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~~deleted text~~ shows text that was in SB0180 but was deleted in SB0180S01.

inserted text shows text that was not in SB0180 but was inserted into SB0180S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

PRIVATE POSTSECONDARY EDUCATION MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: ~~_____~~ Stephen L. Whyte

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ repeals the Utah Postsecondary School State Authorization Act;
- ▶ repeals, reenacts, and modifies the Utah Postsecondary Proprietary School Act as the Utah Postsecondary School and State Authorization Act;
- ▶ requires a postsecondary school operating in the state to file a registration statement and obtain certain certificates from the Division of Consumer Protection (division);
- ▶ establishes qualifications for a procedure by which a postsecondary school may

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obtain a registration certificate and state authorization certificate from the division;

- ▶ provides that, under certain circumstances, the division may deny, suspend, or revoke a registration statement, registration certificate, or state authorization certificate;
- ▶ provides procedures to enforce compliance with the provisions of this bill;
- ▶ permits the division to enter into an interstate reciprocity agreement;
- ▶ authorizes the Utah Board of Higher Education to make rules to implement an interstate reciprocity agreement if the agreement includes institutions of higher education;
- ▶ grants the division rulemaking authority;
- ▶ defines terms; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

[13-2-1 \(Effective 12/31/23\), as last amended by Laws of Utah 2022, Chapters 201, 462](#)

13-53-102, as enacted by Laws of Utah 2018, Chapter 252

16-6a-401, as last amended by Laws of Utah 2022, Chapter 457

16-10a-401, as last amended by Laws of Utah 2022, Chapter 457

16-11-16, as last amended by Laws of Utah 2022, Chapter 457

42-2-6.6, as last amended by Laws of Utah 2022, Chapter 457

48-1d-1105, as last amended by Laws of Utah 2022, Chapter 457

48-2e-108, as last amended by Laws of Utah 2022, Chapter 457

48-3a-108, as last amended by Laws of Utah 2022, Chapter 457

ENACTS:

13-34-202, Utah Code Annotated 1953

13-34-203, Utah Code Annotated 1953

13-34-204, Utah Code Annotated 1953

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13-34-205, Utah Code Annotated 1953

13-34-301, Utah Code Annotated 1953

13-34-302, Utah Code Annotated 1953

13-34-303, Utah Code Annotated 1953

REPEALS AND REENACTS:

13-34-101, as enacted by Laws of Utah 2002, Chapter 222

13-34-102, as enacted by Laws of Utah 2002, Chapter 222

13-34-103, as last amended by Laws of Utah 2018, Chapter 276

13-34-104, as last amended by Laws of Utah 2010, Chapter 378

13-34-105, as last amended by Laws of Utah 2021, Chapter 266

13-34-106, as last amended by Laws of Utah 2014, Chapter 360

13-34-107, as last amended by Laws of Utah 2011, Chapter 221

13-34-108, as last amended by Laws of Utah 2011, Chapter 221

13-34-109, as enacted by Laws of Utah 2002, Chapter 222

13-34-110, as last amended by Laws of Utah 2014, Chapter 360

13-34-111, as last amended by Laws of Utah 2005, Chapter 242

13-34-112, as enacted by Laws of Utah 2002, Chapter 222

13-34-113, as last amended by Laws of Utah 2014, Chapter 360

13-34-201, as enacted by Laws of Utah 2002, Chapter 222

REPEALS:

13-34-114, as last amended by Laws of Utah 2018, Chapter 281

13-34a-101, as enacted by Laws of Utah 2014, Chapter 360

13-34a-102, as last amended by Laws of Utah 2021, Chapter 266

13-34a-103, as enacted by Laws of Utah 2014, Chapter 360

13-34a-104, as last amended by Laws of Utah 2020, Chapter 365

13-34a-201, as enacted by Laws of Utah 2014, Chapter 360

13-34a-202, as enacted by Laws of Utah 2014, Chapter 360

13-34a-203, as enacted by Laws of Utah 2014, Chapter 360

13-34a-204, as last amended by Laws of Utah 2021, Chapter 266

13-34a-205, as enacted by Laws of Utah 2014, Chapter 360

13-34a-206, as enacted by Laws of Utah 2014, Chapter 360

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13-34a-207, as last amended by Laws of Utah 2017, Chapter 98

13-34a-301, as enacted by Laws of Utah 2014, Chapter 360

13-34a-302, as enacted by Laws of Utah 2014, Chapter 360

13-34a-303, as enacted by Laws of Utah 2014, Chapter 360

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

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

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

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

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

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

Functions.

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

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

(a) Chapter 5, Unfair Practices Act;

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

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

(d) Chapter 15, Business Opportunity Disclosure Act;

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

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

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

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

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

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

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

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

(m) Utah Postsecondary School and State Authorization Act;

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

~~[(p)]~~ (o) Chapter 42, Uniform Debt-Management Services Act;

~~[(q)]~~ (p) Chapter 49, Immigration Consultants Registration Act;

~~[(r)]~~ (q) Chapter 51, Transportation Network Company Registration Act;

~~[(s)]~~ (r) Chapter 52, Residential Solar Energy Disclosure Act;

~~[(t)]~~ (s) Chapter 53, Residential, Vocational and Life Skills Program Act;

~~[(u)]~~ (t) Chapter 54, Ticket Website Sales Act;

~~[(v)]~~ (u) Chapter 56, Ticket Transferability Act;

~~[(w)]~~ (v) Chapter 57, Maintenance Funding Practices Act; and

~~[(x)]~~ (w) Chapter 61, Utah Consumer Privacy Act.

Section ~~{1}~~2. Section **13-34-101** is repealed and reenacted to read:

CHAPTER 34. UTAH POSTSECONDARY SCHOOL AND STATE AUTHORIZATION ACT

Part 1. General Provisions

13-34-101. Definitions.

As used in this chapter:

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

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

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

(b) develops education criteria; and

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

(3) "Agent" means a person who:

(a) owns an interest in a postsecondary school;

(b) is employed by a postsecondary school;

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

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

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

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

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

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

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

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

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

(a) is a nonprofit organization; and

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

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

(11) "Operate" means to:

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

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

(12) "Physical presence" means:

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

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

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

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

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

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

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

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

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

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

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

- (a) (i) an institution listed in Section 53B-1-102; or
- (ii) established by another state or other governmental entity; and
- (b) substantially supported with government funds.

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

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

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

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

- (a) a registration certificate; or
- (b) a state authorization certificate.

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

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

(21) "Student" means:

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

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

Section ~~2~~3. Section **13-34-102** is repealed and reenacted to read:

13-34-102. Division responsibilities.

(1) The division shall:

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

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

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Rulemaking Act, to:

(i) establish the content of a registration statement required under this chapter;
(ii) establish a process for reviewing and responding to complaints the division receives in accordance with this chapter; and
(iii) establish a graduated fee structure in accordance with Section 63J-1-504 for filing a registration statement;

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

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

(i) registration certificate; or

(ii) state authorization certificate; and

(e) deposit fees established in accordance with Subsection (1)(b)(iii), and collected in accordance with this chapter into the Commerce Service Account created in Section 13-1-2.

(2) The division may:

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

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

(c) upon request, provide a letter confirming that a postsecondary school is exempt from registration in accordance with Section 13-34-111; and

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

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

13-34-103. Rulemaking authority.

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

(1) establishing the form and content of:

(a) a registration statement; and

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

(2) specifying the information a postsecondary school is required to provide with a

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registration statement, which may vary based upon factors including:

(a) the certificate the postsecondary school seeks;

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

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

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

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

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

(6) specifying acts or practices that:

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

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

(7) specifying student outcomes a postsecondary school is required to disclose under Section 13-34-109;

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

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

(10) establishing:

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

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

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

Section ~~4~~5. Section 13-34-104 is repealed and reenacted to read:

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

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

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

- (i) administer an oath or affirmation;
- (ii) issue a subpoena for testimony or the production of evidence;
- (iii) visit a postsecondary school's physical location; and
- (iv) conduct an audit.

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

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

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

- (a) issue a cease and desist order;
- (b) impose an administrative fine for a violation of this chapter as described in Section 13-34-105; or
- (c) bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

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

- (a) declare that an act or practice violates a provision of this chapter;
- (b) issue an injunction for a violation of this chapter;
- (c) order disgorgement of money received in violation of this chapter;
- (d) order payment of disgorged money to an injured person;
- (e) impose a fine;
- (f) order payment of a fine imposed under Section 13-34-105;

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

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

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

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

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

Section ~~{5}~~6. Section **13-34-105** is repealed and reenacted to read:

13-34-105. Penalties and remedies.

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

(a) issue a cease and desist order; and

(b) impose an administrative fine of up to:

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

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

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

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

(B) an intentional violation; or

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

(2) A person intentionally violates this chapter if:

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

(A) the division;

(B) the attorney general; or

(C) a district attorney or county attorney; and

(ii) the violation is the same as the violation of which the person was notified under

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Subsection (2)(a)(i); or

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

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

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

Section ~~63~~7. Section **13-34-106** is repealed and reenacted to read:

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

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

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

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

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

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

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

(I) this chapter;

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

(III) a commitment made in a registration statement;

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

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

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

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

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

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

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

(I) this chapter; or

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

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

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

(I) failed to demonstrate fiscal responsibility;

(J) failed to pay the fee required to file a registration statement;

(K) failed to satisfy the requirements of this chapter or rule made by the division under this chapter; or

(L) failed to satisfy a reasonable restriction or condition the division imposes under Subsection (2).

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

(a) the restriction or condition protects student interests; and

(b) a behavior or condition described in Subsection (1)(b) applies to the postsecondary school or the postsecondary school's principal, registration statement, or educational credential.

Section ~~{7}~~8. Section **13-34-107** is repealed and reenacted to read:

13-34-107. Limitation of authority.

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

Section ~~{8}~~9. Section **13-34-108** is repealed and reenacted to read:

13-34-108. Prohibited acts.

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

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

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(A) the requirements of this chapter; and

(B) rules made by the division; and

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

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

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

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

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

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

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

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

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

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

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

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

(i) an educational credential that is clearly and conspicuously designated as an

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honorary educational credential; or

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

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

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

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

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

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

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

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

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

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

Section ~~9~~10. Section **13-34-109** is repealed and reenacted to read:

13-34-109. Required disclosures.

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

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

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

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

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

(ii) the duration of services provided; and

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(iii) completion or graduation requirements;

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

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

(f) a financial assistance policy, if any;

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

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

(i) a three-business-day cooling off period during which a person may rescind the enrollment agreement and receive a refund of all money paid, less a reasonable application fee, that may not end before midnight on the third business day after the latest of:

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

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

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

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

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

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

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

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

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

(l) student outcomes specified in rules made by the division under Section 13-34-103.

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

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

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

Section ~~{10}~~11. Section **13-34-110** is repealed and reenacted to read:

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

(1) A postsecondary school shall provide an official transcript or diploma to a student within ~~{14}~~60 days of receiving a request from the student or the student's authorized representative.

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

Section ~~{11}~~12. Section **13-34-111** is repealed and reenacted to read:

13-34-111. Exemptions.

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

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

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

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

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

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

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

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

(i) sponsors or conducts postsecondary education primarily for its employees,

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independent contractors, or members; and

(ii) does not advertise as a school; or

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

(i) postsecondary education:

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

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

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

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

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

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

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

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

(iii) courses in English as a second language or other language courses;

(iv) instruction to advance personal development or a general professional skill:

(A) that is not independently sufficient to prepare a person for specific employment;

and

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

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

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

(vii) instruction to an apprentice;

(A) as part of an apprenticeship; and

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

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

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

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

(6) A postsecondary school bears the burden of proving it is exempt under this section. Section ~~{12}~~13. Section 13-34-112 is repealed and reenacted to read:

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

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

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

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

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

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

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

(b) refund the student any tuition, fees, or other charges that the student, or a person on

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the student's behalf, paid to the postsecondary school.

Section ~~{13}~~14. Section **13-34-113** is repealed and reenacted to read:

13-34-113. Private right of action.

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

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

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

(b) injunctive relief;

(c) rescission of a contract;

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

(i) ~~{}~~actual damages; or

(ii) \$2,000; and

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

Section ~~{14}~~15. Section **13-34-201** is repealed and reenacted to read:

Part 2. Postsecondary School Responsibilities

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

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

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

(a) the requirements of this chapter; and

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

(3) A registration statement shall:

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

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

(c) state whether the postsecondary school is:

(i) not accredited by an accrediting agency;

(ii) an accredited postsecondary school; or

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(iii) a longstanding nonprofit accredited postsecondary school;

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

and

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

(4) A registration statement shall be:

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

(b) verified by an unsworn declaration in accordance with Title 78B, Chapter 18a,

Uniform Unsworn Declarations Act.

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

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

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

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

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

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

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

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

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

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

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

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

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(iii) operates as a nonprofit organization.

(8) A registration certificate expires:

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

(b) two years after it is issued to an accredited postsecondary school ~~{; or}~~.

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

~~}~~ (9) A registration statement, and any certificate issued in accordance with this chapter, are not ~~{transferrable}~~ transferable.

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

Section ~~{15}~~ 16. Section **13-34-202** is enacted to read:

13-34-202. Surety requirements.

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

(a) a surety bond;

(b) a certificate of deposit; ~~{ or }~~

(c) an irrevocable letter of credit ~~{; }~~ or

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

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

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

(b) that the student is obligated to pay.

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

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

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

Section ~~(16)~~17. Section 13-34-203 is enacted to read:

13-34-203. Record keeping.

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

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

(b) for not less than 60 years.

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

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

(b) for not less than 10 years.

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

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

(b) for not less than 10 years.

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

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

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

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

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

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

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

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

Section ~~{17}~~18. Section 13-34-204 is enacted to read:

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

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

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

Section ~~{18}~~19. Section 13-34-205 is enacted to read:

13-34-205. Closure.

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

(i) the day on which the postsecondary school will cease operations;

(ii) a copy of a teach-out plan similar to one defined in 34 C.F.R. Sec. 602.3, or another written plan that describes how students will be impacted by the postsecondary school ceasing operations;

(iii) a current list of students enrolled in the postsecondary school, including:

(A) the program in which each student is enrolled;

(B) each student's anticipated graduation date; and

(C) the method of payment the student used to pay the postsecondary school; and

(iv) if the postsecondary school is an accredited postsecondary school, a written certification signed by the postsecondary school's principal that the postsecondary school is compliant with and will continue to comply with the postsecondary school's accrediting agency's closure requirements.

(b) A postsecondary school described in Subsection (1)(a) shall provide official transcripts to the division, upon request.

(2) A postsecondary school that has obtained a state authorization certificate may not cease operations unless the postsecondary school provides written notice to the division at least 30 days before the day on which the postsecondary school ceases operations that includes:

(a) the date on which the postsecondary school will cease operations;

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(b) a written certification signed by the postsecondary school's principal that the postsecondary school is compliant and will continue to comply with the postsecondary school's accrediting agency's closure requirements;

(c) a copy of any teach-out plan, as defined by 34 C.F.R. Sec. 602.3, approved by the postsecondary school's accrediting agency; and

(d) to the extent permitted by law:

(i) a current list of students who are enrolled in the postsecondary school; and

(ii) for each student described in Subsection (2)(a)(iv)(A):

(A) the student's contact information;

(B) the program or programs in which the student is enrolled;

(C) the student's anticipated graduation date; and

(D) the method of payment the student used to pay the postsecondary school.

(3) After a postsecondary school submits the written notice described in Subsection (1) or (2), the postsecondary school:

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

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

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

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

(i) provide for storage of the educational credential;

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

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

Section ~~19~~20. Section **13-34-301** is enacted to read:

Part 3. State Authorization

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

(1) A postsecondary school that operates in the state obtains state authorization for

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purposes of 34 C.F.R. Sec. 600.9 if the division issues to the postsecondary school a state authorization certificate in accordance with this chapter.

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

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

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

Section ~~{20}~~21. Section **13-34-302** is enacted to read:

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

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

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

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

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

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

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

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

(a) expires ~~{10}~~two years after the division issues the state authorization certificate;

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

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

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

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

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

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

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

Section ~~{21}~~22. Section **13-34-303** is enacted to read:

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

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

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

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

(b) for the benefit of:

(i) postsecondary schools in the state; or

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

(B) institutions of higher education.

(3) If the division executes an interstate reciprocity agreement described in Subsection (2) that includes institutions of higher education, the Utah Board of Higher Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) implement the reciprocity agreement; and

(b) relate to institutions of higher education.

Section ~~{22}~~23. Section **13-53-102** is amended to read:

13-53-102. Definitions.

As used in this chapter:

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- (1) "Division" means the Division of Consumer Protection.
- (2) "Human services program" means the same as that term is defined in Section 62A-2-101.
- (3) "Participant" means an individual who:
 - (a) resides at a residential, vocational and life skills program facility;
 - (b) receives from the residential, vocational and life skills program:
 - (i) vocational training; or
 - (ii) life skills training; and
 - (c) does not receive monetary compensation from the residential, vocational and life skills program.
- (4) [~~"Proprietary school"~~] "Postsecondary school" means the same as that term is defined in Section [~~13-34-102~~] 13-34-101.
- (5) "Residential, vocational and life skills program" means a program that:
 - (a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;
 - (b) does not accept local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training;
 - (c) operates on a mutually voluntary basis with each participant;
 - (d) houses at a program facility in this state participants who are unrelated to an owner or a manager of the program facility without charging money for lodging, food, clothing, or training;
 - (e) may house transitional graduates for a fee;
 - (f) provides vocational training to participants;
 - (g) provides life skills training to participants;
 - (h) maintains a director or senior staff member at a program facility at all times when the facility is in use;
 - (i) does not provide mental health services;
 - (j) does not provide substance use disorder treatment;
 - (k) does not accept payment from an insurance provider for a participant;
 - (l) does not award a degree, diploma, or other educational credential commensurate with a degree or diploma;
 - (m) does not hold itself out as a human services program; and

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

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

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

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

(c) is employed by an entity not directly affiliated with the residential, vocational and

life skills program.

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

Section ~~{23}~~24. Section **16-6a-401** is amended to read:

16-6a-401. Corporate name.

(1) The corporate name of a nonprofit corporation:

(a) may, but need not contain:

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

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

(b) may not contain:

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

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

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

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

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

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

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

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

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

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

(vi) the name of any foreign limited liability company authorized to conduct affairs in

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this state;

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

state;

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

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

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

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

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

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

(i) "Olympic";

(ii) "Olympiad"; or

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

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

~~[(i) "university",]~~

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

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

(2) The division may authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks described in Subsection (1)(c) that are on the division's records; or

(b) if the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state registered or reserved with the division pursuant to the laws of this state.

(3) A nonprofit corporation may use the name of another domestic or foreign corporation that is used in this state if:

(a) the other corporation is incorporated or authorized to conduct affairs in this state;

and

(b) the proposed user corporation:

(i) has merged with the other corporation;

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(ii) has been formed by reorganization of the other corporation; or

(iii) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(4) (a) A nonprofit corporation may apply to the division for authorization to file the nonprofit corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (1).

(b) The division shall approve the application filed under Subsection (4)(a) if:

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

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

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

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

(5) Only names of corporations may contain the:

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

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

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

Section ~~{24}~~25. Section **16-10a-401** is amended to read:

16-10a-401. Corporate name.

(1) The name of a corporation:

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

(i) the word:

(A) "corporation";

(B) "incorporated"; or

(C) "company";

(ii) the abbreviation:

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(A) "corp.";

(B) "inc."; or

(C) "co."; or

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

(b) may not contain:

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

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

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

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

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

(i) "Olympic";

(ii) "Olympiad"; or

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

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

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

~~[(ii) "college", or]~~

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

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

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

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

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

(d) the name of any limited partnership formed or authorized to transact business in

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this state;

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

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

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

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

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

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

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

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

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

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

(b) the filing corporation:

(i) has merged with the other corporation; or

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

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

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

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

(b) Differences which are not distinguishing are:

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- (i) the words or abbreviations of the words:
 - (A) "corporation";
 - (B) "company";
 - (C) "incorporated";
 - (D) "limited partnership";
 - (E) "L.P.";
 - (F) "limited";
 - (G) "limited liability company";
 - (H) "limited company";
 - (I) "L.C."; or
 - (J) "L.L.C.";
- (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- (iii) differences in punctuation and special characters;
- (iv) differences in capitalization;
- (v) differences between singular and plural forms of words for a corporation:
 - (A) incorporated in or authorized to do business in this state on or after May 4, 1998;

or

- (B) that changes the corporation's name on or after May 4, 1998;
- (vi) differences in whether the letters or numbers immediately follow each other or are separated by one or more spaces if:
 - (A) the sequence of letters or numbers is identical; and
 - (B) the corporation:
 - (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;

or

- (II) changes the corporation's name on or after May 3, 1999; or
- (vii) differences in abbreviations, for a corporation:
 - (A) incorporated in or authorized to do business in this state on or after May 1, 2000;

or

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

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

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division by this section.

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

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

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

Section ~~25~~26. Section **16-11-16** is amended to read:

16-11-16. Corporate name.

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

(a) shall contain the terms:

(i) "professional corporation"; or

(ii) "P.C.";

(b) may not contain the words:

(i) "incorporated"; or

(ii) "inc.";

(c) may not contain:

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

(A) Section 16-11-6; and

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

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

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

(i) "Olympic";

(ii) "Olympiad"; or

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(iii) "Citius Altius Fortius" ~~and~~.

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

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

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

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

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

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

(a) "professional corporation"; or

(b) "P.C."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The following differences are not distinguishable:

(i) the words or abbreviations of the words:

(A) "corporation";

(B) "incorporated";

(C) "company";

(D) "limited partnership";

(E) "limited";

(F) "L.P.";

(G) "limited liability company";

(H) "limited company";

(I) "L.C."; or

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

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

(iii) differences in punctuation and special characters;

(iv) differences in capitalization; or

(v) differences in abbreviations.

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(7) The director of the division shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed upon the division by this section.

Section ~~{26}~~27. Section **42-2-6.6** is amended to read:

42-2-6.6. Assumed name.

(1) The assumed name:

(a) may not contain:

(i) any word or phrase that indicates or implies that the business is organized for any purpose other than a purpose contained in the business's application; or

(ii) for an assumed name that is changed or approved on or after May 4, 2022, the number sequence "911";

(b) shall be distinguishable from any registered name or trademark of record in the offices of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code pursuant to Subsection (2);

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

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

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

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

~~[(ii) "college", or]~~

~~[(iii) "institute" or "institution", and]~~

~~[(e)]~~ (d) an assumed name authorized for use in this state on or after May 1, 2000, may not contain the words:

(i) "incorporated";

(ii) "inc."; or

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

(2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in

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Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:

- (a) Subsection 16-6a-102(26);
- (b) Subsection 16-6a-102(35);
- (c) Subsection 16-10a-102(11); or
- (d) Subsection 16-10a-102(20).

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

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

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

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

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

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

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

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

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

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

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(1)(d).

Section ~~{27}~~28. Section **48-1d-1105** is amended to read:

48-1d-1105. Permitted names.

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

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

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

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

(b) name of a limited liability partnership;

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

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

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

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

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

(5) Except as otherwise provided in Subsection (6), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",

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"corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", or "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

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

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

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

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

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

- (a) the words:
 - (i) "association";
 - (ii) "corporation";
 - (iii) "incorporated";
 - (iv) "limited liability company";
 - (v) "limited company";
 - (vi) "limited partnership"; or
 - (vii) "Ltd.";
- (b) any word or abbreviation that is of like import to the words listed in Subsection

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(9)(a);

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

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

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

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

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

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

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

Section ~~{28}~~29. Section **48-2e-108** is amended to read:

48-2e-108. Permitted names.

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

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

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

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

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

(b) the name of a limited liability partnership;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company"; or

(v) "limited company";

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

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

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

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

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

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

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

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

Section ~~{29}~~30. Section **48-3a-108** is amended to read:

48-3a-108. Permitted names.

(1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited liability company shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co."

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

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

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

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

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

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

(A) consents to the filing in writing; and

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

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

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

(5) The following differences are not distinguishing:

(a) the term:

(i) "corp.";

(ii) "corporation";

(iii) "Inc.";

(iv) "incorporated";

(v) "professional corporation";

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

(vii) "professional association";

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

(ix) "professional limited liability company";

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

(xi) "company";

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- (xii) "limited partnership";
 - (xiii) "limited";
 - (xiv) "L.P." or "LP";
 - (xv) "Ltd.";
 - (xvi) "limited liability company";
 - (xvii) "limited company";
 - (xviii) "L.C." or "LC";
 - (xix) "L.L.C." or "LLC";
 - (xx) "registered limited liability partnership";
 - (xxi) "R.L.L.P." or "RLLP";
 - (xxii) "limited liability partnership";
 - (xxiii) "L.L.P." or "LLP";
 - (xxiv) "limited liability limited partnership";
 - (xxv) "L.L.L.P." or "LLLLP";
 - (xxvi) "registered limited liability limited partnership"; or
 - (xxvii) "R.L.L.L.P." or "RLLLLP";
 - (b) an abbreviation of a word listed in Subsection (5)(a);
 - (c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";
 - (d) differences in punctuation and special characters;
 - (e) differences in capitalization; or
 - (f) for a company that is formed in this state on or after May 4, 1998, or registered as a foreign company in this state on or after May 4, 1998, differences in singular and plural forms of words.
- (6) The division may not approve for filing a name that implies that a limited liability company is an agency of this state or any of the state's political subdivisions, if the limited liability company is not actually such a legally established agency or subdivision.
- (7) The authorization to file a certificate under or to reserve or register a limited liability company name as granted by the division does not:
- (a) abrogate or limit the law governing unfair competition or unfair trade practices;
 - (b) derogate from the common law, the principles of equity, or the statutes of this state

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

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

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

(a) the term:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "partnership";

(v) "limited partnership"; or

(vi) "L.P.";

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

(8)(a);

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

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

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

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

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

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

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

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

(i) "limited liability company";

(ii) "limited company";

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

(iv) "L.C.";

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(v) "LLC"; or

(vi) "LC".

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

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

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

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

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

(A) "limited liability partnership";

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

(C) "LLP".

Section ~~30~~31. **Repealer.**

This bill repeals:

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

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

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

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

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

Rulemaking.

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

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

Section 13-34a-203, **Nonprofit postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.**

Section 13-34a-204, **Postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.**

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

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

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

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Section 13-34a-301, Title.

Section 13-34a-302, Denial, suspension, or revocation of certificate of postsecondary state authorization.

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

Section 13-34a-304, Violations.

Section 13-34a-305, Enforcement.

Section 13-34a-306, Penalties.

Section ~~31~~32. Effective date.

This bill takes effect on January 1, 2024, with the exception of Section 13-2-1 (Effective 12/31/23), which takes effect on December 31, 2023.