

SOLICITATION OF CHARITABLE CONTRIBUTIONS

Sample of Changes to Existing Law

*Note: This is not the official BDR. It is merely a representation showing how the bill draft request changes the current statute. Matters in *italics* is new; ~~strikethrough matter~~ is material to be omitted.*

“Contribution” means the promise or grant of any money or property of any kind or value.

NRS 82.382 “Charitable contribution” defined. [Effective January 1, 2014.] As used in [NRS 82.382](#) to [82.417](#), inclusive, unless the context otherwise requires, “charitable contribution” means a contribution that is recognized as a tax deductible contribution pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c), future amendments to that section and the corresponding provisions of future internal revenue laws.

“Charitable organization” means any person who directly or indirectly, solicits contributions from the general public for purposes beneficial to the community, including without limitation educational, philanthropic, humane, civic, health and safety, patriotic, environmental, amateur sports and whom the Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code. The term does not include an organization which is established for and serving bona fide religious purposes.

“Person” means any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them.

“Form 990” means the Return of Organization Exempt from Income Tax (Form 990) of the Internal Revenue Service of the United States Department of the Treasury, or any equivalent or successor form of the Internal Revenue Service of the United States Department of the Treasury.

“Nonprofit organization” means an organization which qualifies as tax exempt pursuant to section 501 (c) of the Internal Revenue Code. The term includes, without limitation, a nonprofit formed, organized, or foreign qualified pursuant to Title 7 of the Nevada Revised Statutes.

*“Alumni Association” means an association of graduates or former students of a university, college, or specific school which raises funds to support membership and its activities.
Accredited Institution means*

“Corporation for Public Broadcasting” means the nonprofit corporation established pursuant to Subpart D, 47 U.S.C § 396(d) by the United States Congress to facilitate the development of public radio and television broadcasting.

“Charitable promotion, service or activity” means an advertising or sales campaign conducted by a for-profit business, which represents that the purchase of goods or services or participation in an activity will benefit, in whole or in part, a charitable organization, nonprofit organization or charitable purpose so long as the cost of the good, service or participation is of de minimis value and which is incidental to the ordinary transaction of business.

NRS 82.387 Applicability. The provisions of [NRS 82.382](#) to [82.417](#), inclusive, do not apply to a corporation that is a unit or instrumentality of the United States government.

NRS 82.392 ~~Corporation required to register before soliciting charitable contributions; filing requirements; information filed is public record.~~
Registration requirements for a charitable organization soliciting charitable contributions; filing requirements; information filed is public record.

1. Except as otherwise provided in [NRS 82.387](#), a *charitable organization*~~corporation~~ shall not solicit charitable contributions in this State by any means, or have charitable contributions solicited in this State on its behalf by another person or entity, unless the *charitable organization*~~corporation~~ is registered with the Secretary of State pursuant to this section. Each chapter, branch or affiliate of a corporation may register separately.

2. A *charitable organization*~~corporation~~ which intends to solicit charitable contributions must, ~~at the time of filing its articles of incorporation pursuant to [NRS 82.081](#),~~ file on a form prescribed by the Secretary of State:

- (a) The information required by subsection 3; and
- (b) A financial report.

3. *(a) For corporations and other entities required to file an initial or annual list with the Secretary of State, registration is required at the time of filing the initial or annual list, or before the entity solicits charitable contributions in this State; or*

(b) For persons or entities not required to file an initial or annual list filing, registration is required before soliciting charitable contributions in this State. Registration is required annually on the anniversary of the initial registration filing.

3. The form required by subsection 2 must include, without limitation:

(a) The exact name of the *charitable organization*~~corporation~~ as registered with the Internal Revenue Service;

(b) The federal tax identification number of the corporation;

(c) The name of the *charitable organization*~~corporation~~ as registered with the Secretary of State or, if a foreign *charitable organization*~~nonprofit corporation~~, the name of the foreign *charitable organization*~~nonprofit corporation~~ as filed in its jurisdiction of origin;

;

(e) The name or names under which the *charitable organization*~~corporation~~ intends to solicit charitable contributions;

(f) The address and telephone number of the principal place of business of the *charitable organization*~~corporation~~ and the address and telephone number of any offices of the *charitable organization*~~corporation~~ in this State or, if the corporation does not maintain an office in this State, the name, address and telephone number of the custodian of the financial records of the *charitable organization*~~corporation~~;

(g) The names and addresses, either residence or business, of the officers, directors, trustees and executive personnel of the *charitable organization-corporation*;

(h) The last day of the fiscal year of the *charitable organization-corporation*;

(i) The jurisdiction and date of the formation of the *charitable organization-corporation*;

(j) The tax exempt status of the *charitable organization-corporation*; and

(k) Any other information deemed necessary by the Secretary of State, as prescribed by regulations adopted by the Secretary of State pursuant *Section 10 of this act* . ~~NRS 82.417.~~

k) For charitable organization that do not file articles of incorporation or other formation documents, including foreign qualification, with the Secretary of State, the registration form must additionally require:

1. the purpose for which the charitable organization is organized; and

2. the names and addresses, either residence or business, of the officers, directors, trustees and executive personnel of the charitable organization.

4. Except as otherwise provided in this subsection, a financial report must contain the financial information of the *charitable organization-corporation* for the most recent fiscal year. In the discretion of the Secretary of State, the financial report may be a copy of the Form 990 of the *charitable organization-corporation*, with all schedules except the schedules of donors, for the most recent fiscal year. If a *charitable organization-corporation* was first formed within the past year and does not have any financial information or a Form 990 for its most recent fiscal year, the *charitable organization-corporation* must complete the financial report using good faith estimates for its current fiscal year on a form prescribed by the Secretary of State.

~~—5. A which intends to solicit charitable contributions in this State must, at the time the corporation files the annual list required by subsection 3 of NRS 82.193, file with the Secretary of State:~~

~~—(a) If the purpose for which the corporation is organized has changed, a statement of that purpose.~~

~~—(b) A new financial report pursuant to subsection 4.~~

6. All information filed pursuant to this section are public records. The filing of information pursuant to this section is not an endorsement of any corporation by the Secretary of State or the State of Nevada.

7. As used in this section:

(a) “Form 990” means the Return of Organization Exempt from Income Tax (Form 990) of the Internal Revenue Service of the United States Department of the Treasury, or any equivalent or successor form of the Internal Revenue Service of the United States Department of the Treasury.

(b) “Solicit charitable contributions” means to request a contribution, donation, gift or the like that is made by any means, including, without limitation:

(1) Mail;

(2) Commercial carrier;

(3) Telephone, facsimile, electronic mail or other electronic device; or

(4) A face-to-face meeting.

~~□ The term includes requests for contributions, donations, gifts or the like which are made from a location within this State and solicitations which are made from a location outside of this State to persons located in this State, but does not include a request for contributions, donations, gifts or the like which is directed only to a total of fewer than 15 persons or only to persons who are~~

~~related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the corporation.~~

Sec. 3 Certain persons exempt from registration

1. *A charitable organization is not required to file the registration statement pursuant to Section 2 of this act only if its solicitations or requests for contributions, donations, gifts or the like are:*
 - a) *Directed only to a total of fewer than 15 persons annually;*
 - b) *Directed only to persons who are related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the charitable organization; or*
 - c) *Conducted by religious organization which holds property for charitable or religious purposes or their integrated auxiliaries or to conventions or associations of churches and is recognized as a church under the provisions of 26 U.S.C. Internal Revenue Code § 501(c)(3) and which qualifies as being exempt from filing an annual return under the provisions of 26 U.S.C. §6033; or*
 - d) *An appeal for funds on behalf of a specific individual named in the solicitation, but only if all of the proceeds of the solicitation are given to or expended for the direct benefit of that individual and his or her immediate family if so identified in the appeal, unless the nonprofit organization would otherwise be required to register pursuant to the provisions of Section 2 of this act.*

NRS 82.397 Secretary of State required to make filings available to public and post filings on official website. The Secretary of State shall make available to the public and post on the official Internet website of the Secretary of State the information provided by each *by each person pursuant to Section 2 and 3 of this act.* ~~corporation pursuant to NRS 82.392.~~

NRS 82.402 Penalty for failure to register with Secretary of State.

1. If the Secretary of State finds that a *charitable organization required to file information pursuant to Section 2 of this act* ~~corporation required to file information pursuant to subsection 5 of NRS 82.392~~ is soliciting charitable contributions in this State, or is having charitable contributions solicited in this State on its behalf by another person or entity, without filing the information required by *by Section 2 subsection 2,* ~~on or before the due date for the filing, the Secretary of State shall impose on the corporation the penalty for default set forth in subsection 3 of NRS 82.193 and notify the corporation of the violation by providing written notice to its registered agent.~~
 - a) *For charitable organizations formed pursuant to NRS 81.010-81.160 inclusive, 81.410-81.660 inclusive, 82 or 86 and which fail to file pursuant to Sec. 2 subsection 3(a), the penalty for default set forth in the chapter applicable to that entity for the filing of an annual list and notify the charitable organization of the violation by providing written notice to its registered agent.* The written notice:
 - (a) ~~Must include a statement indicating that the corporation is required to file the information required by subsection 5 of NRS 82.392 and pay the penalty for default set forth in subsection 3 of NRS 82.193.~~

(1) Must include a statement indicating that the charitable organization is required to file the information required by Section 2 subsection 2 of this act and pay the penalty for default set forth the chapter applicable to that entity for the filing of an annual list.

(b) May be provided electronically.

(b) For charitable organizations not required to file an initial or annual list filing, a penalty of \$50 and notify the charitable organization of the violation by providing written notice to the charitable organization. The written notice:

(1) Must include a statement indicating that the charitable organization is required to file the information required by Section 2 subsection 2 of this act and pay the penalty set forth in Section 7 subsection 1(b).

(2) May be provided electronically.

2. Not later than 90 days after receiving notice from the Secretary of State pursuant to subsection 1, the ~~charitable organization~~~~corporation~~ must file the information required by *Section 2 subsection 2 and pay the penalty as set forth in this section.* ~~subsection 5 of NRS 82.392~~ and pay the penalty for default set forth *in this section* ~~subsection 3 of NRS 82.193~~. If the corporation fails to file the information required by subsection 5 of [NRS 82.392](#) and pay the penalty for default set forth in subsection 3 of [NRS 82.193](#) within 90 days after receiving the notice, the Secretary of State may, in addition to imposing the penalty for default set forth in subsection 3 of [NRS 82.193](#), take any or all of the following actions:

(a) Impose a civil penalty of not more than \$1,000.

(b) Issue an order to cease and desist soliciting charitable contributions or having charitable contributions solicited on behalf of the corporation by another person or entity.

3. An action taken pursuant to subsection 2 is a final decision for the purposes of judicial review pursuant to [chapter 233B](#) of NRS.

4. If a ~~charitable organization~~~~corporation~~ fails to pay a civil penalty imposed by the Secretary of State pursuant to subsection 2 or comply with an order to cease and desist issued by the Secretary of State pursuant to subsection 2, the Secretary of State may:

(a) If the ~~charitable organization~~~~corporation~~ is organized pursuant to *Title 7 of the Nevada Revised Statutes* ~~this chapter~~, revoke the charter of the corporation. If the charter of the corporation is revoked pursuant to this paragraph, the corporation forfeits its right to transact business in this State.

(b) If the ~~charitable organization~~~~corporation~~ is a foreign nonprofit corporation, forfeit the right of the foreign nonprofit corporation to transact business in this State.

(c) Refer the matter to the Attorney General for a determination of whether to institute proceedings pursuant to *this act*. ~~NRS 82.407~~.

Sec 4. Required disclosures; prohibited acts.

1. Except as otherwise provided in Section 5 of this act, any solicitation by, for, or on behalf of a nonprofit organization including, without limitation an electronic communication, shall provide a disclosure which contains at a minimum the following information:

(a) The full legal name of the charitable organization or nonprofit organization as registered with the Secretary of State pursuant to this chapter; or

(b) If the charitable organization or nonprofit organization is not registered or not required to file with the Secretary of State, the full legal name and the jurisdiction where it is organized or was formed.

(c) A statement or description about the purpose of the charitable organization or nonprofit corporation; and

(d) A disclaimer that the contribution or donation may be tax deductible pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c), or that the contribution or donation does not qualify for such a federal tax deduction as the case may be.

(e) A published phone number and/or website for the charitable organization or nonprofit organization.

2. A solicitation or pledge drive conducted by a charitable or nonprofit organization as part of a broadcast telethon, radio-thon, webcast or any similar form of broadcast communication is not required to provide verbal or printed disclosure throughout the program, but shall provide a verbal or written disclosure to the prospective donor which may occur, without limitation, at the point in which a donor commits or pledges to make a contribution.

3. Any person soliciting funds pursuant to Section 3, subsection 1(d) of this act shall provide a disclosure that contains the name of the person for whom the solicitation will benefit and a statement that contribution may not qualify for a federal tax deduction.

4. The disclosure statement shall be conspicuously displayed on any written, printed or electronic communication including without limitation a website solicitation. Where the solicitation consists of more than one piece, the disclosure statement shall be displayed on a prominent part of the solicitation materials.

Sec. 5. Certain Forms of Solicitations Exempt from Disclosure Requirements

1. For the purposes of Section 4 of this act, the disclosure requirements, do not apply to solicitations that are:

a.) Directed only to a total of fewer than 15 persons annually;

b.) Directed to persons who are related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the charitable organization or nonprofit organization.

c.) Conducted by an alumni association of an accredited institution which solicits only persons who have an established affiliation with the institution such as student, alumnus status, employee or faculty relationship or within the third degree of consanguinity or affinity of any person described herein;

d.) Conducted by a public broadcast organization which meets the Corporation for Public Broadcasting's eligibility requirements;

f.) Conducted by religious organizations which holds property for charitable or religious purposes or their integrated auxiliaries or to conventions or associations of churches;

g.) Charitable promotions, service or activity conducted or facilitated by a for-profit entity or business located in this State in support of a charitable organization or non-profit organization and which is incidental to the ordinary transaction of business;

h.) Conducted by governmental entities. For purposes of this subsection "governmental entities" means local governments as defined in NRS 237.050 and state agencies as defined in NRS 237.350;

i.) Direct sales of tangible goods, items or services by a charitable or nonprofit organization in which the amount paid for the good, item or service is reasonably proportionate to the current market or face value of the good, item or service; and

j.) An application or request for a grant, contract or similar funding from a foundation, corporation, nonprofit organization, governmental agency or similar entity which has an established application and review procedure for consideration of such requests.

NRS 82.407 Enforcement of laws governing solicitation of charitable contributions: Secretary of State required to provide notice of alleged violation; referral of alleged violation to Attorney General; proceedings instituted by Attorney General.

1. If the Secretary of State believes that a person has violated *Sections 2 to 9 inclusive of this act*, ~~NRS 598.1305 or NRS 82.382 to 82.417, inclusive~~, or any other provision of the laws of this State governing the solicitation of charitable contributions, the Secretary of State shall notify the person in writing of the alleged violation.

2. The Secretary of State may refer an alleged violation of *Sections 2 to 9 inclusive of this act*, ~~NRS 598.1305 or NRS 82.382 to 82.417, inclusive~~, or any other provision of the laws of this State governing the solicitation of charitable contributions to the Attorney General for a determination of whether to institute proceedings in a court of competent jurisdiction to enforce *Sections 2 to 9 inclusive of this act*, ~~NRS 598.1305 or NRS 82.382 to 82.417, inclusive~~, or any other provision of the laws of this State governing the solicitation of charitable contributions. The Attorney General may institute and prosecute the appropriate proceedings to enforce *Sections 2 to 9 inclusive of this act*, ~~NRS 598.1305 or NRS 82.382 to 82.417, inclusive~~, or any other provision of the laws of this State governing the solicitation of charitable contributions.

3. In a proceeding instituted by the Attorney General pursuant to subsection 2, the Attorney General may seek an injunction or other equitable relief, and may recover a civil penalty of not more than \$1,000 for each violation. If the Attorney General prevails in such a proceeding, the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

NRS 82.412 Powers and duties of Secretary of State and Attorney General are cumulative. The powers and duties of the Secretary of State and the Attorney General pursuant to *Sections 2 to 9 inclusive of this act*, ~~NRS 82.382 to 82.417, inclusive~~, are in addition to other powers and duties of the Secretary of State and Attorney General with respect to and charitable contributions.

NRS 82.417 Regulations. [The Secretary of State may adopt regulations to administer the provisions of *this act*. ~~NRS 82.382 to 82.417, inclusive~~.

NRS 598.1305 Required disclosures; prohibited acts; jurisdiction of Attorney General; violation constitutes deceptive trade practice.

~~1. A person representing that he or she is conducting a solicitation for or on behalf of a charitable organization or nonprofit corporation shall disclose:~~

~~(a) The full legal name of the charitable organization or nonprofit corporation as registered with the Secretary of State pursuant to NRS 82.392;~~

~~(b) The state or jurisdiction in which the charitable organization or nonprofit corporation was formed;~~

~~(c) The purpose of the charitable organization or nonprofit corporation; and~~

~~—(d) That the contribution or donation may be tax deductible pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c), or that the contribution or donation does not qualify for such a federal tax deduction.~~

~~21.~~ A person, in planning, conducting or executing a solicitation for or on behalf of a charitable organization or nonprofit corporation, shall not:

(a) Make any claim or representation concerning a contribution which directly, or by implication, has the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances; or

(b) Omit any material fact deemed to be equivalent to a false, misleading or deceptive claim or representation if the omission, when considering what has been said or implied, has or would have the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances.

~~—3.— Any solicitation that is made in writing for or on behalf of a charitable organization or nonprofit corporation, including, without limitation, an electronic communication, must contain the full legal name of the charitable organization or nonprofit corporation as registered with the Secretary of State pursuant to NRS 82.392 and a disclaimer stating that the contribution or donation may be tax deductible pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c), or that the contribution or donation does not qualify for such a federal tax deduction.~~

~~—42.~~ Notwithstanding any other provisions of this chapter, the Attorney General has primary jurisdiction to investigate and prosecute a violation of this section.

~~—53.~~ Except as otherwise provided in NRS 41.480 and 41.485, a violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

~~—64.~~ As used in this section:

(a) “Charitable organization” means any person who, directly or indirectly, solicits contributions and who the Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code. The term does not include an organization which is established for and serving bona fide religious purposes.

(b) “Solicitation” means a request for a contribution to a charitable organization or nonprofit corporation that is made by ~~any means, including, without limitation:~~

- (1) Mail;
- (2) Commercial carrier;
- (3) Telephone, facsimile, electronic mail or other electronic device; or
- (4) A face-to-face meeting.

The term includes solicitations which are made from a location within this State and solicitations which are made from a location outside of this State to persons located in this State. ~~For the purposes of subsections 1 and 3, the term does not include solicitations which are directed only to a total of fewer than 15 persons or only to persons who are related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the charitable organization or nonprofit corporation.~~