

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

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**LONG TITLE**

7 **General Description:**

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

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       **13-53-102**, as enacted by Laws of Utah 2018, Chapter 252
- 39       **16-6a-401**, as last amended by Laws of Utah 2022, Chapter 457
- 40       **16-10a-401**, as last amended by Laws of Utah 2022, Chapter 457
- 41       **16-11-16**, as last amended by Laws of Utah 2022, Chapter 457
- 42       **42-2-6.6**, as last amended by Laws of Utah 2022, Chapter 457
- 43       **48-1d-1105**, as last amended by Laws of Utah 2022, Chapter 457
- 44       **48-2e-108**, as last amended by Laws of Utah 2022, Chapter 457
- 45       **48-3a-108**, as last amended by Laws of Utah 2022, Chapter 457

46 ENACTS:

- 47       **13-34-202**, Utah Code Annotated 1953
- 48       **13-34-203**, Utah Code Annotated 1953
- 49       **13-34-204**, Utah Code Annotated 1953
- 50       **13-34-205**, Utah Code Annotated 1953
- 51       **13-34-301**, Utah Code Annotated 1953
- 52       **13-34-302**, Utah Code Annotated 1953
- 53       **13-34-303**, Utah Code Annotated 1953

54 REPEALS AND REENACTS:

- 55       **13-34-101**, as enacted by Laws of Utah 2002, Chapter 222
- 56       **13-34-102**, as enacted by Laws of Utah 2002, Chapter 222
- 57       **13-34-103**, as last amended by Laws of Utah 2018, Chapter 276
- 58       **13-34-104**, as last amended by Laws of Utah 2010, Chapter 378

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

69 REPEALS:

- 70           13-34-114, as last amended by Laws of Utah 2018, Chapter 281
- 71           13-34a-101, as enacted by Laws of Utah 2014, Chapter 360
- 72           13-34a-102, as last amended by Laws of Utah 2021, Chapter 266
- 73           13-34a-103, as enacted by Laws of Utah 2014, Chapter 360
- 74           13-34a-104, as last amended by Laws of Utah 2020, Chapter 365
- 75           13-34a-201, as enacted by Laws of Utah 2014, Chapter 360
- 76           13-34a-202, as enacted by Laws of Utah 2014, Chapter 360
- 77           13-34a-203, as enacted by Laws of Utah 2014, Chapter 360
- 78           13-34a-204, as last amended by Laws of Utah 2021, Chapter 266
- 79           13-34a-205, as enacted by Laws of Utah 2014, Chapter 360
- 80           13-34a-206, as enacted by Laws of Utah 2014, Chapter 360
- 81           13-34a-207, as last amended by Laws of Utah 2017, Chapter 98
- 82           13-34a-301, as enacted by Laws of Utah 2014, Chapter 360
- 83           13-34a-302, as enacted by Laws of Utah 2014, Chapter 360
- 84           13-34a-303, as enacted by Laws of Utah 2014, Chapter 360
- 85           13-34a-304, as enacted by Laws of Utah 2014, Chapter 360
- 86           13-34a-305, as enacted by Laws of Utah 2014, Chapter 360
- 87           13-34a-306, as enacted by Laws of Utah 2014, Chapter 360

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

90 Section 1. Section **13-34-101** is repealed and reenacted to read:

91 **CHAPTER 34. UTAH POSTSECONDARY SCHOOL AND STATE AUTHORIZATION**

92 **ACT**

93 **Part 1. General Provisions**

94 **13-34-101. Definitions.**

95 As used in this chapter:

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

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

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

100 (b) develops education criteria; and

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

103 (3) "Agent" means a person who:

104 (a) owns an interest in a postsecondary school;

105 (b) is employed by a postsecondary school;

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

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

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

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

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

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

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

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

119 (9) "Longstanding nonprofit accredited postsecondary school" means an accredited  
120 postsecondary school that:

- 121 (a) is a nonprofit organization; and
- 122 (b) has operated continuously as a nonprofit for at least 20 years.
- 123 (10) "Nonprofit organization" means a nonprofit corporation or foreign nonprofit  
124 corporation as those terms are defined in Section 16-6a-102.
- 125 (11) "Operate" means to:
- 126 (a) maintain a physical presence in the state; or
- 127 (b) provide postsecondary education to an individual who resides in the state.
- 128 (12) "Physical presence" means:
- 129 (a) to maintain in the state a physical location where a student receives postsecondary  
130 education; or
- 131 (b) to provide to a student distance postsecondary education from a location in this  
132 state.
- 133 (13) (a) "Postsecondary education" means education or educational services offered  
134 primarily to an individual who:
- 135 (i) has completed or terminated their secondary or high school education; or
- 136 (ii) is beyond the age of compulsory school attendance.
- 137 (b) "Postsecondary education" does not include instruction at or below the 12th grade  
138 level.
- 139 (14) "Postsecondary school" means a person that offers postsecondary education:
- 140 (a) in exchange for payment of tuition, fees, or other consideration; and
- 141 (b) for the purpose of attaining educational, professional, or vocational objectives.
- 142 (15) "Principal" means a postsecondary school's owner, officer, director, trustee, or  
143 administrator.
- 144 (16) "Public postsecondary school" means a postsecondary school that is:
- 145 (a) (i) an institution listed in Section 53B-1-102; or
- 146 (ii) established by another state or other governmental entity; and
- 147 (b) substantially supported with government funds.
- 148 (17) "Reciprocity agreement" means an agreement the division enters into with another  
149 state in accordance with Section 13-34-303.
- 150 (18) (a) "Registration certificate" means approval from the division to operate a  
151 postsecondary school in accordance with this chapter, and with rules adopted in accordance

152 with this chapter.

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

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

157 (a) a registration certificate; or

158 (b) a state authorization certificate.

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

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

163 (21) "Student" means:

164 (a) a person who pays or is obligated to pay a postsecondary school for postsecondary  
165 education; or

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

167 Section 2. Section [13-34-102](#) is repealed and reenacted to read:

168 **13-34-102. Division responsibilities.**

169 (1) The division shall:

170 (a) exercise its enforcement powers in accordance with Chapter 2, Division of  
171 Consumer Protection, and this chapter;

172 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
173 Rulemaking Act, to:

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

175 (ii) establish a process for reviewing and responding to complaints the division  
176 receives in accordance with this chapter; and

177 (iii) establish a graduated fee structure in accordance with Section [63J-1-504](#) for filing  
178 a registration statement;

179 (c) issue a registration certificate or state authorization certificate to a postsecondary  
180 school upon the division's receipt and approval of a qualifying registration statement;

181 (d) maintain and publish a list of postsecondary schools to which the division has  
182 issued a:

183           (i) registration certificate; or  
184           (ii) state authorization certificate; and  
185           (e) deposit fees established in accordance with Subsection (1)(b)(iii), and collected in  
186 accordance with this chapter into the Commerce Service Account created in Section 13-1-2.

187           (2) The division may:  
188           (a) accept a copy of an educational credential from a postsecondary school that ceases  
189 operation;  
190           (b) charge a reasonable fee for providing a copy of an educational credential;  
191           (c) upon request, provide a letter confirming that a postsecondary school is exempt  
192 from registration in accordance with Section 13-34-111; and  
193           (d) negotiate and enter into an interstate reciprocity agreement with another state, if in  
194 the judgment of the division, the agreement is consistent with the purposes of this chapter.

195           Section 3. Section 13-34-103 is repealed and reenacted to read:

196           **13-34-103. Rulemaking authority.**

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

199           (1) establishing the form and content of:  
200           (a) a registration statement; and  
201           (b) a surety bond, certificate of deposit, or irrevocable letter of credit required under  
202 Section 13-34-202;

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

205           (a) the certificate the postsecondary school seeks;  
206           (b) whether the postsecondary school is an accredited postsecondary school; and  
207           (c) whether the postsecondary school is a longstanding nonprofit accredited  
208 postsecondary school;

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

212           (4) providing for the execution and cancellation of the surety bond, certificate of  
213 deposit, or irrevocable letter of credit a postsecondary school obtains in accordance with

214 Section 13-34-202;

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

217 (6) specifying acts or practices that:

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

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

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

221 Section 13-34-109;

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

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

226 (10) establishing:

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

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

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

233 Section 4. Section 13-34-104 is repealed and reenacted to read:

234 **13-34-104. Enforcement powers -- Action by division -- Referral.**

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

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

241 (i) administer an oath or affirmation;

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

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

244 (iv) conduct an audit.



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

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

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

254 (a) issue a cease and desist order;

255 (b) impose an administrative fine for a violation of this chapter as described in Section  
256 13-34-105; or

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

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

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

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

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

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

264 (e) impose a fine;

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

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

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

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

270 (a) reasonable attorney fees;

271 (b) court costs; and

272 (c) investigative fees.

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

276 Section 5. Section **13-34-105** is repealed and reenacted to read:

277 **13-34-105. Penalties and remedies.**

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

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

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

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

285 (ii) \$1,000 for each violation of Section **13-34-203**;

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

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

288 (B) an intentional violation; or

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

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

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

293 (A) the division;

294 (B) the attorney general; or

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

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

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

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

301 (4) The division shall deposit all money the division receives as payment for  
302 administrative fines imposed under Subsection (1)(b), into the Consumer Protection Education  
303 and Training Fund created in Section **13-2-8**.

304 Section 6. Section **13-34-106** is repealed and reenacted to read:

305 **13-34-106. Denial, suspension, or revocation of registration statement,**  
306 **registration certificate, or state authorization certificate -- Limits on registration**

307 **certificate and state authorization certificate.**

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

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

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

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

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

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

320 (I) this chapter;

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

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

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

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

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

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

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

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

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

333 (I) this chapter; or

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

335 (G) failed to furnish information requested by the division;

336 (H) failed to pay an administrative fine imposed by the division under this chapter, or a  
337 fine imposed by an administrative or judicial order in Utah or another state;

338 (I) failed to demonstrate fiscal responsibility;  
339 (J) failed to pay the fee required to file a registration statement;  
340 (K) failed to satisfy the requirements of this chapter or rule made by the division under  
341 this chapter; or  
342 (L) failed to satisfy a reasonable restriction or condition the division imposes under  
343 Subsection (2).

344 (2) The division may impose reasonable restrictions and conditions on a postsecondary  
345 school's registration certificate or state authorization certificate if:

346 (a) the restriction or condition protects student interests; and  
347 (b) a behavior or condition described in Subsection (1)(b) applies to the postsecondary  
348 school or the postsecondary school's principal, registration statement, or educational credential.

349 Section 7. Section **13-34-107** is repealed and reenacted to read:

350 **13-34-107. Limitation of authority.**

351 Except for satisfying the provisions of this chapter and any rule made by the division in  
352 accordance with this chapter, nothing in this chapter authorizes the division to regulate  
353 educational content or to regulate a postsecondary school's day-to-day operations.

354 Section 8. Section **13-34-108** is repealed and reenacted to read:

355 **13-34-108. Prohibited acts.**

356 (1) A person may not operate a postsecondary school in this state unless:

357 (a) (i) the person files with the division a registration statement for the postsecondary  
358 school that complies with:

359 (A) the requirements of this chapter; and

360 (B) rules made by the division; and

361 (ii) the division issues a registration certificate to the postsecondary school; or

362 (b) the postsecondary school is exempt from the requirement to submit a registration  
363 statement under Section **13-34-111**.

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

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

368 (b) include in a registration statement any material statement of fact that the person,

369 postsecondary school, or the postsecondary school's principal or agent knew or should have  
370 known to be false, deceptive, inaccurate, or misleading;

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

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

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

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

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

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

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

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

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

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

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

399 (6) A postsecondary school may not represent that it is endorsed or approved by the

400 division or the state.

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

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

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

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

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

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

410 Section 9. Section 13-34-109 is repealed and reenacted to read:

411 **13-34-109. Required disclosures.**

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

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

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

417 (c) a complete description of the services for which the student will pay, including:

418 (i) facilities, faculty, resources, or equipment that the student may use in connection  
419 with the services, or to access the services;

420 (ii) the duration of services provided; and

421 (iii) completion or graduation requirements;

422 (d) information regarding how the postsecondary school's services relate to state  
423 licensing requirements if the services are intended to prepare a student for licensure;

424 (e) tuition, fees, and any other charge or expense to be paid by the student;

425 (f) a financial assistance policy, if any;

426 (g) the complete terms of any financing agreement, including an income sharing or  
427 other agreement, offered to the student;

428 (h) the postsecondary school's cancellation and tuition refund policy that shall include,  
429 at a minimum:

430 (i) a three-business-day cooling off period during which a person may rescind the

431 enrollment agreement and receive a refund of all money paid, less a reasonable application fee,  
432 that may not end before midnight on the third business day after the latest of:

433 (A) the day on which the person signs the enrollment agreement;

434 (B) the day on which the person pays the postsecondary school for services, other than  
435 an application fee;

436 (C) the day on which the person first attends the postsecondary school; or

437 (D) the day on which the person first gains access to the postsecondary school's  
438 services; and

439 (ii) a written description of the postsecondary school's refund policy following the  
440 cooling period described in Subsection (8)(a);

441 (i) (i) whether the postsecondary school is accredited by an accrediting agency; and

442 (ii) whether the program in which a student intends to enroll is accredited by an  
443 accrediting agency, if applicable;

444 (j) the existence and amount of the postsecondary school's surety bond, certificate of  
445 deposit, or irrevocable letter of credit;

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

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

450 (2) A postsecondary school may comply with Subsection (1)(k) by placing a

451 conspicuous link on the postsecondary school's website that connects to:

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

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

456 Section 10. Section [13-34-110](#) is repealed and reenacted to read:

457 **13-34-110. Requirement to provide official transcript and diploma to a student.**

458 (1) A postsecondary school shall provide an official transcript or diploma to a student  
459 within 14 days of receiving a request from the student or the student's authorized  
460 representative.

461 (2) A postsecondary school may charge a reasonable fee to provide a transcript or

462 diploma as described in Subsection (1).

463 Section 11. Section [13-34-111](#) is repealed and reenacted to read:

464 **13-34-111. Exemptions.**

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

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

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

473 (3) A postsecondary school is exempt from Sections [13-34-201](#) through [13-34-205](#) if  
474 the postsecondary school:

475 (a) is an active participant institution in SARA that provides distance education to a  
476 person in Utah in accordance with SARA;

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

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

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

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

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

485 (i) postsecondary education:

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

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

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

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

492 (II) through a postsecondary school that is regulated and licensed, registered, or



493 otherwise approved by a Utah or federal government agency to provide the education; or  
494 (C) (I) for which the postsecondary school charges a student less than an amount  
495 established by division rule in any 12-month period; and  
496 (II) for which the postsecondary school does not grant a degree, diploma, or other  
497 educational credential commensurate with a degree or diploma;  
498 (ii) preparation for an individual to teach courses or instruction described in Subsection  
499 (3)(d)(i)(A);  
500 (iii) courses in English as a second language or other language courses;  
501 (iv) instruction to advance personal development or a general professional skill:  
502 (A) that is not independently sufficient to prepare a person for specific employment;  
503 and  
504 (B) for which the postsecondary school does not grant a degree, diploma, or other  
505 educational credential commensurate with a degree or diploma;  
506 (v) instruction designed to prepare an individual to run for political office, for which  
507 the postsecondary school does not grant a degree, diploma, or other educational credential  
508 commensurate with a degree or diploma;  
509 (vi) professional review programs, including certified public accountant or bar  
510 examination review and preparation courses; or  
511 (vii) instruction to an apprentice:  
512 (A) as part of an apprenticeship; and  
513 (B) provided by a person who voluntarily conforms to Title 35A, Chapter 6,  
514 Apprenticeship Act, in accordance with Section [35A-6-104](#).  
515 (4) A postsecondary school that is exempt under this section shall file a registration  
516 statement with the division within 30 days of the date on which the postsecondary school no  
517 longer qualifies for exemption.  
518 (5) (a) A postsecondary school that is exempt in accordance with this Section may  
519 voluntarily submit a registration statement.  
520 (b) A postsecondary school that voluntarily submits a registration statement as  
521 described in Subsection (5)(a), and obtains a registration certificate, is not exempt from  
522 Sections [13-34-201](#) through [13-34-205](#).  
523 (6) A postsecondary school bears the burden of proving it is exempt under this section.

524 Section 12. Section **13-34-112** is repealed and reenacted to read:

525 **13-34-112. Enforcement of contract or agreement -- Rescission based on defective**  
526 **registration statement -- Rescission based on revocation of certificate of state**  
527 **authorization.**

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

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

532 (b) the postsecondary school is exempt from this chapter under Section **13-34-111**.

533 (2) If an accredited postsecondary school's state authorization certificate is revoked in  
534 accordance with Section **13-34-106**, or the accredited postsecondary school loses its  
535 accreditation, a student who enrolled in the postsecondary school in reliance upon the benefits  
536 offered by the accredited postsecondary school's possession of a valid state authorization  
537 certificate or the accredited postsecondary school's accreditation may rescind an enrollment  
538 agreement.

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

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

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

545 Section 13. Section **13-34-113** is repealed and reenacted to read:

546 **13-34-113. Private right of action.**

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

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

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

552 (b) injunctive relief;

553 (c) rescission of a contract;

554 (d) for a loss suffered as a result of a violation of this chapter, an amount equal to the

555 greater of:

556 (i) actual damages; or

557 (ii) \$2,000; and

558 (e) an award of reasonable attorney fees and court costs.

559 Section 14. Section **13-34-201** is repealed and reenacted to read:

560 **Part 2. Postsecondary School Responsibilities**

561 **13-34-201. Registration statement -- Registration certificate.**

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

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

566 (a) the requirements of this chapter; and

567 (b) rules made by the division in accordance with this chapter and Title 63G, Chapter  
568 3, Utah Administrative Rulemaking Act.

569 (3) A registration statement shall:

570 (a) be submitted on a form approved by the division;

571 (b) designate the certificate that the postsecondary school seeks;

572 (c) state whether the postsecondary school is:

573 (i) not accredited by an accrediting agency;

574 (ii) an accredited postsecondary school; or

575 (iii) a longstanding nonprofit accredited postsecondary school;

576 (d) designate a person who is authorized to respond to an inquiry from the division;

577 and

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

580 (4) A registration statement shall be:

581 (a) signed by the postsecondary school's owner or responsible officer; and

582 (b) verified by an unsworn declaration in accordance with Title 78B, Chapter 18a,  
583 Uniform Unsworn Declarations Act.

584 (5) A postsecondary school that submits a registration statement shall pay a  
585 non-refundable fee the division establishes in accordance with Sections 13-34-102 and

586 [63J-1-504.](#)

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

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

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

590 (A) the Federal Bureau of Investigation;

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

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

593 (b) The postsecondary school or the postsecondary school's principal who is the subject

594 of the background check shall pay the cost of:

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

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

597 (7) (a) A person shall submit a separate registration statement for each postsecondary

598 school the person operates.

599 (b) Notwithstanding Subsection (7)(a), a longstanding nonprofit accredited  
600 postsecondary school that has obtained and holds an active registration certificate is not

601 required to submit a separate registration statement for a postsecondary school that:

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

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

606 (iii) operates as a nonprofit organization.

607 (8) A registration certificate expires:

608 (a) one year after it is issued to a postsecondary school that is not an accredited  
609 postsecondary school;

610 (b) two years after it is issued to an accredited postsecondary school; or

611 (c) 10 years after it is issued to a longstanding nonprofit accredited postsecondary  
612 school.

613 (9) A registration statement, and any certificate issued in accordance with this chapter,  
614 are not transferrable.

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

617 Section 15. Section **13-34-202** is enacted to read:

618 **13-34-202. Surety requirements.**

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

621 (a) a surety bond;

622 (b) a certificate of deposit; or

623 (c) an irrevocable letter of credit.

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

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

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

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

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

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

636 Section 16. Section **13-34-203** is enacted to read:

637 **13-34-203. Record keeping.**

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

640 (a) in an electronic format established by division rule in accordance with Section  
641 13-34-103; and

642 (b) for not less than 60 years.

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

645 (a) in an electronic format established by division rule in accordance with Section  
646 13-34-103; and

647 (b) for not less than 10 years.

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

650 (a) in an electronic format established by division rule in accordance with Section  
651 13-34-103; and

652 (b) for not less than 10 years.

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

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

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

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

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

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

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

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

667 Section 17. Section **13-34-204** is enacted to read:

668 **13-34-204. Reporting material changes to registration statement.**

669 (1) A postsecondary school shall notify the division in writing within 30 days of any  
670 material change to any information provided in a registration statement.

671 (2) The division may require a postsecondary school to submit a new registration  
672 statement based upon a material change to the information provided in a registration statement.

673 Section 18. Section **13-34-205** is enacted to read:

674 **13-34-205. Closure.**

675 (1) (a) A postsecondary school that has obtained a registration certificate, but has not  
676 obtained a state authorization certificate, may not cease operations unless the postsecondary  
677 school provides written notice to the division at least 30 days before the day on which the  
678 postsecondary school ceases operations that includes:

- 679 (i) the day on which the postsecondary school will cease operations;  
680 (ii) a copy of a teach-out plan similar to one defined in 34 C.F.R. Sec. 602.3, or another  
681 written plan that describes how students will be impacted by the postsecondary school ceasing  
682 operations;  
683 (iii) a current list of students enrolled in the postsecondary school, including:  
684 (A) the program in which each student is enrolled;  
685 (B) each student's anticipated graduation date; and  
686 (C) the method of payment the student used to pay the postsecondary school; and  
687 (iv) if the postsecondary school is an accredited postsecondary school, a written  
688 certification signed by the postsecondary school's principal that the postsecondary school is  
689 compliant with and will continue to comply with the postsecondary school's accrediting  
690 agency's closure requirements.
- 691 (b) A postsecondary school described in Subsection (1)(a) shall provide official  
692 transcripts to the division, upon request.
- 693 (2) A postsecondary school that has obtained a state authorization certificate may not  
694 cease operations unless the postsecondary school provides written notice to the division at least  
695 30 days before the day on which the postsecondary school ceases operations that includes:  
696 (a) the date on which the postsecondary school will cease operations;  
697 (b) a written certification signed by the postsecondary school's principal that the  
698 postsecondary school is compliant and will continue to comply with the postsecondary school's  
699 accrediting agency's closure requirements;
- 700 (c) a copy of any teach-out plan, as defined by 34 C.F.R. Sec. 602.3, approved by the  
701 postsecondary school's accrediting agency; and  
702 (d) to the extent permitted by law:  
703 (i) a current list of students who are enrolled in the postsecondary school; and  
704 (ii) for each student described in Subsection (2)(a)(iv)(A):  
705 (A) the student's contact information;  
706 (B) the program or programs in which the student is enrolled;  
707 (C) the student's anticipated graduation date; and  
708 (D) the method of payment the student used to pay the postsecondary school.  
709 (3) After a postsecondary school submits the written notice described in Subsection (1)

710 or (2), the postsecondary school:

711 (a) may not recruit or enroll new students; and

712 (b) shall, within 14 days or another period approved by the division, inform its students  
713 in writing that it intends to cease operation.

714 (4) (a) The provisions of this Subsection (4) apply to the extent not prohibited by  
715 federal law.

716 (b) If a postsecondary school that ceases operations possesses a student's educational  
717 credential, the postsecondary school shall:

718 (i) provide for storage of the educational credential;

719 (ii) provide the educational credential to a student in accordance with Section  
720 13-34-110; and

721 (iii) if applicable, make the educational credential available to the same extent that an  
722 education record is available under the Family Educational Rights and Privacy Act, 34 C.F.R.  
723 Part 99.

724 Section 19. Section **13-34-301** is enacted to read:

725 **Part 3. State Authorization**

726 **13-34-301. State authorization -- State authorization certificate.**

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

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

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

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

737 Section 20. Section **13-34-302** is enacted to read:

738 **13-34-302. Registration statement for state authorization certificate -- Expiration.**

739 (1) A postsecondary school may submit a registration statement to obtain a state  
740 authorization certificate if the postsecondary school is accredited by an accrediting agency



741 recognized by the United States Department of Education.

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

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

745 and

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

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

751 (b) Notwithstanding Subsection (3)(a), the division may extend the period for which a  
752 state authorization certificate is effective so that expiration dates are staggered throughout the  
753 year.

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

756 (a) expires 10 years after the division issues the state authorization certificate;

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

759 (c) makes the postsecondary school independent of the state system of higher  
760 education; and

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

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

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

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

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

771 Section 21. Section **13-34-303** is enacted to read:

772 **13-34-303. Authority to execute interstate reciprocity agreement.**

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

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

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

777 (b) for the benefit of:

778 (i) postsecondary schools in the state; or

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

780 (B) institutions of higher education.

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

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

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

784 that:

785 (a) implement the reciprocity agreement; and

786 (b) relate to institutions of higher education.

787 Section 22. Section **13-53-102** is amended to read:

788 **13-53-102. Definitions.**

789 As used in this chapter:

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

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

792 [62A-2-101](#).

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

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

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

796 (i) vocational training; or

797 (ii) life skills training; and

798 (c) does not receive monetary compensation from the residential, vocational and life  
 799 skills program.

800 (4) [~~"Proprietary school"~~] "Postsecondary school" means the same as that term is  
 801 defined in Section [~~13-34-102~~] [13-34-101](#).

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

- 803 (a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;
- 804 (b) does not accept local, state, or federal government funding, government grant  
805 money, or any other form of government assistance to operate or provide services or training;
- 806 (c) operates on a mutually voluntary basis with each participant;
- 807 (d) houses at a program facility in this state participants who are unrelated to an owner  
808 or a manager of the program facility without charging money for lodging, food, clothing, or  
809 training;
- 810 (e) may house transitional graduates for a fee;
- 811 (f) provides vocational training to participants;
- 812 (g) provides life skills training to participants;
- 813 (h) maintains a director or senior staff member at a program facility at all times when  
814 the facility is in use;
- 815 (i) does not provide mental health services;
- 816 (j) does not provide substance use disorder treatment;
- 817 (k) does not accept payment from an insurance provider for a participant;
- 818 (l) does not award a degree, diploma, or other educational credential commensurate  
819 with a degree or diploma;
- 820 (m) does not hold itself out as a human services program; and
- 821 (n) does not hold itself out as a [~~proprietary school~~] postsecondary school.
- 822 (6) "Transitional graduate" means an individual who:
- 823 (a) graduated from a residential, vocational and life skills program;
- 824 (b) continues to reside at the residential, vocational and life skills program facility; and
- 825 (c) is employed by an entity not directly affiliated with the residential, vocational and  
826 life skills program.
- 827 (7) "Vocational training entity" is a commercial entity where a participant receives  
828 vocational training.

829 Section 23. Section 16-6a-401 is amended to read:

830 **16-6a-401. Corporate name.**

- 831 (1) The corporate name of a nonprofit corporation:
- 832 (a) may, but need not contain:
- 833 (i) the word "corporation," "incorporated," or "company"; or

- 834 (ii) an abbreviation of "corporation," "incorporated," or "company";
- 835 (b) may not contain:
- 836 (i) any word or phrase that indicates or implies that the nonprofit corporation is
- 837 organized for a purpose other than that permitted by:
- 838 (A) Section 16-6a-301; and
- 839 (B) the nonprofit corporation's articles of incorporation; or
- 840 (ii) for a nonprofit corporation that changes the nonprofit corporation's name or is
- 841 incorporated in or authorized to do business in the state on or after May 4, 2022, the number
- 842 sequence "911";
- 843 (c) except as authorized by the division under Subsection (2), shall be distinguishable,
- 844 as defined in Section 16-10a-401, from:
- 845 (i) the name of any domestic corporation incorporated in this state;
- 846 (ii) the name of any foreign corporation authorized to conduct affairs in this state;
- 847 (iii) the name of any domestic nonprofit corporation incorporated in this state;
- 848 (iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this
- 849 state;
- 850 (v) the name of any domestic limited liability company formed in this state;
- 851 (vi) the name of any foreign limited liability company authorized to conduct affairs in
- 852 this state;
- 853 (vii) the name of any limited partnership formed or authorized to conduct affairs in this
- 854 state;
- 855 (viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;
- 856 (ix) the name of any entity that has registered the entity's name under Section 42-2-5;
- 857 (x) the name of any trademark or service mark registered by the division; or
- 858 (xi) any assumed name filed under Section 42-2-5;
- 859 (d) shall be, for purposes of recordation, either translated into English or transliterated
- 860 into letters of the English alphabet if the nonprofit corporation's name is not in English; and
- 861 (e) without the written consent of the United States Olympic Committee, may not
- 862 contain the words:
- 863 (i) "Olympic";
- 864 (ii) "Olympiad"; or

- 865 (iii) "Citius Altius Fortius"[~~;~~and].  
866 [~~(f) without the written consent of the Division of Consumer Protection issued in~~  
867 ~~accordance with Section 13-34-114, may not contain the words:]~~  
868 [(i) "university";]  
869 [(ii) "college"; or]  
870 [(iii) "institute" or "institution."]
- 871 (2) The division may authorize the use of the name applied for if:
- 872 (a) the name is distinguishable from one or more of the names and trademarks  
873 described in Subsection (1)(c) that are on the division's records; or  
874 (b) if the applicant delivers to the division a certified copy of the final judgment of a  
875 court of competent jurisdiction establishing the applicant's right to use the name applied for in  
876 this state registered or reserved with the division pursuant to the laws of this state.
- 877 (3) A nonprofit corporation may use the name of another domestic or foreign  
878 corporation that is used in this state if:
- 879 (a) the other corporation is incorporated or authorized to conduct affairs in this state;  
880 and  
881 (b) the proposed user corporation:  
882 (i) has merged with the other corporation;  
883 (ii) has been formed by reorganization of the other corporation; or  
884 (iii) has acquired all or substantially all of the assets, including the corporate name, of  
885 the other corporation.
- 886 (4) (a) A nonprofit corporation may apply to the division for authorization to file the  
887 nonprofit corporation's articles of incorporation under, or to register or reserve, a name that is  
888 not distinguishable upon the division's records from one or more of the names described in  
889 Subsection (1).
- 890 (b) The division shall approve the application filed under Subsection (4)(a) if:
- 891 (i) the other person whose name is not distinguishable from the name under which the  
892 applicant desires to file, or which the applicant desires to register or reserve:  
893 (A) consents to the filing, registration, or reservation in writing; and  
894 (B) submits an undertaking in a form satisfactory to the division to change the person's  
895 name to a name that is distinguishable from the name of the applicant; or

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

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

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

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

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

904 Section 24. Section **16-10a-401** is amended to read:

905 **16-10a-401. Corporate name.**

906 (1) The name of a corporation:

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

909 (i) the word:

910 (A) "corporation";

911 (B) "incorporated"; or

912 (C) "company";

913 (ii) the abbreviation:

914 (A) "corp.";

915 (B) "inc."; or

916 (C) "co."; or

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

919 (b) may not contain:

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

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

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

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

926 (c) without the written consent of the United States Olympic Committee, may not

927 contain the words:

928 (i) "Olympic";

929 (ii) "Olympiad"; or

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

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

933 [(i) "university";]

934 [(ii) "college"; or]

935 [(iii) "institute" or "institution."]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

967 (b) the filing corporation:

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

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

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

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

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

975 (b) Differences which are not distinguishing are:

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

977 (A) "corporation";

978 (B) "company";

979 (C) "incorporated";

980 (D) "limited partnership";

981 (E) "L.P.";

982 (F) "limited";

983 (G) "limited liability company";

984 (H) "limited company";

985 (I) "L.C."; or

986 (J) "L.L.C.";

987 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";

988 (iii) differences in punctuation and special characters;



- 989 (iv) differences in capitalization;
- 990 (v) differences between singular and plural forms of words for a corporation:
- 991 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;
- 992 or
- 993 (B) that changes the corporation's name on or after May 4, 1998;
- 994 (vi) differences in whether the letters or numbers immediately follow each other or are
- 995 separated by one or more spaces if:
- 996 (A) the sequence of letters or numbers is identical; and
- 997 (B) the corporation:
- 998 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;
- 999 or
- 1000 (II) changes the corporation's name on or after May 3, 1999; or
- 1001 (vii) differences in abbreviations, for a corporation:
- 1002 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;
- 1003 or
- 1004 (B) that changes the corporation's name on or after May 1, 2000.
- 1005 (c) The director of the division has the power and authority reasonably necessary to
- 1006 interpret and efficiently administer this section and to perform the duties imposed on the
- 1007 division by this section.
- 1008 (6) A name that implies that the corporation is an agency of this state or of any of the
- 1009 state's political subdivisions, if the corporation is not actually such a legally established agency
- 1010 or subdivision, may not be approved for filing by the division.
- 1011 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation
- 1012 incorporated in or authorized to do business in this state on or before May 4, 1998, until
- 1013 December 31, 1998.
- 1014 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do
- 1015 business in this state shall comply with the requirements of Subsection (1)(d).
- 1016 Section 25. Section **16-11-16** is amended to read:
- 1017 **16-11-16. Corporate name.**
- 1018 (1) The name of each professional corporation as set forth in the professional
- 1019 corporation's articles of incorporation:

- 1020 (a) shall contain the terms:
- 1021 (i) "professional corporation"; or
- 1022 (ii) "P.C.";
- 1023 (b) may not contain the words:
- 1024 (i) "incorporated"; or
- 1025 (ii) "inc.";
- 1026 (c) may not contain:
- 1027 (i) language stating or implying that the professional corporation is organized for a
- 1028 purpose other than that permitted by:
- 1029 (A) Section 16-11-6; and
- 1030 (B) the professional corporation's articles of incorporation; or
- 1031 (ii) for a professional corporation that changes the professional corporation's name or is
- 1032 incorporated in or authorized to do business in the state on or after May 4, 2022, the number
- 1033 sequence "911"; and
- 1034 (d) without the written consent of the United States Olympic Committee, may not
- 1035 contain the words:
- 1036 (i) "Olympic";
- 1037 (ii) "Olympiad"; or
- 1038 (iii) "Citius Altius Fortius"~~[-and]~~.
- 1039 ~~[(e) without the written consent of the Division of Consumer Protection in accordance~~
- 1040 ~~with Section 13-34-114, may not contain the words:]~~
- 1041 ~~[(i) "university";]~~
- 1042 ~~[(ii) "college", or]~~
- 1043 ~~[(iii) "institute" or "institution."]~~
- 1044 (2) The professional corporation may not imply by any word in the name that the
- 1045 professional corporation is an agency of the state or of any of the state's political subdivisions.
- 1046 (3) A person, other than a professional corporation formed or registered under this
- 1047 chapter, may not use in the person's name in this state any of the terms:
- 1048 (a) "professional corporation"; or
- 1049 (b) "P.C."
- 1050 (4) Except as authorized by Subsection (5), the name of the professional corporation

1051 shall be distinguishable, as defined in Subsection (6), upon the records of the division from:

1052 (a) the name of any domestic corporation incorporated in or foreign corporation  
1053 authorized to transact business in this state;

1054 (b) the name of any domestic or foreign nonprofit corporation incorporated or  
1055 authorized to transact business in this state;

1056 (c) the name of any domestic or foreign limited liability company formed or authorized  
1057 to transact business in this state;

1058 (d) the name of any limited partnership formed or authorized to transact business in  
1059 this state;

1060 (e) any name reserved or registered with the division for a corporation, limited liability  
1061 company, or general or limited partnership, under the laws of this state; and

1062 (f) any business name, fictitious name, assumed name, trademark, or service mark  
1063 registered by the division.

1064 (5) (a) A professional corporation may apply to the division for authorization to file the  
1065 professional corporation's articles of incorporation under, or to register or reserve, a name that  
1066 is not distinguishable upon the division's records from one or more of the names described in  
1067 Subsection (4).

1068 (b) The division shall approve the application filed under Subsection (5)(a) if:

1069 (i) the other person whose name is not distinguishable from the name under which the  
1070 applicant desires to file, or which the applicant desires to register or reserve:

1071 (A) consents to the filing, registration, or reservation in writing; and

1072 (B) submits an undertaking in a form satisfactory to the division to change the person's  
1073 name to a name that is distinguishable from the name of the applicant; or

1074 (ii) the applicant delivers to the division a certified copy of the final judgment of a  
1075 court of competent jurisdiction establishing the applicant's right to make the requested filing in  
1076 this state under the name applied for.

1077 (6) (a) A name is distinguishable from other names, trademarks, and service marks  
1078 registered with the division if the name:

1079 (i) contains one or more different letters or numerals from other names upon the  
1080 division's records; or

1081 (ii) has a different sequence of letter or numerals from the other names on the division's

1082 records.

1083 (b) The following differences are not distinguishable:

1084 (i) the words or abbreviations of the words:

1085 (A) "corporation";

1086 (B) "incorporated";

1087 (C) "company";

1088 (D) "limited partnership";

1089 (E) "limited";

1090 (F) "L.P.";

1091 (G) "limited liability company";

1092 (H) "limited company";

1093 (I) "L.C."; or

1094 (J) "L.L.C.";

1095 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or

1096 "plus";

1097 (iii) differences in punctuation and special characters;

1098 (iv) differences in capitalization; or

1099 (v) differences in abbreviations.

1100 (7) The director of the division shall have the power and authority reasonably necessary

1101 to interpret and efficiently administer this section and to perform the duties imposed upon the

1102 division by this section.

1103 Section 26. Section **42-2-6.6** is amended to read:

1104 **42-2-6.6. Assumed name.**

1105 (1) The assumed name:

1106 (a) may not contain:

1107 (i) any word or phrase that indicates or implies that the business is organized for any

1108 purpose other than a purpose contained in the business's application; or

1109 (ii) for an assumed name that is changed or approved on or after May 4, 2022, the

1110 number sequence "911";

1111 (b) shall be distinguishable from any registered name or trademark of record in the

1112 offices of the Division of Corporations and Commercial Code, as defined in Subsection

1113 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code  
1114 pursuant to Subsection (2);  
1115 (c) without the written consent of the United States Olympic Committee, may not  
1116 contain the words:  
1117 (i) "Olympic";  
1118 (ii) "Olympiad"; or  
1119 (iii) "Citius Altius Fortius"; and  
1120 [~~(d) without the written consent of the Division of Consumer Protection issued in~~  
1121 ~~accordance with Section 13-34-114, may not contain the words:]~~  
1122 [(i) "university";]  
1123 [(ii) "college"; or]  
1124 [(iii) "institute" or "institution"; and]  
1125 [(~~e~~)] (d) an assumed name authorized for use in this state on or after May 1, 2000, may  
1126 not contain the words:  
1127 (i) "incorporated";  
1128 (ii) "inc."; or  
1129 (iii) a variation of "incorporated" or "inc."  
1130 (2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in  
1131 Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of  
1132 the name by a corporation as defined in:  
1133 (a) Subsection 16-6a-102(26);  
1134 (b) Subsection 16-6a-102(35);  
1135 (c) Subsection 16-10a-102(11); or  
1136 (d) Subsection 16-10a-102(20).  
1137 (3) The Division of Corporations and Commercial Code shall authorize the use of the  
1138 name applied for if:  
1139 (a) the name is distinguishable from one or more of the names and trademarks that are  
1140 on the division's records; or  
1141 (b) the applicant delivers to the division a certified copy of the final judgment of a  
1142 court of competent jurisdiction establishing the applicant's right to use the name applied for in  
1143 this state.

1144 (4) The assumed name, for purposes of recordation, shall be either translated into  
1145 English or transliterated into letters of the English alphabet if the assumed name is not in  
1146 English.

1147 (5) The Division of Corporations and Commercial Code may not approve an  
1148 application for an assumed name to any person violating this section.

1149 (6) The director of the Division of Corporations and Commercial Code shall have the  
1150 power and authority reasonably necessary to interpret and efficiently administer this section  
1151 and to perform the duties imposed on the division by this section.

1152 (7) A name that implies by any word in the name that the business is an agency of the  
1153 state or of any of the state's political subdivisions, if the business is not actually such a legally  
1154 established agency, may not be approved for filing by the Division of Corporations and  
1155 Commercial Code.

1156 (8) Section 16-10a-403 applies to this chapter.

1157 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a  
1158 certificate of assumed and of true name with the Division of Corporations and Commercial  
1159 Code on or before May 4, 1998, until December 31, 1998.

1160 (b) On or after January 1, 1999, any person who carries on, conducts, or transacts  
1161 business in this state under an assumed name shall comply with the requirements of Subsection  
1162 (1)(d).

1163 Section 27. Section 48-1d-1105 is amended to read:

1164 **48-1d-1105. Permitted names.**

1165 (1) The name of a partnership that is not a limited liability partnership may not contain  
1166 the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the  
1167 abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

1168 (2) The name of a limited liability partnership must contain the words "Registered  
1169 Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP",  
1170 or "LLP".

1171 (3) Except as otherwise provided in Subsection (6), the name of a limited liability  
1172 partnership and the name under which a foreign limited liability partnership may register to do  
1173 business in this state must be distinguishable on the records of the division from any:

1174 (a) name of an existing person whose formation required the filing of a record by the

1175 division;

1176 (b) name of a limited liability partnership;

1177 (c) name of a person that is registered to do business in this state by the filing of a  
1178 record by the division;

1179 (d) name reserved under Section 48-1d-1106 or other law of this state providing for the  
1180 reservation of a name by the filing of a record by the division;

1181 (e) name registered under Section 48-1d-1107 or other law of this state providing for  
1182 the registration of a name by the filing of a record by the division; or

1183 (f) assumed name registered under Title 42, Chapter 2, Conducting Business Under  
1184 Assumed Name.

1185 (4) If a person consents in a record to the use of the person's name and submits an  
1186 undertaking in a form satisfactory to the division to change the person's name to a name that is  
1187 distinguishable on the records of the division from any name in any category of names in  
1188 Subsection (3), the name of the consenting person may be used by the person to which the  
1189 consent was given.

1190 (5) Except as otherwise provided in Subsection (6), in determining whether a name is  
1191 the same as or not distinguishable on the records of the division from the name of another  
1192 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",  
1193 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional  
1194 association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited  
1195 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",  
1196 "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited  
1197 liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", or "LLC",  
1198 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken  
1199 into account.

1200 (6) A person may consent in a record to the use of a name that is not distinguishable on  
1201 the records of the division from the person's name except for the addition of a word, phrase, or  
1202 abbreviation indicating the type of person as provided in Subsection (5). In such a case, the  
1203 person need not change person's name pursuant to Subsection (4).

1204 (7) The division may not approve for filing a name that implies that a limited liability  
1205 partnership is an agency of this state or any of the state's political subdivisions, if the limited

1206 liability partnership is not actually such a legally established agency or subdivision.

1207 (8) The authorization to file a certificate under or to reserve or register a limited  
1208 liability partnership name as granted by the division does not:

1209 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

1210 (b) derogate from the common law, the principles of equity, or the statutes of this state  
1211 or of the United States with respect to the right to acquire and protect names and trademarks; or

1212 (c) create an exclusive right in geographic or generic terms contained within a name.

1213 (9) The name of a limited liability partnership or foreign limited liability partnership  
1214 may not contain:

1215 (a) the words:

1216 (i) "association";

1217 (ii) "corporation";

1218 (iii) "incorporated";

1219 (iv) "limited liability company";

1220 (v) "limited company";

1221 (vi) "limited partnership"; or

1222 (vii) "Ltd.";

1223 (b) any word or abbreviation that is of like import to the words listed in Subsection

1224 (9)(a);

1225 (c) without the written consent of the United States Olympic Committee, the words:

1226 (i) "Olympic";

1227 (ii) "Olympiad"; or

1228 (iii) "Citius Altius Fortius"; or

1229 [~~(d) without the written consent of the Division of Consumer Protection issued in~~  
1230 ~~accordance with Section 13-34-114 the words:]~~

1231 [~~(i) "university";~~]

1232 [~~(ii) "college"; or~~]

1233 [~~(iii) "institute" or "institution"; or~~]

1234 [~~(e)~~] (d) for a limited liability partnership that changes the limited liability partnership's  
1235 name or registers to do business in the state on or after May 4, 2022, the number sequence  
1236 "911."



1237 Section 28. Section **48-2e-108** is amended to read:

1238 **48-2e-108. Permitted names.**

1239 (1) The name of a limited partnership may contain the name of any partner.

1240 (2) The name of a limited partnership that is not a limited liability limited partnership  
1241 shall contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not  
1242 contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or  
1243 "LLLP".

1244 (3) The name of a limited liability limited partnership shall contain the words "limited  
1245 liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and may not contain the  
1246 abbreviation "L.P." or "LP".

1247 (4) Except as otherwise provided in Subsection (7), the name of a limited partnership,  
1248 and the name under which a foreign limited partnership may register to do business in this  
1249 state, shall be distinguishable on the records of the division from:

1250 (a) the name of an existing person whose formation required the filing of a record by  
1251 the division;

1252 (b) the name of a limited liability partnership;

1253 (c) the name of a person that is registered to do business in this state by the filing of a  
1254 record by the division;

1255 (d) each name reserved under Section [48-2e-109](#) or other law of this state providing for  
1256 the reservation of a name by the filing of a record by the division;

1257 (e) each name registered under Section [48-2e-110](#) or other law of this state providing  
1258 for the registration of a name by the filing of a record by the division; or

1259 (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under  
1260 Assumed Name.

1261 (5) If a person consents in a record to the use of the person's name and submits an  
1262 undertaking in a form satisfactory to the division to change the person's name to a name that is  
1263 distinguishable on the records of the division from any name in any category of names in  
1264 Subsection (4), the name of the consenting person may be used by the person to which the  
1265 consent was given.

1266 (6) Except as otherwise provided in Subsection (7), in determining whether a name is  
1267 the same as or not distinguishable on the records of the division from the name of another

1268 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",  
1269 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional  
1270 association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited  
1271 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",  
1272 "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited  
1273 liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", "LLC",  
1274 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken  
1275 into account.

1276 (7) A person may consent in a record to the use of a name that is not distinguishable on  
1277 the records of the division from the person's name except for the addition of a word, phrase, or  
1278 abbreviation indicating the type of person as provided in Subsection (6). In such a case, the  
1279 person is not required to change the person's name pursuant to Subsection (5).

1280 (8) The division may not approve for filing a name that implies that a limited  
1281 partnership is an agency of this state or any of the state's political subdivisions, if the limited  
1282 partnership is not actually such a legally established agency or subdivision.

1283 (9) The authorization to file a certificate under or to reserve or register a limited  
1284 partnership name as granted by the division does not:

- 1285 (a) abrogate or limit the law governing unfair competition or unfair trade practices;
- 1286 (b) derogate from the common law, the principles of equity, or the statutes of this state  
1287 or of the United States with respect to the right to acquire and protect names and trademarks; or
- 1288 (c) create an exclusive right in geographic or generic terms contained within a name.

1289 (10) The name of a limited partnership or foreign limited partnership may not contain:

1290 (a) the words:

- 1291 (i) "association";
- 1292 (ii) "corporation";
- 1293 (iii) "incorporated";
- 1294 (iv) "limited liability company"; or
- 1295 (v) "limited company";

1296 (b) any word or abbreviation that is of like import to the words listed in Subsection  
1297 (10)(a);

1298 (c) without the written consent of the United States Olympic Committee, the words:

- 1299 (i) "Olympic";
- 1300 (ii) "Olympiad"; or
- 1301 (iii) "Citius Altius Fortius"; or
- 1302 [~~(d) without the written consent of the Division of Consumer Protection issued in~~
- 1303 ~~accordance with Section 13-34-114 the words:]~~
- 1304 [(i) "university";]
- 1305 [(ii) "college"; or]
- 1306 [(iii) "institute" or "institution"; or]
- 1307 [(~~e~~) (d) for a limited partnership that changes the limited partnership's name or is
- 1308 formed on or after May 4, 2022, the number sequence "911."
- 1309 Section 29. Section **48-3a-108** is amended to read:
- 1310 **48-3a-108. Permitted names.**
- 1311 (1) Except as provided in Section ~~48-3a-1104~~ or ~~48-3a-1302~~, the name of a limited
- 1312 liability company shall contain the words "limited liability company" or "limited company" or
- 1313 the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.",
- 1314 and "company" may be abbreviated as "Co."
- 1315 (2) Except as authorized by Subsection (3), the name of a company shall be
- 1316 distinguishable as defined in Subsection (4) upon the records of the division from:
- 1317 (a) the actual name, reserved name, or fictitious or assumed name of any entity
- 1318 registered with the division; or
- 1319 (b) any tradename, trademark, or service mark registered with the division.
- 1320 (3) (a) A company may apply to the division for approval to file the company's
- 1321 certificate of organization under or to reserve a name that is not distinguishable upon the
- 1322 division's records from one or more of the names described in Subsection (2).
- 1323 (b) The division shall approve the name for which the company applies under
- 1324 Subsection (3)(a) if:
- 1325 (i) the other person whose name is not distinguishable from the name under which the
- 1326 applicant desires to file:
- 1327 (A) consents to the filing in writing; and
- 1328 (B) submits an undertaking in a form satisfactory to the division to change the person's
- 1329 name to a name that is distinguishable from the name of the applicant; or

1330 (ii) the applicant delivers to the division a certified copy of the final judgment of a  
1331 court of competent jurisdiction establishing the applicant's right to use the name in this state.

1332 (4) A name is distinguishable from other names, trademarks, and service marks  
1333 registered with the division if the name contains one or more different words, letters, or  
1334 numerals from other names upon the division's records.

1335 (5) The following differences are not distinguishing:

1336 (a) the term:

1337 (i) "corp.";

1338 (ii) "corporation";

1339 (iii) "Inc.";

1340 (iv) "incorporated";

1341 (v) "professional corporation";

1342 (vi) "P.C." or "PC";

1343 (vii) "professional association";

1344 (viii) "P.A." or "PA";

1345 (ix) "professional limited liability company";

1346 (x) "P.L.L.C." or "PLLC";

1347 (xi) "company";

1348 (xii) "limited partnership";

1349 (xiii) "limited";

1350 (xiv) "L.P." or "LP";

1351 (xv) "Ltd.";

1352 (xvi) "limited liability company";

1353 (xvii) "limited company";

1354 (xviii) "L.C." or "LC";

1355 (xix) "L.L.C." or "LLC";

1356 (xx) "registered limited liability partnership";

1357 (xxi) "R.L.L.P." or "RLLP";

1358 (xxii) "limited liability partnership";

1359 (xxiii) "L.L.P." or "LLP";

1360 (xxiv) "limited liability limited partnership";

- 1361 (xxv) "L.L.L.P." or "LLL.P.";
- 1362 (xxvi) "registered limited liability limited partnership"; or
- 1363 (xxvii) "R.L.L.L.P." or "RLLL.P.";
- 1364 (b) an abbreviation of a word listed in Subsection (5)(a);
- 1365 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 1366 "plus";
- 1367 (d) differences in punctuation and special characters;
- 1368 (e) differences in capitalization; or
- 1369 (f) for a company that is formed in this state on or after May 4, 1998, or registered as a
- 1370 foreign company in this state on or after May 4, 1998, differences in singular and plural forms
- 1371 of words.
- 1372 (6) The division may not approve for filing a name that implies that a limited liability
- 1373 company is an agency of this state or any of the state's political subdivisions, if the limited
- 1374 liability company is not actually such a legally established agency or subdivision.
- 1375 (7) The authorization to file a certificate under or to reserve or register a limited
- 1376 liability company name as granted by the division does not:
- 1377 (a) abrogate or limit the law governing unfair competition or unfair trade practices;
- 1378 (b) derogate from the common law, the principles of equity, or the statutes of this state
- 1379 or of the United States with respect to the right to acquire and protect names and trademarks; or
- 1380 (c) create an exclusive right in geographic or generic terms contained within a name.
- 1381 (8) The name of a limited liability company or foreign limited liability company may
- 1382 not contain:
- 1383 (a) the term:
- 1384 (i) "association";
- 1385 (ii) "corporation";
- 1386 (iii) "incorporated";
- 1387 (iv) "partnership";
- 1388 (v) "limited partnership"; or
- 1389 (vi) "L.P.";
- 1390 (b) any word or abbreviation that is of like import to the words listed in Subsection
- 1391 (8)(a);

1392 (c) without the written consent of the United States Olympic Committee, the words:

1393 (i) "Olympic";

1394 (ii) "Olympiad"; or

1395 (iii) "Citius Altius Fortius"; or

1396 [~~(d) without the written consent of the Division of Consumer Protection issued in~~  
1397 ~~accordance with Section 13-34-114 the words:]~~

1398 [(i) ~~"university";~~]

1399 [(ii) ~~"college"; or~~]

1400 [(iii) ~~"institute" or "institution"; or~~]

1401 [(~~e~~)] (d) for a limited liability company that changes the limited liability company's  
1402 name or is formed on or after May 4, 2022, the number sequence "911."

1403 (9) (a) A person, other than a company formed under this chapter or a foreign company  
1404 authorized to transact business in this state, may not use in the person's name in this state the  
1405 term:

1406 (i) "limited liability company";

1407 (ii) "limited company";

1408 (iii) "L.L.C.";

1409 (iv) "L.C.";

1410 (v) "LLC"; or

1411 (vi) "LC".

1412 (b) Notwithstanding Subsection (2)(a):

1413 (i) a foreign corporation whose actual name includes the term "limited" or "Ltd." may  
1414 use the foreign corporation's actual name in this state if the foreign corporation also uses:

1415 (A) "corporation" or "corp."; or

1416 (B) "incorporated" or "Inc."; and

1417 (ii) a limited liability partnership may use in the limited liability partnership's name the  
1418 term:

1419 (A) "limited liability partnership";

1420 (B) "L.L.P."; or

1421 (C) "LLP".

1422 Section 30. **Repealer.**

1423 This bill repeals:

1424 Section **13-34-114, Consent to use of educational terms in business names.**

1425 Section **13-34a-101, Title.**

1426 Section **13-34a-102, Definitions.**

1427 Section **13-34a-103, Duties of the division.**

1428 Section **13-34a-104, Authority to execute interstate reciprocity agreement --**

1429 **Rulemaking.**

1430 Section **13-34a-201, Title.**

1431 Section **13-34a-202, State authorization -- Certificate of postsecondary state**

1432 **authorization.**

1433 Section **13-34a-203, Nonprofit postsecondary school -- Procedure to obtain**

1434 **certificate of postsecondary state authorization.**

1435 Section **13-34a-204, Postsecondary school -- Procedure to obtain certificate of**

1436 **postsecondary state authorization.**

1437 Section **13-34a-205, Background checks.**

1438 Section **13-34a-206, Complaints -- Information for students and prospective**

1439 **students.**

1440 Section **13-34a-207, Discontinuance of operations.**

1441 Section **13-34a-301, Title.**

1442 Section **13-34a-302, Denial, suspension, or revocation of certificate of**

1443 **postsecondary state authorization.**

1444 Section **13-34a-303, Right to rescind.**

1445 Section **13-34a-304, Violations.**

1446 Section **13-34a-305, Enforcement.**

1447 Section **13-34a-306, Penalties.**

1448 Section 31. **Effective date.**

1449 This bill takes effect on January 1, 2024.