall make the records it keeps pursuant to this rule available for inspection and copying by the attorney general during normal business hours. This section does not limit the attorney general's ability to inspect and copy material pursuant to any other means authorized by law. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-2-3; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)*

Rule 3. Enforcement of Violations of IC 24-4.7

11 IAC 1-3-1 Mitigating factors

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-3-2; IC 24-4.7-4; IC 24-4.7-5

Sec. 1. In any proceeding brought against a telephone solicitor by the attorney general under IC 24-4.7-5, the attorney general may consider the following as mitigating factors in the attorney general's decision to seek civil penalties under IC 24-4.7-5:

- (1) That the defendant has obtained, from the division or the agent with which the division has contracted under IC 24-4.7-3-2, the most recently published telephone privacy list.
- (2) That the defendant has maintained the records required by 11 IAC 1-2-1.
- (3) That the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of IC 24-4.7-4.
- (4) That the defendant has not previously been found to have violated IC 24-4.7.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-3-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1855)

Rule 4. Charitable Solicitor's Disclosure

11 IAC 1-4-1 Charitable solicitor's disclosure

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 23-7-8-1; IC 24-4.7-4-2

Sec. 1. The attorney general shall consider a person engaged in noncommercial speech, including a professional fundraiser consultant or solicitor as defined at IC 23-7-8-1 who calls on behalf of such charitable organization, to have sufficiently complied with IC 24-4.7-4-2 if the person makes the disclosures required by IC 24-4.7-4-2 before requesting a donation. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 1-4-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1856)*

ARTICLE 2. PROVISION OF LISTING OF TELEPHONE NUMBERS NOT TO BE SOLICITED

Rule 1. Applicability

11 IAC 2-1-1 Applicability

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-3

Sec. 1. This article governs the division's provision of the telephone privacy list. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-1-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1856)*

Rule 2. Consumer Registration with the Telephone Privacy List

11 IAC 2-2-1 Manner of consumer registration

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-3-2

Sec. 1. A consumer who resides in Indiana may request that his or her residential telephone number or numbers be added to the telephone privacy list by submitting a request in any manner provided by the division, or by the agent with which the division has contracted under IC 24-4.7-3-2, which may include any of the following:

(1) Completing a written form designed by the division, or the agent with which the division has contracted under IC 24-4.7-3-2, for the purpose of recording a consumer's request to be placed on the telephone privacy list.

(2) Calling a toll-free number established by the division, or by the agent with which the division has contracted under IC 24-4.7-3-2, for the purpose of recording a consumer's request to be placed on the telephone privacy list, and providing all the information requested.

(3) Accessing the appropriate Internet site established by the division, or by the agent with which the division has contracted under IC 24-4.7-3-2, for the purpose of recording a consumer's request to be placed on the telephone privacy list and inputting the proper data requested by the Web site prompts.

(4) Submitting a request in any other format that the division or the agent with which the division has contracted under IC 24-4.7-3-2 may from time to time establish.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-2-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1856)

11 IAC 2-2-2 Required information for consumer registration

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-3

Sec. 2. Any method of registering with the telephone privacy list shall require the consumer to provide, at a minimum, the following information:

(1) The consumer's name.

(2) The residential telephone number or numbers the consumer wishes to register with the telephone privacy list.

(3) The consumer's address.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-2-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1856)

11 IAC 2-2-3 Deadline for telephone numbers' inclusion in next quarterly publication of telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
 Affected: IC 24-4.7-3-1

Sec. 3. The telephone numbers of properly completed requests for registration with the telephone privacy list shall become part of the telephone privacy list in the quarter following the deadline for receipt of registration requests according to the following schedule:

<u>Calendar Quarter</u>	<u>Receipt Deadline</u>
January–March	November 1
April–June	February 1
July–September	May 1
October–December	August 1

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-2-3; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1856)

11 IAC 2-2-4 Consumers' revocation of registration

Authority: IC 4-6-9-8; IC 24-4.7-3-7
 Affected: IC 24-4.7-3-2

Sec. 4. A consumer may remove his or her residential telephone number or numbers from the telephone privacy list by submitting a revocation notice for the number or numbers to the division or the agent with which the division has contracted under IC 24-4.7-3-2. Such request may be submitted in any manner established by the division as described in section 1 of this rule, and must contain at least the information required in section 2 of this rule. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-2-4; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857)*

11 IAC 2-2-5 Information provided to consumers added to the telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
 Affected: IC 24-4.7-3-1; IC 24-4.7-3-2; IC 24-4.7-4

Sec. 5. Utilizing mail, e-mail, or other appropriate methods, the division shall communicate to consumers whose residential telephone numbers have been added to the telephone privacy list:

- (1) that the residential telephone number has been added to the telephone privacy list;
- (2) general information about the telephone privacy act; and
- (3) procedures for changing or removing their residential telephone numbers from the telephone privacy list.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-2-5; filed Jun 17, 2002, 4:28 p.m.: 25 IR 3702)

Rule 3. Registration with the Telephone Privacy List by Persons Not Consumers, but Holding or Controlling Residential Telephone Numbers Used by Consumers

11 IAC 2-3-1 Registration by persons not consumers

Authority: IC 4-6-9-8; IC 24-4.7-3-7
 Affected: IC 24-4.7-3

Sec. 1. A person who is not a consumer, but who subscribes to residential telephone numbers used by consumers, may register such numbers with the telephone privacy list in any manner established by the division as described in 11 IAC 2-2-1. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-3-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857)*

11 IAC 2-3-2 Prohibition against registration of nonresidential telephone numbers

Authority: IC 4-6-9-8; IC 24-4.7-3-7
 Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 2. A person described in section 1 of this rule may not register telephone numbers that are not residential telephone numbers. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-3-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857*)

Rule 4. Consumers and Persons Submitting More than 10 Residential Telephone Numbers for Registration with the Telephone Privacy List

11 IAC 2-4-1 Registration of more than 10 telephone numbers

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 1. A consumer, or a person described in 11 IAC 2-3-1, may register more than ten (10) residential telephone numbers with the telephone privacy list if the consumer or person provides:

- (1) the consumer's or person's name;
- (2) the residential telephone numbers the consumer or person wants to register with the telephone privacy list; and
- (3) the consumer's or person's address;

in any manner established by the division for registering more than ten (10) such numbers. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-4-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857*)

Rule 5. Removal of Telephone Numbers from the Telephone Privacy List

11 IAC 2-5-1 Division's authority to purge nonresidential telephone numbers

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 1. The division shall purge or shall direct the agent with which it has contracted pursuant to IC 24-4.7-3-2 to purge from the telephone privacy list any number that it learns is not a residential telephone number. The division shall remove the relevant telephone number from the telephone privacy list according to the same schedule used for adding residential telephone numbers to the telephone privacy list. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-5-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857; filed Jun 17, 2002, 4:28 p.m.: 25 IR 3702*)

11 IAC 2-5-2 Division's authority to purge telephone numbers no longer assigned to consumer

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 2. The division shall purge or shall direct the agent with which it has contracted pursuant to IC 24-4.7-3-2 to purge from the telephone privacy list a residential telephone number if the division learns that the number is no longer assigned to the consumer who registered the number. The division shall remove the relevant telephone number from the telephone privacy list according to the same schedule used for adding residential telephone numbers to the telephone privacy list. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-5-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857; filed Jun 17, 2002, 4:28 p.m.: 25 IR 3702*)

11 IAC 2-5-3 Purging registered telephone number upon consumer's revocation notice

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 3. The division shall purge or shall direct the agent with which it has contracted pursuant to IC 24-4.7-3-2 to purge a residential telephone number of a consumer who submits the revocation notice described in 11 IAC 2-2-4. Upon receiving such revocation notice, the division shall remove the relevant telephone number from the telephone privacy list according to the same schedule used for adding residential telephone numbers to the telephone privacy list. (*Consumer Protection Division of the Office*

of the Attorney General; 11 IAC 2-5-3; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857; filed Jun 17, 2002, 4:28 p.m.: 25 IR 3702)

11 IAC 2-5-4 Annual purging of the telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 4. Annually, the division shall use reasonable efforts to identify and remove the following from the telephone privacy list:

(1) Telephone numbers disconnected since the date of initial registration.

(2) Any telephone number no longer assigned to a consumer who has registered the number with the telephone privacy list. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-5-4; filed Jun 17, 2002, 4:28 p.m.: 25 IR 3702; errata filed Aug 30, 2002, 9:58 a.m.: 26 IR 35)*

Rule 6. Access to the Telephone Privacy List

11 IAC 2-6-1 Fee for obtaining telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1

Sec. 1. (a) The fee for obtaining the telephone privacy list on CD-ROM or via download from the telephone privacy Web site is seven hundred fifty dollars (\$750). The person paying this fee is entitled to four (4) consecutive quarterly publications of the telephone privacy list.

(b) The fee for obtaining the telephone privacy list in printed hard copy format is the fee established under subsection (a), plus fifteen cents (\$0.15) per page. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6)*

11 IAC 2-6-2 Requirements for obtaining telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 2. A person may obtain a copy of the telephone privacy list established under IC 24-4.7-3 by:

(1) paying the fee set forth at section 1 of this rule; and

(2) providing the information requested by the division or by the agent with which the division has contracted pursuant to IC 24-4.7-3-2.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858)

11 IAC 2-6-3 Division's provision of telephone privacy list in printed form

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 3. The division shall make a printed copy of the telephone privacy list available for purchase by persons complying with section 2 of this rule. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-3; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858)*

11 IAC 2-6-4 Division's provision of telephone privacy list in nonprinted form

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2; IC 24-4.7-4

Sec. 4. The division may make the telephone privacy list available for purchase in other forms by persons complying with section 2 of this rule if the division determines that such additional forms will further the efficient dissemination of the telephone

privacy list and encourage compliance with IC 24-4.7-4 or this title. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-4; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858*)

11 IAC 2-6-5 Information contained in published telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2; IC 24-4.7-4

Sec. 5. The telephone privacy list published by the division, regardless of its form, shall not contain names, addresses, or other identifying information beyond the residential telephone numbers that telephone solicitors are prohibited from calling under IC 24-4.7-4. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-5; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6*)

11 IAC 2-6-6 Unauthorized duplication or dissemination of telephone privacy list prohibited

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 6. A person obtaining a copy of the telephone privacy list shall not disseminate, duplicate, distribute, transmit, or photocopy the list to third parties without the prior written consent of the division. For the purpose of this section, a subsidiary in which a person has a majority ownership interest shall not be considered a third party. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-6; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6*)

Rule 7. Inclusion of National Database into Telephone Privacy List

11 IAC 2-7-1 Inclusion of national database into telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2; IC 24-4.7-4-3

Sec. 1. If, pursuant to 42 U.S.C. 227(c)(3), the Federal Communications Commission establishes a single national data base of telephone numbers of subscribers who object to receiving telephone solicitations, the division shall include the part of such single national data base that relates to Indiana in the data base established under IC 24-4.7-4-3. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-7-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858*)

Rule 8. Use of the Telephone Privacy List

11 IAC 2-8-1 Telephone solicitors' use of the telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7

Sec. 1. A telephone solicitor shall not use the telephone privacy list, or the information accepted by the division in compiling it, for any purpose other than complying with IC 24-4.7, in a proceeding or action brought under IC 24-4.7, or with this title. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-8-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858*)

11 IAC 2-8-2 Limits to commercial use of telephone privacy list

Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7

Sec. 2. A person shall not use the telephone privacy list, or the information accepted by the division in compiling it, for any commercial purpose other than telephone solicitations made in compliance with IC 24-4.7 and this title. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-8-2; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858*)

Rule 9. Change of Telephone Area Code or Prefix, or Both

11 IAC 2-9-1 Presumption in the event of change of telephone area code or prefix, or both

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-2-3; IC 24-4.7-3-1; IC 24-4.7-4-1

Sec. 1. A consumer whose residential telephone number has been placed on the telephone privacy list shall be deemed to intend that the number remain on the list in the event that the Indiana utility regulatory commission or other governmental entity having authority gives final approval to a change of telephone area code or prefix, or both, affecting the consumer's residential telephone number. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-9-1; filed Jun 17, 2002, 4:17 p.m.: 25 IR 3703)*

11 IAC 2-9-2 Dual listing of residential telephone numbers during transition

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-2-3; IC 24-4.7-3-1; IC 24-4.7-4-1

Sec. 2. When the division receives from the Indiana utility regulatory commission or other governmental entity having authority, a list of telephone area codes or prefixes, or both, that will change because of final regulatory approval of a new telephone area code or prefix, or both, it shall revise the next published telephone privacy list to include the consumer's residential telephone number under both the old area code or prefix, or both, and under the new area code or prefix, or both. This dual listing shall be published in the telephone privacy list for so long as a telephone solicitor may reach the consumer by directly dialing either number. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-9-2; filed Jun 17, 2002, 4:17 p.m.: 25 IR 3703)*

11 IAC 2-9-3 Removal of original numbers from list once transition is complete

Authority: IC 4-6-9-8; IC 24-4.7-3-7

Affected: IC 24-4.7-2-3; IC 24-4.7-3-1; IC 24-4.7-4-1

Sec. 3. At such time as a consumer's residential telephone number can be reached directly only by dialing one (1) telephone area code or prefix, the division shall cause the former telephone number to be deleted from the next published edition of the telephone privacy list. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-9-3; filed Jun 17, 2002, 4:17 p.m.: 25 IR 3703)*

ARTICLE 3. PROFESSIONAL FUNDRAISER CONSULTANTS AND PROFESSIONAL SOLICITORS

Rule 1. Definitions

11 IAC 3-1-1 Applicability

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-1

Sec. 1. Unless otherwise noted, the definitions set forth at IC 23-7-8-1 and this rule apply throughout this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-1-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)*

11 IAC 3-1-2 "Document" defined

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 2. As used in this article, "document" refers to a registration application, contract, solicitation notice, financial report, or consultant disclosure form. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-1-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)*

11 IAC 3-1-3 "Information" defined

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 3. As used in this article, "information" refers to:

- (1) a document as described in section 2 of this rule;
- (2) an amendment as described in 11 IAC 3-2-3; or
- (3) any other paperwork required to be filed under IC 23-7-8 or this article.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-1-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)

Rule 2. General Provisions

11 IAC 3-2-1 Filing requirements

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 1. (a) Subject to subsection (b), the filing of information with the division is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the information is delivered to the division.
- (2) The date of the postmark on the envelope containing the information if the information is mailed to the division by United States mail.
- (3) The date on which the information is deposited with a private carrier, as shown by a receipt issued by the carrier, if the information is sent to the division by private carrier.

(b) Any information required to be filed under IC 23-7-8 shall not be considered filed with the division if the information is incomplete, incorrect, or fails to comply with the requirements of IC 23-7-8 and this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-2-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)*

11 IAC 3-2-2 Document filing

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 2. The date a document is considered filed is the date the document first meets the requirements of section 1 of this rule. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-2-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)*

11 IAC 3-2-3 Amendments

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 3. (a) A professional fundraiser consultant or professional solicitor may file an amendment to a registration application, contract, solicitation notice, financial report, or consultant campaign disclosure form.

- (b) The amendment becomes a part of the document to which the amendment relates upon filing.
- (c) The amendment shall:
 - (1) clearly indicate that it is an amendment; and
 - (2) reference the document that it is amending.

(d) The filing of an amendment does not prohibit or restrict the division from initiating any action under IC 23-7-8 or this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-2-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 826)*

Rule 3. Registration

11 IAC 3-3-1 Application requirement

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 1. To comply with the disclosure requirements of IC 23-7-8-2(a), a professional fundraiser consultant or professional solicitor shall complete a registration application as prescribed by the division. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-3-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827*)

11 IAC 3-3-2 Information and fee required

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2; IC 23-7-8-4

Sec. 2. A professional fundraiser consultant or professional solicitor shall not be considered registered under IC 23-7-8-2(a) until:

- (1) the registration application is filed with the division; and
- (2) the correct fee is received by the division.

(*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-3-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827*)

11 IAC 3-3-3 Requirements for registration update

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2; IC 23-7-8-4

Sec. 3. (a) A professional fundraiser consultant or professional solicitor who files a registration update under IC 23-7-8-4(c) shall comply with:

- (1) IC 23-7-8-2(a); and
- (2) this article.

(b) A professional fundraiser consultant or professional solicitor who fails to file a registration update as required by IC 23-7-8-4(c) will be deemed not registered with the division under IC 23-7-8-2(a). (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-3-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827*)

11 IAC 3-3-4 Fines

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2; IC 23-7-8-4

Sec. 4. (a) The division may fine a professional fundraiser consultant or professional solicitor up to one hundred dollars (\$100) for each month or part of a month after the date on which the registration update and renewal fee were due to be filed under IC 23-7-8-4(c).

(b) If a professional fundraiser consultant or professional solicitor was previously fined by the division under subsection (a), the division may fine the professional fundraiser consultant or professional solicitor up to two hundred dollars (\$200) for each month or part of a month after the date on which the registration update and renewal fee are due under IC 23-7-8-4(c). (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-3-4; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827*)

11 IAC 3-3-5 Registration renewals arriving after the renewal year ends

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2; IC 23-7-8-4

Sec. 5. If a professional fundraiser consultant or professional solicitor has not filed a registration update or paid the renewal fee under IC 23-7-8-4(c) before September 2 of the year the renewal is due, the professional fundraiser consultant or professional solicitor must:

- (1) apply for registration under IC 23-7-8-2(a); and

(2) pay the registration fee of one thousand dollars (\$1,000) under IC 23-7-8-4(a).

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-3-5; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827)

Rule 4. Consultant Contracts

11 IAC 3-4-1 Contract filing requirements

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 1. Before acting as a professional fundraiser consultant for a charitable organization, the professional fundraiser consultant must file a written contract described under IC 23-7-8-2(c) with the division. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-4-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827)*

11 IAC 3-4-2 Consultant disclosure form

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 2. A professional fundraiser consultant may complete a consultant disclosure form as prescribed by the division for each contract the professional fundraiser consultant enters into with a charitable organization. The professional fundraiser consultant shall sign the consultant disclosure form while under oath. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-4-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 827)*

11 IAC 3-4-3 Fines

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 3. (a) For each contract entered into with a charitable organization, a professional fundraiser consultant who fails to file a contract within the period specified by IC 23-7-8-2(c) may be assessed a fine of up to one hundred dollars (\$100) for each month or part of a month after the date on which the consultant begins acting as a professional fundraiser consultant.

(b) If a professional fundraiser consultant was previously fined by the division under subsection (a), the division may assess a fine of up to two hundred dollars (\$200) for each month or part of a month after the date on which the consultant begins acting as a professional fundraiser consultant. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-4-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828)*

11 IAC 3-4-4 Campaign starting date

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 4. For purposes of section 3 of this rule, the following applies:

(1) Whenever a professional fundraiser consultant does not submit to the division a consultant disclosure form, the date on which the consultant begins acting as a professional fundraiser consultant is the starting date of the consulting services as stated on the contract.

(2) Whenever a professional fundraiser consultant submits to the division a consultant disclosure form that complies with section 2 of this rule, the date on which the consultant begins acting as a professional fundraiser consultant is the starting date listed on the consultant disclosure form.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-4-4; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828)

Rule 5. Solicitor Contracts

11 IAC 3-5-1 Contract requirements

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 1. Before a professional solicitor engages in a solicitation, the professional solicitor must file a written contract described under IC 23-7-8-2(d) with the division. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-5-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828*)

11 IAC 3-5-2 Fines

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 2. (a) For each contract entered into with a charitable organization, a professional solicitor who fails to file a contract within the period specified by IC 23-7-8-2(d) may be assessed a fine of up to one hundred dollars (\$100) for each month or part of a month after the date on which the professional solicitor begins soliciting.

(b) If a professional solicitor was previously fined by the division under subsection (a), the division may assess a fine of up to two hundred dollars (\$200) for each month or part of a month after the date on which the professional solicitor begins soliciting. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-5-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828*)

11 IAC 3-5-3 Campaign starting date

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 3. For purposes of section 2 of this rule and 11 IAC 3-6-2, the date on which the professional solicitor begins soliciting for a charitable organization is considered to be the earlier of:

- (1) the date the professional solicitor begins soliciting; or
- (2) the date when soliciting began as listed on the solicitation notice under IC 23-7-8-2(e)(2).

(*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-5-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828*)

Rule 6. Solicitation Notice Filings

11 IAC 3-6-1 Campaign requirements

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 1. Before a professional solicitor begins a solicitation campaign, the professional solicitor must file a solicitation notice described under IC 23-7-8-2(e) with the division. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-6-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828*)

11 IAC 3-6-2 Fines

Authority: IC 4-6-9-8; IC 23-7-8-8
Affected: IC 23-7-8-2

Sec. 2. (a) A professional solicitor who fails to file a solicitation notice by the beginning date of a solicitation campaign may be assessed a fine of up to one hundred dollars (\$100) for each month or part of a month after the beginning date of the solicitation campaign.

(b) If a professional solicitor was previously fined by the division under subsection (a), the division may assess a fine of up to two hundred dollars (\$200) for each month or part of a month after the beginning date of the solicitation campaign. (*Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-6-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 828*)

Rule 7. Financial Reports

11 IAC 3-7-1 Financial report requirements

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 1. To comply with IC 23-7-8-2(f), a professional solicitor shall complete a financial report as prescribed by the division. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-7-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

11 IAC 3-7-2 Filing deadlines

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 2. A financial report under IC 23-7-8-2(f) shall be filed with the division not later than ninety (90) days after one (1) of the following occurs:

(1) The ending of a solicitation campaign.

(2) The anniversary of the commencement of a solicitation campaign lasting more than one (1) year.

(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-7-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)

11 IAC 3-7-3 Fines

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 3. (a) For each financial report, a professional solicitor who fails to file a financial report within the time period prescribed by section 2 of this rule may be assessed a fine of up to one hundred dollars (\$100) for each month or part of a month starting from the ninety-first day after one (1) of the following occurs:

(1) The ending of a solicitation campaign.

(2) The anniversary of the commencement of a solicitation campaign lasting more than one (1) year.

(b) If a professional solicitor was previously fined by the division under subsection (a), the division may assess a fine of up to two hundred dollars (\$200) for each subsequent violation of subsection (a). *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-7-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

11 IAC 3-7-4 Campaign starting and ending dates

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 4. (a) For purposes of sections 2 through 3 of this rule, the dates when a solicitation campaign, other than a campaign described in subsection (b), will begin and end are the projected dates when soliciting will begin and end as listed on the solicitation notice under IC 23-7-8-2(e)(2).

(b) If a solicitation campaign ends earlier than the projected date when soliciting will end as listed on the solicitation notice, the professional solicitor shall submit a financial report as described in this rule within ninety (90) days from the actual ending date of the solicitation campaign. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-7-4; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

Rule 8. Miscellaneous and Penalties

11 IAC 3-8-1 Division's authority not prohibited or restricted

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 1. (a) This article shall not prohibit or restrict the division from initiating any action authorized under IC 23-7-8 or any other law enforced by the division.

(b) The division may deny or revoke the registration of a professional solicitor who fails to comply with IC 23-7-8-2(f) even if the professional solicitor has not been previously assessed a fine under this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-8-1; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

11 IAC 3-8-2 Fines are in addition to fees

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8-2

Sec. 2. A fine under this article is in addition to any fee provided under IC 23-7-8. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-8-2; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

11 IAC 3-8-3 Administrative Orders and Procedures Act applies

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 4-21.5; IC 23-7-8

Sec. 3. IC 4-21.5 applies to any proceedings under this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-8-3; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

11 IAC 3-8-4 Lack of warning not a defense

Authority: IC 4-6-9-8; IC 23-7-8-8

Affected: IC 23-7-8

Sec. 4. The lack of a warning to a professional fundraiser consultant or professional solicitor that a document submitted by the professional fundraiser consultant or professional solicitor is in any way incomplete, incorrect, or fails to comply with the requirements of IC 23-7-8 or this title is not a defense to an action by the division under this article. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 3-8-4; filed Nov 7, 2003, 12:00 p.m.: 27 IR 829)*

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