

**PROPOSED REGULATION OF  
THE SECRETARY OF STATE**

**LCB File No. R068-13**

September 19, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY: §§1-4, section 9 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 722 (NRS 82.417).

A REGULATION relating to solicitations for charitable contributions; setting forth certain information relating to certain nonprofit corporations that intend to solicit charitable contributions which must be provided on a form prescribed by the Secretary of State; establishing certain requirements for disclosures relating to solicitations of contributions or donations; and providing other matters properly relating thereto.

**Section 1.** Chapter 82 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *For the purposes of section 3 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 719 (NRS 82.392):*

*1. “Contribution, donation, gift or the like” means the actual receipt of, or promise to pay or grant, money or an item of value, including, without limitation, a tangible good or asset, real property, a product or a service.*

*2. “Solicit” or “solicitation” shall be deemed not to include a request for the payment of bona fide fees, dues or assessments by members of an organization, provided membership is*

*not conferred solely as consideration for making a contribution or donation in response to a solicitation.*

*3. The Secretary of State will interpret “executive personnel” to mean one or more persons, whether paid or volunteer, at the highest level of management of the corporation who has or have the day-to-day responsibilities for the management of the corporation, including, without limitation, responsibilities for policy making, planning and implementation, decision making, fundraising, supervising paid and volunteer staff, budget management, reporting and accountability, and working with the board of directors.*

*Sec. 3. 1. The form prescribed by the Secretary of State pursuant to section 3 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 719 (NRS 82.392) must offer a corporation the option of:*

*(a) Providing the Internet address of a website which may be accessed via the Nevada Business Search web page on the Internet website of the Secretary of State. The Internet address provided by the corporation must be:*

*(1) The official website of the corporation; and*

*(2) Kept active and maintained by the corporation.*

*(b) Certifying that all funds received by the corporation will be used in compliance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, Public Law 107-56.*

*2. For the purpose of providing the financial information required by sections 3 and 4 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at pages 719 and 720 (NRS 82.392 and 82.397):*

*(a) A corporation which intends to solicit charitable contributions must provide on the form prescribed by the Secretary of State pursuant to section 3 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 719 (NRS 82.392) the following information as reported to the Internal Revenue Service for the most recent fiscal year:*

*(1) Total revenue, as reported on line 12 of Form 990 or on line 9 of Form 990-EZ;*

*(2) Total expenses, as reported on line 18 of Form 990 or on line 17 of Form 990-EZ;*

*(3) Revenue less expenses, as reported on line 19 of Form 990, or Excess (or deficit) for the year, as reported on line 18 of Form 990-EZ;*

*(4) Total assets, as reported on line 20 of Form 990 or on line 25 of Form 990-EZ;*

*(5) Total liabilities, as reported on line 21 of Form 990 or on line 26 of Form 990-EZ;*

*and*

*(6) Net assets or fund balances, as reported on line 22 of Form 990 or on line 27 of Form 990-EZ.*

*(b) If a corporation is not required to file a Form 990 or Form 990-EZ, but filed a Form 990-N or was first formed within the past year and does not have any financial information available, the corporation must check the box provided on the form prescribed by the Secretary of State to indicate that the corporation is providing good faith estimates based on the records of the corporation.*

*3. The form prescribed by the Secretary of State pursuant to section 3 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 719 (NRS 82.392) must be signed under penalty of perjury by the person who provided the information contained in the form stating that the information is true and accurate to the best of the person's knowledge.*

Sec. 4. Chapter 598 of NAC is hereby amended by adding thereto a new section to read as follows:

1. *For the purposes of NRS 598.1305, as amended by section 12 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 723:*

*(a) A solicitation is presumed to have been made whether or not the person making the solicitation receives a contribution or donation.*

*(b) A person's or charitable organization's use of his, her or its own name in any communication shall not, by itself, be deemed sufficient to constitute a solicitation.*

2. *A disclosure made pursuant to NRS 598.1305, as amended by section 12 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 723, must:*

*(a) For solicitations made electronically or in written form, be:*

*(1) Clear and conspicuous on any printed material, social media account or other Internet website or electronic media which contains information about support for or contributions or donations to the person or charitable organization and on any printed material, social media account or other Internet website or electronic media whereby a solicitation is made, including, without limitation, materials provided for making a response to the solicitation and on a web page that authorizes or performs fulfillment of a contribution or donation.*

*(2) If the solicitation consists of more than one piece or page, prominently displayed on any material on which a solicitation occurs.*

*(3) Set apart from the other printed content in the communication.*

*(4) Of a type size that is sufficient to be clearly readable by the recipient of the communication.*

*(5) Printed in black or blue on a white background or, if on a background of another color or with graphics, there must be a reasonable degree of contrast of colors between the print of the disclosure and the background so as to be clearly readable.*

*(b) For solicitations made orally or verbally, be provided by the person making the solicitation before the prospective donor makes a commitment to contribute.*

*(c) For solicitations made on the Internet and for web pages on an Internet website that contain information about support for or contributions or donations to a person or charitable organization, appear on each web page where the solicitation is made and on the web page that authorizes or performs fulfillment of a contribution or donation.*

*3. A disclosure is not required to be made pursuant to NRS 598.1305, as amended by section 12 of Assembly Bill No. 60, chapter 192, Statutes of Nevada 2013, at page 723, if:*

*(a) A person or charitable organization receives a contribution or donation that is not the result of a solicitation.*

*(b) Materials or verbal communications do not infer, ask or mention a solicitation or a request for support, contribution or donation.*

*4. As used in this section, “social media account” means any electronic service or account or electronic content, including, without limitation, videos, photographs, blogs, video blogs, podcasts, instant and text messages, electronic mail programs or services, online services or Internet website profiles.*