

This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable organizations.



Formation, Elections, Operation, and Dissolution

Nonprofit Corporations

The Indiana Nonprofit Corporation Act of 1991 (repealing the earlier act) governs nonprofits. Indiana Code Title 23, Article 17.

The act does not apply to certain actions taken before 1991. See Ind. Code Ann. § 23-17-1-0.2.

Nonprofit Unincorporated Associations

Unincorporated associations are defined as 'entities' under Ind. Code Ann. § 23-17-2-12

Election of Directors

Election of directors is governed by Ind. Code Ann. § 23-17-11-7 et seq.

There shall be at least three directors. Ind. Code Ann. § 23-17-12-3.

Director Term

As provided for in the articles or bylaws, but not to exceed five years except for designated or appointed directors. In the absence of a provision specifying term in the articles or bylaws, terms shall be one year. Directors may be elected for successive terms. Ind. Code Ann. § 23-17-12-5.

Meeting and Quorum Requirements

Quorum (Members): Unless this article, articles of incorporation, or bylaws provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter constitutes a quorum for action on that matter. Ind. Code Ann. § 23-17-11-4.

Quorum (Directors): Unless the bylaws or articles (or this chapter) says otherwise, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. Articles of incorporation or bylaws may not authorize a quorum of fewer than the greater of one-third of the number of directors in office or two directors. Ind. Code Ann. § 23-17-15-5.

Annual meeting required. Ind. Code Ann. § 23-17-10-1.

Officer Requirements

Unless otherwise provided in articles of incorporation or bylaws, a corporation must have a president, a secretary, a treasurer and other officers as appointed by the board of directors. Ind. Code Ann. § 23-17-14-1.

Officer Term

No relevant statute found.

Dissolution

Dissolution is governed by Ind. Code Ann. § 23-17-22-1 et seq.

Duties, Indemnification, and Interested Transactions

Director Duties

A director shall, based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows: (1) In good faith; (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; (3) In a manner the director reasonably believes to be in the best interests of the corporation. Ind. Code Ann. § 23-17-13-1.

Special rules for discharging director's duties in a religious organization. Ind. Code Ann. § 23-17-13-1(b)(4).

Officer Duties

Officers shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, duties set forth in a resolution of the Board or by direction of an officer authorized by the Board to prescribe duties of other officers. Ind. Code Ann. § 23-17-14-12.

Board Independence Requirements

No relevant statute found.

Interested Transactions

Governed by Ind. Code Ann. § 23-17-13-2.5.

Indemnification of Directors/Officers

Permissive and mandatory indemnification is governed by Chapter 16 of the nonprofit code: Ind. Code Ann. § 23-17-16

Loans to Directors, Officers, or Employees

Corporations cannot lend money to or guarantee the obligation of a director or officer; however, doing so does not affect the borrower's liability on the loan. Ind. Code Ann. § 23-17-13-3.

Notable Departures from Federal Law

Religious/Church Exemption

The code provides for certain types of religious property that is exempt from taxation. To obtain exemption for parsonages, the religious organization must provide the county assessor with an affidavit. Ind. Code Ann. § 6-1.1-10-21.

For certain property owned/used by religious organizations, the state does not require the religious organization to file an exemption application. Ind. Code Ann. § 6-1.1-11-4.

See tax sections below.

Healthcare "Plus Factors"

Nonprofit hospitals are required to develop an organizational mission statement and a community benefits plan. Ind. Code Ann. § 16-21-9-4.

The plan must include (1) the mechanisms to evaluate the plans effectiveness; (2) measureable objections; and (3) a budget for the plan. Ind. Code Ann. § 16-21-9-6.

The hospital must also prepare an annual report of the community benefits plan and a public statement regarding the annual plan. Ind. Code Ann. § 16-21-9-7.

Finally, each nonprofit hospital must develop a written notice about any charity care program operated by the hospital and how to apply for charity care. Ind. Code Ann. § 16-21-9-7(d).

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"

A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members. Ind. Code Ann. § 23-17-9.

Charitable Solicitation Requirements

The membership list cannot, without the consent of the board, be used to solicit money or property unless the money or property will be used solely to solicit the votes of the members in an election to be held by the corporation. Ind. Code Ann. § 23-17-27-5

State-Specific Retention Policies

Corporate record retention requirements are established by Ind. Code Ann. § 23-17-21-1.

Personal Information Collection and Protection Laws

The membership list cannot, without the consent of the board, be used to solicit money, for commercial purpose, sold or purchased by any person. Ind. Code Ann. § 23-17-27-5

Whistleblower Protection

Not specific to nonprofit organizations; however, the Whistleblower state law can be found at Ind. Code Ann. § 4-15-10-4.

State Volunteer Liability Law

Liability limited by statute. Ind. Code Ann. § 34-30-4-2.

Independent Audit Requirements

No relevant statute found.

State Filing Requirements

An annual report must be filed. Ind. Code Ann. § 23-17-27-8.

Model Acts

Uniform Prudent Management of Institutional Funds Act

Adopted

Uniform Prudent Investor Act

Adopted

Tax Exemptions

Income Tax

Indiana exempts from adjusted gross income tax nonprofit organizations that are granted tax-exempt status from the IRS. Ind. Code Ann. § 6-3-2-2.8 See also <http://www.in.gov/dor/reference/files/ib17.pdf>

Organizations with unrelated business income of more than \$1,000 must complete the Nonprofit Organization Unrelated Business Income Tax form 9Form IT-20NP)

Sales and Use Taxation

Must first be recognized by IRS as a nonprofit and then must fill out the Nonprofit Application for Sales Tax Exemption (Form NP-20A) and annually file a Nonprofit Organization's Annual Report (Form NP-20). See Indiana Department of Revenue's website: <http://www.in.gov/dor/3968.htm>

Statutorily governed by Ind. Code Ann. § 6-2.5-5-25.

Property Tax Exemption

Certain nonprofit organizations are granted property tax exemptions. IN ST T. 6, Art. 1.1, Ch. 10.

IN ST T. 6, Art. 1.1, Ch. 10. describes the procedures for obtaining an exemption.

Note however that as of July 1, 2014, new code relating to property taxes will be effective. See N LEGIS 111-2014 (2014), 2014 Ind. Legis. Serv. P.L. 111-2014 (S.E.A. 420) (WEST)

Miscellaneous Exemptions

N/A.

General Resource:

<http://codes.findlaw.com/in/title-23-business-and-other-associations/#!tid=N117371F0800211DB8132CD13D2280436>

Disclaimer

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