

1 **CORPORATION REINSTATEMENT AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Anthony E. Loubet**

5 Senate Sponsor: Daniel McCay

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses corporate application requirements for reinstatement and
10 withdrawal.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends application requirements for:

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

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

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

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

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

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

25 and

26 ▶ makes technical and conforming changes.

27 **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 ~~(ii)~~ (B) have been eliminated;

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

53 ~~(ii)~~ (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 ~~(ii)~~ (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 (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) After receiving a foreign nonprofit corporation's application for withdrawal, 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 (4)(b), 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 ~~[(h)]~~ (A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

182 ~~[(i)]~~ (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 (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) After receiving a foreign corporation's application for withdrawal, the 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 (4)(b),
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.