

Representative A. Cory Maloy proposes the following substitute bill:

CHARITABLE SOLICITATIONS ACT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to charitable solicitations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes a requirement that charitable organizations register with the Division of Consumer Protection;
- ▶ requires a charitable organization to provide certain tax documents in a manner described by the Division of Consumer Protection;
- ▶ prohibits deceptive acts related to charitable solicitations;
- ▶ adds regulations and filing requirements for professional fund raisers and professional fund raising campaigns;
- ▶ grants rulemaking authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 [13-2-6](#), as last amended by Laws of Utah 2021, Chapter 226
- 29 [13-11-4](#), as last amended by Laws of Utah 2021, Chapters 138, 154
- 30 [13-22-2](#), as last amended by Laws of Utah 2023, Chapter 17
- 31 [13-22-3](#), as last amended by Laws of Utah 2008, Chapter 382
- 32 [13-22-4](#), as last amended by Laws of Utah 1994, Chapter 185
- 33 [13-22-5](#), as last amended by Laws of Utah 2018, Chapter 267
- 34 [13-22-9](#), as last amended by Laws of Utah 2018, Chapter 267
- 35 [13-22-11](#), as last amended by Laws of Utah 2016, Chapter 377
- 36 [13-22-12](#), as last amended by Laws of Utah 2008, Chapter 382
- 37 [13-22-13](#), as last amended by Laws of Utah 1994, Chapter 185
- 38 [13-22-14](#), as last amended by Laws of Utah 2001, Chapter 210
- 39 [13-22-16](#), as last amended by Laws of Utah 2015, Chapter 120
- 40 [13-22-17](#), as last amended by Laws of Utah 1996, Chapter 187
- 41 [13-22-22](#), as enacted by Laws of Utah 2001, Chapter 210
- 42 [13-25a-102](#), as last amended by Laws of Utah 2022, Chapter 324
- 43 [13-25a-111](#), as last amended by Laws of Utah 2010, Chapter 379
- 44 [16-6a-102](#), as last amended by Laws of Utah 2023, Chapter 503
- 45 [16-6a-203](#), as last amended by Laws of Utah 2015, Chapter 240
- 46 [16-6a-1503](#), as last amended by Laws of Utah 2008, Chapters 249, 364
- 47 [42-2-6.6](#), as last amended by Laws of Utah 2023, Chapter 458

48 ENACTS:

- 49 [13-22-24](#), Utah Code Annotated 1953

50 REPEALS AND REENACTS:

- 51 [13-22-15](#), as last amended by Laws of Utah 2015, Chapter 120

52 REPEALS:

- 53 [13-22-6](#), as last amended by Laws of Utah 2020, Chapter 419
- 54 [13-22-8](#), as last amended by Laws of Utah 2023, Chapter 17
- 55 [13-22-21](#), as last amended by Laws of Utah 2018, Chapter 267



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

58 Section 1. Section 13-2-6 is amended to read:

59 **13-2-6. Enforcement powers.**

60 (1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
61 division shall have authority to convene administrative hearings, issue cease and desist orders,
62 and impose fines under all the chapters identified in Section 13-2-1.

63 (2) ~~[Any]~~ A person who intentionally violates a final cease and desist order entered by
64 the division of which the person has notice is guilty of a third degree felony.

65 (3) If the division has reasonable cause to believe that ~~[any]~~ a person has violated or is
66 violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged
67 violator a citation signed by the division's director or the director's designee.

68 (a) Each citation shall be in writing and shall:

69 (i) set forth with particularity the nature of the violation, including a reference to the
70 statutory or administrative rule provision violated;

71 (ii) state that ~~[any]~~ a request for review of the citation shall be made in writing and be
72 received by the division no more than 20 calendar days after the day on which the division
73 issues the citation;

74 (iii) state the consequences of failing to make a timely request for review; and

75 (iv) state all other information required by Subsection 63G-4-201(2).

76 (b) In computing ~~[any]~~ a time period ~~[prescribed by]~~ under this section, the following
77 days may not be included:

78 (i) the day on which the division issues a citation; and

79 (ii) the day on which the division receives a request for review of a citation.

80 (c) (i) Except as provided in Subsection (3)(c)(iii), if the presiding officer finds that
81 there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

82 (A) the citation may not become final; and

83 (B) the division shall immediately vacate the citation and promptly notify the recipient
84 in writing.

85 (ii) Except as provided in Subsection (3)(c)(iv), if the presiding officer finds that there
86 is substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

87 (A) the citation shall become final; and

88 (B) the division may enter a cease and desist order against the recipient.

89 (iii) For a citation issued for a violation of Chapter 41, Price Controls During
90 Emergencies Act, if the presiding officer finds that there is not clear and convincing evidence
91 that the recipient violated the chapter:

92 (A) the citation may not become final; and

93 (B) the division shall immediately vacate the citation and promptly notify the recipient
94 in writing.

95 (iv) For a citation issued for a violation of Chapter 41, Price Controls During
96 Emergencies Act, if the presiding officer finds that there is clear and convincing evidence that
97 the recipient violated the chapter:

98 (A) the citation shall become final; and

99 (B) the division may enter a cease and desist order against the recipient.

100 (d) (i) A citation issued under this chapter may be personally served upon [any] a
101 person upon whom a summons may be served in accordance with the Utah Rules of Civil
102 Procedure.

103 (ii) A citation also may be served by first-class mail, postage prepaid.

104 (e) (i) If the recipient fails to make a request for review within 20 calendar days after
105 the day on which the division issues the citation, the citation shall become the final order of the
106 division.

107 (ii) The period to contest the citation may be extended by the director for good cause
108 shown.

109 (f) If the chapter violated allows for an administrative fine, after a citation becomes
110 final, the director may impose the administrative fine.

111 (4) (a) A person who has violated, is violating, or has attempted to violate a chapter
112 identified in Section 13-2-1 is subject to the division's jurisdiction if:

113 (i) the violation or attempted violation is committed wholly or partly within the state;

114 (ii) conduct committed outside the state constitutes an attempt to commit a violation
115 within the state; or

116 (iii) transactional resources located within the state are used by the offender to directly
117 or indirectly facilitate a violation or attempted violation.

118 (b) As used in this section, "transactional resources" means:

- 119 (i) [any] a mail drop or mail box, regardless of whether the mail drop or mail box is
120 located on the premises of a United States Post Office;
- 121 (ii) [any] a telephone or facsimile transmission device;
- 122 (iii) [any] an Internet connection by a resident or inhabitant of this state with a resident-
123 or nonresident-maintained Internet site;
- 124 (iv) [any] a business office or private residence used for a business-related purpose;
- 125 (v) [any] an account with or services of a financial institution;
- 126 (vi) the services of a common or private carrier; or
- 127 (vii) the use of [any] a city, county, or state asset or facility, including [any] a road or
128 highway.
- 129 (5) The director or the director's designee, for the purposes outlined in [any] a chapter
130 administered by the division, may administer oaths, issue subpoenas, compel the attendance of
131 witnesses, conduct audits, compel sworn responses to written questions, or compel the
132 production of papers, books, accounts, documents, or evidence.
- 133 (6) (a) An administrative action filed under this chapter or a chapter listed in Section
134 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation
135 occurs.
- 136 (b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be
137 commenced no later than five years after the day on which the alleged violation occurs.
- 138 (c) The provisions of this Subsection (6) control over the provisions of Title 78B,
139 Chapter 2, Statutes of Limitations.
- 140 Section 2. Section 13-11-4 is amended to read:
- 141 **13-11-4. Deceptive act or practice by supplier.**
- 142 (1) A deceptive act or practice by a supplier in connection with a consumer transaction
143 violates this chapter whether it occurs before, during, or after the transaction.
- 144 (2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or
145 practice if the supplier knowingly or intentionally:
- 146 (a) indicates that the subject of a consumer transaction has sponsorship, approval,
147 performance characteristics, accessories, uses, or benefits, if it has not;
- 148 (b) indicates that the subject of a consumer transaction is of a particular standard,
149 quality, grade, style, or model, if it is not;

150 (c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or
151 has been used to an extent that is materially different from the fact;

152 (d) indicates that the subject of a consumer transaction is available to the consumer for
153 a reason that does not exist, including any of the following reasons falsely used in an
154 advertisement:

155 (i) "going out of business";

156 (ii) "bankruptcy sale";

157 (iii) "lost our lease";

158 (iv) "building coming down";

159 (v) "forced out of business";

160 (vi) "final days";

161 (vii) "liquidation sale";

162 (viii) "fire sale";

163 (ix) "quitting business"; or

164 (x) an expression similar to any of the expressions in Subsections (2)(d)(i) through
165 (ix);

166 (e) indicates that the subject of a consumer transaction has been supplied in accordance
167 with a previous representation, if it has not;

168 (f) indicates that the subject of a consumer transaction will be supplied in greater
169 quantity than the supplier intends;

170 (g) indicates that replacement or repair is needed, if it is not;

171 (h) indicates that a specific price advantage exists, if it does not;

172 (i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier
173 does not have;

174 (j) (i) indicates that a consumer transaction involves or does not involve a warranty, a
175 disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if
176 the representation is false; or

177 (ii) fails to honor a warranty or a particular warranty term;

178 (k) indicates that the consumer will receive a rebate, discount, or other benefit as an
179 inducement for entering into a consumer transaction in return for giving the supplier the names
180 of prospective consumers or otherwise helping the supplier to enter into other consumer

181 transactions, if receipt of the benefit is contingent on an event occurring after the consumer
182 enters into the transaction;

183 (l) after receipt of payment for goods or services, fails to ship the goods or furnish the
184 services within the time advertised or otherwise represented or, if no specific time is advertised
185 or represented, fails to ship the goods or furnish the services within 30 days, unless within the
186 applicable time period the supplier provides the buyer with the option to:

187 (i) cancel the sales agreement and receive a refund of all previous payments to the
188 supplier if the refund is mailed or delivered to the buyer within 10 business days after the day
189 on which the seller receives written notification from the buyer of the buyer's intent to cancel
190 the sales agreement and receive the refund; or

191 (ii) extend the shipping date to a specific date proposed by the supplier;

192 (m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the
193 requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale
194 within three business days of the time of purchase if:

195 (i) the sale is made other than at the supplier's established place of business pursuant to
196 the supplier's personal contact, whether through mail, electronic mail, facsimile transmission,
197 telephone, or any other form of direct solicitation; and

198 (ii) the sale price exceeds \$25;

199 (n) promotes, offers, or grants participation in a pyramid scheme as defined under Title
200 76, Chapter 6a, Pyramid Scheme Act;

201 ~~[(o) represents that the funds or property conveyed in response to a charitable~~
202 ~~solicitation will be donated or used for a particular purpose or will be donated to or used by a~~
203 ~~particular organization, if the representation is false;]~~

204 (o) in connection with a charitable solicitation:

205 (i) falsely indicates that:

206 (A) the supplier is affiliated with a charitable organization;

207 (B) the supplier is an employee, officer, or representative of a public safety agency;

208 (C) the supplier has sponsorship or approval of a given charitable organization;

209 (D) a charitable contribution will be provided to a given charitable organization;

210 (E) providing a charitable contribution has an additional benefit, including a tax

211 benefit; or

212 (F) the recipient of the solicitation has previously contributed to a given charitable
213 organization;
214 (ii) uses a fictitious name or a name the supplier is not authorized to use; or
215 (iii) with intent to deceive:
216 (A) uses a name that is substantially similar to that of another charitable organization;
217 or
218 (B) falsely indicates that a charitable contribution will be used for a particular purpose;
219 (p) if a consumer indicates the consumer's intention of making a claim for a motor
220 vehicle repair against the consumer's motor vehicle insurance policy:
221 (i) commences the repair without first giving the consumer oral and written notice of:
222 (A) the total estimated cost of the repair; and
223 (B) the total dollar amount the consumer is responsible to pay for the repair, which
224 dollar amount may not exceed the applicable deductible or other copay arrangement in the
225 consumer's insurance policy; or
226 (ii) requests or collects from a consumer an amount that exceeds the dollar amount a
227 consumer was initially told the consumer was responsible to pay as an insurance deductible or
228 other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that
229 amount is less than the full amount the motor vehicle insurance policy requires the insured to
230 pay as a deductible or other copay arrangement, unless:
231 (A) the consumer's insurance company denies that coverage exists for the repair, in
232 which case, the full amount of the repair may be charged and collected from the consumer; or
233 (B) the consumer misstates, before the repair is commenced, the amount of money the
234 insurance policy requires the consumer to pay as a deductible or other copay arrangement, in
235 which case, the supplier may charge and collect from the consumer an amount that does not
236 exceed the amount the insurance policy requires the consumer to pay as a deductible or other
237 copay arrangement;
238 (q) includes in any contract, receipt, or other written documentation of a consumer
239 transaction, or any addendum to any contract, receipt, or other written documentation of a
240 consumer transaction, any confession of judgment or any waiver of any of the rights to which a
241 consumer is entitled under this chapter;
242 (r) charges a consumer for a consumer transaction or a portion of a consumer

243 transaction that has not previously been agreed to by the consumer;

244 (s) solicits or enters into a consumer transaction with a person who lacks the mental
245 ability to comprehend the nature and consequences of:

246 (i) the consumer transaction; or

247 (ii) the person's ability to benefit from the consumer transaction;

248 (t) solicits for the sale of a product or service by providing a consumer with an
249 unsolicited check or negotiable instrument the presentment or negotiation of which obligates
250 the consumer to purchase a product or service, unless the supplier is:

251 (i) a depository institution under Section 7-1-103;

252 (ii) an affiliate of a depository institution; or

253 (iii) an entity regulated under Title 7, Financial Institutions Act;

254 (u) sends an unsolicited mailing to a person that appears to be a billing, statement, or
255 request for payment for a product or service the person has not ordered or used, or that implies
256 that the mailing requests payment for an ongoing product or service the person has not received
257 or requested;

258 (v) issues a gift certificate, instrument, or other record in exchange for payment to
259 provide the bearer, upon presentation, goods or services in a specified amount without printing
260 in a readable manner on the gift certificate, instrument, packaging, or record any expiration
261 date or information concerning a fee to be charged and deducted from the balance of the gift
262 certificate, instrument, or other record;

263 (w) misrepresents the geographical origin or location of the supplier's business;

264 (x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal
265 provisions;

266 (y) violates Section 13-59-201; [or]

267 (z) fails to comply with the restrictions of Subsection 13-54-202(2)[-]; or

268 (aa) states or implies that a registration or application administered or enforced by the
269 division is an endorsement, sanction, or approval by the division or a governmental agency or
270 office.

271 (3) (a) The notice required by Subsection (2)(m) shall:

272 (i) be a conspicuous statement written in dark bold with at least 12-point type on the
273 first page of the purchase documentation; and

274 (ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT
275 ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period
276 reflecting the supplier's cancellation policy but not less than three business days) AFTER THE
277 DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS
278 LATER."

279 (b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's
280 cancellation policy:

281 (i) is communicated to the buyer; and

282 (ii) offers greater rights to the buyer than Subsection (2)(m).

283 (4) (a) A gift certificate, instrument, or other record that does not print an expiration
284 date in accordance with Subsection (2)(v) does not expire.

285 (b) A gift certificate, instrument, or other record that does not include printed
286 information concerning a fee to be charged and deducted from the balance of the gift
287 certificate, instrument, or other record is not subject to the charging and deduction of the fee.

288 (c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other
289 record useable at multiple, unaffiliated sellers of goods or services if an expiration date is
290 printed on the gift certificate, instrument, or other record.

291 Section 3. Section **13-22-2** is amended to read:

292 **13-22-2. Definitions.**

293 As used in this chapter:

294 (1) "Chapter" means a chapter, branch, area, office, or similar affiliate of a charitable
295 organization.

296 (2) (a) "Charitable organization" or "organization" means any person, joint venture,
297 partnership, limited liability company, corporation, association, group, or other entity:

298 (i) who is or holds itself out to be:

299 (A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic,
300 religious or eleemosynary, social welfare or advocacy, public health, environmental or
301 conservation, or civic organization;

302 (B) for the benefit of a public safety, law enforcement, or firefighter fraternal
303 association; or

304 (C) established for any charitable purpose;

305 (ii) who solicits or obtains contributions solicited from the public for a charitable
306 purpose; or

307 (iii) in any manner employs a charitable appeal as the basis of any solicitation or
308 employs an appeal that reasonably suggests or implies that there is a charitable purpose to any
309 solicitation.

310 (b) "Charitable organization" includes a chapter or a person who solicits contributions
311 within the state for a charitable organization.

312 (c) "Charitable organization" does not include a political organization.

313 (3) "Charitable purpose" means any benevolent, educational, philanthropic, humane,
314 patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental,
315 conservation, civic, or other charitable objective or for the benefit of a public safety, law
316 enforcement, or firefighter fraternal association.

317 (4) "Charitable sales promotion" means an advertising or sales campaign, conducted by
318 a commercial co-venturer, which represents that the purchase or use of goods or services
319 offered by the commercial co-venturer will benefit, in whole or in part, a charitable
320 organization or purpose.

321 (5) (a) "Charitable solicitation" or "solicitation" means any request, directly or
322 indirectly, for money, credit, property, financial assistance, or any other thing of value on the
323 plea or representation that it will be used for a charitable purpose.

324 (b) "Charitable solicitation" or "solicitation" includes:

325 (i) any of the following done, or purporting to be done, for a charitable purpose:

326 (A) any oral or written request, including any request by telephone, radio, television, or
327 other advertising or communications media;

328 (B) the distribution, circulation, or posting of any handbill, written advertisement, or
329 publication; or

330 (C) an application or other request for a private grant or, if made by an individual, a
331 public grant; or

332 (ii) the sale of, offer or attempt to sell, or request of donations in exchange for any
333 advertisement, membership, subscription, or other article in connection with which any appeal
334 is made for any charitable purpose, or the use of the name of any charitable organization or
335 movement as an inducement or reason for making any purchase donation, or, in connection

336 with any sale or donation, stating or implying that the whole or any part of the proceeds of any
337 sale or donation will go to or be donated to any charitable purpose.

338 (c) "Charitable solicitation" or "solicitation" does not include an entity's application or
339 other request for a public grant.

340 (6) "Commercial co-venturer" means a person who for profit is regularly and primarily
341 engaged in trade or commerce other than in connection with soliciting for a charitable
342 organization or purpose.

343 (7) (a) "Contribution" means the pledge or grant for a charitable purpose of any money
344 or property of any kind, including any of the following:

345 (i) a gift, subscription, loan, advance, or deposit of money or anything of value;

346 (ii) a contract, promise, or agreement, express or implied, whether or not legally
347 enforceable, to make a contribution for charitable purposes; or

348 (iii) fees, dues, or assessments paid by members, when membership is conferred solely
349 as consideration for making a contribution.

350 (b) "Contribution" does not include:

351 (i) money loaned to a charitable organization by a financial institution in the ordinary
352 course of business; or

353 (ii) fees, dues, or assessments paid by members when membership is not conferred
354 solely as consideration for making a contribution.

355 (8) "Contributor" means a donor, pledgor, purchaser, or other person who makes a
356 contribution.

357 (9) "Director" means the director of the Division of Consumer Protection.

358 (10) "Division" means the Division of Consumer Protection of the Department of
359 Commerce.

360 (11) (a) "Exempt function" means the function of influencing or attempting to
361 influence the selection, nomination, election, or appointment of an individual to a federal, state,
362 or local public office or an office in a political organization, or the election of presidential or
363 vice-presidential electors, regardless of whether the individual or the electors are selected,
364 nominated, elected, or appointed.

365 (b) "Exempt function" includes making an expenditure relating to an office described
366 in Subsection (11)(a) which, if incurred by the individual, would be allowable as a deduction

367 under section 162(a) of 26 I.R.C. Sec. 1.162-20.

368 (12) "Foreign nonprofit corporation" means the same as that term is defined in Section
369 16-6a-102.

370 ~~[(11)]~~ (13) "Material fact" means information that a person of ordinary intelligence and
371 prudence would consider relevant in deciding whether or not to make a contribution in
372 response to a charitable solicitation.

373 (14) "Nonprofit corporation" means the same as that term is defined in Section
374 16-6a-102.

375 (15) "Political organization" means an incorporated or unincorporated party,
376 committee, association, fund, or other organization organized and operated primarily for the
377 purpose of directly or indirectly accepting contributions or making expenditures for an exempt
378 function.

379 ~~[(12)]~~ (16) (a) "Professional fund raiser" means a person who:

380 (i) for compensation or any other consideration, for or on behalf of a charitable
381 organization that is a nonprofit corporation, or any other person that is not a political
382 organization:

383 (A) solicits contributions; or

384 (B) promotes or sponsors the solicitation of contributions;

385 (ii) (A) for compensation or any other consideration, plans, manages, ~~[counsels,]~~
386 consults, or prepares material for, or with respect to, the solicitation of contributions for a
387 charitable organization that is a nonprofit corporation, or any other person that is not a political
388 organization; and

389 (B) at any time has custody of a contribution for the charitable organization;

390 (iii) engages in, or represents being independently engaged in, the business of soliciting
391 contributions for a charitable organization that is a nonprofit corporation;

392 (iv) manages, supervises, or trains any solicitor whether as an employee or otherwise;

393 or

394 (v) uses a vending device or vending device decal for financial or other consideration
395 that implies a solicitation of contributions or donations for any charitable organization or
396 charitable purposes.

397 (b) "Professional fund raiser" does not include:

398 (i) an individual acting in the individual's capacity as a bona fide officer, director,
399 volunteer, or full-time employee of a charitable organization;

400 (ii) an attorney, investment counselor, or banker who, in the conduct of that person's
401 profession, advises a client regarding legal, investment, or financial advice; ~~[or]~~

402 (iii) a person who tangentially prepares materials, including a person who:

403 (A) makes copies;

404 (B) cuts or folds flyers; or

405 (C) creates a graphic design or other artwork without providing strategic or

406 campaign-related input~~[-]; or~~

407 (iv) a political organization.

408 ~~[(13)]~~ (17) (a) "Professional fund raising ~~[counsel or]~~ consultant" means a person who:

409 (i) for compensation or any other consideration, plans, manages, ~~[counsels;]~~ consults,
410 or prepares material for, or with respect to, the solicitation of contributions for a charitable
411 organization that is a nonprofit corporation or any other person that is not a political
412 organization;

413 (ii) does not solicit contributions;

414 (iii) does not at any time have custody of a contribution from solicitation; and

415 (iv) does not employ, procure, or engage any compensated person to solicit or receive
416 contributions.

417 (b) "Professional fund raising counsel or consultant" does not include:

418 (i) an individual acting in the individual's capacity as a bona fide officer, director,
419 volunteer, or full-time employee of a charitable organization;

420 (ii) an attorney, investment counselor, or banker who, in the conduct of that person's
421 profession, advises a client regarding legal, investment, or financial advice; or

422 (iii) a person who tangentially prepares materials, including a person who:

423 (A) makes copies;

424 (B) cuts or folds flyers; or

425 (C) creates a graphic design or other artwork without providing strategic or

426 campaign-related input.

427 ~~[(14)]~~ (18) "Public grant" means the same as the term "grant" is defined in Section

428 [63G-6a-103](#).

429 ~~[(15)]~~ (19) (a) "Vending device" means a container used by a charitable organization or
430 professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or
431 donation whether or not the device offers a product or item in return for the contribution or
432 donation.

433 (b) "Vending device" includes machines, boxes, jars, wishing wells, barrels, or any
434 other container.

435 ~~[(16)]~~ (20) "Vending device decal" means any decal, tag, or similar designation
436 material that is attached to a vending device, whether or not used or placed by a charitable
437 organization or professional fund raiser, that would indicate that all or a portion of the proceeds
438 from the purchase of items from the vending device will go to a specific charitable
439 organization.

440 Section 4. Section 13-22-3 is amended to read:

441 **13-22-3. Investigative and enforcement powers -- Education.**

442 (1) The division shall administer and enforce the provisions of this chapter in
443 accordance with Chapter 2, Division of Consumer Protection.

444 (2) Upon request, the attorney general shall give legal advice to, and act as counsel for,
445 the division in the exercise of the division's responsibilities under this chapter.

446 (3) The division may ~~[make any investigation it considers]~~ audit or investigate as
447 necessary to determine whether [any] a person is violating, has violated, or is about to violate
448 [any] a provision of this chapter or [any] a rule made or order issued under this chapter. As
449 part of the investigation, the division may:

450 (a) require a person to file a statement in writing;

451 (b) administer oaths, subpoena witnesses and compel ~~[their attendance]~~ a witness to
452 attend, compel sworn responses to written questions, take evidence, and examine under oath
453 [any] a person in connection with an investigation; and

454 (c) require the production of [any] books, papers, documents, merchandise, or other
455 material relevant to the investigation.

456 ~~[(2) Whenever it appears to the director that substantial evidence exists that any person~~
457 ~~has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this~~
458 ~~chapter or constituting a violation of this chapter or any rule made or order issued under this~~
459 ~~chapter, the director may do any of the following in addition to other specific duties under this~~

460 chapter:]

461 [~~(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the~~
462 ~~director may issue an order to cease and desist from engaging in the act or practice or from~~
463 ~~doing any act in furtherance of the activity, or]~~

464 [~~(b) the director may bring an action in the appropriate district court of this state to~~
465 ~~enjoin the acts or practices constituting the violation or to enforce compliance with this chapter~~
466 ~~or any rule made or order issued under this chapter.]~~

467 [~~(3) Whenever it appears to the director by a preponderance of the evidence that a~~
468 ~~person has engaged in or is engaging in any act or practice prohibited in this chapter or~~
469 ~~constituting a violation of this chapter or any rule made or order issued under this chapter, the~~
470 ~~director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any~~
471 ~~series of violations arising out of the same operative facts.]~~

472 (4) In addition to the division's enforcement powers under Chapter 2, Division of
473 Consumer Protection:

474 (a) the director may impose an administrative fine of up to \$2,500 for each violation of
475 this chapter; or

476 (b) the division may bring an action in a court with jurisdiction to enjoin the acts or
477 practices constituting the violation or to enforce compliance with this chapter or a rule made or
478 order issued under this chapter.

479 (5) Upon a proper showing, the court hearing an action brought under Subsection
480 [~~(2)(b)~~] (4)(b) may:

481 (a) issue an injunction;

482 (b) enter a declaratory judgment;

483 (c) appoint a receiver for the defendant or the defendant's assets and order the
484 defendant to pay the expenses of the receiver;

485 (d) order disgorgement of any money received in violation of this chapter;

486 (e) order rescission of agreements violating this chapter;

487 (f) impose [~~a fine of not more than \$2,000~~] fines for each violation of this chapter; and

488 (g) impose a civil penalty[;] or any other relief the court [~~considers just~~] determines
489 reasonable and necessary.

490 (6) If a court with jurisdiction grants judgment or injunctive relief to the division, the

491 court shall award the division:

492 (a) reasonable attorney fees;

493 (b) court costs; and

494 (c) investigative fees.

495 ~~[(5)]~~ (7) ~~[(a)]~~ In assessing the amount of a fine or penalty under ~~[Subsection] [(3);~~
496 ~~(4)(f), or (4)(g)]~~ Subsection (4)(a), (5)(f), or (5)(g), the director or court imposing the fine or
497 penalty ~~[shall]~~ may consider the gravity of the violation ~~[and the intent of the violator].~~

498 ~~[(b) If it does not appear by a preponderance of the evidence that the violator acted in~~
499 ~~bad faith or with intent to harm the public, the director or court shall excuse payment of the~~
500 ~~fine or penalty.]~~

501 (8) (a) A person who violates an administrative or court order issued for a violation of
502 this chapter is subject to a civil penalty of up to \$5,000 for each violation.

503 (b) A court may impose a civil penalty authorized under this section in a civil action
504 brought by the attorney general on behalf of the division.

505 ~~[(6)]~~ (9) The division may provide or contract to provide public education and
506 voluntary education for applicants and registrants under this chapter. The education may be in
507 the form of publications, advertisements, seminars, courses, or other appropriate means. The
508 scope of the education may include:

509 (a) the requirements, prohibitions, and regulated practices under this chapter;

510 (b) suggestions for effective financial and organizational practices for charitable
511 organizations;

512 (c) charitable giving and solicitation;

513 (d) potential problems with solicitations and fraudulent or deceptive practices; and

514 (e) any other matter relevant to the subject of this chapter.

515 (10) Nothing in this chapter limits other available rights or remedies authorized under
516 the laws of this state or the United States.

517 Section 5. Section **13-22-4** is amended to read:

518 **13-22-4. Action for damages.**

519 ~~[(1) A person who willfully violates any provision of this chapter, either by failing to~~
520 ~~comply with any requirement or by doing any act prohibited in the chapter, is guilty of a class~~
521 ~~B misdemeanor. Each day the violation is committed or permitted to continue constitutes a~~

522 ~~separate punishable offense. (2)] Nothing in this [section] chapter precludes any person~~
523 ~~damaged as a result of a charitable solicitation from maintaining a civil action for damages or~~
524 ~~injunctive relief.~~

525 ~~[(3) The division may maintain an action for damages or injunctive relief on behalf of~~
526 ~~itself or any other person to enforce compliance with this chapter.]~~

527 Section 6. Section 13-22-5 is amended to read:

528 **13-22-5. Registration required.**

529 ~~[(1) (a) An organization may not engage in an activity described in Subsection (1)(b)~~
530 ~~unless the organization is:]~~

531 ~~[(i) exempt under Section 13-22-8; or]~~

532 ~~[(ii) registered with the division in accordance with this chapter.]~~

533 ~~[(b) Unless an organization meets the requirements of Subsection (1)(a), the~~
534 ~~organization may not knowingly solicit, promote, or sponsor a charitable solicitation if the~~
535 ~~charitable solicitation:]~~

536 ~~[(i) originates in Utah;]~~

537 ~~[(ii) is received in Utah; or]~~

538 ~~[(iii) is caused to be made through business operations in Utah.]~~

539 ~~[(2) Subsection (1) does not prohibit an organization from receiving an unsolicited~~
540 ~~contribution:]~~

541 ~~[(3)] (1) [(a)] Unless a person acting as a professional fund raiser [obtains a permit] is~~
542 ~~registered with the division in accordance with Section 13-22-9, the person may not:~~

543 ~~[(i)] (a) make or facilitate a solicitation either directed toward the state or originating~~
544 ~~from the state; or~~

545 ~~[(ii)] (b) maintain a place of business in the state or employ an individual located in the~~
546 ~~state.~~

547 ~~[(b) Subsection (3)(a) applies regardless of whether a charitable organization receiving~~
548 ~~the services of a professional fund raiser is required to register under this chapter.]~~

549 ~~[(4)] (2) [(a)] Unless a person acting as a professional fund raising [counsel or]~~
550 ~~consultant [obtains a permit] is registered with the division in accordance with Section~~
551 ~~13-22-9, the person may not:~~

552 ~~[(i)] (a) maintain a place of business in the state or employ an individual located in the~~

553 state; or

554 ~~[(ii)]~~ (b) provide any service of a professional fund raising ~~[counsel or]~~ consultant to or
555 for a charitable organization, or any other person, over which the state has general jurisdiction.

556 ~~[(b) Subsection (4)(a) applies regardless of whether a charitable organization receiving
557 the services of a professional fund raising counsel or consultant is required to register under
558 this chapter.]~~

559 ~~[(5) A person required to obtain a permit under Subsection (3) or (4) may not provide
560 any service to or on behalf of an organization required to register under Subsection (1) if the
561 organization is not registered in accordance with Section 13-22-6.]~~

562 Section 7. Section 13-22-9 is amended to read:

563 **13-22-9. Professional fund raiser's or fund raising consultant's registration.**

564 (1) A person applying for or renewing a ~~[permit]~~ registration as a professional fund
565 raiser or a professional fund raising ~~[counsel or]~~ consultant shall:

566 (a) pay an application fee as determined under Section 63J-1-504; and

567 (b) submit a written application, verified under oath, on a form approved by the
568 division that includes:

569 (i) the applicant's name, address, telephone number, facsimile number, if any;

570 (ii) the name and address of ~~[any]~~ each organization or person controlled by,
571 controlling, or affiliated with the applicant;

572 (iii) the applicant's business, occupation, or employment for the three-year period
573 immediately preceding the date of the application;

574 (iv) whether it is an individual, joint venture, partnership, limited liability company,
575 corporation, association, or other entity;

576 (v) the names and residence addresses of ~~[any officer or director of the applicant]~~ the
577 applicant's officers and directors;

578 (vi) the name and address of the applicant's registered agent for service of process and
579 a consent to service of process;

580 (vii) if a professional fund raiser:

581 (A) the purpose of the solicitation and use of the contributions to be solicited;

582 (B) the method by which the solicitation will be conducted and the projected length of
583 time it is to be conducted;

584 (C) the anticipated expenses of the solicitation, including all commissions, costs of
585 collection, salaries, and [~~any other items~~] other expenses;

586 (D) a statement of what percentage of the contributions collected as a result of the
587 solicitation are projected to remain available to the charitable organization declared in the
588 application, including a satisfactory statement of the factual basis for the projected percentage
589 and projected anticipated revenues provided to the charitable organization, and if a flat fee is
590 charged, documentation to support the reasonableness of the flat fee; and

591 (E) a statement of total contributions collected or received by the professional fund
592 raiser within the calendar year immediately preceding the date of the application, including a
593 description of the expenditures made from or the use made of the contributions;

594 (viii) if a professional fund raising [~~counsel or~~] consultant:

595 (A) the purpose of the plan, management, advice, [~~counsel~~] or preparation of materials
596 for, or with respect to, the solicitation and use of the contributions solicited;

597 (B) the method by which the plan, management, advice, [~~counsel~~], or preparation of
598 materials for, or with respect to, the solicitation will be organized or coordinated and the
599 projected length of time of the solicitation;

600 (C) the anticipated expenses of the plan, management, advice, [~~counsel~~], or preparation
601 of materials for, or with respect to, the solicitation, including all commissions, costs of
602 collection, salaries, and [~~any other items~~] other expenses;

603 (D) a statement of total fees to be earned or received from the charitable organization
604 declared in the application, and what percentage of the contributions collected as a result of the
605 plan, management, advice, [~~counsel~~], or preparation of materials for, or with respect to, the
606 solicitation are projected after deducting the total fees to be earned or received remain available
607 to the charitable organization declared in the application, including a satisfactory statement of
608 the factual basis for the projected percentage and projected anticipated revenues provided to the
609 charitable organization, and if a flat fee is charged, documentation to support the
610 reasonableness of such flat fee; and

611 (E) a statement of total net fees earned or received within the calendar year
612 immediately preceding the date of the application, including a description of the expenditures
613 made from or the use of the net earned or received fees in the planning, management, advising,
614 [~~counseling~~], or preparation of materials for, or with respect to, the solicitation and use of the

615 contributions solicited for the charitable organization;

616 (ix) disclosure of any injunction, judgment, or administrative order against the
617 applicant or the applicant's conviction of [~~any crime involving moral turpitude~~] a crime
618 involving a charitable solicitation or a felony involving fraud, dishonesty, a false statement,
619 forgery, or theft;

620 [~~(x) a copy of any written agreements with any charitable organization;~~]

621 (x) each written agreement the applicant has with a charitable organization;

622 (xi) [~~the~~] disclosure of any injunction, judgment, or administrative order or conviction
623 of [~~any crime involving moral turpitude~~] a crime involving a charitable solicitation or a felony
624 involving fraud, dishonesty, a false statement, forgery, or theft with respect to any officer,
625 director, manager, operator, or principal of the applicant;

626 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
627 regarding the use of proceeds;

628 (xiii) an acknowledgment that fund raising in the state will not commence until both
629 the professional fund raiser or professional fund raising [~~counsel or~~] consultant and the charity,
630 and its parent foundation, if any, are registered and in compliance with this chapter; and

631 (xiv) [~~any~~] additional information the division may require by rule.

632 (2) If [~~any~~] information contained in the application for [~~a permit~~] registration becomes
633 incorrect or incomplete, the applicant or registrant shall, within 30 days after the information
634 becomes incorrect or incomplete, correct the application or file the complete information
635 required by the division.

636 (3) In addition to the [~~permit~~] registration fee, an applicant failing to file [~~a permit~~
637 application] an application for registration or renewal by the due date or filing an incomplete
638 [~~permit application~~] application for registration or renewal shall pay an additional fee of \$25
639 for each month or part of a month after the date on which the [~~permit application~~] application
640 for registration or renewal [~~were~~] was due to be filed.

641 Section 8. Section 13-22-11 is amended to read:

642 **13-22-11. Expiration of registration.**

643 [~~(1) Each charitable organization registration issued under this chapter expires annually~~
644 ~~on the earlier of January 1, April 1, July 1, or October 1 following the completion of 12 months~~
645 ~~after the date of initial issuance.~~]

646 ~~[(2)]~~ (1) Each professional fund raiser's ~~[permit]~~ registration issued under this chapter
647 expires annually on the date of issuance.

648 ~~[(3)]~~ (2) Each professional fund raising ~~[counsel's or]~~ consultant's ~~[permit]~~ registration
649 issued under this chapter expires annually on the date of issuance.

650 ~~[(4)]~~ (3) A registration ~~[or permit]~~ may be renewed only by complying with the
651 requirements for obtaining the original registration ~~[or permit]~~.

652 Section 9. Section **13-22-12** is amended to read:

653 **13-22-12. Grounds for denial, suspension, or revocation.**

654 ~~[(1)]~~ The director may, in accordance with Title 63G, Chapter 4, Administrative
655 Procedures Act, issue an order to deny, suspend, or revoke an application~~[, registration, permit,~~
656 ~~or information card]~~ or registration, upon a finding that the order is in the public interest and
657 that:

658 ~~[(a)]~~ (1) the application for registration or renewal is incomplete or misleading in any
659 material respect;

660 ~~[(b)]~~ (2) the applicant or registrant or ~~[any]~~ an officer, director, agent, or employee of
661 the applicant or registrant has:

662 ~~[(i)]~~ (a) violated this chapter or committed ~~[any of the prohibited acts and practices]~~ a
663 prohibited act or practice described in this chapter;

664 ~~[(ii)]~~ (b) been enjoined by ~~[any]~~ a court, or is the subject of an administrative order
665 issued in this or another state, if the injunction or order includes a finding or admission of
666 fraud, breach of fiduciary duty, material misrepresentation, or if the injunction or order was
667 based on a finding of lack of integrity, truthfulness, or mental competence of the applicant;

668 ~~[(iii)]~~ (c) been convicted of a crime involving ~~[moral turpitude]~~ fraud, dishonesty, a
669 false statement, forgery, or theft;

670 ~~[(iv)]~~ (d) obtained or attempted to obtain a registration ~~[or a permit]~~ by
671 misrepresentation;

672 ~~[(v)]~~ (e) materially misrepresented or caused to be misrepresented the purpose and
673 manner in which contributed funds and property will be used in connection with ~~[any]~~ a
674 solicitation;

675 ~~[(vi)]~~ (f) caused or allowed ~~[any]~~ a paid solicitor to violate ~~[any]~~ a rule made or order
676 issued under this chapter by the division;

677 ~~[(vii)]~~ (g) failed to take corrective action with ~~[its solicitors who have]~~ a solicitor that
 678 has violated this chapter or committed [any of the prohibited acts and practices of] an act or
 679 practice prohibited by this chapter;

680 ~~[(viii)]~~ (h) used, or attempted to use a name that ~~[either is deceptively similar to a name~~
 681 ~~used by an existing registered or exempt charitable organization, or appears]~~ is deceptive or is
 682 reasonably likely to cause confusion [of names];

683 ~~[(ix)]~~ (i) failed to timely file with the division ~~[any]~~ a report or information required in
 684 this chapter or by rules made under this chapter; or

685 ~~[(x)]~~ (j) failed to pay a fine imposed by the division in accordance with Section
 686 13-22-3~~;~~ or.

687 ~~[(c) the applicant for registration or renewal has no charitable purpose.]~~

688 ~~[(2) The director may, in accordance with Title 63G, Chapter 4, Administrative~~
 689 ~~Procedures Act, issue an order to revoke or suspend a claim of exemption filed under~~
 690 ~~Subsection 13-22-8(4), upon a finding that the order is in the public interest and that:]~~

691 ~~[(a) the notice of claim of exemption is incomplete or false or misleading in any~~
 692 ~~material respect; or]~~

693 ~~[(b) any provision of this chapter, or any rule made or order issued by the division~~
 694 ~~under this chapter has been violated in connection with a charitable solicitation by any exempt~~
 695 ~~organization.]~~

696 Section 10. Section 13-22-13 is amended to read:

697 **13-22-13. Prohibited practices.**

698 In connection with ~~[any]~~ a solicitation, each of the following acts and practices is
 699 prohibited:

700 (1) stating or implying that registration constitutes endorsement or approval by the
 701 division or ~~[any]~~ a governmental entity;

702 (2) violating ~~[any of the requirements]~~ a requirement of this chapter or ~~[any rule]~~ a rule
 703 made under this chapter;

704 (3) making ~~[any untrue]~~ a false statement of a material fact or failing to state a material
 705 fact necessary to make statements made, in the context of the circumstances under which they
 706 are made, not misleading, whether in connection with a charitable solicitation or a filing with
 707 the division; and

708 (4) violating an order issued by the division under [~~Subsection 13-22-3(2) or (3)~~]
709 Section 13-22-3.

710 Section 11. Section 13-22-14 is amended to read:

711 **13-22-14. Accuracy not guaranteed.**

712 (1) By issuing a [~~permit~~] registration, the state does not guarantee the accuracy of any
713 representation contained in the [~~permit~~] registration, nor does it warrant that any statement
714 made by the holder of the [~~permit~~] registration is truthful. The state makes no certification as
715 to the charitable worthiness of any organization on whose behalf a solicitation is made nor as to
716 the moral character of the holder of the [~~permit~~] registration.

717 (2) The following statement shall appear on each [~~permit~~] registration: "THE STATE
718 OF UTAH MAKES NO CERTIFICATION AS TO THE CHARITABLE WORTHINESS OF
719 ANY ORGANIZATION ON WHOSE BEHALF A SOLICITATION IS MADE NOR AS TO
720 THE MORAL CHARACTER OF THE HOLDER OF THE [~~PERMIT~~] REGISTRATION."

721 [~~(3) No solicitation for charitable purposes shall use the fact or requirement of
722 registration or of the filing of any report with the division pursuant to this chapter with the
723 intent to cause or in a manner tending to cause any person to believe that the solicitation, the
724 manner in which it is conducted, its purposes, any use to which the proceeds will be applied or
725 the person or organization conducting it has been or will be in any way endorsed, sanctioned,
726 or approved by the division or any governmental agency or office.]~~

727 Section 12. Section 13-22-15 is repealed and reenacted to read:

728 **13-22-15. Financial reports required -- Rulemaking.**

729 (1) (a) Beginning January 1, 2025, and subject to Subsection (2), a charitable
730 organization that is a nonprofit corporation, or that is a foreign nonprofit corporation, shall file
731 an unredacted copy of the charitable organization's most recent IRS Form 990, 990-EZ, 990-N,
732 or 990-PF.

733 (b) Subsection (1)(a) does not apply to a nonprofit corporation or a foreign nonprofit
734 corporation that is not required to file a Form 990, 990-EZ, 990-N, or 990-PF with the IRS.

735 (2) (a) (i) The division may not require a charitable organization to file Schedule B of a
736 form described in Subsection (1).

737 (ii) An IRS Form 990-T is not required to be filed under this section.

738 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

739 Administrative Rulemaking Act, to establish:

740 (i) the manner in which a charitable organization is required to file the forms described
741 in Subsection (1); and

742 (ii) the process by which a charitable organization is required to file the forms
743 described in Subsection (1).

744 Section 13. Section **13-22-16** is amended to read:

745 **13-22-16. Separate accounts and receipts required.**

746 (1) (a) Each professional fund raiser shall segregate and maintain all contributed funds
747 in an account held separately from the professional fund raiser's operating account.

748 (b) Each contribution in the control or custody of the professional fund raiser shall, no
749 later than 10 days after the day on which the contribution is received, be deposited into an
750 account at a bank or other federally insured financial institution that is in the name of the
751 charitable organization.

752 (c) The charitable organization shall maintain and administer the account and shall
753 have sole control of all withdrawals.

754 (2) Each [~~organization required to be registered under this chapter and each~~]
755 professional fund raiser shall:

756 (a) maintain a record of each contribution of money, securities, or cash equivalent
757 sufficient to allow the organization or professional fund raiser to provide a receipt to the
758 contributor upon request or as required by law; and

759 (b) provide a contributor a receipt for each contribution upon request or as required by
760 law.

761 (3) [~~An organization required to be registered under this chapter and each~~] A
762 professional fund raiser shall develop and maintain adequate internal controls for receipt,
763 management, and disbursement of money that are reasonable in light of the organization's or
764 professional fund raiser's assets and organizational complexity.

765 Section 14. Section **13-22-17** is amended to read:

766 **13-22-17. Written agreement required.**

767 (1) A professional fund raiser may only engage in activities on behalf of a charitable
768 organization through written agreement with the organization.

769 (2) A professional fund raising [~~counselor~~] consultant may only engage in activities on

770 behalf of a charitable organization through written agreement with the organization.

771 (3) A charitable organization may only engage the services of a professional fund raiser
772 or professional fund raising [~~counsel or~~] consultant through written agreement.

773 (4) A professional fund raiser or professional fund raising consultant shall file each
774 agreement described in this section with its application for registration.

775 [~~(4) Copies of the agreement required by this section shall be attached to all~~
776 ~~applications for registration and or a permit.]~~

777 Section 15. Section ~~13-22-22~~ is amended to read:

778 **13-22-22. Charitable sales promotions.**

779 [~~(1) Every charitable organization which agrees to permit a charitable sales promotion~~
780 ~~to be conducted by a commercial co-venturer on its behalf shall file with the division a notice~~
781 ~~of the promotion prior to its commencement within this state. The notice shall state:]~~

782 [~~(a) the names of the charitable organization and commercial co-venturer;]~~

783 [~~(b) that the charitable organization and the commercial co-venturer will conduct a~~
784 ~~charitable sales promotion; and]~~

785 [~~(c) the date the charitable sales promotion is expected to commence.]~~

786 [~~(2) Prior to the commencement of a charitable sales promotion within this state, every~~
787 ~~charitable organization which agrees to permit a charitable sales promotion to be conducted in~~
788 ~~its behalf, shall obtain a written agreement, containing such terms as may be required by rule of~~
789 ~~the division, from the commercial co-venturer which shall be available to the division upon~~
790 ~~request.]~~

791 [~~(3) A commercial co-venturer shall keep the final accounting for each charitable sales~~
792 ~~promotion conducted in this state for three years after the final accounting date and make the~~
793 ~~accounting available to the division upon request. (4) The] A commercial co-venturer shall
794 disclose in each advertisement for a charitable sales promotion the dollar amount or percent per
795 unit of goods or services purchased or used that will benefit the charitable organization or
796 purpose.~~

797 Section 16. Section ~~13-22-24~~ is enacted to read:

798 **13-22-24. Fund raising campaign registration required.**

799 (1) As used in this section, "fund raising campaign" means charitable solicitation
800 activity that a professional fund raiser engages in on behalf of a charitable organization where

801 the professional fund raiser receives a portion of the funds raised or other compensation in
802 exchange for services.

803 (2) Before commencing a fund raising campaign, a professional fund raiser shall
804 submit to the division:

805 (a) projected expenses and revenue for the campaign;

806 (b) bank account information for the bank account where the professional fund raiser
807 will hold contributions collected in connection with the fund raising campaign;

808 (c) the solicitation scripts that will be used for the fund raising campaign;

809 (d) an affirmation from the professional fund raiser that the charity has approved the
810 solicitation materials to be used in the fund raising campaign; and

811 (e) names and contact information for the individuals overseeing the fund raising
812 campaign.

813 (3) No later than 90 days after the day on which the fund raising campaign ends, the
814 professional fund raiser shall submit a report to the division detailing:

815 (a) all contributions collected during the fund raising campaign;

816 (b) all contributions paid to the charitable organization as a result of the fund raising
817 campaign; and

818 (c) expenses paid by the charitable organization to the professional fund raiser for the
819 fund raising campaign.

820 (4) A professional fund raiser shall keep records related to the information described in
821 Subsection (2) for five years after the day on which the fund raising campaign ends.

822 Section 17. Section **13-25a-102** is amended to read:

823 **13-25a-102. Definitions.**

824 As used in this chapter:

825 (1) "Advertisement" means material offering for sale, or advertising the availability or
826 quality of, any property, good, or service.

827 (2) (a) "Automated telephone dialing system" means equipment used to:

828 (i) store or produce telephone numbers;

829 (ii) call a stored or produced number; and

830 (iii) connect the number called with a recorded message or artificial voice.

831 (b) "Automated telephone dialing system" does not include a system used in an

832 emergency involving the immediate health or safety of a person, including a burglar alarm
833 system, voice messaging system, fire alarm system, or other similar system.

834 (3) "Division" means the Division of Consumer Protection.

835 (4) (a) "Established business relationship" means a relationship that:

836 (i) is based on inquiry, application, purchase, or transaction regarding products or
837 services offered;

838 (ii) is formed by a voluntary two-way communication between a person making a
839 telephone solicitation and a person to whom a telephone solicitation is made; and

840 (iii) has not been terminated by:

841 (A) an act by either person; or

842 (B) the passage of 18 months since the most recent inquiry, application, purchase,
843 transaction, or voluntary two-way communication.

844 (b) "Established business relationship" includes a relationship with an affiliate as
845 defined in Section [16-10a-102](#).

846 (5) "Facsimile machine" means equipment used for:

847 (a) scanning or encoding text or images for conversion into electronic signals for
848 transmission; or

849 (b) receiving electronic signals and reproducing them as a duplicate of the original text
850 or image.

851 (6) "Negative response" means a statement from a person stating the person does not
852 wish to listen to the sales presentation or participate in the solicitation presented in the
853 telephone call.

854 (7) "On-call emergency provider" means an individual who is required by an employer
855 to be on call to respond to a medical emergency.

856 (8) "Telephone solicitation" means the initiation of a telephone call or message for a
857 commercial purpose or to seek a financial donation, including calls:

858 (a) encouraging the purchase or rental of, or investment in, property, goods, or services,
859 regardless of whether the transaction involves a nonprofit organization;

860 (b) soliciting a sale of or extension of credit for property or services to the person
861 called;

862 (c) soliciting information that will be used for:

- 863 (i) the direct solicitation of a sale of property or services to the person called; or
 864 (ii) an extension of credit to the person called for a sale of property or services;
 865 (d) soliciting a charitable [~~donation involving the exchange of any premium, prize, gift,~~
 866 ~~ticket, subscription, or other benefit in connection with any appeal made for a charitable~~
 867 ~~purpose~~] contribution; or
 868 (e) encouraging the person called to sell real or personal property.

869 (9) "Telephone solicitor" means [~~any~~] an individual, firm, organization, partnership,
 870 association, or corporation who makes or causes to be made an unsolicited telephone call,
 871 including calls made by use of an automated telephone dialing system.

872 (10) "Unsolicited telephone call" means a telephone call for a commercial purpose or
 873 to seek a financial donation other than a call made:

- 874 (a) in response to an express request of the person called;
 875 (b) primarily in connection with an existing debt or contract, payment or performance
 876 of which has not been completed at the time of the call;
 877 (c) to a person with whom the telephone solicitor has an established business
 878 relationship; or
 879 (d) as required by law for a medical purpose.

880 Section 18. Section **13-25a-111** is amended to read:

881 **13-25a-111. Exemptions.**

882 Notwithstanding any other provision of this chapter, Sections **13-25a-103** and
 883 **13-25a-108** do not apply to:

- 884 [~~(1) a telephone call made for a charitable purpose as defined in Section **13-22-2**;~~]
 885 [~~(2) a charitable solicitation as defined in Section **13-22-2**; or~~]
 886 [~~(3)~~] a person who holds and acts within the scope of a license or registration:
 887 [~~(a)~~] (1) under Title 31A, Insurance Code;
 888 [~~(b)~~] (2) issued by the Division of Real Estate established in Section **61-2-201**; or
 889 [~~(c)~~] (3) issued by the National Association of Securities Dealers.

890 Section 19. Section **16-6a-102** is amended to read:

891 **16-6a-102. Definitions.**

892 As used in this chapter:

- 893 (1) (a) "Address" means a location where mail can be delivered by the United States

894 Postal Service.

895 (b) "Address" includes:

896 (i) a post office box number;

897 (ii) a rural free delivery route number; and

898 (iii) a street name and number.

899 (2) "Affiliate" means a person that directly or indirectly through one or more
900 intermediaries controls, or is controlled by, or is under common control with, the person
901 specified.

902 (3) "Articles of incorporation" include:

903 (a) amended articles of incorporation;

904 (b) restated articles of incorporation;

905 (c) articles of merger; and

906 (d) a document of a similar import to the documents described in Subsections (3)(a)
907 through (c).

908 (4) "Assumed corporate name" means a name assumed for use in this state:

909 (a) by a:

910 (i) foreign corporation [~~pursuant to~~] as described in Section 16-10a-1506; or

911 (ii) a foreign nonprofit corporation [~~pursuant to~~] as described in Section 16-6a-1506;

912 and

913 (b) because the corporate name of the foreign corporation described in Subsection
914 (4)(a) is not available for use in this state.

915 (5) (a) Except as provided in Subsection (5)(b), "board of directors" means the body
916 authorized to manage the affairs of a domestic or foreign nonprofit corporation.

917 (b) Notwithstanding Subsection (5)(a), a person may not be considered a member of
918 the board of directors because of a power delegated to that person [~~pursuant to~~] under
919 Subsection 16-6a-801(2).

920 (6) (a) "Bylaws" means the one or more codes of rules, other than the articles of
921 incorporation, adopted [~~pursuant to~~] under this chapter for the regulation or management of the
922 affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by
923 which the codes of rules are designated.

924 (b) "Bylaws" includes:

- 925 (i) amended bylaws; and
- 926 (ii) restated bylaws.
- 927 (7) (a) "Cash" or "money" means:
- 928 (i) legal tender;
- 929 (ii) a negotiable instrument; or
- 930 (iii) other cash equivalent readily convertible into legal tender.
- 931 (b) "Cash" and "money" are used interchangeably in this chapter.
- 932 (8) "Charitable organization" means the same as that term is defined in Section
- 933 [13-22-2](#).
- 934 ~~[(8)]~~ (9) (a) "Class" means a group of memberships that has the same right with respect
- 935 to voting, dissolution, redemption, transfer, or other characteristics.
- 936 (b) For purposes of Subsection ~~[(8)(a)]~~ (9)(a), a right is considered the same if it is
- 937 determined by a formula applied uniformly to a group of memberships.
- 938 ~~[(9)]~~ (10) (a) "Conspicuous" means so written that a reasonable person against whom
- 939 the writing is to operate should have noticed the writing.
- 940 (b) "Conspicuous" includes printing or typing in:
- 941 (i) italics;
- 942 (ii) boldface;
- 943 (iii) contrasting color;
- 944 (iv) capitals; or
- 945 (v) underlining.
- 946 ~~[(10)]~~ (11) "Control" or a "controlling interest" means the direct or indirect possession
- 947 of the power to direct or cause the direction of the management and policies of an entity by:
- 948 (a) the ownership of voting shares;
- 949 (b) contract; or
- 950 (c) a means other than those specified in Subsection ~~[(10)(a) or (b)]~~ (11)(a) or (b).
- 951 ~~[(11)]~~ (12) Subject to Section [16-6a-207](#), "cooperative nonprofit corporation" or
- 952 "cooperative" means a nonprofit corporation organized or existing under this chapter.
- 953 ~~[(12)]~~ (13) "Corporate name" means:
- 954 (a) the name of a domestic corporation as stated in the domestic corporation's articles
- 955 of incorporation;

956 (b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit
957 corporation's articles of incorporation;

958 (c) the name of a foreign corporation as stated in the foreign corporation's:

959 (i) articles of incorporation; or

960 (ii) document of similar import to articles of incorporation; or

961 (d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit
962 corporation's:

963 (i) articles of incorporation; or

964 (ii) document of similar import to articles of incorporation.

965 ~~[(13)]~~ (14) (a) "Corporate records" means the records described in Section [16-6a-1601](#).

966 (b) "Corporate records" does not include correspondence, communications, notes, or
967 other similar information, regardless of format or method of storage, that are not an official
968 decision, published document, or record of the corporation.

969 ~~[(14)]~~ (15) "Corporation" or "domestic corporation" means a corporation for profit that:

970 (a) is not a foreign corporation; and

971 (b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation
972 Act.

973 ~~[(15)]~~ (16) "Delegate" means a person elected or appointed to vote in a representative
974 assembly:

975 (a) for the election of a director; or

976 (b) on matters other than the election of a director.

977 ~~[(16)]~~ (17) "Deliver" includes delivery by mail or another means of transmission
978 authorized by Section [16-6a-103](#), except that delivery to the division means actual receipt by
979 the division.

980 ~~[(17)]~~ (18) "Director" means a member of the board of directors.

981 ~~[(18)]~~ (19) (a) "Distribution" means the payment of a dividend or any part of the
982 income or profit of a nonprofit corporation to the nonprofit corporation's:

983 (i) members;

984 (ii) directors; or

985 (iii) officers.

986 (b) "Distribution" does not include a fair-value payment for:

987 (i) a good sold; or

988 (ii) a service received.

989 [~~(19)~~] (20) "Division" means the Division of Corporations and Commercial Code.

990 [~~(20)~~] (21) "Effective date," when referring to a document filed by the division, means
991 the time and date determined in accordance with Section 16-6a-108.

992 [~~(21)~~] (22) "Effective date of notice" means the date notice is effective as provided in
993 Section 16-6a-103.

994 [~~(22)~~] (23) "Electronic transmission" or "electronically transmitted" means a process of
995 communication not directly involving the physical transfer of paper that is suitable for the
996 receipt, retention, retrieval, and reproduction of information by the recipient, whether by email,
997 texting, facsimile, or otherwise.

998 [~~(23)~~] (24) (a) "Employee" includes an officer of a nonprofit corporation.

999 (b) (i) Except as provided in Subsection [~~(23)(b)(ii)~~] (24)(b)(ii), "employee" does not
1000 include a director of a nonprofit corporation.

1001 (ii) Notwithstanding Subsection [~~(23)(b)(i)~~] (24)(b)(i), a director may accept one or
1002 more duties that make that director an employee of a nonprofit corporation.

1003 [~~(24)~~] (25) "Entity" includes:

1004 (a) a domestic or foreign corporation;

1005 (b) a domestic or foreign nonprofit corporation;

1006 (c) a limited liability company;

1007 (d) a profit or nonprofit unincorporated association;

1008 (e) a business trust;

1009 (f) an estate;

1010 (g) a partnership;

1011 (h) a trust;

1012 (i) two or more persons having a joint or common economic interest;

1013 (j) a state;

1014 (k) the United States; or

1015 (l) a foreign government.

1016 [~~(25)~~] (26) "Executive director" means the executive director of the Department of
1017 Commerce.

1018 [~~(26)~~] (27) "Foreign corporation" means a corporation for profit incorporated under a
1019 law other than the laws of this state.

1020 [~~(27)~~] (28) "Foreign nonprofit corporation" means an entity:

1021 (a) incorporated under a law other than the laws of this state; and

1022 (b) that would be a nonprofit corporation if formed under the laws of this state.

1023 [~~(28)~~] (29) "Governmental entity" means:

1024 (a) (i) the executive branch of the state;

1025 (ii) the judicial branch of the state;

1026 (iii) the legislative branch of the state;

1027 (iv) an independent entity, as defined in Section [63E-1-102](#);

1028 (v) a political subdivision of the state;

1029 (vi) a state institution of higher education, as defined in Section [53B-3-102](#);

1030 (vii) an entity within the state system of public education; or

1031 (viii) the National Guard; or

1032 (b) any of the following that is established or controlled by a governmental entity listed
1033 in Subsection [~~(28)(a)~~] (29)(a) to carry out the public's business:

1034 (i) an office;

1035 (ii) a division;

1036 (iii) an agency;

1037 (iv) a board;

1038 (v) a bureau;

1039 (vi) a committee;

1040 (vii) a department;

1041 (viii) an advisory board;

1042 (ix) an administrative unit; or

1043 (x) a commission.

1044 [~~(29)~~] (30) "Governmental subdivision" means:

1045 (a) a county;

1046 (b) a city;

1047 (c) a town; or

1048 (d) another type of governmental subdivision authorized by the laws of this state.

- 1049 [~~(30)~~] (31) "Individual" means:
- 1050 (a) a natural person;
- 1051 (b) the estate of an incompetent individual; or
- 1052 (c) the estate of a deceased individual.
- 1053 [~~(31)~~] (32) "Internal Revenue Code" means the federal "Internal Revenue Code of
- 1054 1986," as amended from time to time, or to corresponding provisions of subsequent internal
- 1055 revenue laws of the United States of America.
- 1056 [~~(32)~~] (33) (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing
- 1057 in the United States mail, properly addressed, first-class postage prepaid.
- 1058 (b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the
- 1059 proper fee is paid.
- 1060 [~~(33)~~] (34) (a) "Member" means one or more persons identified or otherwise appointed
- 1061 as a member of a domestic or foreign nonprofit corporation as provided:
- 1062 (i) in the articles of incorporation;
- 1063 (ii) in the bylaws;
- 1064 (iii) by a resolution of the board of directors; or
- 1065 (iv) by a resolution of the members of the nonprofit corporation.
- 1066 (b) "Member" includes:
- 1067 (i) "voting member"; and
- 1068 (ii) a shareholder in a water company.
- 1069 [~~(34)~~] (35) "Membership" refers to the rights and obligations of a member or members.
- 1070 [~~(35)~~] (36) "Mutual benefit corporation" means a nonprofit corporation:
- 1071 (a) that issues shares of stock to its members evidencing a right to receive distribution
- 1072 of water or otherwise representing property rights; or
- 1073 (b) all of whose assets are contributed or acquired by or for the members of the
- 1074 nonprofit corporation or [~~their~~] the members' predecessors in interest to serve the mutual
- 1075 purposes of the members.
- 1076 [~~(36)~~] (37) "Nonprofit corporation" or "domestic nonprofit corporation" means an
- 1077 entity that:
- 1078 (a) is not a foreign nonprofit corporation; and
- 1079 (b) is incorporated under or subject to this chapter.

- 1080 [~~(37)~~] (38) "Notice" means the same as that term is defined in Section 16-6a-103.
- 1081 [~~(38)~~] (39) "Party related to a director" means:
- 1082 (a) the spouse of the director;
- 1083 (b) a child of the director;
- 1084 (c) a grandchild of the director;
- 1085 (d) a sibling of the director;
- 1086 (e) a parent of the director;
- 1087 (f) the spouse of an individual described in Subsections [~~(38)(b) through (e)~~] (39)(b)
- 1088 through (e);
- 1089 (g) an individual having the same home as the director;
- 1090 (h) a trust or estate of which the director or another individual specified in this
- 1091 Subsection [~~(38)~~] (39) is a substantial beneficiary; or
- 1092 (i) any of the following of which the director is a fiduciary:
- 1093 (i) a trust;
- 1094 (ii) an estate;
- 1095 (iii) an incompetent;
- 1096 (iv) a conservatee; or
- 1097 (v) a minor.
- 1098 [~~(39)~~] (40) "Person" means an:
- 1099 (a) individual; or
- 1100 (b) entity.
- 1101 [~~(40)~~] (41) "Principal office" means:
- 1102 (a) the office, in or out of this state, designated by a domestic or foreign nonprofit
- 1103 corporation as its principal office in the most recent document on file with the division
- 1104 providing that information, including:
- 1105 (i) an annual report;
- 1106 (ii) an application for a certificate of authority; or
- 1107 (iii) a notice of change of principal office; or
- 1108 (b) if no principal office can be determined, a domestic or foreign nonprofit
- 1109 corporation's registered office.
- 1110 [~~(41)~~] (42) "Proceeding" includes:

- 1111 (a) a civil suit;
- 1112 (b) arbitration;
- 1113 (c) mediation;
- 1114 (d) a criminal action;
- 1115 (e) an administrative action; or
- 1116 (f) an investigatory action.
- 1117 ~~[(42)]~~ (43) "Receive," when used in reference to receipt of a writing or other document
- 1118 by a domestic or foreign nonprofit corporation, means the writing or other document is actually
- 1119 received:
- 1120 (a) by the domestic or foreign nonprofit corporation at:
- 1121 (i) its registered office in this state; or
- 1122 (ii) its principal office;
- 1123 (b) by the secretary of the domestic or foreign nonprofit corporation, wherever the
- 1124 secretary is found; or
- 1125 (c) by another person authorized by the bylaws or the board of directors to receive the
- 1126 writing or other document, wherever that person is found.
- 1127 ~~[(43)]~~ (44) (a) "Record date" means the date established under Part 6, Members, or Part
- 1128 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of
- 1129 the nonprofit corporation's members.
- 1130 (b) The determination described in Subsection ~~[(43)(a)]~~ (44)(a) shall be made as of the
- 1131 close of business on the record date unless another time for doing so is specified when the
- 1132 record date is fixed.
- 1133 ~~[(44)]~~ (45) "Registered agent" means the registered agent of:
- 1134 (a) a domestic nonprofit corporation; or
- 1135 (b) a foreign nonprofit corporation.
- 1136 ~~[(45)]~~ (46) "Registered office" means the office within this state designated by a
- 1137 domestic or foreign nonprofit corporation as its registered office in the most recent document
- 1138 on file with the division providing that information, including:
- 1139 (a) articles of incorporation;
- 1140 (b) an application for a certificate of authority; or
- 1141 (c) a notice of change of registered office.

1142 [~~(46)~~] (47) "Secretary" means the corporate officer to whom the bylaws or the board of
1143 directors delegates responsibility under Subsection 16-6a-818(3) for:

1144 (a) the preparation and maintenance of:

1145 (i) minutes of the meetings of:

1146 (A) the board of directors; or

1147 (B) the members; and

1148 (ii) the other records and information required to be kept by the nonprofit corporation

1149 [~~pursuant to~~] as described in Section 16-6a-1601; and

1150 (b) authenticating records of the nonprofit corporation.

1151 [~~(47)~~] (48) "Share" means a unit of interest in a nonprofit corporation.

1152 [~~(48)~~] (49) "Shareholder" means a person in whose name a share is registered in the
1153 records of a nonprofit corporation.

1154 [~~(49)~~] (50) "State," when referring to a part of the United States, includes:

1155 (a) a state;

1156 (b) a commonwealth;

1157 (c) the District of Columbia;

1158 (d) an agency or governmental and political subdivision of a state, commonwealth, or
1159 District of Columbia;

1160 (e) territory or insular possession of the United States; or

1161 (f) an agency or governmental and political subdivision of a territory or insular
1162 possession of the United States.

1163 [~~(50)~~] (51) "Street address" means:

1164 (a) (i) street name and number;

1165 (ii) city or town; and

1166 (iii) United States post office zip code designation; or

1167 (b) if, by reason of rural location or otherwise, a street name, number, city, or town
1168 does not exist, an appropriate description other than that described in Subsection [~~(50)~~](a)
1169 (51)(a) fixing as nearly as possible the actual physical location, but only if the information
1170 includes:

1171 (i) the rural free delivery route;

1172 (ii) the county; and

- 1173 (iii) the United States post office zip code designation.
- 1174 [~~(51)~~] (52) "Tribal nonprofit corporation" means a nonprofit corporation:
- 1175 (a) incorporated under the law of a tribe; and
- 1176 (b) that is at least 51% owned or controlled by the tribe.
- 1177 [~~(52)~~] (53) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
- 1178 community of Indians, including an Alaska Native village, that is legally recognized as eligible
- 1179 for and is consistent with a special program, service, or entitlement provided by the United
- 1180 States to Indians because of ~~[their]~~ the tribe's status as Indians.
- 1181 [~~(53)~~] (54) "United States" includes a district, authority, office, bureau, commission,
- 1182 department, and another agency of the United States of America.
- 1183 [~~(54)~~] (55) "Vote" includes authorization by:
- 1184 (a) written ballot; and
- 1185 (b) written consent.
- 1186 [~~(55)~~] (56) (a) "Voting group" means all the members of one or more classes of
- 1187 members or directors that, under this chapter, the articles of incorporation, or the bylaws, are
- 1188 entitled to vote and be counted together collectively on a matter.
- 1189 (b) All members or directors entitled by this chapter, the articles of incorporation, or
- 1190 the bylaws to vote generally on a matter are for that purpose a single voting group.
- 1191 [~~(56)~~] (57) (a) "Voting member" means a person entitled to vote for all matters
- 1192 required or permitted under this chapter to be submitted to a vote of the members, except as
- 1193 otherwise provided in the articles of incorporation or bylaws.
- 1194 (b) A person is not a voting member solely because of:
- 1195 (i) a right the person has as a delegate;
- 1196 (ii) a right the person has to designate a director; or
- 1197 (iii) a right the person has as a director.
- 1198 (c) Except as the bylaws may otherwise provide, "voting member" includes a
- 1199 "shareholder" if the nonprofit corporation has shareholders.
- 1200 [~~(57)~~] (58) "Water company" means:
- 1201 (a) the same as that term is defined in Subsection [16-4-102\(5\)](#); or
- 1202 (b) a mutual benefit corporation, when the stock in the mutual benefit corporation
- 1203 represents a right to receive a distribution of water for beneficial use.

1204 Section 20. Section **16-6a-203** is amended to read:

1205 **16-6a-203. Incorporation -- Required filings.**

1206 (1) A nonprofit corporation is incorporated, and its corporate existence begins:

1207 (a) when the articles of incorporation are filed by the division; or

1208 (b) if a delayed effective date is specified [~~pursuant to~~] as described in Subsection
1209 16-6a-108(2), on the delayed effective date, unless a certificate of withdrawal is filed prior to
1210 the delayed effective date.

1211 (2) Notwithstanding Subsection 16-6a-110(4), the filing of the articles of incorporation
1212 by the division is conclusive proof that all conditions precedent to incorporation have been
1213 satisfied, except in a proceeding by the state to:

1214 (a) cancel or revoke the incorporation; or

1215 (b) involuntarily dissolve the nonprofit corporation.

1216 (3) Beginning January 1, 2025, a nonprofit corporation that is a charitable organization,
1217 unless exempted by Section 13-22-15, shall file with the division the information described by
1218 Section 13-22-15 in the form described in Section 13-22-15.

1219 Section 21. Section **16-6a-1503** is amended to read:

1220 **16-6a-1503. Application for authority to conduct affairs.**

1221 (1) A foreign nonprofit corporation may apply for authority to conduct affairs in this
1222 state by delivering to the division for filing an application for authority to conduct affairs
1223 setting forth:

1224 (a) its corporate name and its assumed corporate name, if any;

1225 (b) the name of the state or country under whose law it is incorporated;

1226 (c) its date of incorporation;

1227 (d) its period of duration;

1228 (e) the street address of its principal office;

1229 (f) the information required by Subsection 16-17-203(1);

1230 (g) the names and usual business addresses of its current directors and officers;

1231 (h) the date it commenced or expects to commence conducting affairs in this state; and

1232 (i) the additional information the division determines is necessary or appropriate to
1233 determine whether the application for authority to conduct affairs should be filed.

1234 (2) With the completed application required by Subsection (1) the foreign nonprofit

1235 corporation shall deliver to the division for a certificate of existence, or a document of similar
1236 import that is:

1237 (a) authenticated by the division or other official having custody of corporate records in
1238 the state or country under whose law it is incorporated; and

1239 (b) dated within 90 days before the day on which the application for authority to
1240 conduct affairs is filed.

1241 (3) The foreign nonprofit corporation shall include in the application for authority to
1242 conduct affairs, or in an accompanying document, written consent to appointment by its
1243 designated registered agent.

1244 (4) Beginning January 1, 2025, a foreign nonprofit corporation that is a charitable
1245 organization, unless exempted by Section 13-22-15, shall file the information described in
1246 Section 13-22-15 in the form described in Section 13-22-15.

1247 [~~(4)~~] (5) (a) The division may permit a tribal nonprofit corporation to apply for
1248 authority to conduct affairs in this state in the same manner as a nonprofit corporation
1249 incorporated in another state.

1250 (b) If a tribal nonprofit corporation elects to apply for authority to conduct affairs in
1251 this state, for purposes of this chapter, the tribal nonprofit corporation shall be treated in the
1252 same manner as a foreign nonprofit corporation incorporated under the laws of another state.

1253 Section 22. Section 42-2-6.6 is amended to read:

1254 **42-2-6.6. Assumed name.**

1255 (1) The assumed name:

1256 (a) may not contain:

1257 (i) ~~any~~ a word or phrase that indicates or implies that the business is organized for
1258 ~~any~~ a purpose other than a purpose contained in the business's application; or

1259 (ii) for an assumed name that is changed or approved on or after May 4, 2022, the
1260 number sequence "911";

1261 (b) shall be distinguishable from any registered name or trademark of record in the
1262 offices of the Division of Corporations and Commercial Code, as defined in Subsection
1263 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code
1264 ~~pursuant to~~ under Subsection (2);

1265 (c) without the written consent of the United States Olympic Committee, may not

1266 contain the words:

1267 (i) "Olympic";

1268 (ii) "Olympiad"; or

1269 (iii) "Citius Altius Fortius"; and

1270 (d) an assumed name authorized for use in this state on or after May 1, 2000, may not

1271 contain the words:

1272 (i) "incorporated";

1273 (ii) "inc."; or

1274 (iii) a variation of "incorporated" or "inc."

1275 (2) Notwithstanding Subsection ~~[(1)(e)]~~ (1)(d), an assumed name may contain a word

1276 listed in Subsection ~~[(1)(e)]~~ (1)(d) if the Division of Corporations and Commercial Code

1277 authorizes the use of the name by a corporation as defined in:

1278 (a) Subsection ~~[16-6a-102(26)]~~ [16-6a-102\(27\)](#);

1279 (b) Subsection ~~[16-6a-102(35)]~~ [16-6a-102\(36\)](#);

1280 (c) Subsection [16-10a-102\(11\)](#); or

1281 (d) Subsection [16-10a-102\(20\)](#).

1282 (3) The Division of Corporations and Commercial Code shall authorize the use of the
1283 name applied for if:

1284 (a) the name is distinguishable from one or more of the names and trademarks that are
1285 on the division's records; or

1286 (b) the applicant delivers to the division a certified copy of the final judgment of a
1287 court of competent jurisdiction establishing the applicant's right to use the name applied for in
1288 this state.

1289 (4) The assumed name, for purposes of recordation, shall be either translated into
1290 English or transliterated into letters of the English alphabet if the assumed name is not in
1291 English.

1292 (5) The Division of Corporations and Commercial Code may not approve an
1293 application for an assumed name to ~~[any]~~ a person violating this section.

1294 (6) The director of the Division of Corporations and Commercial Code shall have the
1295 power and authority reasonably necessary to interpret and efficiently administer this section
1296 and to perform the duties imposed on the division by this section.

1297 (7) A name that implies by [~~any~~] a word in the name that the business is an agency of
1298 the state or [~~of any of the state's political subdivisions~~] a political subdivision of the state, if the
1299 business is not actually such a legally established agency, may not be approved for filing by the
1300 Division of Corporations and Commercial Code.

1301 (8) Section 16-10a-403 applies to this chapter.

1302 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a
1303 certificate of assumed and of true name with the Division of Corporations and Commercial
1304 Code on or before May 4, 1998, until December 31, 1998.

1305 (b) On or after January 1, 1999, [~~any~~] a person who carries on, conducts, or transacts
1306 business in this state under an assumed name shall comply with the requirements of Subsection
1307 (1)(d).

1308 Section 23. **Repealer.**

1309 This bill repeals:

1310 Section 13-22-6, **Application for registration.**

1311 Section 13-22-8, **Exemptions.**

1312 Section 13-22-21, **Appeal on behalf of individual.**

1313 Section 24. **Effective date.**

1314 This bill takes effect on May 1, 2024.