

**CORPORATION REINSTATEMENT AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Anthony E. Loubet**

Senate Sponsor: Daniel McCay

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**LONG TITLE**

**General Description:**

This bill addresses corporate application requirements for reinstatement and withdrawal.

**Highlighted Provisions:**

This bill:

▶ amends application requirements for:

• a nonprofit corporation or a corporation applying for reinstatement after dissolution; and

• a foreign nonprofit corporation or foreign corporation applying for withdrawal;

▶ requires the Division of Corporations and Commercial Code to request that the State Tax Commission certify that:

• a nonprofit corporation or corporation applying for reinstatement after dissolution is in good standing; and

• a foreign nonprofit corporation or foreign corporation applying for withdrawal is in good standing;

▶ requires the State Tax Commission to notify the Division of Corporations and Commercial Code and the corporation if the corporation is not in good standing;

and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **16-6a-1412**, as last amended by Laws of Utah 2017, Chapter 122

34 **16-6a-1513**, as enacted by Laws of Utah 2000, Chapter 300

35 **16-10a-1422**, as last amended by Laws of Utah 2017, Chapter 122

36 **16-10a-1520**, as enacted by Laws of Utah 1992, Chapter 277



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

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

40 **16-6a-1412. Reinstatement following administrative dissolution -- Reinstatement**  
41 **after voluntary dissolution.**

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

45 (a) states:

46 ~~(a)~~ (i) the effective date of ~~its~~ the nonprofit corporation's administrative dissolution  
47 and ~~its~~ the nonprofit corporation's corporate name on the effective date of dissolution;

48 ~~(b)~~ (ii) that the ground or grounds for dissolution:

49 ~~(i)~~ (A) did not exist; or

50 ~~(i)~~ (B) have been eliminated;

51 ~~(c)~~ (i) (iii) the corporate name under which the nonprofit corporation is being  
52 reinstated; ~~and~~

53 ~~(i)~~ (iv) the corporate name that satisfies the requirements of Section **16-6a-401**;

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

56 ~~(e)~~ (vi) that the nonprofit corporation:

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

58 ~~(i)~~ (B) is current on a payment plan with the State Tax Commission for any taxes,

59 fees, or penalties owed to the State Tax Commission;

60 ~~[(f)]~~ (vii) the address of the nonprofit corporation's registered office;

61 ~~[(g)]~~ (viii) the name of the nonprofit corporation's registered agent at the office stated  
62 in Subsection (1)(f);

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

64 ~~[(h)]~~ (x) any additional information the division determines is necessary or  
65 appropriate~~[-];~~ and

66 ~~[(2) The nonprofit corporation shall include in or with the application for  
67 reinstatement:]~~

68 ~~[(a)]~~ (b) includes the written consent to appointment by the designated registered  
69 agent~~[-; and].~~

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

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

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

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

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

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

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

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

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

87 (c) If a nonprofit corporation is not in good standing as described in Subsection (2)(b),  
88 the State Tax Commission shall:

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

90 and

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

93 (3) (a) The division shall revoke the administrative dissolution if:

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

96 (ii) the division determines that the information in the application is correct; and

97 (iii) the State Tax Commission certifies that the nonprofit corporation is in good  
98 standing as described in Subsection (2)(b).

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

102 (4) When the reinstatement is effective:

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

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

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

110 (5) (a) The division may make rules for the reinstatement of a nonprofit corporation  
111 voluntarily dissolved.

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

115 Section 2. Section ~~16-6a-1513~~ is amended to read:

116 **~~16-6a-1513. Withdrawal of foreign nonprofit corporation.~~**

117 (1) A foreign nonprofit corporation authorized to conduct affairs in this state may not  
118 withdraw from this state until [~~its~~] the foreign nonprofit corporation's application for  
119 withdrawal has been filed by the division.

120 (2) A foreign nonprofit corporation authorized to conduct affairs in this state may apply

121 for withdrawal by delivering to the division for filing an application for withdrawal [~~setting~~  
122 ~~forth~~] that states:

123 (a) [~~its~~] the foreign nonprofit corporation's corporate name and [~~its~~] assumed name, if  
124 any;

125 (b) the name of the state or country under whose law [~~it~~] the foreign nonprofit  
126 corporation is incorporated;

127 (c) (i) (A) the address of [~~its~~] the foreign nonprofit corporation's principal office; or

128 (B) if a principal office is not to be maintained, a statement that the foreign nonprofit  
129 corporation will not maintain a principal office; and

130 (ii) if different from the address of the principal office or if no principal office is to be  
131 maintained, the address to which service of process may be mailed pursuant to Section  
132 16-6a-1514;

133 (d) that the foreign nonprofit corporation is not conducting affairs in this state;

134 (e) that [~~it~~] the foreign nonprofit corporation surrenders [~~its~~] the foreign nonprofit  
135 corporation's authority to conduct affairs in this state;

136 (f) whether [~~its~~] the foreign nonprofit corporation's registered agent will continue to be  
137 authorized to accept service on [~~its~~] the foreign nonprofit corporation's behalf in any  
138 proceeding based on a cause of action arising during the time [~~it~~] the foreign nonprofit  
139 corporation was authorized to conduct affairs in this state; [~~and~~]

140 (g) the federal employer identification number of the foreign nonprofit corporation; and

141 [~~(g)~~] (h) any additional information that the division determines is necessary or  
142 appropriate to:

143 (i) determine whether the foreign nonprofit corporation is entitled to withdraw; and

144 (ii) determine and assess any unpaid taxes, fees, and penalties payable by the foreign  
145 nonprofit corporation as prescribed by this chapter.

146 ~~Ĥ→ (3) A foreign nonprofit corporation's application for withdrawal may not be filed by the~~  
147 ~~division until:~~

148 ~~—— (a) all outstanding fees and state tax obligations have been paid; and~~

149 ~~—— (b) the division has received a certificate from the State Tax Commission reciting that~~  
150 ~~all taxes owed by the foreign nonprofit corporation have been paid.~~

151 ~~—— (4) (a) (3) ←Ĥ After receiving a foreign nonprofit corporation's application for withdrawal,~~  
151a ~~the~~

152 division shall:

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

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

157 (b) The State Tax Commission shall certify that a foreign nonprofit corporation is in  
 158 good standing if the foreign nonprofit corporation has paid all taxes, fees, and penalties the  
 159 foreign nonprofit corporation owed to the State Tax Commission.

160 (c) If a foreign nonprofit corporation is not in good standing as described in Subsection  
 161 Ĥ→ ~~(4)(b)~~ (3)(b), ←Ĥ the State Tax Commission shall:

162 (i) notify the division, stating that the foreign nonprofit corporation is not in good  
 163 standing; and

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

166 Section 3. Section **16-10a-1422** is amended to read:

167 **16-10a-1422. Reinstatement following dissolution.**

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

171 (a) states:

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

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

174 ~~(c)~~ (iii) that the grounds for dissolution either did not exist or have been eliminated;

175 ~~(d)~~ (iv) the corporate name under which the corporation is being reinstated;

176 ~~(e)~~ (v) that the name stated in Subsection ~~(+)(d)~~ (1)(a)(iv) satisfies the requirements  
 177 of Section 16-10a-401;

178 ~~(f)~~ (vi) that the corporation has paid all fees or penalties imposed under this chapter  
 179 or other applicable state law;

180 ~~(g)~~ (vii) that the corporation:

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

182 ~~(ii)~~ (B) is current on a payment plan with the State Tax Commission for any taxes,

183 fees, or penalties owed to the State Tax Commission;

184 ~~[(h)]~~ (viii) the address of the corporation's registered office in this state;

185 ~~[(i)]~~ (ix) the name of the corporation's registered agent at the office stated in

186 Subsection (1)(h);

187 (x) the federal employer identification number of the corporation; and

188 ~~[(j)]~~ (xi) any additional information the division determines to be necessary or

189 appropriate~~[-];~~ and

190 ~~[(2) The corporation shall include in or with the application for reinstatement:]~~

191 ~~[(a)]~~ (b) includes the written consent to appointment by the designated registered

192 agent~~[-; and].~~

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

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

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

196 ~~penalties owed to the State Tax Commission.]~~

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

198 (i) provide the State Tax Commission with the corporation's federal employer

199 identification number; and

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

201 standing.

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

203 corporation:

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

205 Commission; or

206 (ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and

207 penalties the corporation owes to the State Tax Commission.

208 (c) If a corporation is not in good standing as described in Subsection (2)(b), the State

209 Tax Commission shall:

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

211 (ii) notify the corporation, explaining in detail why the corporation is not in good

212 standing.

213 (3) (a) [(f)] The division shall revoke the administrative dissolution if:

214 (i) the division determines that the application for reinstatement contains the  
215 information required ~~[by Subsections (1) and (2) and]~~ under Subsection (1);  
216 (ii) the division determines that the information in the application is correct~~[the~~  
217 ~~division shall revoke the administrative dissolution.]; and~~  
218 (iii) the State Tax Commission certifies that the corporation is in good standing as  
219 described in Subsection (2)(b).

220 (b) The division shall mail to the corporation in the manner provided in Subsection  
221 16-10a-1421(5) written notice of:

222 ~~[(a)]~~ (i) the revocation; and  
223 ~~[(b)]~~ (ii) the effective date of the revocation.

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

226 (b) Upon reinstatement:

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

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

232 Section 4. Section 16-10a-1520 is amended to read:

233 **16-10a-1520. Withdrawal of foreign corporation.**

234 (1) A foreign corporation authorized to transact business in this state may not withdraw  
235 from this state until ~~[its]~~ the foreign corporation's application for withdrawal has been filed by  
236 the division.

237 (2) A foreign corporation authorized to transact business in this state may apply for  
238 withdrawal by delivering to the division for filing an application for withdrawal ~~[setting forth]~~  
239 that states:

240 (a) ~~[its]~~ the foreign corporation's corporate name and ~~[its]~~ assumed name, if any;

241 (b) the name of the state or country under whose law ~~[it]~~ the foreign corporation is  
242 incorporated;

243 (c) the address of ~~[its]~~ the foreign corporation's principal office, or if none is to be  
244 maintained, a statement that the corporation will not maintain a principal office, and if different



245 from the address of the principal office or if no principal office is to be maintained, the address  
 246 to which service of process may be mailed pursuant to Section [16-10a-1521](#);

247 (d) that the corporation is not transacting business in this state and that ~~[it]~~ the foreign  
 248 corporation surrenders ~~[its]~~ the foreign corporation's authority to transact business in this state;

249 (e) whether ~~[its]~~ the foreign corporation's registered agent will continue to be  
 250 authorized to accept service on ~~[its]~~ the foreign corporation's behalf in any proceeding based on  
 251 a cause of action arising during the time ~~[it]~~ the foreign corporation was authorized to transact  
 252 business in this state; ~~[and]~~

253 (f) the federal employer identification number of the foreign corporation; and  
 254 ~~[(f)]~~ (g) any additional information that the division determines is necessary or  
 255 appropriate to determine whether the corporation is entitled to withdraw, and to determine and  
 256 assess any unpaid taxes, fees, and penalties payable by [it] the foreign corporation as prescribed  
 257 by this chapter.

258 ~~H→ [(3) A foreign corporation's application for withdrawal may not be filed by the division~~  
 259 ~~until all outstanding fees and state tax obligations have been paid and the division has received~~  
 260 ~~a tax clearance certificate from the State Tax Commission.~~

261 ~~———(4)(a)] (3)(a) ←H~~ After receiving a foreign corporation's application for withdrawal, the  
 261a division  
 262 shall:

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

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

267 (b) The State Tax Commission shall certify that a foreign corporation is in good  
 268 standing if the foreign corporation has paid all taxes, fees, and penalties the foreign nonprofit  
 269 corporation owed to the State Tax Commission.

270 (c) If a foreign corporation is not in good standing as described in Subsection H→ [(4)(b)]  
 270a (3)(b) ←H ,  
 271 the State Tax Commission shall:

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

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