**Utah Charitable Solicitation Laws**

**A. General**

The Charitable Solicitations Act, Utah Code Ann. §§ 13-22-1 et seq., regulates fundraising in Utah. Unless exempted from registration under the statute, (see Utah Code Ann. § 13-22-8 for a list of exemptions), a charity must register with the Utah Division of Consumer Protection and file annual reports to be allowed to solicit charitable contributions in the state. Registration of a charitable organization is only valid for one year, and may be renewed only by complying with the requirements for obtaining an initial registration.

 Charitable organizations which solicit charitable contributions in the State of Utah must register with the Utah Division of Consumer Protection, even if the organization is not domiciled in

the state and the solicitation is made via the internet. Organizations need not register, whether domiciled in Utah or elsewhere, to receive unsolicited contributions. Professional fundraisers are prohibited from soliciting any contribution for any charitable organization in the State of Utah unless both the professional fundraiser and any nonexempt charitable organization that is benefited are registered with the Division of Consumer Protection. Professional fundraising counselors or consultants are similarly prohibited from planning, advising, counseling, or preparing material for solicitations in the State of Utah of a contribution for a charitable organization unless the professional fundraising counselor or consultant and any nonexempt charitable organization that is benefited are registered with the Division of Consumer Protection.

Violations of the Charitable Solicitations Act are class B misdemeanors.

**B. Exemptions**

**Exemption from all Registration Requirements**

Registration under the Charitable Solicitations Act is not required for solicitations by an organization among its own, established, and bona fide membership. Religious organizations need not register under the Charitable Solicitations Act so long as the solicitation is made for a church, missionary, religious, or humanitarian purpose and the organization is either

(1) lawfully organized and is a place where nonprofit religious services and activities are regularly conducted, or

 (2) the organization is (a) a bona fide religious group that does not maintain a specific place of worship, is not subject to federal income tax, and is not required to file an IRS Form 990, or (b) the organization is separate from but an integral part of an income tax exempt organization and

which is not primarily supported by funds solicited outside its own membership.

Registration is also not required for broadcast media owned or operated by an educational institution or government entity; solicitations for the relief of someone who has sustained a life-threatening illness or injury (with some limitations); authorized political parties or candidates; certain political action committees or groups which solicit funds relating to issues or candidates on the ballot; any school accredited by the state or a club, parent, teacher, or student organization authorized by the school; public or higher education foundations; television or radio stations, or newspapers that donate air time or print space on behalf of charitable organizations; volunteer fire departments, rescue squads, or civil defense organizations whose financial oversight is controlled by a local government entity; government units; and certain corporations established by an act of the United States Congress.

Any organization claiming exemption from the Charitable Solicitations Act’s registration requirements must apply to the Division of Consumer Protection to obtain that exempt status. Usually, an organization makes a claim of exemption by sending a letter to the Division of Consumer Protection containing (1) a detailed description of the organization and its purposes, (2) a citation to the exemption being claimed and a detailed explanation of why the exemption

applies, (3) documentation supporting the notice of claim of exemption, and (4) a notarized statement certifying that the statements made are to the best of the statement’s author’s knowledge. It is the organization’s burden to prove its eligibility for the exemption claimed. The exemptions listed in Utah Code Ann. § 13-22-8 apply only to the Act’s registration requirements. Organizations exempt from registration under the Act must still comply with all other provisions of the Act.

**Exemptions from Annual Reporting Requirement**

Utah law requires all charitable organizations registered under the Charitable Solicitations Act to file an annual financial report or an IRS Form 990, 990EZ, or 990PF, each year. For registered organizations, failing to file or filing an incomplete report or IRS Form will result in the automatic suspension of the organization’s registration. Furthermore, a charitable organization’s registration is only valid for one year, expiring on the earlier of January 1, April 1, July 1, or

October 1 following the completion of 12 months from the date of initial issuance. To renew a charitable organization registration, the organization must comply with all requirements for obtaining initial registration.

**C) Initial Registration Requirements**

Charitable organizations seeking to register with the Utah Division of Consumer

Protection must pay an application fee and submit an application for registration. The Utah Division of Consumer Protection allows charitable organizations to file either of two application forms: the Charitable Organization Permit Application or the Unified Registration Statement (“URS”) application form. If the URS application form is used, however, it must be accompanied by the Supplement to the URS Form. Application forms, the Supplement to the URS form, and instructions for permit applications, are available at http://consumerprotection.utah.gov/registrations/charities.html, but the required forms must be printed out and mailed or delivered to:

Division of Consumer Protection

160 East 300 South

PO Box 146704

Salt Lake City, Utah 84114-6704

Applicants who apply using the Charitable Organization Permit Application must attach all documents specified in that application, including:

 Current contract with the Parent Foundation (as defined in Utah Admin. Code R152-22-2(2) (a));

 Current contract with each professional fundraiser, professional fundraising counsel, or consultant that the organization will utilize;

 The telephone transcript to be used in solicitation (if applicable);

 Copy of the Application for Tax Exempt Status filed with the IRS;

 The organization’s articles of incorporation or other documentation showing the organization’s current legal status;

 Current by-laws or other policies or procedures governing day-to-day operations;

 IRS Section 501(c)(3) or 501(c)(4) tax exemption letter;

 Most recent IRS Form 990 or annual financial report filed with the IRS;

 Current contracts used during the period of the application for the Charitable Organization Permit with professional fundraisers, professional fundraising counsel or consultants; and

 Any order or judgment resulting from any injunction or criminal conviction disclosed in the application.

Applicants who apply using the URS registration application instead of the Charitable Organization Permit Application must attach the following documents to their application:

 The organization’s articles of incorporation (or comparable document for other types of entities);

 By-laws (or comparable document for other types of entities, if any);

 IRS Determination Letter, or IRS Form 1023 or 1024 if the determination letter is not yet obtained;

 Latest IRS tax return (if any); and

 All required filing fees.

Additionally, organizations applying with the URS registration application must attach the Supplement to the URS form and copies of the following documents:

 Telephone transcript to be used in solicitation (if applicable);

 Current contract with the Parent Foundation (as defined in Utah Admin. Code R152-22 2(2)(a));

 Any order or judgment resulting from an injunction or criminal conviction disclosed in the URS;

 Any voluntary agreement of compliance disclosed in the URS; and

 IRS determination letter granting exempt status.

**D) Annual Reporting Requirements**

Every charitable organization registered in Utah must file an annual financial report or an IRS Form 990, 990EZ, or 990PF with the Utah Division of Consumer Protection within 30 days after the end of the year reported. If, during the first year of an organization’s registration, annual financial reports or IRS Forms 990, 990EZ, or 990PF are not available, the organization must

provide quarterly financial reports within 30 days after the end of the quarter reported. The Quarterly Financial Report form is available online through the Utah Division of Consumer Protection website at

http://consumerprotection.utah.gov/downloads/quarterly-financial.pdf.

Each financial report must be signed under oath by an officer or principal of the organization and is required to disclose the gross amount of contributions received, the amount of contributions disbursed or to be disbursed, the aggregate amounts paid to any professional fundraiser, amounts spent for overhead, expenses, commissions, and similar purposes, and the name and address of any professional fundraiser used by the organization.

Failing to timely file a financial report or IRS Form 990, 990EZ, or 990PF, or filing an incomplete report or IRS Form will result in the automatic suspension of the organization’s registration. Registration may be reinstated at the Division of Consumer Protection’s discretion after a proper report or IRS Form is filed, an application for renewed registration is received, and a penalty of $25 is paid for each month/part of a month after the date the report or IRS form was due.

Additionally, a charitable organization’s registration is only valid for one year, expiring on the earlier of January 1, April 1, July 1, or October 1 following the completion of 12 months from the date of initial issuance. To renew a charitable organization registration under the Act, the organization must comply with all requirements for obtaining the original registration.

**E) Separate Accounts and Receipts Requirements**

Every organization that must be registered under the Utah Charitable Solicitations Act, and every professional fundraiser, is required to keep all contributed funds in a separate account from its operating account. Every contribution in the professional fundraiser’s control must, in its entirety, be deposited in a bank account in the name of the charitable organization within ten days of its receipt. The charitable organization is required to maintain and administer the account and must have sole control over all withdrawals from the account. Every organization and professional fundraiser is also required to maintain duplicate receipts for contributions so that one receipt is issued to each contributor and one is held by the charitable organization.

**F) Filing Fees**

There is an annual, non-refundable registration fee of $100 that must be submitted with your initial application and each annual renewal application.

Failing to file a permit application or failing to renew by the due date or filing an incomplete application for renewal will result in an additional fee of $25 for every month (or part of a month) after the date the application was supposed to be filed. No extensions are allowed. The Division of Consumer Protection will not accept payment by credit card. All payments must be made by check, money order, or cash. Checks should be made payable to the State of Utah.

**G) What Constitutes Solicitation**

The Charitable Solicitations Act defines “charitable solicitation” as any request, directly or indirectly, for money, credit, property, financial assistance, or any other thing of value on the representation that it will be used for a charitable purpose. A charitable solicitation may be made in any manner, including by oral or written request; over telephone, radio, or television; through advertising or communications media; by distributing, circulating, or posting of any written

advertisement or publication; or by the sale of, offer, or attempt to sell, or the request of donations in exchange for any advertisement, a book, card, chance, coupon, device, magazine or other item in connection with which any appeal is made for any charitable purpose where it is stated or implied that the whole or any part of the proceeds of any sale or donation will go to a charitable purpose.

**Reference**

**V. Cott, Bagley, Cornwall & McCarthy, S. Swindle (2010). Utah Fundraising Registration and Regulation. Retrieved from http://www.lawforchange.org/images/lfc/UtahFundraising.pdf**