

IC 23-17-13

Chapter 13. Standards of Conduct for Directors

IC 23-17-13-1

Duties; reliance on statements of and information given by others; conditions for liability; director not trustee

Sec. 1. (a) 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.

(b) In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

- (1) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.
- (2) Legal counsel, certified public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.
- (3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.
- (4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable for an action taken as a director, or failure to take an action, unless the:

- (1) director has breached or failed to perform the duties of the director's office in compliance with this section; and
- (2) breach or failure to perform constitutes willful misconduct or recklessness.

(e) A director is not considered to be a trustee with respect to a corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

As added by P.L.179-1991, SEC.1. Amended by P.L.110-2008, SEC.5.

IC 23-17-13-2

Repealed

(Repealed by P.L.110-2008, SEC.13.)

IC 23-17-13-2.5

Contracts and transactions in which member, director, officer, or member of designated body has interest

Sec. 2.5. (a) This section applies unless the articles of incorporation or bylaws of a corporation provide otherwise.

(b) Subject to subsection (c), a contract or transaction between:

(1) a corporation and one (1) or more of the corporation's members, directors, members of a designated body, or officers; or

(2) a corporation and any other corporation, partnership, association, or entity in which one (1) or more of the corporation's members, directors, officers, or members of a designated body:

(A) are members, directors, members of a designated body, or officers;

(B) hold a similar position; or

(C) have a financial interest;

is not void or voidable solely because of the relationship or interest, solely because the member, director, member of a designated body, or officer is present at or participates in the meeting of the board of directors that authorizes the contract or transaction, or solely because the vote of the member, director, member of a designated body, or officer is counted for authorizing the contract or transaction.

(c) A contract or transaction described under subsection (b) is not void or voidable as provided under subsection (b) if one (1) or more of the following apply:

(1) The:

(A) material facts as to the:

(i) relationship or interest of a member, a director, a member of a designated body, or an officer; and

(ii) contract or transaction;

are disclosed or known to the board of directors; and

(B) board of directors in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even if the disinterested directors are less than a quorum.

(2) The:

(A) material facts as to the:

(i) relationship or interest of the member, director, member of a designated body, or officer; and

(ii) contract or transaction;

are disclosed or known to the members who are entitled to vote on the contract or transaction; and

(B) contract or transaction is specifically approved in good faith by a vote of the members who are entitled to vote on the contract or transaction.

(3) The contract or transaction is fair as to the corporation at the

time the contract or transaction is authorized, approved, or ratified by the board of directors or the members.

(d) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes a contract or transaction described under subsection (b).

As added by P.L.110-2008, SEC.6.

IC 23-17-13-3

Loans to and guarantees of obligations of directors or officers

Sec. 3. (a) A corporation may not:

- (1) lend money to; or
- (2) guarantee the obligation of;

a director or an officer of the corporation.

(b) A loan or guaranty that is made in violation of this section does not affect the borrower's liability on the loan.

As added by P.L.179-1991, SEC.1.

IC 23-17-13-4

Unlawful distributions; liability

Sec. 4. (a) Subject to section 1(d) of this chapter, a director who votes for or assents to a distribution made in violation of this article or articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds the amount that could have been distributed without violating this article or articles of incorporation.

(b) A director who is held liable for an unlawful distribution under subsection (a) is entitled to contribution from the following:

- (1) Every other director who voted for or assented to the distribution, subject to section 1(d) of this chapter.
- (2) Each person who received an unlawful distribution for the amount of the distribution accepted whether or not the person receiving the distribution knew the distribution was made in violation of this article, articles of incorporation, or the bylaws.

As added by P.L.179-1991, SEC.1.