

**PROPOSED REGULATION OF  
THE SECRETARY OF STATE**

**LCB File No. R068-13**

August 20, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: AB 60 Sections 2- 9, inclusive.

**Chapter 82 of the NAC is hereby amended by adding thereto the provisions set forth as sections 1 – 8, inclusive, of this regulation.**

**Section 1. *As used in sections 1 to x, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 2 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.***

**Sec. 2. *The form pursuant to NRS 82.081 may:***

- 1. Allow for a corporation organized pursuant to this chapter the option of providing a website address to be publicly displayed on the official Internet website of the Secretary of State through the public business entity search. The website address must be the official website of the corporation and shall be maintained and kept active by the corporation.***
- 2. Contain an optional provision allowing a non-profit corporation to certify that all funds received without limitation will be used in compliance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001.***

**Sec. 3. *Executive personnel interpreted (AB 60 Section 3(3)g)***

***For the purposes of NRS 82, the Secretary of State interprets executive personnel as being one or more persons at the highest level of organizational management who has or have the day-to-day responsibilities for the management of the corporation including but not limited to policymaking; planning and implementation; decision-making, fundraising; supervising paid and volunteer staff; budget management, reporting and accountability; and working with the Board of Directors. Most executive personnel receive some form of compensation but in some cases the position(s) may be on a voluntary basis.***

**Sec. 4. *Financial Report defined.***

***For the purposes of providing financial information pursuant to NRS Chapter 82, the following information as reported to the Internal Revenue Service on the corporations most recent Form 990 or 990EZ must be provided on the form prescribed by the Secretary of State:***

***Total Revenue (line 12 990; line 9 990EZ)***

***Total Expenses (line 18 990; line 17 990EZ)***

***Revenue Less Expenses (line 19 990; line 18 990EZ)***

***Total Assets (line 20 990; line 25 990EZ)***

*Total Liabilities (line 21 990; line 26 990EZ)*

*Net Assets or Fund Balances (line 22 990; line 27 990EZ)*

**Sec. 5. *Financial Report using good faith estimates defined.***

*If a corporation is not required to file a Form 990 or 990EZ, but filed a 990N or was formed in the past year and does not have any financial information available, it shall select the box indicating it is providing a good faith estimate based on the records of the corporation.*

**Sec. 6. *Signature Requirement.***

*The form prescribed by the Secretary of State shall be signed under the penalty of perjury by the person providing the information that the information contained herein is true and accurate to the best of his or her knowledge.*

**Sec. 7. *Contribution or donation defined.***

*A contribution or donation means the actual receipt of or promise to pay or grant money or an item of value, i.e. a tangible good or asset, property, product, or service.*

**Sec. 8. *Solicitation defined. (AB 60 Sec 5 (7)b)***

*"Solicit" or "solicitation" means any oral or written request or appeal, however communicated, whether directly or indirectly, for a contribution or donation. It does not include bona fide fees, dues or assessments paid by members of the organization, provided membership is not conferred solely as consideration for making a contribution or donation in response to a solicitation.*

**Chapter 598 of the NAC is hereby amended by adding thereto a new section to read as follows:**

**SOLICITATIONS FOR OR ON BEHALF OF CHARITABLE ORGANIZATIONS OR NON-PROFIT CORPORATIONS**

**Sec. 1. *Solicitation disclosure defined (AB 60 Sec. 12)***

*For the purposes of NRS 598.1305, a solicitation disclosure is defined as a statement placed on written or electronic communication or stated verbally that the contribution is not or may be tax-deductible pursuant to federal law, as applicable.*

**Sec. 2. *When a solicitation disclosure is required.***

- 1. A person whether foreign or domestic or charitable organization which solicits a contribution or donation for money, a monetary asset, tangible item, or service from a person, business or organization located in this state whether in writing, electronically or verbally, shall provide a solicitation disclosure.
  - a) A solicitation is presumed to take place whether or not the person making the solicitation receives any contribution.**
- 2. A disclosure notice is not required on any materials or in verbal communications that do not infer, ask or mention solicitation or a request for support, contribution or donation.*

*a) A person's or charitable organization's use of its own name in any communication shall not alone be sufficient to constitute a solicitation.*

- 3. This section does not apply to an organization which is established for and serving bona fide religious purposes.*

**Sec 3. Disclosure Attributes defined.**

*1. For written or electronic solicitations, the disclosure must be clear and conspicuous on any printed material, electronic, website or social media vehicles which contain information about support for or contributions to the person or charitable organization or whereby a solicitation is made, including the response card or on the electronic page authorizing or fulfillment of a contribution or donation.*

- a) Where the solicitation consists of more than one piece or page, the disclosure statement must be displayed prominently on any material which a solicitation occurs.*
- b) The disclosure must be set apart from the other printed content in the communication;*
- c) The print must be of sufficient type size to be clearly readable by the recipient of the communication; and*
- d) It must be printed in black or blue on a white background or if on a background of another color or with graphics, there should be a reasonable degree of color contrast in the disclosure print from the background so as to be clearly readable.*

- 4. For oral or verbal solicitations, the disclosure must be provided by the person soliciting before the prospective donor makes a commitment to contribute.*
- 5. For web-based solicitations or pages on a website that contain information about support for or contributions to the person or charitable organization, the disclosure must appear on the page where the solicitation is made and/or the page whereby the donor fulfills the contribution or donation.*
- 6. If a person or charitable organization receives a contribution or donation that is not the result of a direct solicitation, the person or charitable organization is not required to provide a disclosure notice.*