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90	course of business; or
91	(ii) fees, dues, or assessments paid by members when membership is not conferred
92	solely as consideration for making a contribution.
93	(8) "Contributor" means a donor, pledgor, purchaser, or other person who makes a
94	contribution.
95	(9) "Director" means the director of the Division of Consumer Protection.
96	(10) "Division" means the Division of Consumer Protection of the Department of
97	Commerce.
98	(11) "Material fact" means information that a person of ordinary intelligence and
99	prudence would consider relevant in deciding whether or not to make a contribution in
100	response to a charitable solicitation.
101	(12) (a) "Professional fund raiser" means a person who:
102	(i) for compensation or any other consideration, [solicits contributions for charitable
103	purposes, or plans or manages] for or on behalf of a charitable organization or any other
104	person:
105	(A) solicits contributions; or
106	(B) promotes or sponsors the solicitation of contributions [for or on behalf of any
107	charitable organization or any other person];
108	(ii) (A) for compensation or any other consideration, plans, manages, counsels,
109	consults, or prepares material for, or with respect to, the solicitation of contributions for a
110	charitable organization or any other person; and
111	(B) at any time has custody of a contribution for the charitable organization;
112	[(iii)] (iii) engages in, or represents being independently engaged in, the business of
113	soliciting contributions for a charitable organization;
114	[(iii)] (iv) manages, supervises, or trains any solicitor whether as an employee or
115	otherwise; or
116	[(iv)] (v) uses a vending device or vending device decal for financial or other
117	consideration that implies a solicitation of contributions or donations for any charitable
118	organization or charitable purposes.
119	(b) "Professional fund raiser" does not include:
120	(i) $\hat{H} \rightarrow an$ individual acting in the individual's capacity as $\leftarrow \hat{H}$ a bona fide officer,
120a	director, volunteer, or full-time employee of a charitable

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121	organization[-];
122	(ii) an attorney, investment counselor, or banker who, in the conduct of that person's
123	profession, advises a client regarding legal, investment, or financial advice; or
124	(iii) a person who tangentially prepares materials, including a person who:
125	(A) makes copies;
126	(B) cuts or folds flyers; or
127	(C) creates a graphic design or other artwork without providing strategic or
128	campaign-related input.
129	(13) (a) "Professional fund raising counsel or consultant" [or other comparable
130	designation or title] means a person who:
131	(i) for compensation or any other consideration, plans, manages, [advises,] counsels,
132	consults, or prepares material for, or with respect to, the solicitation [in this state] of
133	contributions for a charitable organization[, whether or not at any time the person has custody
134	of contributions from a solicitation] or any other person;
135	(ii) does not solicit contributions; [and]
136	(iii) does not at any time have custody of a contribution from solicitation; and
137	[(iii)] (iv) does not employ, procure, or engage any compensated person to solicit or
138	receive contributions.
139	(b) "Professional fund raising counsel or consultant" does not include:
140	(i) $\mathbf{\hat{H}} \rightarrow \mathbf{an}$ individual acting in the individual's capacity as $\leftarrow \mathbf{\hat{H}}$ a bona fide officer,
140a	director, volunteer, or full-time employee of a charitable
141	organization;
142	(ii) an attorney, investment counselor, or banker who, in the conduct of that person's
143	profession, advises a client [when actually engaged in the giving of] regarding legal,
144	investment, or financial advice[-]; or
145	(iii) a person who tangentially prepares materials, including a person who:
146	(A) makes copies;
147	(B) cuts or folds flyers; or
148	(C) creates a graphic design or other artwork without providing strategic or
149	campaign-related input.
150	(14) (a) "Vending device" means a container used by a charitable organization or
151	professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or

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369 contributions solicited for the charitable organization;

- (ix) disclosure of any injunction, judgment, or administrative order against the
 applicant or the applicant's conviction of any crime involving moral turpitude;
- 372 (x) a copy of any written agreements with any charitable organization;
- 373 (xi) the disclosure of any injunction, judgment, or administrative order or conviction of
 374 any crime involving moral turpitude with respect to any officer, director, manager, operator, or
 375 principal of the applicant;
- 376 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
 377 regarding the use of proceeds;
- (xiii) an acknowledgment that fund raising in the state will not commence until both
 the professional fund raiser or professional fund raising counsel or consultant and the charity,
 and its parent foundation, if any, are registered and in compliance with this chapter; and
- 381 (xiv) any additional information the division may require by rule.

Section 5. Section 13-22-21 is amended to read:

- (2) If any information contained in the application for a permit becomes incorrect or
 incomplete, the applicant or registrant shall, within 30 days after the information becomes
 incorrect or incomplete, correct the application or file the complete information required by the
 division.
- (3) In addition to the permit fee, an applicant failing to file a permit application or
 renewal by the due date or filing an incomplete permit application or renewal shall pay an
 additional fee of \$25 for each month or part of a month after the date on which the permit
 application or renewal were due to be filed.
- 390
- 391 **13-22-21.** Appeal on behalf of individual.
- 392 (1) If a charitable campaign consisting of exempt solicitations for the relief <u>or benefit</u>
 393 of a named individual [sustaining a life-threatening illness or injury], as described in
 394 Subsection 13-22-8(1)(c), collects proceeds in excess of \$→ [\$1,000] Ĥ→ [\$10,000] ←Ĥ ←\$
- 394a $\hat{\mathbf{H}} \rightarrow \$5,000 \leftarrow \hat{\mathbf{H}}$, the organizer
- 394a of the campaign
- 395 shall give the division written notice of the following:
- 396 (a) the organizer's name and address;
- 397 (b) the name[,] <u>and</u> whereabouts[, and present condition] of the person for whose relief
- 398 <u>or benefit</u> the contributions are solicited [including a letter from the person's attending
- 399 physician detailing the illness or injury];

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400	(c) the date the charitable campaign commenced; and
401	(d) the purpose to which the collected contributions are to be applied.
402	(2) Notice under Subsection (1) is due within 10 days after commencing the appeal or
403	collecting in excess of $\hat{S} \rightarrow [\frac{1,000}{1,000}] \hat{H} \rightarrow [\frac{10,000}{1,0000}] \leftarrow \hat{H} \leftarrow \hat{S} \hat{H} \rightarrow \frac{55,000}{5,000} \leftarrow \hat{H}$, whichever is later.
404	(3) If the organizer fails to file timely notice, the division shall inform the organizer of
405	the notice requirement and give the organizer 10 additional days as a grace period within which
406	to file the notice. If the organizer fails to file the notice within the grace period, the division
407	may issue a cease and desist order against the organizer.
408	(4) If, at any time, the division has reasonable cause to believe that the organizer is
409	perpetrating a fraud against the public, or in any other way intends to profit from harming the
410	public through the charitable campaign, it shall issue a cease and desist order against the
411	organizer.
412	Section 6. Effective date.
413	If approved by two-thirds of all the members elected to each house, this bill takes effect
414	upon approval by the governor, or the day following the constitutional time limit of Utah
415	Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
416	the date of veto override.

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