

## HB0452S01 compared with HB0452

~~deleted text~~ shows text that was in HB0452 but was deleted in HB0452S01.

inserted text shows text that was not in HB0452 but was inserted into HB0452S01.

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Representative Adam Robertson proposes the following substitute bill:

### CORPORATION REINSTATEMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Adam Robertson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions of Title 16, Corporations, regarding requirements for reinstatement following dissolution.

##### Highlighted Provisions:

This bill:

- ▶ amends application requirements for a nonprofit corporation or a corporation applying for reinstatement after dissolution;
- ▶ requires the Division of Corporations and Commercial Code to request that the State Tax Commission certify that the nonprofit corporation or corporation is in good standing;
- ▶ requires the State Tax Commission to notify the Division of Corporations and Commercial Code and the nonprofit corporation or corporation if a nonprofit

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corporation or corporation is not in good standing; and

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**16-6a-1412**, as last amended by Laws of Utah 2017, Chapter 122

**16-10a-1422**, as last amended by Laws of Utah 2017, Chapter 122

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

Section 1. Section **16-6a-1412** is amended to read:

**16-6a-1412. Reinstatement following administrative dissolution -- Reinstatement after voluntary dissolution.**

(1) A nonprofit corporation administratively dissolved under Section 16-6a-1411 may apply to the division for reinstatement within two years after the effective date of dissolution by delivering to the division for filing an application for reinstatement that states:

(a) the effective date of [its] the nonprofit corporation's administrative dissolution and [its] the nonprofit corporation's corporate name on the effective date of dissolution;

(b) that the ground or grounds for dissolution:

(i) did not exist; or

(ii) have been eliminated;

(c) (i) the corporate name under which the nonprofit corporation is being reinstated;

and

(ii) the corporate name that satisfies the requirements of Section 16-6a-401;

(d) that the nonprofit corporation has paid all fees or penalties imposed under this chapter or other applicable state law;

(e) that the nonprofit corporation:

(i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or

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penalties owed to the State Tax Commission;

(f) the address of the nonprofit corporation's registered office;

(g) the name of the nonprofit corporation's registered agent at the office stated in

Subsection (1)(f);

(h) the federal employer identification number of the nonprofit corporation; and

~~[(h)]~~ (i) any additional information the division determines is necessary or appropriate.

(2) The nonprofit corporation shall include in or with the application for reinstatement~~[(a)]~~ the written consent to appointment by the designated registered agent~~;~~ and~~].~~

~~[(b) a certificate from the State Tax Commission that states that the nonprofit corporation:]~~

~~[(i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or]~~

~~[(ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission.]~~

(3) (a) After receiving a nonprofit corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the nonprofit corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the nonprofit corporation is in good standing.

(b) The State Tax Commission shall certify that a nonprofit corporation is in good standing if the nonprofit corporation:

(i) has paid all taxes, fees, and penalties the nonprofit corporation owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the nonprofit corporation owes to the State Tax Commission.

(c) If a nonprofit corporation is not in good standing as described in Subsection (3)(b), the State Tax Commission shall:

(i) notify the division~~{ and }~~, stating that the nonprofit corporation~~{ and }~~

~~[(ii) explain in the notification described in Subsection (3)(c)(i)]~~ is not in good standing; and

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(ii) notify the nonprofit corporation, explaining in detail why the nonprofit corporation is not in good standing.

~~[(3)]~~ (4) (a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required by Subsections (1) and (2); ~~[and]~~

(ii) the division determines that the information in the application is correct[-]; and

(iii) the State Tax Commission certifies that the nonprofit corporation is in good standing as described in Subsection (3)(b).

(b) The division shall mail written notice of the revocation to the nonprofit corporation in the manner provided in Subsection 16-6a-1411(5) stating the effective date of the dissolution.

~~[(4)]~~ (5) When the reinstatement is effective:

(a) the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(b) the nonprofit corporation may carry on ~~[its]~~ the nonprofit corporation's activities, under the name stated pursuant to Subsection (1)(c), as if the administrative dissolution had never occurred; and

(c) an act of the nonprofit corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred.

~~[(5)]~~ (6) (a) The division may make rules for the reinstatement of a nonprofit corporation voluntarily dissolved.

(b) The rules made under Subsection ~~[(5)]~~ (6)(a) shall be substantially similar to the requirements of this section for reinstatement of a nonprofit corporation that is administratively dissolved.

Section 2. Section **16-10a-1422** is amended to read:

### **16-10a-1422. Reinstatement following dissolution.**

(1) A corporation dissolved under Section 16-10a-1403 or 16-10a-1421 may apply to the division for reinstatement within two years after the effective date of dissolution by delivering to the division for filing an application for reinstatement that states:

(a) the effective date of the corporation's dissolution;

(b) the corporation's corporate name as of the effective date of dissolution;

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- (c) that the grounds for dissolution either did not exist or have been eliminated;
- (d) the corporate name under which the corporation is being reinstated;
- (e) that the name stated in Subsection (1)(d) satisfies the requirements of Section 16-10a-401;
- (f) that the corporation has paid all fees or penalties imposed under this chapter or other applicable state law;
- (g) that the corporation:
  - (i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or
  - (ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission;
- (h) the address of the corporation's registered office in this state;
- (i) the name of the corporation's registered agent at the office stated in Subsection (1)(h);

(j) the federal employer identification number of the corporation; and

~~(j)~~ (k) any additional information the division determines to be necessary or appropriate.

(2) The corporation shall include in or with the application for reinstatement~~[(a)]~~ the written consent to appointment by the designated registered agent~~]; and~~.

~~[(b) a certificate from the State Tax Commission that states that the corporation:]~~

~~[(i) has paid any taxes, fees, or penalties owed to the State Tax Commission; or]~~

~~[(ii) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission:]~~

(3) (a) After receiving a corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the corporation is in good standing.

(b) The State Tax Commission shall certify that a corporation is in good standing if the corporation:

(i) has paid all taxes, fees, and penalties the corporation owed to the State Tax Commission; or

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(ii) is currently on a payment plan with the State Tax Commission for all taxes, fees, and penalties the corporation owes to the State Tax Commission.

(c) If a corporation is not in good standing as described in Subsection (3)(b), the State Tax Commission shall:

(i) notify the division ~~and~~, stating that the corporation is not in good standing; and

(ii) ~~explain~~ notify the corporation, explaining in ~~the notification described in Subsection (3)(c)(i)~~ detail why the corporation is not in good standing.

~~[(3) If]~~ (4) (a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required by Subsections (1) and (2) ~~and~~;

(ii) the division determines that the information in the application is correct ~~[, the division shall revoke the administrative dissolution.]; and~~

(iii) the State Tax Commission certifies that the corporation is in good standing as described in Subsection (3)(b).

(b) The division shall mail to the corporation in the manner provided in Subsection 16-10a-1421(5) written notice of:

~~[(a)]~~ (i) the revocation; and

~~[(b)]~~ (ii) the effective date of the revocation.

~~[(4)]~~ (5) (a) When the reinstatement is effective, ~~it~~ the reinstatement relates back to the effective date of the administrative dissolution.

(b) Upon reinstatement:

~~[(a)]~~ (i) an act of the corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred; and

~~[(b)]~~ (ii) the corporation may carry on ~~its~~ the corporation's business, under the name stated pursuant to Subsection (1)(d), as if the administrative dissolution had never occurred.