

BUSINESS AND COMMERCE CODE
TITLE 10. USE OF TELECOMMUNICATIONS
SUBTITLE A. TELEPHONES
CHAPTER 303. TELEPHONE SOLICITATION FOR CERTAIN LAW
ENFORCEMENT-RELATED CHARITABLE ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 303.001. DEFINITIONS. In this chapter:

(1) "Commercial telephone solicitor" means a person whom a law enforcement-related charitable organization retains to make a telephone solicitation, directly or through another person under the direction of the person retained. The term does not include a bona fide officer, director, or employee of, or volunteer for, a law enforcement-related charitable organization.

(2) "Contribution" means a promise to give or a gift of money or other property, credit, financial assistance, or another thing of any kind or value. The term does not include:

(A) volunteer services; or

(B) bona fide fees, dues, or assessments a member pays if membership is not conferred solely as consideration for making a contribution in response to a telephone solicitation.

(3) "Law enforcement-related charitable organization" means a person who solicits a contribution and is or purports to be established or operating for a charitable purpose relating to law enforcement. The term includes a nongovernmental law enforcement organization or publication and survivors of law enforcement officers killed in the line of duty. The term does not include a governmental law enforcement agency or organization.

(4) "Telephone solicitation" means the use of a telephone to solicit another person to make a charitable contribution to a law enforcement-related charitable organization. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.002. SOLICITATION GOVERNED BY CHAPTER. The telephone solicitation of a contribution from a person in this

state is considered to be engaging in telephone solicitation in this state regardless of where the solicitation originates.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.003. PUBLIC ACCESS TO CERTAIN DOCUMENTS AND INFORMATION. (a) Except as provided by Subsection (b), a document required to be filed with the attorney general under this chapter is public information available to members of the public under Chapter [552](#), Government Code.

(b) A document that identifies the donors to a law enforcement-related charitable organization is confidential and not subject to disclosure.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.004. RULES; PROCEDURES; FORMS. The attorney general may adopt rules, procedures, and forms necessary to administer and enforce this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER B. REGISTRATION AND BOND REQUIREMENTS

Sec. 303.051. RECORD OF ORGANIZATIONS. The attorney general shall maintain:

(1) a register of law enforcement-related charitable organizations subject to this chapter; and

(2) a registry of law enforcement-related charitable organizations that submit to the attorney general a completed registration statement containing the information required by Section [303.052](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.052. FORM AND CONTENT OF REGISTRATION STATEMENT. A registration statement under Section [303.051](#)(2) must be submitted

on a form the attorney general prescribes or approves and must contain:

(1) for each of the organization's offices, chapters, local units, branches, and affiliates:

- (A) the legal name and each assumed name;
- (B) the mailing address and street address; and
- (C) each telephone number and facsimile number;

(2) the organization's employer identification number;

(3) the name, title, address, and telephone number of:

(A) the organization's executive director or other chief operating officer; and

(B) each of the organization's officers and directors;

(4) the name of each officer, director, or employee:

(A) whom the organization compensates or who has custody and control of the organization's money; and

(B) who has been convicted of or pleaded nolo contendere to:

(i) a felony; or

(ii) a misdemeanor involving fraud or the theft, misappropriation, misapplication, or misuse of another's property;

(5) for each person listed under Subdivision (4), a statement of:

(A) the offense; and

(B) the state, court, and date of each conviction or plea of nolo contendere;

(6) if the organization is a corporation, the date and state of incorporation;

(7) if the organization is not a corporation, the type of organization and date established;

(8) the date the organization began transacting business in this state;

(9) the name and address of the organization's registered agent in this state;

(10) a statement of the organization's charitable

purposes;

(11) a list of the programs for which funds are solicited;

(12) the day and month on which the organization's fiscal year ends;

(13) a statement of whether the organization:

(A) is eligible to receive tax-deductible contributions under Section 170, Internal Revenue Code of 1986; and

(B) has applied for or been granted tax-exempt status by the Internal Revenue Service and, if so:

(i) the Internal Revenue Code of 1986 section on which the application was based;

(ii) the application date;

(iii) the date the exemption was granted or denied; and

(iv) a statement of whether or when the tax exemption has ever been denied, revoked, or modified;

(14) a statement that includes:

(A) the method of accounting used and the name, address, and telephone number of each of the organization's accountants and auditors;

(B) for the preceding 12 months:

(i) the total contributions received;

(ii) the total fund-raising costs, computed according to generally accepted accounting principles;

(iii) if the organization retained a commercial telephone solicitor:

(a) the name and address of each commercial telephone solicitor; and

(b) a written confirmation from each commercial telephone solicitor that it has complied with all state and local registration laws; and

(iv) the amount paid to commercial telephone solicitors; and

(C) a statement that:

(i) the organization has attempted in good faith to comply with each ordinance of a municipality or each order

of a county in this state regarding telephone solicitation that has been filed with the attorney general; or

(ii) no ordinance or order described by Subparagraph (i) applies;

(15) if the organization files a federal tax return, a copy of:

(A) the organization's most recently filed Internal Revenue Service Form 990 and other federal tax returns;

(B) each supplement, amendment, and attachment to those returns; and

(C) each request for an extension to file any of those returns;

(16) if the organization does not file a federal tax return:

(A) a statement of the reason a return is not filed; and

(B) the organization's most recent financial statements, including audited financial statements, if any have been prepared; and

(17) a sworn statement verifying that the information contained in the registration statement and each attachment to the registration statement is true, correct, and complete to the best of the affiant's knowledge.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.053. INITIAL REGISTRATION STATEMENT. A law enforcement-related charitable organization shall file the organization's initial registration statement before the 10th working day before the date the organization begins telephone solicitation in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.054. EXPIRATION OF REGISTRATION; RENEWAL. (a) A law enforcement-related charitable organization's registration expires on the 15th day of the fifth month after the last day of the

organization's fiscal year.

(b) The organization shall file a renewal registration statement on the form required under Section 303.052. The renewal registration statement must include the organization's name and employer identification number and any changes to information previously submitted to the attorney general. For an item on which there is no change from the previous year's registration statement, "no change" may be indicated.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.055. FILING FEE. (a) An initial registration statement must be accompanied by a filing fee not to exceed \$50.

(b) A renewal registration statement must be accompanied by a filing fee of \$50.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.056. EXEMPTION: VOLUNTEER. A volunteer authorized to solicit on behalf of a law enforcement-related charitable organization is not required to register under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.057. REGISTRATION DOES NOT IMPLY ENDORSEMENT. (a) Registration under this chapter does not imply endorsement by this state or the attorney general.

(b) A law enforcement-related charitable organization may not state or imply that registration under this chapter is endorsement by this state or the attorney general.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.058. BOOKS AND RECORDS. (a) A law enforcement-related charitable organization required to file a registration statement shall maintain books and records of the

organization's activities in this state. The books and records must be maintained:

(1) in a form that enables the organization to accurately provide the information required by this chapter; and

(2) until at least the third anniversary of the end of the period to which the registration statement relates.

(b) On written request of authorized personnel of the attorney general, the organization shall make the books and records available for inspection and copying by authorized personnel:

(1) at the organization's principal place of business not later than the 10th working day after the date of the request; or

(2) at another agreed place and time.

(c) The authority provided by this section is in addition to the attorney general's other statutory or common law audit or investigative authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.059. BOND. A commercial telephone solicitor shall post with the secretary of state a surety bond that:

(1) is in the amount of \$50,000; and

(2) is issued by a surety company authorized to transact business in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER C. SOLICITATION PRACTICES

Sec. 303.101. DECEPTIVE ACT OR PRACTICE. A person may not commit an unfair or deceptive act or practice in making a telephone solicitation for a law enforcement-related charitable organization.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.102. REPRESENTATION OF BENEFIT TO SURVIVORS. A

person may not represent to a person solicited that a contribution is to be used to benefit the survivors of a law enforcement officer killed in the line of duty unless:

(1) all of the contributions collected are used to benefit those survivors; or

(2) the person solicited is informed in writing of the percentage of the contribution that will directly benefit those survivors.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.103. NOTICE OF DISPOSITION OF MONEY. (a) If less than 90 percent of the contributions collected by a law enforcement-related charitable organization or commercial telephone solicitor are paid to a law enforcement-related charitable organization, the commercial telephone solicitor shall notify each person solicited by telephone, before accepting a contribution from the person, of:

(1) the percentage of the contributions that will be paid to the organization for which the contributions are being solicited; and

(2) the percentage of the contributions that the solicitor will retain.

(b) Information required to be disclosed under Subsection (a) shall also be included on any written statement mailed to the contributor.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.104. HOURS OF SOLICITATION. A law enforcement-related charitable organization or commercial telephone solicitor may not make a telephone solicitation call unless the call is made after 9 a.m. and before 7 p.m., Monday through Friday.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER D. VIOLATION; REMEDIES

Sec. 303.151. NOTIFICATION OF NONCOMPLIANCE. If a law enforcement-related charitable organization does not file a document required by this chapter, files an incomplete or inaccurate document, or otherwise does not comply with this chapter, the attorney general shall notify the organization of the organization's noncompliance by first class mail sent to the organization's last reported address.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.152. VIOLATIONS RELATING TO FILING OF DOCUMENTS.

(a) A law enforcement-related charitable organization violates this chapter if the organization:

(1) does not file complete documents before the 31st day after the date a notice under Section 303.151 is mailed; or

(2) with actual awareness files materially inaccurate documents.

(b) For purposes of Subsection (a)(2), actual awareness may be inferred from an objective manifestation that indicates that a person acted with actual awareness.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 303.153. REMEDIES. (a) The attorney general may bring an action against a person who violates this chapter to:

(1) cancel or suspend the person's registration;

(2) obtain an injunction to restrain the person from continuing the violation;

(3) restrain the person from transacting business in this state while violating this chapter;

(4) impose a civil penalty of not more than \$25,000 for each violation; or

(5) both obtain an injunction and impose a civil penalty.

(b) A person who violates an injunction issued under this

section is liable to this state for a civil penalty of not less than \$100,000.

(c) In an action that the attorney general successfully prosecutes under this chapter, the court may allow the attorney general to recover civil penalties and the reasonable costs, attorney's fees, and expenses, including investigative costs, witness fees, and deposition expenses, incurred in bringing the action.

(d) A remedy authorized by this chapter is in addition to any other procedure or remedy provided by another statutory law or common law.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 303.154. VENUE. An action under this chapter must be brought in:

(1) Travis County;

(2) the county in which the law enforcement-related charitable organization has its principal place of business or a fixed and established place of business at the time the action is brought; or

(3) the county in which solicitation occurred.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.