

1 **PRIVATE POSTSECONDARY EDUCATION MODIFICATIONS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Stephen L. Whyte

7 **LONG TITLE**

8 **General Description:**

9 This bill repeals the Utah Postsecondary School State Authorization Act and repeals,
10 reenacts, and modifies provisions of the Utah Postsecondary Proprietary School Act as
11 the Utah Postsecondary School and State Authorization Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ repeals the Utah Postsecondary School State Authorization Act;
- 15 ▶ repeals, reenacts, and modifies the Utah Postsecondary Proprietary School Act as
16 the Utah Postsecondary School and State Authorization Act;
- 17 ▶ requires a postsecondary school operating in the state to file a registration statement
18 and obtain certain certificates from the Division of Consumer Protection (division);
- 19 ▶ establishes qualifications for a procedure by which a postsecondary school may
20 obtain a registration certificate and state authorization certificate from the division;
- 21 ▶ provides that, under certain circumstances, the division may deny, suspend, or
22 revoke a registration statement, registration certificate, or state authorization
23 certificate;
- 24 ▶ provides procedures to enforce compliance with the provisions of this bill;
- 25 ▶ permits the division to enter into an interstate reciprocity agreement;
- 26 ▶ authorizes the Utah Board of Higher Education to make rules to implement an
27 interstate reciprocity agreement if the agreement includes institutions of higher
28 education;
- 29 ▶ grants the division rulemaking authority;

- 30 ▶ defines terms; and
- 31 ▶ makes technical changes.

32 Money Appropriated in this Bill:

33 None

34 Other Special Clauses:

35 This bill provides a special effective date.

36 Utah Code Sections Affected:

37 AMENDS:

- 38 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462
- 39 **13-53-102**, as enacted by Laws of Utah 2018, Chapter 252
- 40 **16-6a-401**, as last amended by Laws of Utah 2022, Chapter 457
- 41 **16-10a-401**, as last amended by Laws of Utah 2022, Chapter 457
- 42 **16-11-16**, as last amended by Laws of Utah 2022, Chapter 457
- 43 **42-2-6.6**, as last amended by Laws of Utah 2022, Chapter 457
- 44 **48-1d-1105**, as last amended by Laws of Utah 2022, Chapter 457
- 45 **48-2e-108**, as last amended by Laws of Utah 2022, Chapter 457
- 46 **48-3a-108**, as last amended by Laws of Utah 2022, Chapter 457

47 ENACTS:

- 48 **13-34-202**, Utah Code Annotated 1953
- 49 **13-34-203**, Utah Code Annotated 1953
- 50 **13-34-204**, Utah Code Annotated 1953
- 51 **13-34-205**, Utah Code Annotated 1953
- 52 **13-34-301**, Utah Code Annotated 1953
- 53 **13-34-302**, Utah Code Annotated 1953
- 54 **13-34-303**, Utah Code Annotated 1953

55 REPEALS AND REENACTS:

- 56 **13-34-101**, as enacted by Laws of Utah 2002, Chapter 222
- 57 **13-34-102**, as enacted by Laws of Utah 2002, Chapter 222

- 58 **13-34-103**, as last amended by Laws of Utah 2018, Chapter 276
- 59 **13-34-104**, as last amended by Laws of Utah 2010, Chapter 378
- 60 **13-34-105**, as last amended by Laws of Utah 2021, Chapter 266
- 61 **13-34-106**, as last amended by Laws of Utah 2014, Chapter 360
- 62 **13-34-107**, as last amended by Laws of Utah 2011, Chapter 221
- 63 **13-34-108**, as last amended by Laws of Utah 2011, Chapter 221
- 64 **13-34-109**, as enacted by Laws of Utah 2002, Chapter 222
- 65 **13-34-110**, as last amended by Laws of Utah 2014, Chapter 360
- 66 **13-34-111**, as last amended by Laws of Utah 2005, Chapter 242
- 67 **13-34-112**, as enacted by Laws of Utah 2002, Chapter 222
- 68 **13-34-113**, as last amended by Laws of Utah 2014, Chapter 360
- 69 **13-34-201**, as enacted by Laws of Utah 2002, Chapter 222

70 REPEALS:

- 71 **13-34-114**, as last amended by Laws of Utah 2018, Chapter 281
- 72 **13-34a-101**, as enacted by Laws of Utah 2014, Chapter 360
- 73 **13-34a-102**, as last amended by Laws of Utah 2021, Chapter 266
- 74 **13-34a-103**, as enacted by Laws of Utah 2014, Chapter 360
- 75 **13-34a-104**, as last amended by Laws of Utah 2020, Chapter 365
- 76 **13-34a-201**, as enacted by Laws of Utah 2014, Chapter 360
- 77 **13-34a-202**, as enacted by Laws of Utah 2014, Chapter 360
- 78 **13-34a-203**, as enacted by Laws of Utah 2014, Chapter 360
- 79 **13-34a-204**, as last amended by Laws of Utah 2021, Chapter 266
- 80 **13-34a-205**, as enacted by Laws of Utah 2014, Chapter 360
- 81 **13-34a-206**, as enacted by Laws of Utah 2014, Chapter 360
- 82 **13-34a-207**, as last amended by Laws of Utah 2017, Chapter 98
- 83 **13-34a-301**, as enacted by Laws of Utah 2014, Chapter 360
- 84 **13-34a-302**, as enacted by Laws of Utah 2014, Chapter 360
- 85 **13-34a-303**, as enacted by Laws of Utah 2014, Chapter 360

86 **13-34a-304**, as enacted by Laws of Utah 2014, Chapter 360

87 **13-34a-305**, as enacted by Laws of Utah 2014, Chapter 360

88 **13-34a-306**, as enacted by Laws of Utah 2014, Chapter 360

89

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

91 Section 1. Section **13-2-1 (Effective 12/31/23)** is amended to read:

92 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

93 **Functions.**

94 (1) There is established within the Department of Commerce the Division of Consumer
95 Protection.

96 (2) The division shall administer and enforce the following:

97 (a) Chapter 5, Unfair Practices Act;

98 (b) Chapter 10a, Music Licensing Practices Act;

99 (c) Chapter 11, Utah Consumer Sales Practices Act;

100 (d) Chapter 15, Business Opportunity Disclosure Act;

101 (e) Chapter 20, New Motor Vehicle Warranties Act;

102 (f) Chapter 21, Credit Services Organizations Act;

103 (g) Chapter 22, Charitable Solicitations Act;

104 (h) Chapter 23, Health Spa Services Protection Act;

105 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

106 (j) Chapter 26, Telephone Fraud Prevention Act;

107 (k) Chapter 28, Prize Notices Regulation Act;

108 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
109 Transaction Information Act;

110 [~~(m) Chapter 34, Utah Postsecondary Proprietary School Act;~~]

111 [~~(n) Chapter 34a, Utah Postsecondary School State Authorization Act;~~]

112 (m) Utah Postsecondary School and State Authorization Act;

113 [~~(o)~~] (n) Chapter 41, Price Controls During Emergencies Act;

- 114 [~~(p)~~] (o) Chapter 42, Uniform Debt-Management Services Act;
- 115 [~~(q)~~] (p) Chapter 49, Immigration Consultants Registration Act;
- 116 [~~(r)~~] (q) Chapter 51, Transportation Network Company Registration Act;
- 117 [~~(s)~~] (r) Chapter 52, Residential Solar Energy Disclosure Act;
- 118 [~~(t)~~] (s) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 119 [~~(u)~~] (t) Chapter 54, Ticket Website Sales Act;
- 120 [~~(v)~~] (u) Chapter 56, Ticket Transferability Act;
- 121 [~~(w)~~] (v) Chapter 57, Maintenance Funding Practices Act; and
- 122 [~~(x)~~] (w) Chapter 61, Utah Consumer Privacy Act.

Section 2. Section **13-34-101** is repealed and reenacted to read:

CHAPTER 34. UTAH POSTSECONDARY SCHOOL AND STATE AUTHORIZATION

ACT

Part 1. General Provisions

13-34-101. Definitions.

As used in this chapter:

(1) "Accredited postsecondary school" means a postsecondary school that is accredited by an accrediting agency.

(2) "Accrediting agency" means a private educational association that:

(a) is recognized by the United States Department of Education;

(b) develops education criteria; and

(c) conducts evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).

(3) "Agent" means a person who:

(a) owns an interest in a postsecondary school;

(b) is employed by a postsecondary school;

(c) enrolls or attempts to enroll a Utah resident in a postsecondary school;

(d) offers to award an educational credential on behalf of a postsecondary school; or

(e) holds oneself out to a Utah resident as representing a postsecondary school for any

142 purpose.

143 (4) "Apprentice" means the same as that term is defined in Section 35A-6-102.

144 (5) "Apprenticeship" means the same as that term is defined in Section 35A-6-102.

145 (6) "Distance postsecondary education" means the same as that term is defined in 20
146 U.S.C. Sec. 1003(7).

147 (7) "Division" means the Division of Consumer Protection.

148 (8) "Educational credential" means a degree, diploma, certificate, transcript, report,
149 document, letter of designation, mark, or series of letters, numbers, or words that represent
150 enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an
151 educational program.

152 (9) "Longstanding nonprofit accredited postsecondary school" means an accredited
153 postsecondary school that:

154 (a) is a nonprofit organization; and

155 (b) has operated continuously as a nonprofit for at least 20 years.

156 (10) "Nonprofit organization" means a nonprofit corporation or foreign nonprofit
157 corporation as those terms are defined in Section 16-6a-102.

158 (11) "Operate" means to:

159 (a) maintain a physical presence in the state; or

160 (b) provide postsecondary education to an individual who resides in the state.

161 (12) "Physical presence" means:

162 (a) to maintain in the state a physical location where a student receives postsecondary
163 education; or

164 (b) to provide to a student distance postsecondary education from a location in this
165 state.

166 (13) (a) "Postsecondary education" means education or educational services offered
167 primarily to an individual who:

168 (i) has completed or terminated their secondary or high school education; or

169 (ii) is beyond the age of compulsory school attendance.

170 (b) "Postsecondary education" does not include instruction at or below the 12th grade
171 level.

172 (14) "Postsecondary school" means a person that offers postsecondary education:

173 (a) in exchange for payment of tuition, fees, or other consideration; and

174 (b) for the purpose of attaining educational, professional, or vocational objectives.

175 (15) "Principal" means a postsecondary school's owner, officer, director, trustee, or
176 administrator.

177 (16) "Public postsecondary school" means a postsecondary school that is:

178 (a) (i) an institution listed in Section [53B-1-102](#); or

179 (ii) established by another state or other governmental entity; and

180 (b) substantially supported with government funds.

181 (17) "Reciprocity agreement" means an agreement the division enters into with another
182 state in accordance with Section [13-34-303](#).

183 (18) (a) "Registration certificate" means approval from the division to operate a
184 postsecondary school in accordance with this chapter, and with rules adopted in accordance
185 with this chapter.

186 (b) "Registration certificate" does not mean an approval or endorsement of the
187 postsecondary school by the division or the state.

188 (19) "Registration statement" means an application and accompanying documentation
189 required under this chapter for:

190 (a) a registration certificate; or

191 (b) a state authorization certificate.

192 (20) (a) "State authorization certificate" means a certificate that the division issues to
193 an accredited postsecondary school in accordance with Section [13-34-302](#).

194 (b) "State authorization certificate" does not mean an approval or endorsement of the
195 accredited postsecondary school by the division or the state.

196 (21) "Student" means:

197 (a) a person who pays or is obligated to pay a postsecondary school for postsecondary

198 education; or

199 (b) a legal guardian of a person described in Subsection (21)(a).

200 Section 3. Section [13-34-102](#) is repealed and reenacted to read:

201 **13-34-102. Division responsibilities.**

202 (1) The division shall:

203 (a) exercise its enforcement powers in accordance with Chapter 2, Division of

204 Consumer Protection, and this chapter;

205 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

206 Rulemaking Act, to:

207 (i) establish the content of a registration statement required under this chapter;

208 (ii) establish a process for reviewing and responding to complaints the division

209 receives in accordance with this chapter; and

210 (iii) establish a graduated fee structure in accordance with Section [63J-1-504](#) for filing

211 a registration statement;

212 (c) issue a registration certificate or state authorization certificate to a postsecondary

213 school upon the division's receipt and approval of a qualifying registration statement;

214 (d) maintain and publish a list of postsecondary schools to which the division has

215 issued a:

216 (i) registration certificate; or

217 (ii) state authorization certificate; and

218 (e) deposit fees established in accordance with Subsection (1)(b)(iii), and collected in

219 accordance with this chapter into the Commerce Service Account created in Section [13-1-2](#).

220 (2) The division may:

221 (a) accept a copy of an educational credential from a postsecondary school that ceases

222 operation;

223 (b) charge a reasonable fee for providing a copy of an educational credential;

224 (c) upon request, provide a letter confirming that a postsecondary school is exempt

225 from registration in accordance with Section [13-34-111](#); and

226 (d) negotiate and enter into an interstate reciprocity agreement with another state, if in
227 the judgment of the division, the agreement is consistent with the purposes of this chapter.

228 Section 4. Section **13-34-103** is repealed and reenacted to read:

229 **13-34-103. Rulemaking authority.**

230 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
231 division may make rules:

232 (1) establishing the form and content of:

233 (a) a registration statement; and

234 (b) a surety bond, certificate of deposit, irrevocable letter of credit, or other proof of
235 financial viability required under Section 13-34-202;

236 (2) specifying the information a postsecondary school is required to provide with a
237 registration statement, which may vary based upon factors including:

238 (a) the certificate the postsecondary school seeks;

239 (b) whether the postsecondary school is an accredited postsecondary school; and

240 (c) whether the postsecondary school is a longstanding nonprofit accredited
241 postsecondary school;

242 (3) establishing the amount of a surety bond, certificate of deposit, or irrevocable letter
243 of credit required under Section 13-34-202, not to exceed an amount equal to the tuition and
244 fees a postsecondary school anticipates receiving during a school year;

245 (4) providing for the execution and cancellation of the surety bond, certificate of
246 deposit, or irrevocable letter of credit a postsecondary school obtains in accordance with
247 Section 13-34-202;

248 (5) establishing the amount of money a school may charge a student in a 12 month
249 period to qualify for an exemption in accordance with Subsection 13-34-11(3)(d)(i)(C);

250 (6) specifying acts or practices that:

251 (a) are prohibited in accordance with Section 13-34-108; and

252 (b) a postsecondary school that intends to cease operating is required to carry out;

253 (7) specifying student outcomes a postsecondary school is required to disclose under

254 Section 13-34-109;

255 (8) specifying the electronic format in which a postsecondary school is required to
256 maintain an educational credential in accordance with Section 13-34-203;

257 (9) establishing the type and number of credits required to obtain a degree or diploma
258 from a postsecondary school that is not an accredited postsecondary school; and

259 (10) establishing:

260 (a) standards for granting to a postsecondary school a state authorization certificate in
261 accordance with a reciprocity agreement;

262 (b) any filing, document, or fee required for a postsecondary school to obtain a state
263 authorization certificate in accordance with a reciprocity agreement; and

264 (c) penalties for a postsecondary school that fails to comply with rules the division
265 makes under this Subsection (10).

266 Section 5. Section 13-34-104 is repealed and reenacted to read:

267 **13-34-104. Enforcement powers -- Action by division -- Referral.**

268 (1) (a) In addition to the division's other enforcement powers under Chapter 2, Division
269 of Consumer Protection, and elsewhere in this chapter, the division may, in response to a
270 complaint or on the division's own initiative, investigate a postsecondary school to verify
271 compliance with this chapter.

272 (b) For the purpose of an investigation described in Subsection (1)(a), the division
273 may:

274 (i) administer an oath or affirmation;

275 (ii) issue a subpoena for testimony or the production of evidence;

276 (iii) visit a postsecondary school's physical location; and

277 (iv) conduct an audit.

278 (2) (a) The division may provide information concerning a potential violation of this
279 chapter or rule made under this chapter to the attorney general, the county attorney, or district
280 attorney of any county or prosecution district in which the violation or potential violation is
281 occurring or has occurred.

282 (b) The attorney described in Subsection (2)(a) shall investigate the information
283 provided by the division and immediately prosecute or bring suit to enjoin an act determined to
284 be a violation of the chapter or rule.

285 (3) In addition to other penalties and remedies in this chapter, and in addition to the
286 division's other enforcement powers under Section 13-2-6, the division may:

287 (a) issue a cease and desist order;

288 (b) impose an administrative fine for a violation of this chapter as described in Section
289 13-34-105; or

290 (c) bring an action in a court of competent jurisdiction to enforce a provision of this
291 chapter.

292 (4) In an action the division brings to enforce a provision of this chapter, the court may:

293 (a) declare that an act or practice violates a provision of this chapter;

294 (b) issue an injunction for a violation of this chapter;

295 (c) order disgorgement of money received in violation of this chapter;

296 (d) order payment of disgorged money to an injured person;

297 (e) impose a fine;

298 (f) order payment of a fine imposed under Section 13-34-105;

299 (g) order production of educational records to the division; or

300 (h) award any other relief the court deems reasonable and necessary.

301 (5) If a court of competent jurisdiction grants judgment or injunctive relief in the
302 division's favor, the court shall award the division:

303 (a) reasonable attorney fees;

304 (b) court costs; and

305 (c) investigative fees.

306 (6) The division shall deposit all money the division receives for the payment of a fine
307 or civil penalty imposed under this section into the Consumer Protection Education and
308 Training Fund created in Section 13-2-8.

309 Section 6. Section 13-34-105 is repealed and reenacted to read:

310 **13-34-105. Penalties and remedies.**

311 (1) In addition to the division's enforcement powers under Chapter 2, Division of
312 Consumer Protection, and elsewhere in this chapter, the division director may, for a violation
313 of this chapter:

314 (a) issue a cease and desist order; and

315 (b) impose an administrative fine of up to:

316 (i) \$250 per day that a postsecondary school operates without an effective registration
317 certificate;

318 (ii) \$1,000 for each violation of Section [13-34-203](#);

319 (iii) \$2,500 for each violation of this chapter that is not:

320 (A) described in Subsections (1)(b)(i) or (ii); or

321 (B) an intentional violation; or

322 (iv) \$5,000 for each intentional violation of this chapter.

323 (2) A person intentionally violates this chapter if:

324 (a) (i) the violation occurs after one of the following notifies the person that the person
325 has violated or is violating this chapter:

326 (A) the division;

327 (B) the attorney general; or

328 (C) a district attorney or county attorney; and

329 (ii) the violation is the same as the violation of which the person was notified under
330 Subsection (2)(a)(i); or

331 (b) a person violates a cease and desist order the division issues under Subsection
332 (1)(a).

333 (3) An intentional violation of this chapter is a class B misdemeanor.

334 (4) The division shall deposit all money the division receives as payment for
335 administrative fines imposed under Subsection (1)(b) into the Consumer Protection Education
336 and Training Fund created in Section [13-2-8](#).

337 Section 7. Section [13-34-106](#) is repealed and reenacted to read:

338 **13-34-106. Denial, suspension, or revocation of registration statement,**
339 **registration certificate, or state authorization certificate -- Limits on registration**
340 **certificate and state authorization certificate.**

341 (1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G,
342 Chapter 4, Administrative Procedures Act, the division may initiate adjudicative proceedings to
343 deny, suspend, or revoke a registration statement, registration certificate, or state authorization
344 certificate if:

345 (a) the division finds that the denial, suspension, or revocation is in the public interest;
346 and

347 (b) (i) the registration statement is incomplete, false, or misleading;

348 (ii) the division determines that a postsecondary school's educational credential
349 represents undertaking or completing an educational achievement that has not been undertaken
350 or completed; or

351 (iii) a postsecondary school or a principal of the postsecondary school has:

352 (A) violated, caused a violation, or allowed a violation of a provision of:

353 (I) this chapter;

354 (II) a rule made by the division under this chapter; or

355 (III) a commitment made in a registration statement;

356 (B) violated Chapter 11, Utah Consumer Sales Practices Act;

357 (C) been enjoined by a court, or is the subject of an administrative or judicial order
358 issued in Utah or another state, if the injunction or order:

359 (I) includes a finding or admission of fraud, breach of fiduciary duty, or material
360 misrepresentation; or

361 (II) was based on a finding of lack of integrity, truthfulness, or mental competence;

362 (D) been convicted of a crime involving theft, fraud, or dishonesty;

363 (E) obtained or attempted to obtain a registration certificate by misrepresenting any
364 material fact;

365 (F) failed to timely file with the division a report required by:

- 366 (I) this chapter; or
- 367 (II) a rule made by the division under this chapter;
- 368 (G) failed to furnish information requested by the division;
- 369 (H) failed to pay an administrative fine imposed by the division under this chapter, or a
370 fine imposed by an administrative or judicial order in Utah or another state;
- 371 (I) failed to demonstrate fiscal responsibility;
- 372 (J) failed to pay the fee required to file a registration statement;
- 373 (K) failed to satisfy the requirements of this chapter or rule made by the division under
374 this chapter; or
- 375 (L) failed to satisfy a reasonable restriction or condition the division imposes under
376 Subsection (2).
- 377 (2) The division may impose reasonable restrictions and conditions on a postsecondary
378 school's registration certificate or state authorization certificate if:
- 379 (a) the restriction or condition protects student interests; and
- 380 (b) a behavior or condition described in Subsection (1)(b) applies to the postsecondary
381 school or the postsecondary school's principal, registration statement, or educational credential.
- 382 Section 8. Section **13-34-107** is repealed and reenacted to read:
- 383 **13-34-107. Limitation of authority.**
- 384 Except for satisfying the provisions of this chapter and any rule made by the division in
385 accordance with this chapter, nothing in this chapter authorizes the division to regulate
386 educational content or to regulate a postsecondary school's day-to-day operations.
- 387 Section 9. Section **13-34-108** is repealed and reenacted to read:
- 388 **13-34-108. Prohibited acts.**
- 389 (1) A person may not operate a postsecondary school in this state unless:
- 390 (a) (i) the person files with the division a registration statement for the postsecondary
391 school that complies with:
- 392 (A) the requirements of this chapter; and
- 393 (B) rules made by the division; and

394 (ii) the division issues a registration certificate to the postsecondary school; or
395 (b) the postsecondary school is exempt from the requirement to submit a registration
396 statement under Section [13-34-111](#).

397 (2) A person who operates a postsecondary school, a postsecondary school, or a
398 postsecondary school's agent or principal may not:

399 (a) omit from a registration statement a material statement of fact required by this
400 chapter or rule made by the division under this chapter;

401 (b) include in a registration statement any material statement of fact that the person,
402 postsecondary school, or the postsecondary school's principal or agent knew or should have
403 known to be false, deceptive, inaccurate, or misleading;

404 (c) in connection with any investigation or request for information made by the
405 division in accordance with this chapter, make any material statement of fact that the person,
406 postsecondary school, or agent knew or should have known to be false, deceptive, inaccurate,
407 or misleading;

408 (d) fail to provide a refund to a student within 30 days of receiving a valid request for a
409 refund;

410 (e) engage in a deceptive act or practice in connection with offering or providing
411 postsecondary education;

412 (f) make or cause to be made an oral, written, or visual statement or representation that
413 the person who operates a postsecondary school, a postsecondary school, or a postsecondary
414 school's principal or agent knows or should know is false, deceptive, substantially inaccurate,
415 or misleading; or

416 (g) fail to comply with the requirements of this chapter or rule made under this chapter.

417 (3) (a) A postsecondary school may not offer, sell, or award an educational credential
418 unless the recipient of the educational credential has received instruction and successfully
419 completed requirements for the educational credential that are commensurate with reasonable
420 standards applicable to the educational credential.

421 (b) Subsection (3)(a) does not apply to:

422 (i) an educational credential that is clearly and conspicuously designated as an
423 honorary educational credential; or

424 (ii) a certificate or other award that does not designate enrollment in or successful
425 completion of instruction or requirements to obtain a credential.

426 (4) A postsecondary school's name shall not contain any reference that is misleading to
427 a student or the public with respect to the type or nature of the postsecondary school's services,
428 affiliation, or structure.

429 (5) A postsecondary school's principal or agent may not misrepresent the principal's or
430 agent's level of educational attainment or other qualification in connection with the
431 postsecondary school's operation.

432 (6) A postsecondary school may not represent that it is endorsed or approved by the
433 division or the state.

434 (7) After a postsecondary school provides notice to the division that the postsecondary
435 school will cease operations as described in Section 13-34-205, the postsecondary school may
436 not:

437 (a) advertise, recruit, enroll, or offer services to a new student;

438 (b) charge an existing student for services beyond those for which the student has
439 already paid or is obligated to pay;

440 (c) fail to notify a student that the postsecondary school intends to cease operations; or

441 (d) fail to comply with the requirements of Section 13-34-205.

442 (8) A violation of this chapter is also a violation of Subsection 13-11-4(1).

443 Section 10. Section 13-34-109 is repealed and reenacted to read:

444 **13-34-109. Required disclosures.**

445 (1) Before a postsecondary school may enroll or accept payment from a student, the
446 postsecondary school shall clearly and conspicuously disclose in writing to the student:

447 (a) the postsecondary school's name, address, and location;

448 (b) the requirements or qualifications a student is required to satisfy to enroll in the
449 postsecondary school;

- 450 (c) a complete description of the services for which the student will pay, including:
- 451 (i) facilities, faculty, resources, or equipment that the student may use in connection
- 452 with the services, or to access the services;
- 453 (ii) the duration of services provided; and
- 454 (iii) completion or graduation requirements;
- 455 (d) information regarding how the postsecondary school's services relate to state
- 456 licensing requirements if the services are intended to prepare a student for licensure;
- 457 (e) tuition, fees, and any other charge or expense to be paid by the student;
- 458 (f) a financial assistance policy, if any;
- 459 (g) the complete terms of any financing agreement, including an income sharing or
- 460 other agreement, offered to the student;
- 461 (h) the postsecondary school's cancellation and tuition refund policy that shall include,
- 462 at a minimum:
- 463 (i) a three-business-day cooling off period during which a person may rescind the
- 464 enrollment agreement and receive a refund of all money paid, less a reasonable application fee,
- 465 that may not end before midnight on the third business day after the latest of:
- 466 (A) the day on which the person signs the enrollment agreement;
- 467 (B) the day on which the person pays the postsecondary school for services, other than
- 468 an application fee;
- 469 (C) the day on which the person first attends the postsecondary school; or
- 470 (D) the day on which the person first gains access to the postsecondary school's
- 471 services; and
- 472 (ii) a written description of the postsecondary school's refund policy following the
- 473 cooling period described in Subsection (8)(a);
- 474 (i) (i) whether the postsecondary school is accredited by an accrediting agency; and
- 475 (ii) whether the program in which a student intends to enroll is accredited by an
- 476 accrediting agency, if applicable;
- 477 (j) the existence and amount of the postsecondary school's surety bond, certificate of

478 deposit, or irrevocable letter of credit;

479 (k) information regarding how to file a complaint against the postsecondary school
480 with the division, the postsecondary school's accrediting agency, and the postsecondary
481 school's approval or licensing entity; and

482 (1) student outcomes specified in rules made by the division under Section [13-34-103](#).

483 (2) A postsecondary school may comply with Subsection (1)(k) by placing a
484 conspicuous link on the postsecondary school's website that connects to:

485 (a) the contact information for each entity described in Subsection (1)(k) with which a
486 person may file a complaint; or

487 (b) a third party's website that states the contact information for each entity described
488 in Subsection (1)(k) with which a person may file a complaint.

489 Section 11. Section [13-34-110](#) is repealed and reenacted to read:

490 **13-34-110. Requirement to provide official transcript and diploma to a student.**

491 (1) A postsecondary school shall provide an official transcript or diploma to a student
492 within 60 days of receiving a request from the student or the student's authorized
493 representative.

494 (2) A postsecondary school may charge a reasonable fee to provide a transcript or
495 diploma as described in Subsection (1).

496 Section 12. Section [13-34-111](#) is repealed and reenacted to read:

497 **13-34-111. Exemptions.**

498 (1) As used in this section, "State Authorization Reciprocity Agreement" or "SARA"
499 means an agreement among member states, districts, and territories establishing comparable
500 national standards for offering interstate postsecondary distance education courses and
501 programs.

502 (2) (a) Except as provided in Subsection (2)(b), this chapter does not apply to a public
503 postsecondary school.

504 (b) Notwithstanding Subsection (2)(a), the division may issue a state authorization
505 certificate to a public postsecondary school in accordance with Section [13-34-302](#).

506 (3) A postsecondary school is exempt from Sections 13-34-201 through 13-34-205 if
507 the postsecondary school:

508 (a) (i) is an active participant institution in SARA that provides distance education to a
509 person in Utah in accordance with SARA; and

510 (ii) does not maintain a physical presence in the state;

511 (b) is owned, controlled, operated, or maintained by a bona fide church or religious
512 organization that is exempt from property taxation by this state;

513 (c) is a business organization, trade or professional association, fraternal society, or
514 labor organization that:

515 (i) sponsors or conducts postsecondary education primarily for its employees,
516 independent contractors, or members; and

517 (ii) does not advertise as a school; or

518 (d) exclusively offers one or more of the following:

519 (i) postsecondary education:

520 (A) (I) that is avocational, nonvocational, or recreational;

521 (II) for which the postsecondary school does not represent vocational objectives; and

522 (III) for which the postsecondary school does not grant a degree, diploma, or other
523 educational credential commensurate with a degree or diploma;

524 (B) (I) that is a prerequisite to obtain or maintain a license or certification issued by a
525 government agency; and

526 (II) through a postsecondary school that is regulated and licensed, registered, or
527 otherwise approved by a Utah or federal government agency to provide the education; or

528 (C) (I) for which the postsecondary school charges a student less than an amount
529 established by division rule in any 12-month period; and

530 (II) for which the postsecondary school does not grant a degree, diploma, or other
531 educational credential commensurate with a degree or diploma;

532 (ii) preparation for an individual to teach courses or instruction described in Subsection
533 (3)(d)(i)(A);

534 (iii) courses in English as a second language or other language courses;
535 (iv) instruction to advance personal development or a general professional skill:
536 (A) that is not independently sufficient to prepare a person for specific employment;

537 and

538 (B) for which the postsecondary school does not grant a degree, diploma, or other
539 educational credential commensurate with a degree or diploma;

540 (v) instruction designed to prepare an individual to run for political office, for which
541 the postsecondary school does not grant a degree, diploma, or other educational credential
542 commensurate with a degree or diploma;

543 (vi) professional review programs, including certified public accountant or bar
544 examination review and preparation courses; or

545 (vii) instruction to an apprentice:

546 (A) as part of an apprenticeship; and

547 (B) provided by a person who voluntarily conforms to Title 35A, Chapter 6,
548 Apprenticeship Act, in accordance with Section [35A-6-104](#).

549 (4) A postsecondary school that is exempt under this section shall file a registration
550 statement with the division within 30 days of the date on which the postsecondary school no
551 longer qualifies for exemption.

552 (5) (a) A postsecondary school that is exempt in accordance with this section may
553 voluntarily submit a registration statement.

554 (b) A postsecondary school that voluntarily submits a registration statement as
555 described in Subsection (5)(a), and obtains a registration certificate, is not exempt from
556 Sections [13-34-201](#) through [13-34-205](#).

557 (6) A postsecondary school bears the burden of proving it is exempt under this section.
558 Section 13. Section [13-34-112](#) is repealed and reenacted to read:

559 **13-34-112. Enforcement of contract or agreement -- Rescission based on defective**
560 **registration statement -- Rescission based on revocation of certificate of state**
561 **authorization.**

562 (1) A postsecondary school subject to this chapter may not enforce in the courts of this
563 state a contract or agreement relating to postsecondary education services unless, at the time
564 the contract or agreement is executed:

565 (a) the division has issued a registration certificate to the postsecondary school; or

566 (b) the postsecondary school is exempt from this chapter under Section [13-34-111](#).

567 (2) If an accredited postsecondary school's state authorization certificate is revoked in
568 accordance with Section [13-34-106](#), or the accredited postsecondary school loses its
569 accreditation, a student who enrolled in the postsecondary school in reliance upon the benefits
570 offered by the accredited postsecondary school's possession of a valid state authorization
571 certificate or the accredited postsecondary school's accreditation may rescind an enrollment
572 agreement.

573 (3) If a student rescinds an enrollment agreement as described in Subsection (2), the
574 postsecondary school shall:

575 (a) release the student's future obligation to the postsecondary school for any tuition,
576 fees, or other charges that the student paid to the postsecondary school; and

577 (b) refund the student any tuition, fees, or other charges that the student, or a person on
578 the student's behalf, paid to the postsecondary school.

579 Section 14. Section [13-34-113](#) is repealed and reenacted to read:

580 **13-34-113. Private right of action.**

581 (1) A person may bring an action in a court of competent jurisdiction against a
582 postsecondary school that does not comply with this chapter.

583 (2) If a court of competent jurisdiction finds that a postsecondary school violated this
584 chapter, a person who brings an action under Subsection (1) is entitled to:

585 (a) declaratory judgment that an act or practice violates this chapter;

586 (b) injunctive relief;

587 (c) rescission of a contract;

588 (d) for a loss suffered as a result of a violation of this chapter, an amount equal to the
589 greater of:

- 590 (i) actual damages; or
- 591 (ii) \$2,000; and
- 592 (e) an award of reasonable attorney fees and court costs.

593 Section 15. Section **13-34-201** is repealed and reenacted to read:

594 **Part 2. Postsecondary School Responsibilities**

595 **13-34-201. Registration statement -- Registration certificate.**

596 (1) Unless exempt under Section 13-34-111, a person shall file a registration statement
597 and obtain a registration certificate before operating a postsecondary school in this state.

598 (2) Before the division issues a registration certificate for a postsecondary school, the
599 postsecondary school shall file with the division a registration statement that complies with:

- 600 (a) the requirements of this chapter; and
- 601 (b) rules made by the division in accordance with this chapter and Title 63G, Chapter
602 3, Utah Administrative Rulemaking Act.

603 (3) A registration statement shall:

- 604 (a) be submitted on a form approved by the division;
- 605 (b) designate the certificate that the postsecondary school seeks;
- 606 (c) state whether the postsecondary school is:
 - 607 (i) not accredited by an accrediting agency;
 - 608 (ii) an accredited postsecondary school; or
 - 609 (iii) a longstanding nonprofit accredited postsecondary school;
- 610 (d) designate a person who is authorized to respond to an inquiry from the division;

611 and

612 (e) include all information required by rules made by the division in accordance with
613 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

614 (4) A registration statement shall be:

- 615 (a) signed by the postsecondary school's owner or responsible officer; and
- 616 (b) verified by an unsworn declaration in accordance with Title 78B, Chapter 18a,
617 Uniform Unsworn Declarations Act.

618 (5) A postsecondary school that submits a registration statement shall pay a
619 non-refundable fee the division establishes in accordance with Sections [13-34-102](#) and
620 [63J-1-504](#).

621 (6) (a) The division may require a postsecondary school's principal to:

622 (i) submit a fingerprint card in a form acceptable to the division; and

623 (ii) consent to a criminal background check by:

624 (A) the Federal Bureau of Investigation;

625 (B) the Utah Bureau of Criminal Identification; or

626 (C) another agency of any state that performs criminal background checks.

627 (b) The postsecondary school or the postsecondary school's principal who is the subject
628 of the background check shall pay the cost of:

629 (i) the fingerprint card described in Subsection (6)(a)(i); and

630 (ii) the criminal background check described in Subsection (6)(a)(ii).

631 (7) (a) A person shall submit a separate registration statement for each postsecondary
632 school the person operates.

633 (b) Notwithstanding Subsection (7)(a), a longstanding nonprofit accredited
634 postsecondary school that has obtained and holds an active registration certificate is not
635 required to submit a separate registration statement for a postsecondary school that:

636 (i) is wholly owned and operated by the longstanding nonprofit accredited
637 postsecondary school;

638 (ii) is disclosed on the longstanding nonprofit accredited postsecondary school's
639 registration statement; and

640 (iii) operates as a nonprofit organization.

641 (8) A registration certificate expires:

642 (a) one year after it is issued to a postsecondary school that is not an accredited
643 postsecondary school; or

644 (b) two years after it is issued to an accredited postsecondary school.

645 (9) A registration statement, and any certificate issued in accordance with this chapter,

646 are not transferable.

647 (10) Notwithstanding Subsection (8), the division may extend the period for which a
648 registration certificate is effective so that expiration dates are staggered throughout the year.

649 Section 16. Section **13-34-202** is enacted to read:

650 **13-34-202. Surety requirements.**

651 (1) A postsecondary school required to obtain a registration certificate in accordance
652 with this chapter shall maintain, in a form and amount approved by the division:

653 (a) a surety bond;

654 (b) a certificate of deposit;

655 (c) an irrevocable letter of credit; or

656 (d) other proof of financial viability specified in rules the division makes under Section
657 13-34-103.

658 (2) The surety bond, certificate of deposit, or irrevocable letter of credit shall be used
659 as protection against loss of unearned tuition, tuition paid for credits that a student earned but
660 that are not transferrable to a comparable postsecondary school, book fees, supply fees, or
661 equipment fees:

662 (a) collected by the postsecondary school from a student or another person on a
663 student's behalf; or

664 (b) that the student is obligated to pay.

665 (3) A surety bond, certificate of deposit, or irrevocable letter of credit obtained in
666 accordance with this section may not expire:

667 (a) earlier than 60 days after the first day on which no student is enrolled in the
668 postsecondary school; and

669 (b) while students are enrolled in the postsecondary school.

670 Section 17. Section **13-34-203** is enacted to read:

671 **13-34-203. Record keeping.**

672 (1) A postsecondary school shall maintain a student's official transcript and any
673 diploma, degree, or certificate:

674 (a) in an electronic format established by division rule in accordance with Section
675 13-34-103; and

676 (b) for not less than 60 years.

677 (2) A postsecondary school shall maintain an educational credential not described in
678 Subsection (1):

679 (a) in an electronic format established by division rule in accordance with Section
680 13-34-103; and

681 (b) for not less than 10 years.

682 (3) A postsecondary school shall maintain a student's enrollment agreement, record of
683 the student's payment, and any financing agreement:

684 (a) in an electronic format established by division rule in accordance with Section
685 13-34-103; and

686 (b) for not less than 10 years.

687 (4) (a) The division may require a postsecondary school to provide an educational
688 credential to the division.

689 (b) A postsecondary school shall provide a requested educational credential to the
690 division within 14 days of a request from the division described in Subsection (4)(a).

691 (5) Each educational credential that is not maintained in accordance with this section
692 constitutes a separate violation of this chapter.

693 (6) (a) A postsecondary school may submit to the division a written petition to request
694 that the 60-year period described in Subsection (1) be reduced.

695 (b) Upon receipt of a written petition from a postsecondary school, the division may
696 reduce the 60-year period described in Subsection (1) if:

697 (i) the reduced period will not substantially harm student interests;

698 (ii) the reduced period is consistent with any applicable requirement imposed on the
699 postsecondary school by its accreditor or by the United States Department of Education; and

700 (iii) the postsecondary school demonstrates good cause for the reduced period.

701 Section 18. Section **13-34-204** is enacted to read:

702 **13-34-204. Reporting material changes to registration statement.**703 (1) A postsecondary school shall notify the division in writing within 30 days of any
704 material change to any information provided in a registration statement.705 (2) The division may require a postsecondary school to submit a new registration
706 statement based upon a material change to the information provided in a registration statement.707 Section 19. Section **13-34-205** is enacted to read:708 **13-34-205. Closure.**709 (1) (a) A postsecondary school that has obtained a registration certificate, but has not
710 obtained a state authorization certificate, may not cease operations unless the postsecondary
711 school provides written notice to the division at least 30 days before the day on which the
712 postsecondary school ceases operations that includes:713 (i) the day on which the postsecondary school will cease operations;714 (ii) a copy of a teach-out plan similar to one defined in 34 C.F.R. Sec. 602.3, or another
715 written plan that describes how students will be impacted by the postsecondary school ceasing
716 operations;717 (iii) a current list of students enrolled in the postsecondary school, including:718 (A) the program in which each student is enrolled;719 (B) each student's anticipated graduation date; and720 (C) the method of payment the student used to pay the postsecondary school; and721 (iv) if the postsecondary school is an accredited postsecondary school, a written
722 certification signed by the postsecondary school's principal that the postsecondary school is
723 compliant with and will continue to comply with the postsecondary school's accrediting
724 agency's closure requirements.725 (b) A postsecondary school described in Subsection (1)(a) shall provide official
726 transcripts to the division, upon request.727 (2) A postsecondary school that has obtained a state authorization certificate may not
728 cease operations unless the postsecondary school provides written notice to the division at least
729 30 days before the day on which the postsecondary school ceases operations that includes:

- 730 (a) the date on which the postsecondary school will cease operations;
- 731 (b) a written certification signed by the postsecondary school's principal that the
- 732 postsecondary school is compliant and will continue to comply with the postsecondary school's
- 733 accrediting agency's closure requirements;
- 734 (c) a copy of any teach-out plan, as defined by 34 C.F.R. Sec. 602.3, approved by the
- 735 postsecondary school's accrediting agency; and
- 736 (d) to the extent permitted by law:
- 737 (i) a current list of students who are enrolled in the postsecondary school; and
- 738 (ii) for each student described in Subsection (2)(d)(i):
- 739 (A) the student's contact information;
- 740 (B) the program or programs in which the student is enrolled;
- 741 (C) the student's anticipated graduation date; and
- 742 (D) the method of payment the student used to pay the postsecondary school.
- 743 (3) After a postsecondary school submits the written notice described in Subsection (1)
- 744 or (2), the postsecondary school:
- 745 (a) may not recruit or enroll new students; and
- 746 (b) shall, within 14 days or another period approved by the division, inform its students
- 747 in writing that it intends to cease operation.
- 748 (4) (a) The provisions of this Subsection (4) apply to the extent not prohibited by
- 749 federal law.
- 750 (b) If a postsecondary school that ceases operations possesses a student's educational
- 751 credential, the postsecondary school shall:
- 752 (i) provide for storage of the educational credential;
- 753 (ii) provide the educational credential to a student in accordance with Section
- 754 [13-34-110](#); and
- 755 (iii) if applicable, make the educational credential available to the same extent that an
- 756 education record is available under the Family Educational Rights and Privacy Act, 34 C.F.R.
- 757 Part 99.

758 Section 20. Section **13-34-301** is enacted to read:

759 **Part 3. State Authorization**

760 **13-34-301. State authorization -- State authorization certificate.**

761 (1) A postsecondary school that operates in the state obtains state authorization for
762 purposes of 34 C.F.R. Sec. 600.9 if the division issues to the postsecondary school a state
763 authorization certificate in accordance with this chapter.

764 (2) A postsecondary school may obtain state authorization in a manner different from
765 the manner described in Subsection (1) if the alternative manner is accepted by the United
766 States Department of Education.

767 (3) (a) A state authorization certificate is not an endorsement or approval of a
768 postsecondary school by the division or the state.

769 (b) A postsecondary school may not represent that a state authorization certificate is an
770 endorsement or approval by the division or the state.

771 Section 21. Section **13-34-302** is enacted to read:

772 **13-34-302. Registration statement for state authorization certificate -- Expiration.**

773 (1) A postsecondary school may submit a registration statement to obtain a state
774 authorization certificate if the postsecondary school is accredited by an accrediting agency
775 recognized by the United States Department of Education.

776 (2) To obtain a state authorization certificate, a postsecondary school shall submit a
777 registration statement on a form approved by the division that includes:

778 (a) proof of current accreditation from the postsecondary school's accrediting agency;
779 and

780 (b) all information required by division rule made in accordance with Title 63G,
781 Chapter 3, Utah Administrative Rulemaking Act.

782 (3) (a) Except as provided in Subsection (3)(b), a state authorization certificate expires
783 two years after the division issues the state authorization certificate to an accredited
784 postsecondary school.

785 (b) Notwithstanding Subsection (3)(a), the division may extend the period for which a

786 state authorization certificate is effective so that expiration dates are staggered throughout the
787 year.

788 (4) A state authorization certificate that the division issues to a longstanding nonprofit
789 accredited postsecondary school:

790 (a) expires two years after the division issues the state authorization certificate;

791 (b) establishes the postsecondary school by name as an educational institution in
792 accordance with 34 C.F.R. Sec. 600.9(a)(1)(i);

793 (c) makes the postsecondary school independent of the state system of higher
794 education; and

795 (d) authorizes the postsecondary school to operate educational programs in the state
796 that are beyond secondary education, including programs that lead to a degree or certificate.

797 (5) A state authorization certificate that the division issues to a public postsecondary
798 school does not expire.

799 (6) A postsecondary school may satisfy Subsection (2)(a) by demonstrating to the
800 division that the postsecondary school is:

801 (a) within a grace period provided by the United States Department of Education for
802 obtaining new accreditation; or

803 (b) otherwise considered by the United States Department of Education to have
804 recognized accreditation.

805 Section 22. Section **13-34-303** is enacted to read:

806 **13-34-303. Authority to execute interstate reciprocity agreement.**

807 (1) As used in this section, "institution of higher education" means an institution listed
808 in Section [53B-1-102](#).

809 (2) The division may execute an interstate reciprocity agreement that is:

810 (a) for purposes of state authorization in accordance with 34 C.F.R. Sec. 600.9; and

811 (b) for the benefit of:

812 (i) postsecondary schools in the state; or

813 (ii) (A) postsecondary schools in the state; and

814 (B) institutions of higher education.

815 (3) If the division executes an interstate reciprocity agreement described in Subsection

816 (2) that includes institutions of higher education, the Utah Board of Higher Education may

817 make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

818 that:

819 (a) implement the reciprocity agreement; and

820 (b) relate to institutions of higher education.

821 Section 23. Section **13-53-102** is amended to read:

822 **13-53-102. Definitions.**

823 As used in this chapter:

824 (1) "Division" means the Division of Consumer Protection.

825 (2) "Human services program" means the same as that term is defined in Section

826 [62A-2-101](#).

827 (3) "Participant" means an individual who:

828 (a) resides at a residential, vocational and life skills program facility;

829 (b) receives from the residential, vocational and life skills program:

830 (i) vocational training; or

831 (ii) life skills training; and

832 (c) does not receive monetary compensation from the residential, vocational and life

833 skills program.

834 (4) [~~"Proprietary school"~~] "Postsecondary school" means the same as that term is

835 defined in Section [~~13-34-102~~] [13-34-101](#).

836 (5) "Residential, vocational and life skills program" means a program that:

837 (a) is operated by a nonprofit corporation, as defined in Section [16-6a-102](#);

838 (b) does not accept local, state, or federal government funding, government grant

839 money, or any other form of government assistance to operate or provide services or training;

840 (c) operates on a mutually voluntary basis with each participant;

841 (d) houses at a program facility in this state participants who are unrelated to an owner

842 or a manager of the program facility without charging money for lodging, food, clothing, or
843 training;

844 (e) may house transitional graduates for a fee;

845 (f) provides vocational training to participants;

846 (g) provides life skills training to participants;

847 (h) maintains a director or senior staff member at a program facility at all times when
848 the facility is in use;

849 (i) does not provide mental health services;

850 (j) does not provide substance use disorder treatment;

851 (k) does not accept payment from an insurance provider for a participant;

852 (l) does not award a degree, diploma, or other educational credential commensurate
853 with a degree or diploma;

854 (m) does not hold itself out as a human services program; and

855 (n) does not hold itself out as a [~~proprietary school~~] postsecondary school.

856 (6) "Transitional graduate" means an individual who:

857 (a) graduated from a residential, vocational and life skills program;

858 (b) continues to reside at the residential, vocational and life skills program facility; and

859 (c) is employed by an entity not directly affiliated with the residential, vocational and
860 life skills program.

861 (7) "Vocational training entity" is a commercial entity where a participant receives
862 vocational training.

863 Section 24. Section **16-6a-401** is amended to read:

864 **16-6a-401. Corporate name.**

865 (1) The corporate name of a nonprofit corporation:

866 (a) may, but need not contain:

867 (i) the word "corporation," "incorporated," or "company"; or

868 (ii) an abbreviation of "corporation," "incorporated," or "company";

869 (b) may not contain:

870 (i) any word or phrase that indicates or implies that the nonprofit corporation is
871 organized for a purpose other than that permitted by:

872 (A) Section 16-6a-301; and

873 (B) the nonprofit corporation's articles of incorporation; or

874 (ii) for a nonprofit corporation that changes the nonprofit corporation's name or is
875 incorporated in or authorized to do business in the state on or after May 4, 2022, the number
876 sequence "911";

877 (c) except as authorized by the division under Subsection (2), shall be distinguishable,
878 as defined in Section 16-10a-401, from:

879 (i) the name of any domestic corporation incorporated in this state;

880 (ii) the name of any foreign corporation authorized to conduct affairs in this state;

881 (iii) the name of any domestic nonprofit corporation incorporated in this state;

882 (iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this
883 state;

884 (v) the name of any domestic limited liability company formed in this state;

885 (vi) the name of any foreign limited liability company authorized to conduct affairs in
886 this state;

887 (vii) the name of any limited partnership formed or authorized to conduct affairs in this
888 state;

889 (viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;

890 (ix) the name of any entity that has registered the entity's name under Section 42-2-5;

891 (x) the name of any trademark or service mark registered by the division; or

892 (xi) any assumed name filed under Section 42-2-5;

893 (d) shall be, for purposes of recordation, either translated into English or transliterated
894 into letters of the English alphabet if the nonprofit corporation's name is not in English; and

895 (e) without the written consent of the United States Olympic Committee, may not
896 contain the words:

897 (i) "Olympic";

- 898 (ii) "Olympiad"; or
- 899 (iii) "Citius Altius Fortius"~~[-and]~~.
- 900 [~~(f) without the written consent of the Division of Consumer Protection issued in~~
- 901 ~~accordance with Section 13-34-114, may not contain the words:]~~
- 902 [~~(i) "university";~~
- 903 [~~(ii) "college"; or~~
- 904 [~~(iii) "institute" or "institution."~~]
- 905 (2) The division may authorize the use of the name applied for if:
- 906 (a) the name is distinguishable from one or more of the names and trademarks
- 907 described in Subsection (1)(c) that are on the division's records; or
- 908 (b) if the applicant delivers to the division a certified copy of the final judgment of a
- 909 court of competent jurisdiction establishing the applicant's right to use the name applied for in
- 910 this state registered or reserved with the division pursuant to the laws of this state.
- 911 (3) A nonprofit corporation may use the name of another domestic or foreign
- 912 corporation that is used in this state if:
- 913 (a) the other corporation is incorporated or authorized to conduct affairs in this state;
- 914 and
- 915 (b) the proposed user corporation:
- 916 (i) has merged with the other corporation;
- 917 (ii) has been formed by reorganization of the other corporation; or
- 918 (iii) has acquired all or substantially all of the assets, including the corporate name, of
- 919 the other corporation.
- 920 (4) (a) A nonprofit corporation may apply to the division for authorization to file the
- 921 nonprofit corporation's articles of incorporation under, or to register or reserve, a name that is
- 922 not distinguishable upon the division's records from one or more of the names described in
- 923 Subsection (1).
- 924 (b) The division shall approve the application filed under Subsection (4)(a) if:
- 925 (i) the other person whose name is not distinguishable from the name under which the

926 applicant desires to file, or which the applicant desires to register or reserve:

927 (A) consents to the filing, registration, or reservation in writing; and

928 (B) submits an undertaking in a form satisfactory to the division to change the person's
929 name to a name that is distinguishable from the name of the applicant; or

930 (ii) the applicant delivers to the division a certified copy of the final judgment of a
931 court of competent jurisdiction establishing the applicant's right to make the requested filing in
932 this state under the name applied for.

933 (5) Only names of corporations may contain the:

934 (a) words "corporation," or "incorporated"; or

935 (b) abbreviation "corp." or "inc."

936 (6) The division may not issue a certificate of incorporation to any association violating
937 the provisions of this section.

938 Section 25. Section **16-10a-401** is amended to read:

939 **16-10a-401. Corporate name.**

940 (1) The name of a corporation:

941 (a) except for the name of a depository institution as defined in Section **7-1-103**, shall
942 contain:

943 (i) the word:

944 (A) "corporation";

945 (B) "incorporated"; or

946 (C) "company";

947 (ii) the abbreviation:

948 (A) "corp.";

949 (B) "inc."; or

950 (C) "co."; or

951 (iii) words or abbreviations of like import to the words or abbreviations listed in
952 Subsections (1)(a)(i) and (ii) in another language;

953 (b) may not contain:

954 (i) language stating or implying that the corporation is organized for a purpose other
955 than that permitted by:

956 (A) Section 16-10a-301; and

957 (B) the corporation's articles of incorporation; or

958 (ii) for a corporation that changes the corporation's name or is incorporated in or
959 authorized to do business in the state on or after May 4, 2022, the number sequence "911"; and

960 (c) without the written consent of the United States Olympic Committee, may not
961 contain the words:

962 (i) "Olympic";

963 (ii) "Olympiad"; or

964 (iii) "Citius Altius Fortius" [~~and~~].

965 [~~(d) without the written consent of the Division of Consumer Protection issued in~~
966 ~~accordance with Section 13-34-114, may not contain the words:]~~

967 [~~(i) "university";~~

968 [~~(ii) "college"; or~~

969 [~~(iii) "institute" or "institution."~~]

970 (2) Except as authorized by Subsections (3) and (4), the name of a corporation shall be
971 distinguishable, as defined in Subsection (5), upon the records of the division from:

972 (a) the name of any domestic corporation incorporated in or foreign corporation
973 authorized to transact business in this state;

974 (b) the name of any domestic or foreign nonprofit corporation incorporated or
975 authorized to transact business in this state;

976 (c) the name of any domestic or foreign limited liability company formed or authorized
977 to transact business in this state;

978 (d) the name of any limited partnership formed or authorized to transact business in
979 this state;

980 (e) any name reserved or registered with the division for a corporation, limited liability
981 company, or general or limited partnership, under the laws of this state; and

982 (f) any business name, fictitious name, assumed name, trademark, or service mark
983 registered by the division.

984 (3) (a) A corporation may apply to the division for authorization to file the
985 corporation's articles of incorporation under, or to register or reserve, a name that is not
986 distinguishable upon the division's records from one or more of the names described in
987 Subsection (2).

988 (b) The division shall approve the application filed under Subsection (3)(a) if:

989 (i) the other person whose name is not distinguishable from the name under which the
990 applicant desires to file, or which the applicant desires to register or reserve:

991 (A) consents to the filing, registration, or reservation in writing; and

992 (B) submits an undertaking in a form satisfactory to the division to change the person's
993 name to a name that is distinguishable from the name of the applicant; or

994 (ii) the applicant delivers to the division a certified copy of the final judgment of a
995 court of competent jurisdiction establishing the applicant's right to make the requested filing in
996 this state under the name applied for.

997 (4) A corporation may make a filing under the name, including the fictitious name, of
998 another domestic or foreign corporation that is used or registered in this state if:

999 (a) the other corporation is incorporated or authorized to transact business in this state;
1000 and

1001 (b) the filing corporation:

1002 (i) has merged with the other corporation; or

1003 (ii) has been formed by reorganization of the other corporation.

1004 (5) (a) A name is distinguishable from other names, trademarks, and service marks on
1005 the records of the division if the name:

1006 (i) contains one or more different letters or numerals; or

1007 (ii) has a different sequence of letters or numerals from the other names on the
1008 division's records.

1009 (b) Differences which are not distinguishing are:

- 1010 (i) the words or abbreviations of the words:
- 1011 (A) "corporation";
- 1012 (B) "company";
- 1013 (C) "incorporated";
- 1014 (D) "limited partnership";
- 1015 (E) "L.P.";
- 1016 (F) "limited";
- 1017 (G) "limited liability company";
- 1018 (H) "limited company";
- 1019 (I) "L.C."; or
- 1020 (J) "L.L.C.";
- 1021 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- 1022 (iii) differences in punctuation and special characters;
- 1023 (iv) differences in capitalization;
- 1024 (v) differences between singular and plural forms of words for a corporation:
- 1025 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;
- 1026 or
- 1027 (B) that changes the corporation's name on or after May 4, 1998;
- 1028 (vi) differences in whether the letters or numbers immediately follow each other or are
- 1029 separated by one or more spaces if:
- 1030 (A) the sequence of letters or numbers is identical; and
- 1031 (B) the corporation:
- 1032 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;
- 1033 or
- 1034 (II) changes the corporation's name on or after May 3, 1999; or
- 1035 (vii) differences in abbreviations, for a corporation:
- 1036 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;
- 1037 or

1038 (B) that changes the corporation's name on or after May 1, 2000.

1039 (c) The director of the division has the power and authority reasonably necessary to
1040 interpret and efficiently administer this section and to perform the duties imposed on the
1041 division by this section.

1042 (6) A name that implies that the corporation is an agency of this state or of any of the
1043 state's political subdivisions, if the corporation is not actually such a legally established agency
1044 or subdivision, may not be approved for filing by the division.

1045 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation
1046 incorporated in or authorized to do business in this state on or before May 4, 1998, until
1047 December 31, 1998.

1048 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do
1049 business in this state shall comply with the requirements of Subsection (1)(d).

1050 Section 26. Section **16-11-16** is amended to read:

1051 **16-11-16. Corporate name.**

1052 (1) The name of each professional corporation as set forth in the professional
1053 corporation's articles of incorporation:

1054 (a) shall contain the terms:

1055 (i) "professional corporation"; or

1056 (ii) "P.C.";

1057 (b) may not contain the words:

1058 (i) "incorporated"; or

1059 (ii) "inc.";

1060 (c) may not contain:

1061 (i) language stating or implying that the professional corporation is organized for a
1062 purpose other than that permitted by:

1063 (A) Section **16-11-6**; and

1064 (B) the professional corporation's articles of incorporation; or

1065 (ii) for a professional corporation that changes the professional corporation's name or is

1066 incorporated in or authorized to do business in the state on or after May 4, 2022, the number
1067 sequence "911"; and

1068 (d) without the written consent of the United States Olympic Committee, may not
1069 contain the words:

1070 (i) "Olympic";

1071 (ii) "Olympiad"; or

1072 (iii) "Citius Altius Fortius"~~;~~and].

1073 [~~(e) without the written consent of the Division of Consumer Protection in accordance~~
1074 ~~with Section 13-34-114, may not contain the words:]~~

1075 [~~(i) "university";~~

1076 [~~(ii) "college"; or~~

1077 [~~(iii) "institute" or "institution."~~]

1078 (2) The professional corporation may not imply by any word in the name that the
1079 professional corporation is an agency of the state or of any of the state's political subdivisions.

1080 (3) A person, other than a professional corporation formed or registered under this
1081 chapter, may not use in the person's name in this state any of the terms:

1082 (a) "professional corporation"; or

1083 (b) "P.C."

1084 (4) Except as authorized by Subsection (5), the name of the professional corporation
1085 shall be distinguishable, as defined in Subsection (6), upon the records of the division from:

1086 (a) the name of any domestic corporation incorporated in or foreign corporation
1087 authorized to transact business in this state;

1088 (b) the name of any domestic or foreign nonprofit corporation incorporated or
1089 authorized to transact business in this state;

1090 (c) the name of any domestic or foreign limited liability company formed or authorized
1091 to transact business in this state;

1092 (d) the name of any limited partnership formed or authorized to transact business in
1093 this state;

1094 (e) any name reserved or registered with the division for a corporation, limited liability
1095 company, or general or limited partnership, under the laws of this state; and

1096 (f) any business name, fictitious name, assumed name, trademark, or service mark
1097 registered by the division.

1098 (5) (a) A professional corporation may apply to the division for authorization to file the
1099 professional corporation's articles of incorporation under, or to register or reserve, a name that
1100 is not distinguishable upon the division's records from one or more of the names described in
1101 Subsection (4).

1102 (b) The division shall approve the application filed under Subsection (5)(a) if:

1103 (i) the other person whose name is not distinguishable from the name under which the
1104 applicant desires to file, or which the applicant desires to register or reserve:

1105 (A) consents to the filing, registration, or reservation in writing; and

1106 (B) submits an undertaking in a form satisfactory to the division to change the person's
1107 name to a name that is distinguishable from the name of the applicant; or

1108 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1109 court of competent jurisdiction establishing the applicant's right to make the requested filing in
1110 this state under the name applied for.

1111 (6) (a) A name is distinguishable from other names, trademarks, and service marks
1112 registered with the division if the name:

1113 (i) contains one or more different letters or numerals from other names upon the
1114 division's records; or

1115 (ii) has a different sequence of letter or numerals from the other names on the division's
1116 records.

1117 (b) The following differences are not distinguishable:

1118 (i) the words or abbreviations of the words:

1119 (A) "corporation";

1120 (B) "incorporated";

1121 (C) "company";

- 1122 (D) "limited partnership";
- 1123 (E) "limited";
- 1124 (F) "L.P.";
- 1125 (G) "limited liability company";
- 1126 (H) "limited company";
- 1127 (I) "L.C."; or
- 1128 (J) "L.L.C.";
- 1129 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 1130 "plus";
- 1131 (iii) differences in punctuation and special characters;
- 1132 (iv) differences in capitalization; or
- 1133 (v) differences in abbreviations.
- 1134 (7) The director of the division shall have the power and authority reasonably necessary
- 1135 to interpret and efficiently administer this section and to perform the duties imposed upon the
- 1136 division by this section.

1137 Section 27. Section **42-2-6.6** is amended to read:

1138 **42-2-6.6. Assumed name.**

- 1139 (1) The assumed name:
- 1140 (a) may not contain:
- 1141 (i) any word or phrase that indicates or implies that the business is organized for any
- 1142 purpose other than a purpose contained in the business's application; or
- 1143 (ii) for an assumed name that is changed or approved on or after May 4, 2022, the
- 1144 number sequence "911";
- 1145 (b) shall be distinguishable from any registered name or trademark of record in the
- 1146 offices of the Division of Corporations and Commercial Code, as defined in Subsection
- 1147 [16-10a-401\(5\)](#), except as authorized by the Division of Corporations and Commercial Code
- 1148 pursuant to Subsection (2);
- 1149 (c) without the written consent of the United States Olympic Committee, may not

1150 contain the words:

1151 (i) "Olympic";

1152 (ii) "Olympiad"; or

1153 (iii) "Citius Altius Fortius"; and

1154 [~~(d) without the written consent of the Division of Consumer Protection issued in~~
1155 ~~accordance with Section 13-34-114, may not contain the words:]~~

1156 [~~(i) "university";~~

1157 [~~(ii) "college"; or~~

1158 [~~(iii) "institute" or "institution"; and~~

1159 [~~(e)~~] (d) an assumed name authorized for use in this state on or after May 1, 2000, may

1160 not contain the words:

1161 (i) "incorporated";

1162 (ii) "inc."; or

1163 (iii) a variation of "incorporated" or "inc."

1164 (2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in
1165 Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of
1166 the name by a corporation as defined in:

1167 (a) Subsection 16-6a-102(26);

1168 (b) Subsection 16-6a-102(35);

1169 (c) Subsection 16-10a-102(11); or

1170 (d) Subsection 16-10a-102(20).

1171 (3) The Division of Corporations and Commercial Code shall authorize the use of the
1172 name applied for if:

1173 (a) the name is distinguishable from one or more of the names and trademarks that are
1174 on the division's records; or

1175 (b) the applicant delivers to the division a certified copy of the final judgment of a
1176 court of competent jurisdiction establishing the applicant's right to use the name applied for in
1177 this state.

1178 (4) The assumed name, for purposes of recordation, shall be either translated into
1179 English or transliterated into letters of the English alphabet if the assumed name is not in
1180 English.

1181 (5) The Division of Corporations and Commercial Code may not approve an
1182 application for an assumed name to any person violating this section.

1183 (6) The director of the Division of Corporations and Commercial Code shall have the
1184 power and authority reasonably necessary to interpret and efficiently administer this section
1185 and to perform the duties imposed on the division by this section.

1186 (7) A name that implies by any word in the name that the business is an agency of the
1187 state or of any of the state's political subdivisions, if the business is not actually such a legally
1188 established agency, may not be approved for filing by the Division of Corporations and
1189 Commercial Code.

1190 (8) Section 16-10a-403 applies to this chapter.

1191 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a
1192 certificate of assumed and of true name with the Division of Corporations and Commercial
1193 Code on or before May 4, 1998, until December 31, 1998.

1194 (b) On or after January 1, 1999, any person who carries on, conducts, or transacts
1195 business in this state under an assumed name shall comply with the requirements of Subsection
1196 (1)(d).

1197 Section 28. Section **48-1d-1105** is amended to read:

1198 **48-1d-1105. Permitted names.**

1199 (1) The name of a partnership that is not a limited liability partnership may not contain
1200 the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the
1201 abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

1202 (2) The name of a limited liability partnership must contain the words "Registered
1203 Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP",
1204 or "LLP".

1205 (3) Except as otherwise provided in Subsection (6), the name of a limited liability

1206 partnership and the name under which a foreign limited liability partnership may register to do
1207 business in this state must be distinguishable on the records of the division from any:

1208 (a) name of an existing person whose formation required the filing of a record by the
1209 division;

1210 (b) name of a limited liability partnership;

1211 (c) name of a person that is registered to do business in this state by the filing of a
1212 record by the division;

1213 (d) name reserved under Section 48-1d-1106 or other law of this state providing for the
1214 reservation of a name by the filing of a record by the division;

1215 (e) name registered under Section 48-1d-1107 or other law of this state providing for
1216 the registration of a name by the filing of a record by the division; or

1217 (f) assumed name registered under Title 42, Chapter 2, Conducting Business Under
1218 Assumed Name.

1219 (4) If a person consents in a record to the use of the person's name and submits an
1220 undertaking in a form satisfactory to the division to change the person's name to a name that is
1221 distinguishable on the records of the division from any name in any category of names in
1222 Subsection (3), the name of the consenting person may be used by the person to which the
1223 consent was given.

1224 (5) Except as otherwise provided in Subsection (6), in determining whether a name is
1225 the same as or not distinguishable on the records of the division from the name of another
1226 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",
1227 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional
1228 association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited
1229 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",
1230 "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited
1231 liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", or "LLC",
1232 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken
1233 into account.

1234 (6) A person may consent in a record to the use of a name that is not distinguishable on
1235 the records of the division from the person's name except for the addition of a word, phrase, or
1236 abbreviation indicating the type of person as provided in Subsection (5). In such a case, the
1237 person need not change person's name pursuant to Subsection (4).

1238 (7) The division may not approve for filing a name that implies that a limited liability
1239 partnership is an agency of this state or any of the state's political subdivisions, if the limited
1240 liability partnership is not actually such a legally established agency or subdivision.

1241 (8) The authorization to file a certificate under or to reserve or register a limited
1242 liability partnership name as granted by the division does not:

- 1243 (a) abrogate or limit the law governing unfair competition or unfair trade practices;
- 1244 (b) derogate from the common law, the principles of equity, or the statutes of this state
1245 or of the United States with respect to the right to acquire and protect names and trademarks; or
- 1246 (c) create an exclusive right in geographic or generic terms contained within a name.

1247 (9) The name of a limited liability partnership or foreign limited liability partnership
1248 may not contain:

- 1249 (a) the words:
 - 1250 (i) "association";
 - 1251 (ii) "corporation";
 - 1252 (iii) "incorporated";
 - 1253 (iv) "limited liability company";
 - 1254 (v) "limited company";
 - 1255 (vi) "limited partnership"; or
 - 1256 (vii) "Ltd.";
- 1257 (b) any word or abbreviation that is of like import to the words listed in Subsection
1258 (9)(a);
- 1259 (c) without the written consent of the United States Olympic Committee, the words:
 - 1260 (i) "Olympic";
 - 1261 (ii) "Olympiad"; or

1262 (iii) "Citius Altius Fortius"; or
1263 [~~(d) without the written consent of the Division of Consumer Protection issued in~~
1264 ~~accordance with Section 13-34-114 the words:]~~
1265 [(i) "university";]
1266 [(ii) "college"; or]
1267 [(iii) "institute" or "institution"; or]
1268 [~~(e)~~] (d) for a limited liability partnership that changes the limited liability partnership's
1269 name or registers to do business in the state on or after May 4, 2022, the number sequence
1270 "911."

1271 Section 29. Section **48-2e-108** is amended to read:

1272 **48-2e-108. Permitted names.**

1273 (1) The name of a limited partnership may contain the name of any partner.

1274 (2) The name of a limited partnership that is not a limited liability limited partnership
1275 shall contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not
1276 contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or
1277 "LLLP".

1278 (3) The name of a limited liability limited partnership shall contain the words "limited
1279 liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and may not contain the
1280 abbreviation "L.P." or "LP".

1281 (4) Except as otherwise provided in Subsection (7), the name of a limited partnership,
1282 and the name under which a foreign limited partnership may register to do business in this
1283 state, shall be distinguishable on the records of the division from:

1284 (a) the name of an existing person whose formation required the filing of a record by
1285 the division;

1286 (b) the name of a limited liability partnership;

1287 (c) the name of a person that is registered to do business in this state by the filing of a
1288 record by the division;

1289 (d) each name reserved under Section **48-2e-109** or other law of this state providing for

1290 the reservation of a name by the filing of a record by the division;

1291 (e) each name registered under Section 48-2e-110 or other law of this state providing
1292 for the registration of a name by the filing of a record by the division; or

1293 (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under
1294 Assumed Name.

1295 (5) If a person consents in a record to the use of the person's name and submits an
1296 undertaking in a form satisfactory to the division to change the person's name to a name that is
1297 distinguishable on the records of the division from any name in any category of names in
1298 Subsection (4), the name of the consenting person may be used by the person to which the
1299 consent was given.

1300 (6) Except as otherwise provided in Subsection (7), in determining whether a name is
1301 the same as or not distinguishable on the records of the division from the name of another
1302 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",
1303 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional
1304 association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited
1305 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",
1306 "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited
1307 liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", "LLC",
1308 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken
1309 into account.

1310 (7) A person may consent in a record to the use of a name that is not distinguishable on
1311 the records of the division from the person's name except for the addition of a word, phrase, or
1312 abbreviation indicating the type of person as provided in Subsection (6). In such a case, the
1313 person is not required to change the person's name pursuant to Subsection (5).

1314 (8) The division may not approve for filing a name that implies that a limited
1315 partnership is an agency of this state or any of the state's political subdivisions, if the limited
1316 partnership is not actually such a legally established agency or subdivision.

1317 (9) The authorization to file a certificate under or to reserve or register a limited

1318 partnership name as granted by the division does not:

1319 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

1320 (b) derogate from the common law, the principles of equity, or the statutes of this state

1321 or of the United States with respect to the right to acquire and protect names and trademarks; or

1322 (c) create an exclusive right in geographic or generic terms contained within a name.

1323 (10) The name of a limited partnership or foreign limited partnership may not contain:

1324 (a) the words:

1325 (i) "association";

1326 (ii) "corporation";

1327 (iii) "incorporated";

1328 (iv) "limited liability company"; or

1329 (v) "limited company";

1330 (b) any word or abbreviation that is of like import to the words listed in Subsection

1331 (10)(a);

1332 (c) without the written consent of the United States Olympic Committee, the words:

1333 (i) "Olympic";

1334 (ii) "Olympiad"; or

1335 (iii) "Citius Altius Fortius"; or

1336 [~~(d) without the written consent of the Division of Consumer Protection issued in~~

1337 ~~accordance with Section 13-34-114 the words:]~~

1338 [(i) "university";]

1339 [(ii) "college"; or]

1340 [(iii) "institute" or "institution"; or]

1341 [(e)] (d) for a limited partnership that changes the limited partnership's name or is

1342 formed on or after May 4, 2022, the number sequence "911."

1343 Section 30. Section **48-3a-108** is amended to read:

1344 **48-3a-108. Permitted names.**

1345 (1) Except as provided in Section [48-3a-1104](#) or [48-3a-1302](#), the name of a limited

1346 liability company shall contain the words "limited liability company" or "limited company" or
1347 the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.",
1348 and "company" may be abbreviated as "Co."

1349 (2) Except as authorized by Subsection (3), the name of a company shall be
1350 distinguishable as defined in Subsection (4) upon the records of the division from:

1351 (a) the actual name, reserved name, or fictitious or assumed name of any entity
1352 registered with the division; or

1353 (b) any tradename, trademark, or service mark registered with the division.

1354 (3) (a) A company may apply to the division for approval to file the company's
1355 certificate of organization under or to reserve a name that is not distinguishable upon the
1356 division's records from one or more of the names described in Subsection (2).

1357 (b) The division shall approve the name for which the company applies under
1358 Subsection (3)(a) if:

1359 (i) the other person whose name is not distinguishable from the name under which the
1360 applicant desires to file:

1361 (A) consents to the filing in writing; and

1362 (B) submits an undertaking in a form satisfactory to the division to change the person's
1363 name to a name that is distinguishable from the name of the applicant; or

1364 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1365 court of competent jurisdiction establishing the applicant's right to use the name in this state.

1366 (4) A name is distinguishable from other names, trademarks, and service marks
1367 registered with the division if the name contains one or more different words, letters, or
1368 numerals from other names upon the division's records.

1369 (5) The following differences are not distinguishing:

1370 (a) the term:

1371 (i) "corp.";

1372 (ii) "corporation";

1373 (iii) "Inc.";

- 1374 (iv) "incorporated";
- 1375 (v) "professional corporation";
- 1376 (vi) "P.C." or "PC";
- 1377 (vii) "professional association";
- 1378 (viii) "P.A." or "PA";
- 1379 (ix) "professional limited liability company";
- 1380 (x) "P.L.L.C." or "PLLC";
- 1381 (xi) "company";
- 1382 (xii) "limited partnership";
- 1383 (xiii) "limited";
- 1384 (xiv) "L.P." or "LP";
- 1385 (xv) "Ltd.";
- 1386 (xvi) "limited liability company";
- 1387 (xvii) "limited company";
- 1388 (xviii) "L.C." or "LC";
- 1389 (xix) "L.L.C." or "LLC";
- 1390 (xx) "registered limited liability partnership";
- 1391 (xxi) "R.L.L.P." or "RLLP";
- 1392 (xxii) "limited liability partnership";
- 1393 (xxiii) "L.L.P." or "LLP";
- 1394 (xxiv) "limited liability limited partnership";
- 1395 (xxv) "L.L.L.P." or "LLLLP";
- 1396 (xxvi) "registered limited liability limited partnership"; or
- 1397 (xxvii) "R.L.L.L.P." or "RLLLLP";
- 1398 (b) an abbreviation of a word listed in Subsection (5)(a);
- 1399 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 1400 "plus";
- 1401 (d) differences in punctuation and special characters;

1402 (e) differences in capitalization; or
1403 (f) for a company that is formed in this state on or after May 4, 1998, or registered as a
1404 foreign company in this state on or after May 4, 1998, differences in singular and plural forms
1405 of words.

1406 (6) The division may not approve for filing a name that implies that a limited liability
1407 company is an agency of this state or any of the state's political subdivisions, if the limited
1408 liability company is not actually such a legally established agency or subdivision.

1409 (7) The authorization to file a certificate under or to reserve or register a limited
1410 liability company name as granted by the division does not:

- 1411 (a) abrogate or limit the law governing unfair competition or unfair trade practices;
- 1412 (b) derogate from the common law, the principles of equity, or the statutes of this state
1413 or of the United States with respect to the right to acquire and protect names and trademarks; or
- 1414 (c) create an exclusive right in geographic or generic terms contained within a name.

1415 (8) The name of a limited liability company or foreign limited liability company may
1416 not contain:

- 1417 (a) the term:
 - 1418 (i) "association";
 - 1419 (ii) "corporation";
 - 1420 (iii) "incorporated";
 - 1421 (iv) "partnership";
 - 1422 (v) "limited partnership"; or
 - 1423 (vi) "L.P.";
- 1424 (b) any word or abbreviation that is of like import to the words listed in Subsection
1425 (8)(a);
- 1426 (c) without the written consent of the United States Olympic Committee, the words:
 - 1427 (i) "Olympic";
 - 1428 (ii) "Olympiad"; or
 - 1429 (iii) "Citius Altius Fortius"; or

1430 [~~(d)~~ without the written consent of the Division of Consumer Protection issued in
1431 accordance with Section ~~13-34-114~~ the words:]

1432 [(i) "university";]

1433 [~~(ii) "college"; or~~]

1434 [~~(iii) "institute" or "institution"; or~~]

1435 [(~~e~~) (d) for a limited liability company that changes the limited liability company's
1436 name or is formed on or after May 4, 2022, the number sequence "911."

1437 (9) (a) A person, other than a company formed under this chapter or a foreign company
1438 authorized to transact business in this state, may not use in the person's name in this state the
1439 term:

1440 (i) "limited liability company";

1441 (ii) "limited company";

1442 (iii) "L.L.C.";

1443 (iv) "L.C.";

1444 (v) "LLC"; or

1445 (vi) "LC".

1446 (b) Notwithstanding Subsection (2)(a):

1447 (i) a foreign corporation whose actual name includes the term "limited" or "Ltd." may
1448 use the foreign corporation's actual name in this state if the foreign corporation also uses:

1449 (A) "corporation" or "corp."; or

1450 (B) "incorporated" or "Inc."; and

1451 (ii) a limited liability partnership may use in the limited liability partnership's name the
1452 term:

1453 (A) "limited liability partnership";

1454 (B) "L.L.P."; or

1455 (C) "LLP".

1456 Section 31. **Repealer.**

1457 This bill repeals:

- 1458 Section **13-34-114**, **Consent to use of educational terms in business names.**
- 1459 Section **13-34a-101**, **Title.**
- 1460 Section **13-34a-102**, **Definitions.**
- 1461 Section **13-34a-103**, **Duties of the division.**
- 1462 Section **13-34a-104**, **Authority to execute interstate reciprocity agreement --**
- 1463 **Rulemaking.**
- 1464 Section **13-34a-201**, **Title.**
- 1465 Section **13-34a-202**, **State authorization -- Certificate of postsecondary state**
- 1466 **authorization.**
- 1467 Section **13-34a-203**, **Nonprofit postsecondary school -- Procedure to obtain**
- 1468 **certificate of postsecondary state authorization.**
- 1469 Section **13-34a-204**, **Postsecondary school -- Procedure to obtain certificate of**
- 1470 **postsecondary state authorization.**
- 1471 Section **13-34a-205**, **Background checks.**
- 1472 Section **13-34a-206**, **Complaints -- Information for students and prospective**
- 1473 **students.**
- 1474 Section **13-34a-207**, **Discontinuance of operations.**
- 1475 Section **13-34a-301**, **Title.**
- 1476 Section **13-34a-302**, **Denial, suspension, or revocation of certificate of**
- 1477 **postsecondary state authorization.**
- 1478 Section **13-34a-303**, **Right to rescind.**
- 1479 Section **13-34a-304**, **Violations.**
- 1480 Section **13-34a-305**, **Enforcement.**
- 1481 Section **13-34a-306**, **Penalties.**
- 1482 Section 32. **Effective date.**
- 1483 This bill takes effect on January 1, 2024, with the exception of Section [13-2-1](#)
- 1484 (Effective 12/31/23), which takes effect on December 31, 2023.