

1                   **CHARITABLE SOLICITATIONS ACT AMENDMENTS**

2   2024 GENERAL SESSION

3   STATE OF UTAH

---

---

4

5   **LONG TITLE**

6   **General Description:**

7           This bill amends provisions related to charitable solicitations.

8   **Highlighted Provisions:**

9           This bill:

- 10           ▶ consolidates requirements for information a charitable organization submits to the
- 11                   Division of Consumer Protection and the Division of Corporations;
- 12           ▶ prohibits deceptive acts and diversion of funds related to charitable solicitations;
- 13           ▶ adds regulations and filing requirements for professional fund raisers and
- 14                   professional fund raising campaigns;
- 15           ▶ defines terms; and
- 16           ▶ makes technical and conforming changes.

17   **Money Appropriated in this Bill:**

18           None

19   **Other Special Clauses:**

20           None

21   **Utah Code Sections Affected:**

22   AMENDS:

- 23           **13-22-3**, as last amended by Laws of Utah 2008, Chapter 382
- 24           **13-22-6**, as last amended by Laws of Utah 2020, Chapter 419
- 25           **13-22-9**, as last amended by Laws of Utah 2018, Chapter 267
- 26           **13-22-15**, as last amended by Laws of Utah 2015, Chapter 120
- 27           **13-25a-102**, as last amended by Laws of Utah 2022, Chapter 324
- 28           **13-25a-111**, as last amended by Laws of Utah 2010, Chapter 379
- 29           **16-6a-203**, as last amended by Laws of Utah 2015, Chapter 240
- 30           **16-6a-1503**, as last amended by Laws of Utah 2008, Chapters 249, 364

31   ENACTS:

- 32           **13-22-24**, Utah Code Annotated 1953

33 13-22-25, Utah Code Annotated 1953

34 13-22-26, Utah Code Annotated 1953

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section 13-22-3 is amended to read:

38 **13-22-3. Investigative and enforcement powers -- Education.**

39 (1) The division shall administer and enforce the provisions of this chapter in  
40 accordance with Chapter 2, Division of Consumer Protection.

41 (2) The attorney general shall, upon request, give legal advice to, and act as counsel  
42 for, the division in the exercise of the division's responsibilities under this chapter.

43 (3) The division may make any audit or investigation it considers necessary to  
44 determine whether any person is violating, has violated, or is about to violate any provision of  
45 this chapter or any rule made or order issued under this chapter. As part of the investigation,  
46 the division may:

47 (a) require a person to file a statement in writing;

48 (b) administer oaths, subpoena witnesses and compel their attendance, take evidence,  
49 and examine under oath any person in connection with an investigation; and

50 (c) require the production of any books, papers, documents, merchandise, or other  
51 material relevant to the investigation.

52 ~~[(2)] (4) [Whenever it appears to the director that substantial evidence exists that any~~  
53 ~~person has engaged in, is engaging in, or is about to engage in any act or practice prohibited in~~  
54 ~~this chapter or constituting a violation of this chapter or any rule made or order issued under~~  
55 ~~this chapter, the director may do any of the following in addition to other specific duties under~~  
56 ~~this chapter:] In addition to the division's enforcement powers under Chapter 2, Division of~~  
57 Consumer Protection:

58 (a) ~~[in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the~~  
59 ~~director may issue an order to cease and desist from engaging in the act or practice or from~~  
60 ~~doing any act in furtherance of the activity;] the director may impose an administrative fine of~~  
61 up to \$2,500 for each violation of this chapter; or

62 (b) the ~~[director]~~ division may bring an action in ~~[the appropriate district court of this~~  
63 ~~state] a court of competent jurisdiction to enjoin the acts or practices constituting the violation~~

64 or to enforce compliance with this chapter or any rule made or order issued under this chapter.

65 ~~[(3) Whenever it appears to the director by a preponderance of the evidence that a~~  
66 ~~person has engaged in or is engaging in any act or practice prohibited in this chapter or~~  
67 ~~constituting a violation of this chapter or any rule made or order issued under this chapter, the~~  
68 ~~director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any~~  
69 ~~series of violations arising out of the same operative facts.]~~

70 ~~[(4)]~~ (5) Upon a proper showing, the court hearing an action brought under Subsection

71 ~~[(2)(b)]~~ (4)(b) may:

72 (a) issue an injunction;

73 (b) enter a declaratory judgment;

74 (c) appoint a receiver for the defendant or the defendant's assets;

75 (d) order disgorgement of any money received in violation of this chapter;

76 (e) order rescission of agreements violating this chapter;

77 (f) impose a fine of ~~[not more than \$2,000]~~ up to \$2,500 for each violation of this

78 chapter; ~~[and]~~ or

79 (g) impose a civil penalty, or any other relief the court considers just.

80 (6) If a court of competent jurisdiction grants judgment or injunctive relief to the

81 division, the court shall award the division:

82 (a) reasonable attorney fees;

83 (b) court costs; and

84 (c) investigative fees.

85 ~~[(5)]~~ (7) (a) In assessing the amount of a fine or penalty under Subsection ~~[(3)]~~ (4)(a),

86 ~~[(4)(f)]~~ (5)(f), or ~~[(4)(g)]~~ (5)(g), the director or court imposing the fine or penalty shall consider

87 the gravity of the violation ~~[and the intent of the violator]~~.

88 (b) If it does not appear by a preponderance of the evidence that the violator acted in

89 bad faith ~~[or with intent to harm the public]~~, the director or court shall excuse payment of the

90 fine or penalty.

91 (8) (a) A person who violates an administrative or court order issued for a violation of

92 this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

93 (b) A civil penalty authorized under this section may be imposed in any civil action

94 brought by the attorney general on behalf of the division.

95           ~~[(6)]~~ (9) The division may provide or contract to provide public education and  
 96 voluntary education for applicants and registrants under this chapter. The education may be in  
 97 the form of publications, advertisements, seminars, courses, or other appropriate means. The  
 98 scope of the education may include:

- 99           (a) the requirements, prohibitions, and regulated practices under this chapter;  
 100           (b) suggestions for effective financial and organizational practices for charitable  
 101 organizations;  
 102           (c) charitable giving and solicitation;  
 103           (d) potential problems with solicitations and fraudulent or deceptive practices; and  
 104           (e) any other matter relevant to the subject of this chapter.

105           Section 2. Section **13-22-6** is amended to read:

106           **13-22-6. Application for registration.**

107           (1) An applicant for registration or renewal of registration as a charitable organization  
 108 shall:

- 109           (a) pay an application fee as determined under Section 63J-1-504; and  
 110           (b) submit an application on a form approved by the division which shall include:  
 111           ~~[(i) the organization's name, address, telephone number, facsimile number, if any, and  
 112 the names and addresses of any organizations or persons controlled by, controlling, or affiliated  
 113 with the applicant;]~~  
 114           ~~[(ii) the specific legal nature of the organization, that is, whether the organization is an  
 115 individual, joint venture, partnership, limited liability company, corporation, association, or  
 116 other entity;]~~  
 117           ~~[(iii) the names and residence addresses of the officers and directors of the  
 118 organization;]~~  
 119           ~~[(iv) the name and address of the registered agent for service of process and a consent  
 120 to service of process;]~~  
 121           ~~[(v)]~~ (i) the purpose of the solicitation and use of the contributions to be solicited, if  
 122 different from the purposes for which the nonprofit corporation is organized as required in the  
 123 articles of incorporation under Section 16-6a-202;  
 124           ~~[(vi) the method by which the solicitation will be conducted and the projected length of  
 125 time the solicitation is to be conducted;]~~

126 ~~[(vii) the anticipated expenses of the solicitation, including all commissions, costs of~~  
127 ~~collection, salaries, and any other items;]~~

128 ~~[(viii) a statement of what percentage of the contributions collected as a result of the~~  
129 ~~solicitation are projected to remain available for application to the charitable purposes declared~~  
130 ~~in the application, including a satisfactory statement of the factual basis for the projected~~  
131 ~~percentage;]~~

132 ~~[(ix) a statement of total contributions collected or received by the organization within~~  
133 ~~the calendar year immediately preceding the date of the application, including a description of~~  
134 ~~the expenditures made from or the use made of the contributions;]~~

135 ~~[(x) a copy of any written agreements with any professional fund raiser involved with~~  
136 ~~the solicitation;]~~

137 ~~[(xi) disclosure of any injunction, judgment, or administrative order or conviction of~~  
138 ~~any crime involving moral turpitude with respect to any officer, director, manager, operator, or~~  
139 ~~principal of the organization;]~~

140 ~~[(xii) a copy of all agreements to which the applicant is, or proposes to be, a party~~  
141 ~~regarding the use of proceeds for the solicitation or fundraising;]~~

142 ~~[(xiii) a statement of whether the charitable organization, or the charitable~~  
143 ~~organization's parent foundation, will be using the services of a professional fund raiser or of a~~  
144 ~~professional fund raising counsel or consultant;]~~

145 ~~[(xiv) if either the charitable organization or the charitable organization's parent~~  
146 ~~foundation will be using the services of a professional fund raiser or a professional fund raising~~  
147 ~~counsel or consultant;]~~

148 ~~[(A) a copy of all agreements related to the services; and]~~

149 ~~[(B) an acknowledgment that fund raising in the state will not commence until both the~~  
150 ~~charitable organization, its parent foundation, if any, and the professional fund raiser or~~  
151 ~~professional fund raising counsel or consultant are registered and in compliance with this~~  
152 ~~chapter;]~~

153 ~~[(xv)] (ii) any documents required under Section 13-22-15; and~~

154 ~~[(xvi)] (iii) any additional information the division may require by rule.~~

155 (2) If any information contained in the application for registration becomes incorrect or  
156 incomplete, the applicant or registrant shall, within 30 days after the information becomes

157 incorrect or incomplete, correct the application or file the complete information required by the  
158 division.

159 (3) In addition to the registration fee, an organization failing to file a registration  
160 application or renewal by the due date or filing an incomplete registration application or  
161 renewal shall pay an additional fee of \$25 for each month or part of a month after the date on  
162 which the registration application or renewal were due to be filed.

163 Section 3. Section **13-22-9** is amended to read:

164 **13-22-9. Professional fund raiser's or fund raising counsel's or consultant's**  
165 **permit.**

166 (1) A person applying for or renewing a permit as a professional fund raiser or a  
167 professional fund raising counsel or consultant shall:

168 (a) pay an application fee as determined under Section 63J-1-504; and

169 (b) submit a written application, verified under oath, on a form approved by the  
170 division that includes:

171 (i) the applicant's name, address, telephone number, facsimile number, if any;

172 (ii) the name and address of any organization or person controlled by, controlling, or  
173 affiliated with the applicant;

174 (iii) the applicant's business, occupation, or employment for the three-year period  
175 immediately preceding the date of the application;

176 (iv) whether it is an individual, joint venture, partnership, limited liability company,  
177 corporation, association, or other entity;

178 (v) the names and residence addresses of any officer or director of the applicant;

179 (vi) the name and address of the registered agent for service of process and a consent to  
180 service of process;

181 (vii) if a professional fund raiser:

182 (A) the purpose of the solicitation and use of the contributions to be solicited;

183 (B) the method by which the solicitation will be conducted and the projected length of  
184 time it is to be conducted;

185 (C) the anticipated expenses of the solicitation, including all commissions, costs of  
186 collection, salaries, and any other items;

187 (D) a statement of what percentage of the contributions collected as a result of the

188 solicitation are projected to remain available to the charitable organization declared in the  
189 application, including a satisfactory statement of the factual basis for the projected percentage  
190 and projected anticipated revenues provided to the charitable organization, and if a flat fee is  
191 charged, documentation to support the reasonableness of the flat fee; and

192 (E) a statement of total contributions collected or received by the professional fund  
193 raiser within the calendar year immediately preceding the date of the application, including a  
194 description of the expenditures made from or the use made of the contributions;

195 (viii) if a professional fund raising counsel or consultant:

196 (A) the purpose of the plan, management, advice, counsel or preparation of materials  
197 for, or with respect to, the solicitation and use of the contributions solicited;

198 (B) the method by which the plan, management, advice, counsel, or preparation of  
199 materials for, or with respect to, the solicitation will be organized or coordinated and the  
200 projected length of time of the solicitation;

201 (C) the anticipated expenses of the plan, management, advice, counsel, or preparation  
202 of materials for, or with respect to, the solicitation, including all commissions, costs of  
203 collection, salaries, and any other items;

204 (D) a statement of total fees to be earned or received from the charitable organization  
205 declared in the application, and what percentage of the contributions collected as a result of the  
206 plan, management, advice, counsel, or preparation of materials for, or with respect to, the  
207 solicitation are projected after deducting the total fees to be earned or received remain available  
208 to the charitable organization declared in the application, including a satisfactory statement of  
209 the factual basis for the projected percentage and projected anticipated revenues provided to the  
210 charitable organization, and if a flat fee is charged, documentation to support the  
211 reasonableness of such flat fee; and

212 (E) a statement of total net fees earned or received within the calendar year  
213 immediately preceding the date of the application, including a description of the expenditures  
214 made from or the use of the net earned or received fees in the planning, management, advising,  
215 counseling, or preparation of materials for, or with respect to, the solicitation and use of the  
216 contributions solicited for the charitable organization;

217 (ix) disclosure of any injunction, judgment, or administrative order against the  
218 applicant or the applicant's conviction of any crime involving ~~moral turpitude~~ charitable

- 219 solicitations or a felony involving fraud, dishonesty, false statements, forgery, or theft;  
220 (x) a copy of any written agreements with any charitable organization;  
221 (xi) the disclosure of any injunction, judgment, or administrative order or conviction of  
222 any crime involving [~~moral turpitude~~] charitable solicitations or a felony involving fraud,  
223 dishonesty, false statements, forgery, or theft with respect to any officer, director, manager,  
224 operator, or principal of the applicant;  
225 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party  
226 regarding the use of proceeds;  
227 (xiii) an acknowledgment that fund raising in the state will not commence until both  
228 the professional fund raiser or professional fund raising counsel or consultant and the charity,  
229 and its parent foundation, if any, are registered and in compliance with this chapter; [~~and~~]  
230 (xiv) evidence that the applicant has obtained and maintained a performance bond  
231 issued by a surety authorized to transact surety business in this state:  
232 (A) in the amount of \$25,000; and  
233 (B) payable to the division for the benefit of any consumer who incurs damages as a  
234 result of the applicant's violation of this chapter; and  
235 [~~(xiv)~~] (xv) any additional information the division may require by rule.  
236 (2) If any information contained in the application for a permit becomes incorrect or  
237 incomplete, the applicant or registrant shall, within 30 days after the information becomes  
238 incorrect or incomplete, correct the application or file the complete information required by the  
239 division.  
240 (3) In addition to the permit fee, an applicant failing to file a permit application or  
241 renewal by the due date or filing an incomplete permit application or renewal shall pay an  
242 additional fee of \$25 for each month or part of a month after the date on which the permit  
243 application or renewal were due to be filed.  
244 Section 4. Section **13-22-15** is amended to read:  
245 **13-22-15. Financial reports required.**  
246 (1) (a) Except as provided in Subsection (1)(c), as part of a charitable organization's  
247 application for registration or renewal of registration described in Section 13-22-6, each  
248 charitable organization shall file:  
249 (i) an annual financial report on a form prescribed by the division;

250 (ii) an IRS Form 990, 990EZ, 990N, or 990PF; or  
251 (iii) both the documents described in Subsections (1)(a)(i) and (ii).

252 (b) The division shall instruct each applicant for registration or renewal of registration  
253 as a charitable organization on which documents to file under Subsection (1)(a).

254 (c) If a document required under Subsections (1)(a) and (b) is not available during the  
255 charitable organization's first year of registration, upon request from the division, the charitable  
256 organization shall provide a quarterly financial report to the division within 30 days after the  
257 day on which the division requests the quarterly financial report.

258 (2) Each annual or quarterly financial report shall disclose:

259 (a) the gross amount of contributions received;

260 ~~[(b) the amount of contributions disbursed or to be disbursed to each charitable~~  
261 ~~organization or charitable purpose represented;]~~

262 ~~[(c)]~~ (b) aggregate amounts paid to any professional fund raiser;

263 ~~[(d)]~~ (c) amounts spent for overhead, expenses, commissions, and similar purposes;

264 and

265 ~~[(e)]~~ (d) unless disclosed in another part of the charitable organization's application for  
266 registration or renewal of registration, the name and address of any professional fund raiser  
267 used by the charitable organization.

268 (3) Each report required under this section shall be signed under oath by an officer or  
269 principal of the charitable organization.

270 (4) (a) If a charitable organization fails to timely file a quarterly financial report in  
271 accordance with Subsection (1)(c), the charitable organization's registration is immediately and  
272 automatically suspended pending a final order of the division under Section 13-22-12.

273 (b) The division may reinstate the charitable organization's registration after the  
274 division receives:

275 (i) the quarterly financial report requested in accordance with Subsection (1)(c); and  
276 (ii) a penalty of \$25 for each full or partial calendar month after the day on which the  
277 quarterly report was due.

278 Section 5. Section **13-22-24** is enacted to read:

279 **13-22-24. Deceptive acts or practices prohibited -- Prohibited telephone**  
280 **solicitations.**

281 (1) A deceptive act or practice by a person in connection with a charitable solicitation  
282 is a violation of this chapter.

283 (2) Without limiting the scope of Subsection (1), a person commits a deceptive act or  
284 practice if the person knowingly or intentionally:

285 (a) indicates that the person is affiliated with a charitable organization, if it is not;

286 (b) indicates that the person is an employee, officer, or representative of a public safety  
287 agency, if it is not;

288 (c) indicates that the person has sponsorship or approval of a given charitable  
289 organization, if it has not;

290 (d) indicates that a given portion of a solicitation is provided to a charitable  
291 organization, if it is not;

292 (e) indicates that providing a solicitation has an additional benefit, if it does not;

293 (f) indicates that providing a solicitation is tax deductible, if it is not;

294 (g) indicates that providing a solicitation is connected to a tax credit, if it is not;

295 (h) indicates that the offeror of a solicitation has previously given a solicitation to the  
296 charitable organization, if it has not; or

297 (i) with the intent to deceive, uses a name that is substantially similar to another  
298 charitable organization.

299 (3) A deceptive act or practice by a professional fund raiser or professional fund raising  
300 counsel or consultant is a violation of this chapter.

301 (4) Without limiting the scope of Subsection (3), a professional fund raiser or  
302 professional fund raising counsel or consultant commits a deceptive act or practice if the  
303 professional fund raiser or professional fund raising counsel or consultant knowingly or  
304 intentionally:

305 (a) indicates the name of the professional fund raiser or professional fund raising  
306 counsel or consultant, if it is not;

307 (b) indicates that the professional fund raiser or professional fund raising counsel or  
308 consultant is conducting a solicitation on behalf of a given charitable organization, if it is not;  
309 or

310 (c) indicates that a given portion of a solicitation is provided to a charitable  
311 organization, if it is not.

312 (5) (a) A charitable organization shall maintain a list of persons in the state who  
313 request not to be contacted by telephone in connection with a charitable solicitation.

314 (b) A person in connection with a charitable solicitation, a professional fund raiser, or a  
315 professional fund raising counsel or consultant may not make or cause to be made an  
316 unsolicited phone call to a person:

317 (i) located in the state; and

318 (ii) who requests to be placed on the charitable organization's list described in  
319 Subsection (5)(a).

320 (c) (i) It is a violation of this chapter to make an unsolicited telephone call in violation  
321 of this Subsection (5).

322 (ii) Each unsolicited telephone call in violation of this Subsection (5) is a separate  
323 violation of this chapter.

324 Section 6. Section **13-22-25** is enacted to read:

325 **13-22-25. Diversion of funds prohibited.**

326 (1) Diverting funds from a charitable purpose is a violation of this chapter.

327 (2) Without limiting the scope of Subsection (1), a person or professional fund raiser or  
328 fund raising counsel or consultant diverts funds from a charitable purpose if the person:

329 (a) appropriates solicited funds to a person other than the person to which the funds  
330 were solicited;

331 (b) appropriates solicited funds for a purpose other than the purpose for which the  
332 funds were solicited;

333 (c) appropriates solicited funds for any compensation in excess of a reasonable  
334 allowance for salaries or other compensation for services rendered;

335 (d) appropriates solicited funds for any fees in excess of a reasonable allowance for  
336 travel, entertainment, legal, professional, or services of a similar nature; or

337 (e) uses solicited funds for any purpose prohibited by 26 U.S.C. Sec. 501(c)(3).

338 Section 7. Section **13-22-26** is enacted to read:

339 **13-22-26. Fund raising campaign registration required.**

340 (1) As used in this section, "fund raising campaign" means solicitation activities a  
341 professional fund raiser engages in on behalf of a charitable organization:

342 (a) through a written agreement required under Section 13-22-17; and

- 343 (b) for a definite period.
- 344 (2) Before the commencement of a fund raising campaign, a professional fund raiser  
345 shall submit to the division:
- 346 (a) projected expenses and revenue for the campaign;
- 347 (b) bank account information for the bank account where the professional fund raiser  
348 will hold contributions collected in the fund raising campaign;
- 349 (c) solicitation scripts;
- 350 (d) an affirmation from the professional fund raiser that the charity approves  
351 solicitation materials; and
- 352 (e) names and contact information for the individual or individuals overseeing the fund  
353 raising campaign.
- 354 (3) No later than 90 days after the day on which the fund raising campaign ends, the  
355 professional fund raiser shall submit a report to the division of all contributions collected and  
356 expenses paid to the charitable organization during the fund raising campaign.
- 357 (4) A professional fund raiser shall keep records of a fund raising campaign for five  
358 years after the date on which the fund raising campaign ends.

359 Section 8. Section **13-25a-102** is amended to read:

360 **13-25a-102. Definitions.**

361 As used in this chapter:

- 362 (1) "Advertisement" means material offering for sale, or advertising the availability or  
363 quality of, any property, good, or service.
- 364 (2) (a) "Automated telephone dialing system" means equipment used to:
- 365 (i) store or produce telephone numbers;
- 366 (ii) call a stored or produced number; and
- 367 (iii) connect the number called with a recorded message or artificial voice.
- 368 (b) "Automated telephone dialing system" does not include a system used in an  
369 emergency involving the immediate health or safety of a person, including a burglar alarm  
370 system, voice messaging system, fire alarm system, or other similar system.
- 371 (3) "Division" means the Division of Consumer Protection.
- 372 (4) (a) "Established business relationship" means a relationship that:
- 373 (i) is based on inquiry, application, purchase, or transaction regarding products or

374 services offered;

375 (ii) is formed by a voluntary two-way communication between a person making a  
376 telephone solicitation and a person to whom a telephone solicitation is made; and

377 (iii) has not been terminated by:

378 (A) an act by either person; or

379 (B) the passage of 18 months since the most recent inquiry, application, purchase,  
380 transaction, or voluntary two-way communication.

381 (b) "Established business relationship" includes a relationship with an affiliate as  
382 defined in Section 16-10a-102.

383 (5) "Facsimile machine" means equipment used for:

384 (a) scanning or encoding text or images for conversion into electronic signals for  
385 transmission; or

386 (b) receiving electronic signals and reproducing them as a duplicate of the original text  
387 or image.

388 (6) "Negative response" means a statement from a person stating the person does not  
389 wish to listen to the sales presentation or participate in the solicitation presented in the  
390 telephone call.

391 (7) "On-call emergency provider" means an individual who is required by an employer  
392 to be on call to respond to a medical emergency.

393 (8) "Telephone solicitation" means the initiation of a telephone call or message for a  
394 commercial purpose or to seek a financial donation, including calls:

395 (a) encouraging the purchase or rental of, or investment in, property, goods, or services,  
396 regardless of whether the transaction involves a nonprofit organization;

397 (b) soliciting a sale of or extension of credit for property or services to the person  
398 called;

399 (c) soliciting information that will be used for:

400 (i) the direct solicitation of a sale of property or services to the person called; or

401 (ii) an extension of credit to the person called for a sale of property or services;

402 (d) soliciting a charitable donation [~~involving the exchange of any premium, prize, gift,~~  
403 ~~ticket, subscription, or other benefit in connection with any appeal made for a charitable~~  
404 ~~purpose~~]; or

405 (e) encouraging the person called to sell real or personal property.

406 (9) "Telephone solicitor" means any individual, firm, organization, partnership,  
407 association, or corporation who makes or causes to be made an unsolicited telephone call,  
408 including calls made by use of an automated telephone dialing system.

409 (10) "Unsolicited telephone call" means a telephone call for a commercial purpose or  
410 to seek a financial donation other than a call made:

411 (a) in response to an express request of the person called;

412 (b) primarily in connection with an existing debt or contract, payment or performance  
413 of which has not been completed at the time of the call;

414 (c) to a person with whom the telephone solicitor has an established business  
415 relationship; or

416 (d) as required by law for a medical purpose.

417 Section 9. Section **13-25a-111** is amended to read:

418 **13-25a-111. Exemptions.**

419 Notwithstanding any other provision of this chapter, Sections 13-25a-103 and  
420 13-25a-108 do not apply to a person who holds a license or registration:

421 [~~(1) a telephone call made for a charitable purpose as defined in Section 13-22-2;~~]

422 [~~(2) a charitable solicitation as defined in Section 13-22-2; or~~]

423 [~~(3) a person who holds a license or registration:~~]

424 [~~(a)~~] (1) under Title 31A, Insurance Code;

425 [~~(b)~~] (2) issued by the Division of Real Estate established in Section 61-2-201; or

426 [~~(c)~~] (3) issued by the National Association of Securities Dealers.

427 Section 10. Section **16-6a-203** is amended to read:

428 **16-6a-203. Incorporation -- Required filings.**

429 (1) As used in this section:

430 (a) "Professional fund raiser" means the same as that term is defined in Section  
431 13-22-2.

432 (b) "Professional fund raising counsel or consultant" means the same as that term is  
433 defined in Section 13-22-2.

434 (2) A nonprofit corporation is incorporated, and its corporate existence begins:

435 (a) when the articles of incorporation are filed by the division; or

436 (b) if a delayed effective date is specified pursuant to Subsection 16-6a-108(2), on the  
437 delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective  
438 date.

439 ~~[(2)]~~ (3) Notwithstanding Subsection 16-6a-110(4), the filing of the articles of  
440 incorporation by the division is conclusive proof that all conditions precedent to incorporation  
441 have been satisfied, except in a proceeding by the state to:

442 (a) cancel or revoke the incorporation; or

443 (b) involuntarily dissolve the nonprofit corporation.

444 (4) (a) A nonprofit corporation shall file with the division any of the following that  
445 apply to the nonprofit corporation:

446 (i) a copy of the nonprofit corporation's Internal Revenue Service determination letter  
447 qualifying the nonprofit corporation as being tax exempt under Section 501(c)(3), Internal  
448 Revenue Code;

449 (ii) an unredacted IRS Form 990, 990EZ, 990N, or 990PF;

450 (iii) a copy of any written agreement with a professional fund raiser or professional  
451 fund raising counsel or consultant; and

452 (iv) disclosure of any injunction, judgment, administrative order, or felony conviction  
453 involving fraud, dishonesty, false statements, forgery, or theft with respect to an officer,  
454 director, manager, operator, or principal of the organization.

455 (b) Except as provided in Subsection (4)(c), a nonprofit corporation shall make the  
456 filings required under Subsection (4)(a):

457 (i) for a nonprofit corporation whose corporate existence begins on or after May 1,  
458 2024, no later than 90 days after the date on which the nonprofit corporation's corporate  
459 existence begins; or

460 (ii) for a nonprofit corporation in existence before May 1, 2024, no later than August 1,  
461 2024.

462 (c) If a nonprofit corporation does not have the information described in Subsection  
463 (4)(a) during the time period described in Subsection (4)(b), the nonprofit corporation shall, no  
464 later than 30 days after the day on which the nonprofit corporation obtains the information, file  
465 the information required under Subsection (4)(a) with the division.

466 (d) If a document required under Subsections (4)(a)(i) and (ii) is not available during

467 the time period described in Subsection (4)(b), upon request from the division, the nonprofit  
468 corporation shall provide a quarterly financial report to the division no later than 30 days after  
469 the day on which the division requests the quarterly financial report.

470 Section 11. Section **16-6a-1503** is amended to read:

471 **16-6a-1503. Application for authority to conduct affairs.**

472 (1) A foreign nonprofit corporation may apply for authority to conduct affairs in this  
473 state by delivering to the division for filing an application for authority to conduct affairs  
474 setting forth:

- 475 (a) its corporate name and its assumed corporate name, if any;
- 476 (b) the name of the state or country under whose law it is incorporated;
- 477 (c) its date of incorporation;
- 478 (d) its period of duration;
- 479 (e) the street address of its principal office;
- 480 (f) the information required by Subsection 16-17-203(1);
- 481 (g) the names and usual business addresses of its current directors and officers;
- 482 (h) the date it commenced or expects to commence conducting affairs in this state;

483 [~~and~~]

484 (i) a copy of the foreign nonprofit corporation's Internal Revenue Service determination  
485 letter qualifying the nonprofit corporation as being tax exempt under Section 501(c)(3),

486 Internal Revenue Code;

487 (j) an unredacted IRS form 990, 990EZ, 990N, or 990PF;

488 (k) a copy of any written agreement with a professional fund raiser or professional fund  
489 raising counsel or consultant;

490 (l) disclosure of any injunction, judgment, or administrative order or conviction of any  
491 felony involving fraud, dishonesty, false statements, forgery, or theft with respect to any  
492 officer, director, manager, operator, or principal of the organization; and

493 ~~(†)~~ (m) the additional information the division determines is necessary or appropriate  
494 to determine whether the application for authority to conduct affairs should be filed.

495 (2) With the completed application required by Subsection (1) the foreign nonprofit  
496 corporation shall deliver to the division for a certificate of existence, or a document of similar  
497 import that is:

498 (a) authenticated by the division or other official having custody of corporate records in  
499 the state or country under whose law it is incorporated; and

500 (b) dated within 90 days before the day on which the application for authority to  
501 conduct affairs is filed.

502 (3) If the foreign nonprofit corporation does not have the information described in  
503 Subsection (1)(i) through (l) at the time the foreign nonprofit corporation files the application,  
504 the foreign nonprofit corporation shall, no later than 30 days of the day on which the nonprofit  
505 corporation obtains the information, file the information with the division.

506 [~~(3)~~] (4) The foreign nonprofit corporation shall include in the application for authority  
507 to conduct affairs, or in an accompanying document, written consent to appointment by its  
508 designated registered agent.

509 [~~(4)~~] (5) (a) The division may permit a tribal nonprofit corporation to apply for  
510 authority to conduct affairs in this state in the same manner as a nonprofit corporation  
511 incorporated in another state.

512 (b) If a tribal nonprofit corporation elects to apply for authority to conduct affairs in  
513 this state, for purposes of this chapter, the tribal nonprofit corporation shall be treated in the  
514 same manner as a foreign nonprofit corporation incorporated under the laws of another state.

515 Section 12. **Effective date.**

516 This bill takes effect on May 1, 2024.