

1 **CHARITABLE SOLICITATION ACT AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Patrice M. Arent**

5 Senate Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to charitable solicitation.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ exempts a person from registration with the Division of Consumer Protection for an
13 application the person submits for a grant offered by a state agency;

14 ▶ amends the expiration date for:

- 15 • a professional fund raiser's permit; and
- 16 • a professional fund raising counsel's or consultant's permit; and

17 ▶ modifies an exemption from registration with the Division of Consumer Protection
18 for a solicitation by an organization authorized by a school and affiliated with a
19 central organization.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **13-22-8**, as last amended by Laws of Utah 2015, Chapter 120

27 **13-22-11**, as last amended by Laws of Utah 1996, Chapter 187

28

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

30 Section 1. Section **13-22-8** is amended to read:

31 **13-22-8. Exemptions.**

32 (1) Section **13-22-5** does not apply to:

33 (a) a solicitation that an organization conducts among the organization's own
34 established and bona fide membership exclusively through the voluntarily donated efforts of
35 other members or officers of the organization;

36 (b) a bona fide religious, ecclesiastical, or denominational organization if:

37 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;

38 and

39 (ii) the organization is either:

40 (A) a lawfully organized corporation, institution, society, church, or established
41 physical place of worship, at which nonprofit religious services and activities are regularly
42 conducted and carried on;

43 (B) a bona fide religious group:

44 (I) that does not maintain specific places of worship;

45 (II) that is not subject to federal income tax; and

46 (III) not required to file an IRS Form 990 under any circumstance; or

47 (C) a separate group or corporation that is an integral part of an institution that is an
48 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported
49 by funds solicited outside the group's or corporation's own membership or congregation;

50 (c) a solicitation by a broadcast media owned or operated by an educational institution
51 or governmental entity, or any entity organized solely for the support of that broadcast media;

52 (d) except as provided in Subsection **13-22-21**(1), a solicitation for the relief of any
53 person sustaining a life-threatening illness or injury specified by name at the time of
54 solicitation if the entire amount collected without any deduction is turned over to the named
55 person;

56 (e) a political party authorized to transact the political party's affairs within this state
57 and any candidate and campaign worker of the political party if the content and manner of any

58 solicitation make clear that the solicitation is for the benefit of the political party or candidate;

59 (f) a political action committee or group soliciting funds relating to issues or candidates
60 on the ballot if the committee or group is required to file financial information with a federal or
61 state election commission;

62 [~~(g) any school accredited by the state, any accredited institution of higher learning, or~~
63 ~~club or parent, teacher, or student organization within and authorized by the school in support~~
64 ~~of the operations or extracurricular activities of the school;]~~

65 (g) (i) a public school;

66 (ii) a public institution of higher learning;

67 (iii) a school accredited by an accreditation body recognized within the state or the
68 United States;

69 (iv) an institution of higher learning accredited by an accreditation body recognized
70 within the state or the United States;

71 (v) an organization within, and authorized by, an entity described in Subsections
72 (1)(g)(i) through (iv); or

73 (vi) a parent organization, teacher organization, or student organization authorized by
74 an entity described in Subsection (1)(g)(i) or (iii) if:

75 (A) the parent organization, teacher organization, or student organization is a branch
76 of, or is affiliated with, a central organization;

77 (B) the parent organization, teacher organization, or student organization is subject to
78 the central organization's general control and supervision;

79 (C) the central organization holds a United States Internal Revenue Service group tax
80 exemption that covers the parent organization, teacher organization, or student organization;

81 and

82 (D) the central organization is registered with the division under this chapter;

83 (h) a public or higher education foundation established under Title 53A, State System
84 of Public Education, or Title 53B, State System of Higher Education;

85 (i) a television station, radio station, or newspaper of general circulation that donates

86 air time or print space for no consideration as part of a cooperative solicitation effort on behalf
87 of a charitable organization, whether or not that organization is required to register under this
88 chapter;

89 (j) a volunteer fire department, rescue squad, or local civil defense organization whose
90 financial oversight is under the control of a local governmental entity;

91 (k) any governmental unit of any state or the United States; ~~and~~

92 (l) any corporation:

93 (i) established by an act of the United States Congress; and

94 (ii) that is required by federal law to submit an annual report:

95 (A) on the activities of the corporation, including an itemized report of all receipts and
96 expenditures of the corporation; and

97 (B) to the United States Secretary of Defense to be:

98 (I) audited; and

99 (II) submitted to the United States Congress; and

100 (m) a solicitation by an applicant for a grant offered by a state agency if:

101 (i) the terms of the grant provide that the state agency monitors a grant recipient to
102 ensure that grant funds are used in accordance with the grant's purpose; and

103 (ii) the sum of the amount available to the applicant under grants offered by a state
104 agency that the applicant applies for in a calendar year is less than or equal to \$1,500.

105 (2) Any organization claiming an exemption under this section bears the burden of
106 proving its eligibility for, or the applicability of, the exemption claimed.

107 (3) Each organization exempt from registration pursuant to this section that makes a
108 material change in the organization's legal status, officers, address, or similar changes shall file
109 a report informing the division of the organization's current legal status, business address,
110 business phone, officers, and primary contact person within 30 days of the change.

111 (4) The division may by rule:

112 (a) require an organization that is exempt from registration under this section to:

113 (i) file a notice of claim of exemption; and

- 114 (ii) file a renewal of a notice of claim of exemption;
- 115 (b) prescribe the contents of a notice of claim of exemption and a renewal of a notice
- 116 of claim of exemption; and
- 117 (c) require a filing fee for a notice of claim of exemption and a renewal of a notice of
- 118 claim of exemption as determined under Section [63J-1-504](#).

119 Section 2. Section **13-22-11** is amended to read:

120 **13-22-11. Expiration of registration and permits.**

121 (1) Each charitable organization registration issued under this chapter expires annually

122 on the earlier of January 1, April 1, July 1, or October 1 following the completion of 12 months

123 after the date of initial issuance.

124 (2) Each professional fund raiser's permit issued under this chapter expires [~~the earlier~~

125 ~~of: (a)] annually on the date of issuance[; or (b) when the professional fund raiser ceases~~

126 ~~affiliation with the charitable organization named in the application for permit].~~

127 (3) Each professional fund raising counsel's or consultant's permit issued under this

128 chapter expires [~~the earlier of: (a)] annually on the date of issuance[; or (b) when the~~

129 ~~professional fundraising counsel or consultant ceases affiliation with the charitable~~

130 ~~organization named in the application for permit].~~

131 (4) A registration or permit may be renewed only by complying with the requirements

132 for obtaining the original registration or permit.