

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 4. SUPERVISION OF TRUSTEES AND FUNDRAISERS FOR
CHARITABLE PURPOSES ACT and
CHAPTER 15. ATTORNEY GENERAL REGULATIONS REGARDING
ADMINISTRATIVE ENFORCEMENT OF THE SUPERVISION OF TRUSTEES AND
FUNDRAISERS FOR CHARITABLE PURPOSES ACT
INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Act), Government Code section 12580 et seq., provides the Attorney General with enforcement and supervisory powers over all charitable corporations, unincorporated associations, trustees and other legal entities holding property for charitable purposes, including commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers. The Act establishes the Registry of Charitable Trusts, which is administered by the Department of Justice. (Gov. Code, § 12587.1.)

Assembly Bill (AB) 488 amends the Act and, effective January 1, 2023, establishes that charitable fundraising platforms and platform charities are trustees for charitable purposes subject to the Attorney General’s supervision. The bill defines “charitable fundraising platform” to mean certain persons or legal entities that use the internet to provide a website, service, or other platform to persons in this state, and perform, permit, or otherwise enable acts of solicitation to occur. A “platform charity” is a trustee or charitable corporation as defined under the Act that facilitates acts of solicitation on a charitable fundraising platform.

The proposed regulations implement AB 488 as follows:

- Establishes registration and reporting procedures for charitable fundraising platforms and platform charities;
- Specifies procedures for determining the good standing of recipient charitable organizations referenced in solicitations on charitable fundraising platforms;
- Requires disclosures in certain solicitations;
- Establishes requirements for consent agreements between recipient charitable organizations and charitable fundraising platforms or platform charities, and procedures for when consent is not obtained from recipient charitable organizations;
- Establishes procedures for tax donation receipts sent to persons who use charitable fundraising platforms, and for notifying them when donations are sent to recipient charitable organizations;
- Establishes procedures for the prompt distribution of funds to recipient charitable organizations, along with an accounting and other information; and
- Establishes requirements for persons who engage in peer-to-peer charitable fundraising on charitable fundraising platforms, and are sent charitable donations made through the platforms.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

Under California law, the Attorney General oversees charities, charitable trustees, professional fundraisers and other persons or legal entities that hold or solicit charitable donations to safeguard charitable assets for the charitable beneficiaries, ensure donations are used for their intended purposes, and to protect the public and charities from fraud and deceptive or unfair solicitations. The proposed regulations regulate and supervise persons and entities soliciting charitable donations on internet platforms. Soliciting and giving charitable donations over internet platforms has grown exponentially in recent years, and the proposed regulations allow the Attorney General to properly supervise charitable fundraising platforms and platform charities to better protect the public from deceptive or unfair charitable solicitations occurring through the platforms, and to safeguard the solicited donations for the benefit of charities and the people of California who receive assistance from them. The Legislature adopted AB 488 to address the lack of specific authority to provide oversight over charitable fundraising platforms and platform charities that operate in California. These entities did not typically register and report under existing registration categories in spite of holding charitable assets or soliciting charitable donations. The newly enacted statutes and proposed regulations allow charitable fundraising platforms and platform charities to report aggregate and more relevant information about charitable donations solicited through their platforms consistent with their record keeping practices, rather than submitting reports for each charity individually, or submitting reports that did not adequately cover their solicitation practices. In addition to increasing protections for the public, the newly enacted statutes and proposed regulations promote transparency and accountability, which will increase donor and consumer confidence in online charitable giving.

The proposed regulations also reorder and renumber existing regulations so that all regulations pertaining to the Act will be in Chapter 4. The following chart shows the original sections and the proposed renumbering:

Current		Proposed		
Chapter	Section	Chapter	Article	Section
4	300	4	1	300
	300.1			300.1
	300.2			300.2
	301			301
	302			302
	303			303
	304			304
	305			305
	306			307
	308			313
	310			309
	311			306
	312			310
	312.1			308
	313			311
15	999.9.4	2		312
	999.1			328
	999.2			329
	999.3			330
	999.4			331
	999.6	3		336
	999.7			342
	999.8			343
	999.9			339
	999.9.1			341
	999.9.2			340
	999.9.3			345
	999.9.5			346
4	314			337
	315			338
	316			344

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

Chapter 4. Supervision of Trustees and Fundraisers for Charitable Purposes Act

Article 1. Registration, Reporting, and General Supervision of Trustees and Fundraisers

A new Article 1 is drafted to create better organization within Chapter 4.

§ 300. Initial Registration.

Subdivision (a) requires those subject to the Act to register with the Attorney General. A reference to Government Code section 12585 is added for clarity because the initial registration is mandated by this statute. Inclusion of platform charities as an organization that is required to

register is necessary so that the regulation is consistent with the new statute. (Gov. Code, § 12599.9, subd. (b).)

Subdivision (b) incorporates Form CT-1 by reference. The Form CT-1 was updated to be consistent with the new statute. Two new questions, with corresponding instructions, were added to the Form CT-1 regarding whether applicants were also platform charities or charitable fundraising platforms, and any partnerships between them. These questions are necessary to learn what additional types of entities applicants may be, which would trigger additional requirements under the Act, including registration as a charitable fundraising platform. The new statute also requires notification of partnerships between platform charities and charitable fundraising platforms, which may occur through initial registration of the platform charity as a trustee, by filing a Form CT-1. (Gov. Code, § 12599.9, subd. (b)(3).) The partnership information assists the Attorney General in overseeing solicitations on charitable fundraising platforms, to protect the public and charities from fraud and deceptive or unfair solicitations.

Subdivision (d) explains that the registration requirements for commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers are set forth in statute and section 313. This subdivision also explains that the registration requirements for charitable fundraising platforms are set forth in statute and section 315. This is necessary to inform these organizations and persons of their registration requirements.

This subdivision further explains that commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, commercial coventurers and charitable fundraising platforms are not required to file certain legal formation documents as part of initial registration. The legal formation documents are not initially required as to these entities because fundraising professionals are typically for-profit entities.

Changes without regulatory effect. Authority and reference citations are amended.

§ 300.1. Educational Institution Exemption.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made in subdivision (a). Authority and reference citations are amended.

§ 300.2. Government Exemption.

Changes without regulatory effect. Authority and reference citations are amended.

§ 301. Periodic Written Reports.

Subdivision (b) incorporates Form RRF-1 by reference. The Department updated the Form RRF-1 with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Subdivision (e) is amended to explain that the reporting requirements for commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers are set forth in section 313 of the regulations. A statement that the reporting requirements for charitable fundraising platforms and additional reporting requirements for platform charities are set forth in section 315 is added. This is necessary to inform these organizations that there are additional reporting requirements.

Subdivision (f) explains that the reporting and registration renewal requirements apply to any unregistered person or entity for the time period that registration was required. This is necessary so that the Department will receive the information necessary to oversee charities, charitable trustees, and charitable solicitations to ensure that funds received are properly managed and devoted to charitable programs, and to protect the public from fraud and deceptive or unfair solicitations.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 301. Authority and reference citations are amended.

§ 302. Place of Filing.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 302. Authority and reference citations are amended.

§ 303. Filing Forms.

The Department updated the Form RRF-1 with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

§ 304. Time of Filing Reports.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 304.

§ 305. Annual Filing of Reports.

The Department updated the Form RRF-1 with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 305. Authority and reference citations are amended.

§ 306. Annual Registration Fee.

Subdivision (a) adds platform charities to the list of organizations that are required to pay fees when registering or filing reports. Inclusion of platform charities as an organization that is required to pay fees is necessary so that the regulation is consistent with the new statute. (Gov. Code, §§ 12587, 12599.9, subd. (b).)

Subdivision (b) adds charitable fundraising platforms to the list of organizations that are not governed by this regulation. This is necessary to inform these organizations that they are not required to comply with section 306.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 305. Authority and reference citations are amended. The section is renumbered from existing section 311.

§ 307. Contents of Reports.

Changes without regulatory effect. The section is renumbered from existing section 306.

§ 308. Board or Trustee Review of Executive Compensation.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 308. The section is renumbered from existing section 312.1.

§ 309. Public Inspection of Charitable Trust Records.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 309. The section is renumbered from existing section 310.

§ 310. Use of Annual Registration Fee.

A reference to Government Code section 12599.9 is added because subdivision (b)(2) of the statute requires the payment of a registration and renewal fee.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 310. Authority and reference citations are amended. The section is renumbered from existing section 312.

§ 311. Address of Record.

Changes without regulatory effect. Authority and reference citations are amended. The section is renumbered from existing section 313.

§ 312. Registrant Must Be In Good Standing to Operate or Solicit.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 312. Authority and reference citations are amended. The section is renumbered from existing section 999.9.4.

§ 313. Registration, Annual Filing, and Notice Requirements for Commercial Fundraisers for Charitable Purposes, Fundraising Counsel for Charitable Purposes, and Commercial Coventurers.

Subdivision (a) incorporates four forms by reference. The Department updated the Form CT-1CF, Form CT-2CF, Form CT-2TCF, and Form CT-2VCF with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Subdivision (b) incorporates Form CT-3CF by reference. The Department updated the Form CT-3CF with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Subdivision (c) incorporates two forms by reference. The Department updated the Form CT-5CF and Form CT-6CF with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Subdivision (d) incorporates two forms by reference. The Department updated the Form CT-10CF and Form CT-11CF with a revision date of January 2023. This subdivision must be amended to reflect the correct revision date.

Subdivision (f) explains that the registration and reporting requirements apply to any unregistered person or entity for the time period that registration was required. This is necessary so that the Department will receive the information necessary to oversee charitable solicitations and fundraising professionals to ensure that funds received are properly managed and devoted to charitable programs, and to protect the public from fraud and deceptive or unfair solicitations.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 313 and incorporated forms. Authority and reference citations are amended. The section is renumbered from existing section 308.

§ 314. Definitions Regarding Charitable Fundraising Platforms and Platform Charities.

This section defines nine terms used or contemplated in the new statute that are undefined. The section is necessary to promote compliance from charitable fundraising platforms and platform charities, to protect the public from deceptive or unfair solicitations, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, and to promote transparency that will increase the public's confidence in online charitable giving.

Subdivisions (a), (c), (d), (g) and (i) define “commercial charitable fundraising platform,” “peer-to-peer charitable fundraising platform,” “marketing charitable fundraising platform,” “coventuring charitable fundraising platform,” and “coventuring charitable fundraising platform” based on the acts of solicitation performed, permitted, or enabled, as specified in the new statute Government Code section 12599.9, subdivision (a)(1)(A) to (E). A charitable fundraising platform is subject to different requirements in the new statute based on the acts of solicitation performed, permitted, or enabled. Thus, although all charitable fundraising platforms must provide annual reports under Government Code section 12599.9, subdivision (c), the information provided in the reports varies depending on the acts of solicitations. The terms logically and accurately describe a charitable fundraising platform based on the acts of solicitations. For instance, a coventuring charitable fundraising platform is an online equivalent to a commercial coventurer, as defined in Government Code section 12599.2, subdivision (a). Meanwhile, a commercial charitable fundraising platform is comparable to a commercial fundraiser for charitable purposes, as defined in Government Code section 12599, subdivision (a). To draft clear and concise questions in annual reports that the platforms can answer accurately, it is necessary to establish terms based on the acts that charitable fundraising platforms perform, permit, or enable on their platforms. Without these terms, lengthy legal citations would be necessary whenever referring to charitable fundraising platform based on their solicitations, which would be confusing to registrants and members of the public that review the publicly accessible reports. The potential for confusion further increases when platforms engage in more than one act of solicitation.

Subdivision (b) defines “conspicuous,” because under the new statute certain charitable fundraising platforms and platform charities are required to make conspicuous disclosures, or disclosures through a conspicuous hyperlink, when they perform, permit, or enable acts of

solicitation on their platforms. (Gov. Code, § 12599.9, subd. (e).) If a required disclosure is not conspicuous, then a charitable fundraising platform or platform charity is in violation of the statute, and donors and other persons who use the platform to make a donation or support a recipient charitable organization may not see or take the opportunity to read the material information required to be disclosed. The “conspicuous” definition also addresses the placement and format of disclosures so that they can be seen and read even when viewed on different sized screens and monitors. From a technical and design perspective, charitable fundraising platforms or platform charities can feasibly implement the requirements because they are consistent with current technology and web design usability principles.

Subdivisions (e) and (f) define “fee” and “digital payment processing fee,” which are referenced in the new statute and in proposed annual reports to be filed by charitable fundraising platforms and platform charities. The definitions are necessary to clarify what type of fees are required and not required to be disclosed, as the new statute requires disclosures of all fees, except for digital payment processing fees. (Gov. Code, § 12599.9, subd. (e)(4).) The definitions also clarify what types of fees are to be specified in proposed annual reports. When required fees are not disclosed to the public or specified in publicly available reports, donors who make donations through the platforms are more likely to be deceived, confused, or misled on how much of their donations are sent to their selected recipient charitable organizations. The “fee” definition accurately and reasonably covers the types of fees that are deducted from or added to donations (e.g., a “tip”) based on the solicitations performed, permitted, or enabled on charitable fundraising platforms. For instance, it is common practice today for charitable fundraising platforms to request optional “tips” when donors make donations through a platform, which are amounts paid by donors that are added to donations to cover the fees that would be deducted from the donations. The “digital payment processing fee” definition also accurately and reasonably clarifies that these are fees from a payment processor, credit card network, or a bank to accept and process payments of donations made online via credit card or debit card, or bank accounts.

Subdivision (h) defines the “May Not Operate or Solicit for Charitable Purposes List,” which is the name of the electronic list to be used by charitable fundraising platforms and platforms to determine whether a recipient charitable organization or other charitable organization is in good standing with the Attorney General, as required by the new statute (Gov. Code, § 12599.9, subd. (d)(2)), and section 316 of the regulations.

§ 315. Registration and Filing Requirements for Charitable Fundraising Platforms and Platform Charities.

This section establishes the registration and filing requirements for charitable fundraising platforms and platform charities. It is necessary to promote compliance from charitable fundraising platforms and platform charities, to protect the public from deceptive or unfair solicitations, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, and to promote transparency that will increase the public’s confidence in online charitable giving.

Subdivision (a) requires charitable fundraising platforms to register with the Attorney General’s Registry of Charitable Trusts by filing a new form and paying an initial registration fee. The form incorporated into this subdivision is Form PL-1: Initial Registration for Charitable Fundraising Platforms. This form is necessary so that applicants provide information the Department needs to properly oversee charitable fundraising platforms, to determine whether

registration should be granted, and to supervise solicitations occurring on the applicant's charitable fundraising platform. For example, the form requests contact and registrant information, including questions on where the solicitations are anticipated to occur, and whether partnerships have been entered into with a platform charity or another charitable fundraising platform. Another question asks about any government enforcement actions involving charitable fundraising or the use of charitable funds. Key terms in the form are also defined, which makes the form easier to understand, and ensures correct information would be disclosed. A Form PL-1 would be mailed to the Attorney General's Registry of Charitable Trusts. The Registry's current technology does not support the administration and processing of electronic filing and payment for initial registration. The form must be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

The Department proposes a \$625 initial registration fee. This fee is necessary to reimburse the Department's costs of supervising charitable fundraising platforms. The Department has noticed an exponential increase in charitable fundraising platform-based solicitations over the last five years, and more staff and resources are needed to ensure charitable fundraising platforms are registered, filing annual reports, and complying with other requirements of the new statutes. For instance, beginning in January 2023, the Department will require at least one additional Staff Services Analyst to intake and analyze form submissions, and at least one additional Deputy Attorney General, Investigative Auditor, and Legal Secretary to handle law enforcement referrals related to the new statute. If an estimated 1,000 charitable fundraising platforms initially register beginning in January 2023, \$625,000 would be available to fund these expected costs. The estimated revenue will not exceed \$659,000, the estimated annual ongoing costs to implement the new statutes (Gov. Code, §§ 12599.9, 12599.10).

Charitable fundraising platforms typically earn revenue unrelated to the charitable solicitations occurring on their platforms (e.g., through the sale of goods and services). When this is not the case, the platforms generate revenue (e.g., from fees charged to process donations) from solicitations occurring on their platforms. Given this, the initial registration fee is a small percentage of a charitable fundraising platform's gross revenue.

Subdivision (b) requires charitable fundraising platforms to renew their registration with the Attorney General's Registry of Charitable Trusts by filing a new form and paying a registration renewal fee. The form incorporated into this subdivision is Form PL-2: Registration Renewal for Charitable Fundraising Platforms. This form is necessary so that registrants provide information the Department needs to properly oversee charitable fundraising platforms, to determine whether registration should be renewed, and to supervise solicitations occurring on the registrant's charitable fundraising platform. It would be filed by January 15 for each year in which the charitable fundraising platforms seeks to renew registration. This is a reasonable date to renew registration since it is near the beginning of the calendar year for which registration would be renewed. The Form PL-2 is substantially similar to the Form PL-1, and has questions that determine whether the charitable fundraising platform's annual report, the Form PL-4 discussed below, would be filed by the registrant's partner on the registrant's behalf. These questions are necessary because the statute permits certain partners to file an annual report on behalf of a charitable fundraising platform. (Gov. Code, § 12599.10, subd. (a)(2)(C).) A Form PL-2 would be mailed to the Attorney General's Registry of Charitable Trusts. The Registry's current

technology does not support the administration and processing of electronic filing and payment for registration renewal. The form must be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

The Department also proposes a \$625 registration renewal fee for the same reasons as discussed for subdivision (a) above. Furthermore, the fee covers the Department's costs in handling Form PL-4 filings, discussed below, as no additional fee is associated with that form.

Subdivision (c) requires platform charities to register as a trustee and file annual reports as set forth in sections 300 to 307 of the regulations. This is necessary because platform charities are subject to the same registration and reporting requirements as all other charities, as required by the Act and new statute. (Gov. Code, §§ 12582, 12585, 12586, 12599.9, subd. (b)(3).)

Subdivision (d) requires platform charities to notify the Attorney General's Registry of Charitable Trusts, by filing a new form, when it enters into a partnership with a charitable fundraising platform. The form incorporated into this subdivision is Form PL-3: Notification from Platform Charities. This form is necessary so that registrants provide information the Department needs to properly oversee platform charities, including learning what charitable fundraising platforms a platform charity facilitates acts of solicitation on, to supervise those solicitations, and to determine a platform charity's responsibilities under the partnership. The form requests contact and partnership information. Key terms in the form are also defined, which makes the form easier to understand, and ensures correct information is provided. The form is required to be filed no later than 10 business days after entering into a partnership with a charitable fundraising platform, a reasonable amount of time to notify the Registry of the partnership. However, the form is not required to be filed when applicable partnership information was disclosed in a prior filing. Form PL-3 would be filed electronically on the Department's website, which promotes efficiencies in completing, filing, and processing forms. The form must be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

Subdivisions (e) through (g) contain the annual report filing requirements for charitable fundraising platforms and platform charities. The form incorporated into subdivision (e) is Form PL-4: Annual Report for Charitable Fundraising Platforms or Platform Charities. This form is necessary so that registrants provide information the Department needs to properly oversee charitable fundraising platforms and platform charities, including information on whether the registrant has complied with the Act, new statute, and new sections of the regulations. The required information is necessary for the Department to determine whether registration should be renewed, suspended, or revoked, and to supervise solicitations occurring on charitable fundraising platforms. For example, the form requests aggregate data on recipient or other charitable organizations that were sent donations, information on the diversion or misuse of donations, and information on solicitation disclosures provided to the public. Questions on the form vary depending on the type of fundraising platform answering the questions (e.g., commercial versus coventuring commercial charitable fundraising platform) so that only applicable parts of Form PL-4 need to be answered and filed. Key terms in the form are also

defined, which makes the form easier to understand, and ensures correct information is provided. The form must be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

The form is required to be filed by July 15 of the current calendar year to report on activities that occurred during the prior calendar year. The July 15 deadline is an adequate amount of time to send and report on donations even if a donation was made at the end of the prior year. For example, a donation that was made on December 31 on a charitable fundraising platform for an ineligible recipient charitable organization, and thus sent to an alternate charitable organization, could be accounted for when submitting aggregate data by July 15. Providing a Form PL-4 filing deadline that occurs after the Form PL-2 is filed also allows partners of charitable fundraising platforms to file a Form PL-4 on a platform's behalf, as discussed further below. A Form PL-4 would be filed electronically on the Department's website, which promotes efficiencies in completing, filing, and processing forms.

When applicable, a Form PL-4 filing would include attachments for data on recipient or other charitable organizations, solicitation disclosures provided to the public, narrative answers, and narrative responses on information that the registrant reasonably deems, in good faith, to be confidential or trade secret information (which would not be publicly disclosed). If the Attorney General finds that information was incorrectly deemed confidential or a trade secret, the registrant is required under subdivision (g) to amend the Form PL-4 filing to make the correction. This process allows the information to remain confidential while its confidential status is pending review, and allows public access to information incorrectly deemed confidential or a trade secret. Public access is required by Government Code section 12587 and section 309 of the regulations, and promotes transparency and accountability to the public, which in turn increases donor and consumer confidence in online charitable giving. Subdivision (g) also states that an incorrect designation of information as confidential or a trade secret could lead to an administrative action, consistent with the statute and Article 3 of the regulations. This also motivates charitable fundraising platforms and platform charities to carefully consider and explain whether the information is confidential or a trade secret, which promotes registrant compliance and saves time and resources during the Attorney General's review of information deemed confidential. Additionally, Form PL-4 provides registrants the ability to report aggregate and more relevant information consistent with their record keeping practices, rather than submitting reports for each charitable organization individually, or submitting reports that did not adequately cover their solicitation practices. Before the new statute was enacted, platforms typically met the definition for another registration category, such as a commercial fundraiser for charitable purposes, commercial coventurer, or trustee, and were required to submit reports for each charitable organization or reports that provided information on their solicitation practices. (See, e.g., Gov. Code, §§ 12582, 12586, 12599, 12599.2.) Form PL-4 streamlines their reporting obligations and saves time when providing information, compared to the status quo.

As mentioned above, a registrant charitable fundraising platform that partners with a platform charity or another charitable fundraising platform (collectively "partner") may have its Form PL-4 filed by the partner on the registrant platform's behalf. (Gov. Code, § 12599.10, subd. (1)(2)(B).) Subdivision (f) specifies the conditions when this may occur: the registrant platform only had one partner during the reporting period; the registrant platform did not act as a partner

for other charitable fundraising platforms and was not a consulting charitable fundraising platform during the reporting period; the registrant platform authorized the partner to file the Form PL-4 in its previously filed Form PL-2; and the registrant platform examines and signs the Form PL-4 prior to its filing. These requirements are necessary to ensure a charitable fundraising platform remains responsible and accountable for its Form PL-4, even though it is filed by another, just as is the case for other similar forms (e.g., tax forms submitted to the IRS or the California Franchise Tax Board by a tax preparer on behalf of a client). The requirements also ensure that only one Form PL-4 is submitted for each registrant. If more than one partner facilitated solicitations on a registrant platform, or the registrant platform performed, permitted, or enabled solicitations that the partner did not facilitate (which is the case for consulting charitable fundraising platforms or when one platform facilitates solicitations for other platforms), then multiple Form PL-4s could be submitted for a single registrant.

Subdivision (h) explains that the registration and filing requirements apply to any unregistered person or entity for the time period that registration was required. This is necessary so that the Department receives the information necessary to properly supervise charitable fundraising platforms and platform charities, to protect the public and charities from deceptive or unfair charitable solicitations occurring through the platforms, and to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them.

§ 316. Good Standing of Recipient Charitable Organizations or Other Charitable Organizations.

The new statute prohibits a charitable fundraising platform or platform charity from performing, permitting or enabling solicitations for, or sending donations to, a recipient charitable organization or other charitable organization (collectively “charity”) that is not in good standing with the Attorney General, among other government agencies. A charity is in good standing with the Attorney General when it is not prohibited from soliciting or operating in California by the Attorney General for failure to comply with applicable laws. A charitable fundraising platform or platform charity may rely on electronic lists published by the Attorney General’s Registry of Charitable Trusts to determine whether a charity is in good standing. (Gov. Code, § 12599.9, subs. (a)(3), (b)(2).)

This section clarifies the procedures for determining good standing with the Attorney General. Subdivision (a) states that the May Not Operate or Solicit for Charitable Purposes List may be used to verify good standing. Subdivision (b) provides a reasonable amount of time, five business days, to determine good standing for charities that appear for the first time on the most recent list, but are not on the second most recent list. It also clarifies that a charitable fundraising platform or platform charity may perform a manual search of the Registry of Charitable Trusts database on the Department’s website to determine good standing.

This section is necessary to promote compliance from charitable fundraising platforms and platform charities, and to protect the public from deceptive or unfair solicitations. For example, when a charity is not in good standing because it is prohibited from soliciting or operating in California, a charitable fundraising platform or platform charity should not be able to circumvent that prohibition by facilitating solicitations or funding on that charity’s behalf. California residents also rely on charitable fundraising platforms and platform charities to vet and screen charities, and thus the platforms should only list charities in good standing to enable donors to

support charities that can solicit or operate in California. It is also feasible for charitable fundraising platforms and platform charities to review or otherwise use the May Not Operate or Solicit for Charitable Purposes List, as they do with similar lists provided by other agencies, such as the IRS and the Office of Foreign Assets Control, for vetting or screening charities for solicitation purposes.

§ 317. Disclosures in Solicitations for Charitable Fundraising Platforms and Platform Charities.

The new statute requires conspicuous disclosures from certain charitable fundraising platforms or platform charities in solicitations to prevent a likelihood of deception, confusion, or misunderstanding, and requires specific disclosures in six instances, when applicable. (Gov. Code, § 12599.9, subds. (e), (f)(2)(B).) This section requires a conspicuous disclosure about the unrestricted nature of donations made through charitable fundraising platforms. This section is necessary to promote compliance from charitable fundraising platforms and platform charities, to protect the public and charities from deceptive or unfair solicitations, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, and to promote transparency that will increase the public's confidence in online charitable giving.

For commercial and peer-to-peer charitable fundraising platforms, some platforms allow donors or peer-to-peer charitable fundraisers to specify how the solicited donations are to be used by recipient charitable organizations. Meanwhile, recipient charitable organizations who are required to control their fundraising and to honor donor intent (Gov. Code, § 12599.6, subd. (b), Bus. & Prof. Code, § 17510.8), may be unaware of the solicitations, or cannot or may not be able to spend the donations for the purposes given. To prevent donor deception, confusion, or misunderstanding, a conspicuous disclosure explaining donations are provided to recipient charitable organizations on an unrestricted basis is required.

§ 318. Consent from Recipient Charitable Organizations for Charitable Fundraising Platforms and Platform Charities.

The new statute requires a charitable fundraising platform or a platform charity to obtain written consent from a recipient charitable organization before performing, permitting or enabling solicitations that reference the organization's name. (Gov. Code, § 12599.9, subd. (f)(1).) Consent is not required, however, for solicitations on commercial, peer-to-peer, or marketing charitable fundraising platforms when specified criteria are met. (Gov. Code, § 12599.9, subd. (f)(2).) This section establishes requirements for written consent agreements, as required by the new statute (Gov. Code, § 12599.10, subd. (a)(3)), and clarifies the new statute on verifying removal requests from non-consenting recipient charitable organizations. This is necessary to promote compliance from charitable fundraising platforms and platform charities, and to protect the public and recipient charitable organizations from deceptive or unfair solicitations.

Subdivision (a) establishes the requirements for consent agreements between a recipient charitable organization and a charitable fundraising platform or platform charity. The requirements are necessary to protect recipient charitable organizations from deceptive or unfair solicitations because they are required to control fundraising conducted for their benefit. (Gov. Code, §§ 12599.6, subd. (b), 12599.10, subd. (a)(3).) A recipient charitable organization cannot adequately control its fundraising, and oversee or monitor fundraising conducted for its benefit,

if it does not know which platforms a consent agreement applies to, if material terms involving fees and the time frame for sending donations are not specified, and if it cannot reasonably approve solicitations or acknowledge those who supported the organization. For example, a recipient charitable organization may seek to focus its fundraising on platforms that generate more revenue, it may only want to associate itself with certain platforms, it may not agree with the business practices or information reflected on some platforms (which could undermine the organization's brand), or it may be unclear how fundraising may occur should consent be provided. Similarly, it is unfair and unreasonable to require a recipient charitable organization to provide consent for all charitable fundraising platforms identified in an agreement, especially when the agreement lists a large number of entities.

The new statute requires solicitation removal requests from non-consenting recipient charitable organizations to be promptly verified and honored, when applicable. Subdivision (b) clarifies how to verify the requests. This is necessary to promote compliance from charitable fundraising platforms and platform charities, and to protect non-consenting recipient charitable organizations from deceptive or unfair solicitations.

§ 319. Tax Donation Receipts from Charitable Fundraising Platforms and Platform Charities.

The new statute requires certain charitable fundraising platforms or platform charities to promptly send tax donation receipts to donors, but does not specify what promptly means. (Gov. Code, § 12599.9, subd. (g).) This section requires the receipts to be sent to donors no later than five business days of donations being made. This is necessary to promote compliance by registrants, to protect the public from deceptive or unfair solicitations, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, and to promote transparency that will increase the public's confidence in online charitable giving. Quantifying the timeframe for promptly sending tax donation receipts provides objective criteria for what this means, and five business days is a reasonable timeframe to provide the receipts. The donation receipts provide valuable information to donors, including who donations were made to, and whether donations were charitable and tax deductible. These topics can be confusing for donors when they use charitable fundraising platforms to make donations, instead of donating to a charity on its website. Also, the sooner the receipt is provided, the more likely a donor can associate the receipt with a donation (which may be more challenging to recall as more time passes, or when multiple donations are made over time). Donors also expect tax donation receipts to be sent simultaneously when their online donations are made, similar to how consumers expect receipts to be immediately sent after making online purchases. When tax donation receipts are not sent within five business days, this indicates to donors that something may have gone wrong, including possible fraud. Thus, when receipts are sent within this timeframe, donor confidence in giving through charitable fundraising platforms is improved. The Department also understands this timeframe is consistent with certain registrants' existing business practices.

§ 320. Lengths of Time for Sending Donations by Charitable Fundraising Platforms and Platform Charities.

This section establishes the procedures for the prompt distribution of donations or grants of recommended donations ("donations") to a recipient charitable organization or other charitable organization, based on solicitations performed, permitted, or enabled on charitable fundraising

platforms. This includes establishing the maximum of length of time to send donations based on factors identified in the new statute, and establishing procedures for sending donations to an alternate charitable organization (“alternate”) and for contacting donors or persons who use a charitable fundraising platform to provide an alternate, as required by the new statute. This section is necessary to promote compliance from charitable fundraising platforms and platform charities, to protect the public from deceptive or unfair solicitations, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, and to promote transparency that will increase the public’s confidence in online charitable giving.

Subdivision (a) establishes the maximum length of time for promptly sending donations to a recipient charitable organization involving commercial or peer-to-peer charitable fundraising platforms. The maximum lengths vary from 15 to 60 days depending on whether donations were made directly to a recipient charitable organization or not, whether the organization provided prior written consent for the solicitations, and the number of organizations concurrently listed on the charitable fundraising platform for solicitation purposes. For example, the maximum length of time for sending donations is 15 days when donations are made directly to a consenting recipient charitable organization, and the acts of solicitation are concurrent for less than 100 recipient charitable organizations. Meanwhile, the deadline is 60 days when donations are recommended for a non-consenting recipient charitable organization, and the acts of solicitation are concurrent for 100 or more recipient charitable organizations. Regardless, donations must not be sent when a recipient charitable organization is not eligible to receive the donations, which is addressed in subdivision (c).

The statute requires donations to be sent promptly. How fast a donation can be sent, however, can vary depending on the solicitations and who donations are made to. For instance, donations made directly to a recipient charitable organization can be sent more quickly when they are deposited directly into the organization’s financial account, as opposed to recommended donations made to a platform charity, which exercise discretion and control before granting donations. Similarly, when donations are for consenting organizations, as opposed to non-consenting organizations, the donations can be sent faster because there are fewer issues involved in determining whether consenting organizations are eligible to be sent donations or for donations to be processed (e.g., the organization has already been vetted or screened for eligibility on topics like money laundering, terrorist activity, and compliance with platform policies; the contact information and method of payment for sending donations has already been established; and verification information is less likely to be needed to prevent fraud). Moreover, when there is a high volume of recipient charitable organizations being referenced in concurrent solicitations, such as for 100 or more organizations, it can be more complicated to track and send the donations, especially when recommended donations are made.

Section 320 also promotes efficiencies in the processing of donations that benefit recipient charitable organizations, even when donations can be sent more quickly. For instance, it is more efficient to aggregate multiple donations made by different donors, and send the donations as one larger amount minus any fees, if any. Alternatively, it is cumbersome and costly for a charitable fundraising platform or platform charity to send donations on a daily basis (e.g., when a donation is made each day for the same organization), and for recipient charitable organizations to receive and track those donations, such as small dollar value donations or payments made by check. Aggregating and sending donations as part of a recurring distribution schedule is also consistent

with the business practices of certain charitable fundraising platforms and platform charities today. However, the ability to aggregate donations should not unreasonably delay the sending of donations so that they are no longer promptly sent.

Thus, the proposed maximum lengths of time reasonably and fairly implement the new statute's requirement for "promptly" sending donations to a recipient charitable organization, depending on whether donations were made directly to a recipient charitable organization or not, whether the organization provided prior written consent for the solicitations, and the number of organizations concurrently listed on the charitable fundraising platform for solicitation purposes. The maximum lengths of time are also feasible to implement, and generally consistent with distribution time frames followed by certain charitable fundraising platforms or platform charities today. Moreover, the July 15 deadline for annual reports to be filed on Form PL-4 (discussed above) took into consideration the maximum length of time for the donations to be sent.

Subdivision (a) also addresses when donations are made to a person engaged in peer-to-peer charitable fundraising, instead of to a recipient charitable organization, charitable fundraising platform, or platform charity. When applicable, the donations shall be sent to the person engaged in peer-to-peer charitable fundraising no later than 30 days after the donations were made. Also, a charitable fundraising platform shall notify this person of the requirements of section 323 of the regulations, and notify any recipient charitable organization referenced in the person's peer-to-peer charitable fundraising campaign of the distribution, no later than five business days after sending the first donation to this person. The explanations above for quickly sending donations and promoting efficiencies equally apply to donations sent to persons engaging in peer-to-peer charitable fundraising. For instance, the 30-day time frame provides a reasonable amount of time for charitable fundraising platforms to promptly send donations, and is generally consistent with distribution time frames followed by certain charitable fundraising platforms today. These donations are charitable, as opposed to contributions for a personal cause, and are at a high risk of being diverted or misused when they are deposited into personal bank accounts of the fundraisers. Charitable fundraising platforms also can reasonably and feasibly implement the notification requirement, which only needs to occur when donations are first sent. This subdivision is necessary to protect the public from deceptive or unfair solicitations, and to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them.

Subdivision (b) establishes the maximum length of time for promptly sending donations to a recipient charitable organization involving marketing charitable fundraising platforms, which requires donations to be promptly sent no less than on a quarterly basis, subject to a minimum amount no greater than \$10, and donations being sent after four consecutive quarters if the minimum amount is not reached by then. These procedures are a statement of the law contained in Government Code section 12599.10, subdivision (a)(4)(A)(ii). Including this statutory requirement in the regulation is necessary for clarity so that all procedures are in one place. The subdivision also clarifies what quarterly basis means, which is defined as no later than 15 days after the end of a 90-day period that constitutes a quarter. Allowing 15 days provides adequate time to send donations that are required to be made just before the 90-day period ends, while still implementing the new statute's requirement that donations be sent promptly. For the same reasons as discussed above, the subdivision clarifies that donations shall not be sent when a recipient charitable organization is not eligible to be sent the funds, including when there is no

minimum amount or the minimum amount is reached prior to four consecutive quarters. This is further explained in subdivision (c).

Subdivision (c) sets forth procedures for sending donations to an alternate charitable organization when a recipient charitable organization is not eligible to be sent funds involving commercial, peer-to-peer, or marketing charitable fundraising platforms. The subdivision requires the decision on ineligibility to be made within the time period for when donations must be sent, and requires the donations to be sent to an alternate no later than 75 days after the decision was made. A charitable fundraising platform or platform charity shall first notify the donor or person using a platform that caused a donation to be made no later than 15 days of the decision, and request an alternate. If provided, the donation shall be sent no later than 30 days after receiving the recommendation, unless the charitable fundraising platform or platform charity decides not to follow the alternate recommendation. The charitable fundraising platform or platform charity has 15 days to make this decision. If a recommendation is not provided, is provided more than 30 days after the notice is sent, or a recommendation is not followed, the charitable fundraising platform or platform charity shall select an alternate and send the donation to the alternate within an additional 15 days. These procedures are reasonable and fair, especially since the new statute requires donations to be sent promptly, and the applicable maximum length of time for sending donations to an ineligible recipient charitable organization would have been reached already. These procedures are generally consistent with the current business practices of certain charitable fundraising platforms or platform charities. If not already implemented, the procedures impose a minimal burden because the number of recipient charitable organizations deemed ineligible would be small, especially given the number of consenting organizations that have been previously vetted and screened. The procedures also provide a reasonable amount of time to identify and contact platform users, to obtain alternate recommendations or select alternates, and to send donations. Also, when a recipient charitable organization is deemed ineligible, it is improper to delay the sending of donations to allow more time for the organization to address the ineligibility because this would further delay the sending of donations, and some of the reasons for ineligibility may not be fixable. Promptly sending donations to an alternate also allows the funds to be used by the alternate for the benefit of the people of California who receive assistance from it.

Subdivision (d) establishes the maximum length of time for promptly sending donations to a recipient charitable organization involving coventuring charitable fundraising platforms. It substantively matches the length of time for marketing charitable fundraising platforms in subdivision (b), as the new statute contains the same requirement for coventuring charitable fundraising platforms. (Gov. Code, §§ 12599.9, subd. (h), 12599.10, subd. (a)(4)(ii).) The exception is that this subdivision does not reference disclosures required by Government Code section 12599.9, subdivision (e), which does not apply to solicitations on coventuring charitable fundraising platforms.

This subdivision also sets forth procedures for sending donations to an alternate charitable organization when a recipient charitable organization is not eligible to be sent funds involving coventuring charitable fundraising platforms. It requires the decision on ineligibility to be made within the time period for when donations must be sent, and requires the donations to be sent to an alternate selected by the charitable fundraising platform or platform charity no later than 30 days of the decision being made. This is different from the alternate procedures established in subdivision (c) because platform users did not select the recipient charitable organization

referenced in the coventuring solicitations. These procedures are reasonable and fair, especially since the new statute requires donations to be sent promptly, and the applicable maximum length of time for sending donations to an ineligible recipient charitable organization would have been reached already. The procedures impose a minimal burden on charitable fundraising platforms and platform charities because the number of recipient charitable organizations deemed ineligible would be small. This is especially the case for consenting organizations that have been previously vetted and screened, and coventuring charitable fundraising platforms are required to obtain prior written consent from recipient charitable organizations under the new statute (Gov. Code, § 12599.9, subd. (f).) The procedures also provide a reasonable amount of time to select an alternate and send donations. Also, when a recipient charitable organization is deemed ineligible, it is improper to delay the sending of donations to allow more time for the organization to address the ineligibility because this would further delay the sending of donations, and some of the reasons for ineligibility may not be fixable. Promptly sending donations to an alternate also allows the funds to be used by the alternate for the benefit of the people of California who receive assistance from it.

Subdivision (e) establishes the maximum length of time for promptly sending donations involving consulting charitable fundraising platforms. Here, a charitable organization solicits or receives donations that are made to the organization, on or through the coventuring charitable fundraising platform. The maximum length of time is five business days, unless the organization is not eligible to be sent the funds. This is necessary to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them. Because donations are solicited by the charitable organization and are made to them, the donations could be sent quickly. Five business days provides a reasonable amount of time for a charitable fundraising platform to process and send donations, after deducting fees and determining eligibility. Five business days is also consistent with the maximum length of time for sending solicited donations by a commercial fundraiser for charitable purposes (Gov. Code, § 12599, subd. (i)(7)), and many charitable fundraising platforms, including consulting charitable fundraising platforms, met the definition of a commercial fundraiser prior to the new statute's enactment. The maximum length of time is generally consistent with the current business practices of certain consulting charitable fundraising platforms.

This subdivision also sets forth procedures for sending donations to an alternate charitable organization when a charitable organization is not eligible to be sent funds involving consulting charitable fundraising platforms. The procedures are the same as set forth in subdivision (c), but are specific to charitable fundraising platforms (instead of charitable fundraising platforms and platform charities) and charitable organizations (instead of recipient charitable organizations). The procedures are necessary for the same reasons as set forth above.

§ 321. Information Provided When Sending Donations by Charitable Fundraising Platforms and Platform Charities.

This section clarifies what information is to be provided by a charitable fundraising platform or platform charity to a recipient charitable organization or other charitable organization as part of an accounting when donations or grants of recommended donations (collectively “donations”) are sent. It also specifies when information about a donor or other persons using a platform (collectively “platform user”) shall be provided when donations are sent. This section is necessary to promote compliance from charitable fundraising platforms and platform charities, to

safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, to protect the public and charities from deceptive or unfair solicitations, and to promote transparency that will increase the public's confidence in online charitable giving.

Subdivision (a) specifies the minimum amount of information to be provided to a recipient charitable organization in an accounting involving a commercial or peer-to-peer charitable fundraising platform. An accounting includes the date each donation was made, the date donations were sent, the amount of each donation before fees were imposed, the amount of fees imposed and by whom, and the amount of each donation after fees were imposed. Also, the donor's name and contact information would be provided for each donation, unless the donor chose to not share their information or the organization did not provide prior consent for using its name or information in a solicitation. The name and contact information of persons engaged in peer-to-peer charitable fundraising would also be provided. And, when donors or persons engaged in peer-to-peer charitable fundraising designate how donations may be used by a recipient charitable organization, this subdivision requires that this information be provided. This enables the organization to learn what the designation is so it may choose to honor the designation, even though it is not obligated to do so if the charitable fundraising platform or platform charity complies with section 317 of the regulations.

Recipient charitable organizations need this information to manage and control their fundraising for the benefit of the people of California who receive assistance from them. For instance, the accountings should confirm donations were not misspent and that fees imposed were proper and in compliance with consent agreements, when applicable. Providing the dates also help recipient charitable organizations gauge whether donations were sent within the maximum lengths of time required. They can further evaluate which charitable fundraising platforms provide the most revenue, and thus devote more resources to those platforms. They can also choose to acknowledge platform users, as allowed by consent agreements and section 318 of the regulations. Being acknowledged is important to some platform users, as it confirms the donations were sent to their selected recipient charitable organizations, and that their gifts or efforts were valued. The privacy concerns of platform users is adequately protected since they can choose not to share their information, and their information is not required to be shared with organizations that did not provide prior consent. Consent agreements with recipient charitable organizations can further address concerns on how platform user information may be used, as long as the agreements comply with section 318 of the regulations.

Subdivision (b) specifies the minimum amount of information to be provided to a recipient charitable organization in an accounting involving a marketing charitable fundraising platform. It would include information about the underlying solicitation that caused a donation to be made based on purchases or activity performed by platform users (e.g., when platform users purchase a particular product, 10 percent of the purchase price will be donated to the organization). Then, for each donation made, an accounting of how the donation was calculated would be provided, including any fees imposed and by whom, if any (e.g., a \$100 donation was made based on 100 purchases of the product referenced in the above solicitation priced at \$10, and no fees were deducted from the donation). Also, the donor's name and contact information would be provided for each donation, unless the donor chose to not share their information or the organization did not provide prior consent for using its name or information in a solicitation. The name and contact information of platform users who selected the recipient charitable organization and

made purchases or performed other activity that caused a donation to be made would also be provided, unless the platform user chose to not share their information or the organization did not provide prior consent for using its name or information in a solicitation.

Recipient charitable organizations need this information to manage and control their fundraising for the benefit of the people of California who receive assistance from them. For instance, they can verify the integrity of the underlying solicitation, and confirm that fees imposed were proper, and in compliance with consent agreements, if any. They can evaluate which charitable fundraising platforms provide the most revenue, and thus devote more resources to those platforms. They can also choose to acknowledge donors and platform users, as allowed by consent agreements and section 318 of the regulations. Being acknowledged is important to some platform users, as it confirms their efforts were valued, especially when donations were based on the amount of time they spent performing an activity. Platform users may also have a strong connection or identification with the recipient charitable organization or its mission. The privacy concerns of donors and platform users is adequately protected since they can choose not to share their information, and their information is not required to be shared with organizations that did not provide prior consent. Consent agreements with recipient charitable organizations can further address concerns on how donor and platform user information may be used, as long as the agreements comply with section 318 of the regulations.

Subdivision (c) specifies the minimum amount of information to be provided to a recipient charitable organization in an accounting involving a coventuring charitable fundraising platform. It would include information about the underlying solicitation that caused a donation to be made based on purchases or activity performed by platform users (e.g., when platform users purchase a particular product, 10 percent of the purchase price will be donated to the organization). Then, for each donation made, an accounting of how the donation was calculated would be provided, including any fees imposed and by whom, if any (e.g. a \$100 donation was made based on 100 purchases of the product referenced in the above solicitation priced at \$10, and no fees were deducted from the donation). The explanations for an accounting under subdivision (b) also apply to this subdivision. Platform user information is not required to be provided when donations are sent because platform users did not select the recipient charitable organization referenced in the coventuring solicitations. Donor information is also not required, as the solicitation would be premised on the coventuring charitable fundraising platform making the donation. (Gov. Code, § 12599.9, subd. (a)(1)(D).)

Subdivision (d) specifies the minimum amount of information to be provided to a charitable organization in an accounting involving a consulting charitable fundraising platform. An accounting would include the date each donation was made, the date donations were sent, the amount of each donation before fees were imposed, the amount of fees imposed and by whom, and the amount of each donation after fees were imposed. The explanations for an accounting under subdivision (a) also apply to this subdivision. Platform user information is not required to be provided when donations are sent because charitable organizations are more actively involved in the solicitations, and typically already know or can access platform user information in other ways.

§ 322. Notifications to Donors or Persons When Sending Donations by Charitable Fundraising Platforms and Platform Charities.

This section requires a charitable fundraising platform or platform charity to notify a donor or person who uses a charitable fundraising platform (collectively “platform user”) when donations or grants of recommended donations (collectively “donations”) are sent. Platforms users of commercial, peer-to-peer, or marketing charitable fundraising platforms shall be notified no later than 15 days after the donation is sent to a recipient charitable organization, or to a person engaging in peer-to-peer charitable fundraising when applicable. Notification must occur in writing, and may be provided electronically. However, notification is not required when platform users affirmatively request not to be notified. This section is necessary to promote compliance from charitable fundraising platforms and platform charities, to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them, to protect the public and charities from deceptive or unfair solicitations, and to promote transparency that will increase the public’s confidence in online charitable giving.

When a donor makes a donation through a charitable fundraising platform to benefit a recipient charitable organization, typically the donation is not sent instantly to the organization, and it is possible the donation is not sent at all (e.g., when an organization is deemed ineligible). Given this, a donor may want to be informed when their donation was sent, which promotes accountability, trust, and transparency. This is especially the case for donors who made high dollar or multiple donations, or have a strong connection or identification with the recipient charitable organization or its mission. The same reasoning applies for a platform user who selected a charitable organization to be sent a donation based on their purchases or other activity performed, such as when the charitable solicitation was a material reason for why a purchase was made or time-consuming activity was performed. Fifteen days also provides a reasonable amount of time to provide the notifications, and there is flexibility as to how to provide the notifications, as long as they occur. And just as a charitable fundraising platform or platform charity can confirm that a donation or purchase was made, or provide other notifications to a platform user (such as policy changes or advertisements), it is feasible to provide a notification on when donations are sent. Similarly, it is reasonable and feasible to provide platform users the ability to opt-out of receiving the notification.

§ 323. Handling of Donations by Persons Engaging in Peer-to-Peer Charitable Fundraising.

This section establishes requirements for a person who engages in peer-to-peer charitable fundraising on a charitable fundraising platform (“peer-to-peer fundraiser”). Once charitable donations are sent (as opposed to contributions for a personal cause), the peer-to-peer fundraiser is prohibited from diverting or otherwise misusing the donations. Also, if a recipient charitable organization is referenced in solicitations, the peer-to-peer fundraiser must send the donated funds to the organization no later than five business days after receiving the funds. If a recipient charitable organization is not referenced, the peer-to-peer fundraiser must instead identify and contact a charitable organization to receive the funds no later than five business days after receiving the funds. This regulation is necessary to protect the public from deceptive or unfair solicitations and to safeguard from fraud or misuse donations that are for the benefit of charities and the people of California who receive assistance from them.

When donations are deposited into personal bank accounts of the peer-to-peer fundraiser, the fundraiser is a charitable trustee, and has a fiduciary duty to ensure the donations are spent for the charitable purpose given. Yet, donations deposited into personal bank accounts, especially when commingled with other personal funds, are at high risk of being diverted or otherwise mis-

spent. Five business days provides enough time to send donations to a recipient charitable organization, or to identify and contact a charitable organization. This timeframe is consistent with the timeframe for sending solicited donations by a commercial fundraiser for charitable purposes (Gov. Code, § 12599, subd. (i)(7)), which is a similar type of charitable trustee that solicits donations.

Article 2. Notices and Requests to the Attorney General

A new Article 2 is drafted to create better organization within Chapter 4.

§ 328. General Provisions and Definitions for Notices and Requests.

Subdivision (a) is amended to require notices or requests to be filed with the Department via electronic submission instead of regular mail. This subdivision explains that notices or requests are deemed filed during normal business hours. A notice that does not contain all of the required information is incomplete and not deemed filed. These procedures are necessary to explain how a registrant can file a notice or request with the Department. Requiring notices or requests to be submitted electronically is easier for the registrant, allows for better tracking, and ensures submissions are routed to the appropriate persons within the Department.

Subdivision (b) explains that the Department will acknowledge receipt of the notice or request via e-mail. Acknowledging receipt via e-mail instead of by stamping a hard copy “Received” is less time-consuming for the Department and also saves paper.

Subdivision (c) requires every notice or request to include all material facts. This is necessary so that the Department will receive the information necessary to oversee charities and charitable trustees to ensure that funds received are properly managed and devoted to charitable programs.

Subdivision (e) replaces “nonprofit corporation” with “charitable organization or trustee.” This is necessary to accurately describe the public files maintained by the Attorney General’s Registry of Charitable Trusts. This subdivision is further amended to explain that confidential or trade secret information from charitable fundraising platforms or platform charities is exempt from public inspection. This is necessary so that the regulation is consistent with the new statute, which requires regulations on the handling of confidential or trade secret information provided by charitable fundraising platforms or platform charities. (Gov. Code, § 12599.10, subd. (a)(2)(B).)

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 328. Authority and reference citations are amended. The section is renumbered from existing section 999.1. The title of section 328 is amended to align with proposed changes to the section.

§ 329. Public Benefit Corporations.

Subdivision (e) lists the statutes that involve a public benefit corporation giving notice to the Attorney General. Omitted statute was added.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout

section 329. Authority and reference citations are amended. The section is renumbered from existing section 999.2.

§ 330. Mutual Benefit Corporations.

Subdivision (e) lists the statutes that involve a mutual benefit corporation giving notice to the Attorney General. Citations to statutes were corrected.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 330. Authority and reference citations are amended. Authority and reference citations are amended. The section is renumbered from existing section 999.3.

§ 331. Religious Corporations.

This section lists the statutes that involve a religious corporation giving notice to the Attorney General. Omitted statutes were added.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 331. Authority and reference citations are amended. The section is renumbered from existing section 999.9.4.

Article 3. Administrative Enforcement of the Supervision of Trustees and Fundraisers for Charitable Purposes Act

A new Article 3 is drafted to create better organization within Chapter 4.

§ 336. Violations of the Supervision of Trustees and Fundraisers for Charitable Purposes Act.

Subdivision (a) explains when the Attorney General may take administrative action. Violating any provision of Chapter 4 of the regulations is added as additional grounds for which the Attorney General may take administrative action. This is necessary so that the regulation is consistent with the statute, which authorizes cease and desist orders or penalties for any Act or regulatory violations. (Gov. Code, § 12591.1, subs. (b) & (c).) This is further necessary for the Department to ensure that funds received are properly managed and devoted to charitable programs, and to protect the public from fraud and deceptive or unfair solicitations. Charitable fundraising platform and platform charities are added to the list of organizations subject to enforcement by the Attorney General. This is necessary so that the regulation is consistent with the new statute. (Gov. Code, §§ 12581, 12599.9, subd. (b).)

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 336. Authority and reference citations are amended. The section is renumbered from existing section 999.6. The title of section 336 is amended to align with proposed changes to the section.

§ 337. Grounds for Issuance of Cease and Desist Order.

Subdivision (a) provides the grounds upon which a cease and desist order may be issued. Violating any provision of the Act or Chapter 4 of the regulations is added as additional grounds

for which a cease and desist order may be issued. This is necessary so that the regulation is consistent with the statute, which authorizes cease and desist orders for any Act or regulatory violations. (Gov. Code, § 12591.1, subd. (b).) This is further necessary for the Department to ensure that funds received are properly managed and devoted to charitable programs, and to protect the public from fraud and deceptive or unfair solicitations.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 337. Authority and reference citations are amended. The section is renumbered from existing section 314.

§ 338. Imposition of Penalty.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 338. Authority and reference citations are amended. The section is renumbered from existing section 315.

§ 339. Grounds for Refusal, Revocation or Suspension.

Subdivision (b) provides the grounds for which a registration may be refused, suspended or revoked. Violating Government Code section 12599.9 is added as additional grounds for which a registration may be refused, suspended, or revoked. This is necessary to ensure compliance with the new statute.

Subdivision (d) provides that failure to comply with the standards of conduct for nonprofit corporations is grounds for which a registration may be refused, suspended, or revoked. Reference to Corporations Code sections 5230 through 5239 is amended to sections 5230 to 5260. This is necessary to ensure compliance with all applicable laws governing nonprofit corporations.

Subdivision (g) replaces “charity” with a list of the types of organizations and persons that are subject to regulation. This is necessary for clarity because there are many types of organizations that are subject to the Act.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 339. Authority and reference citations are amended. The section is renumbered from existing section 999.9.

§ 340. Refusal to Renew Registration.

Subdivision (a)(4) replaces “charity” with a list of the types of organizations and persons that are subject to regulation. This is necessary because other states have different categories and definitions of charities. The amendment inserts an inclusive list so that it is clear that the Attorney General may refuse to renew the registration of any person or entity that performs the functions of such registrants, regardless of their title.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout

section 340. Authority and reference citations are amended. The section is renumbered from existing section 999.9.2.

§ 341. Automatic Suspension.

Subdivision (a)(2) adds failure to pay the required fee as a ground for automatic suspension. This is necessary to ensure payment of the required fees. Collected fees are used to operate and maintain the Department's Registry of Charitable Trusts, to provide public access to reports filed with the Registry of Charitable Trusts, and to enforce the registration and reporting provisions.

Subdivision (a)(7) explains that failure of a charitable fundraising platform to renew its annual registration, including payment of the required fee, is grounds for automatic suspension. This is necessary to ensure compliance with the new statute. (Gov. Code, §§ 12581, 12599.9, subd. (b).)

Subdivision (a)(8) explains that failure of a charitable fundraising platform or platform charity to file a completed annual report is grounds for automatic suspension. This is necessary to ensure compliance with the new statute. (Gov. Code, §§ 12581, 12599.9, subd. (b).)

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 341. Authority and reference citations are amended. The section is renumbered from existing section 999.9.1.

§ 342. Review of Hearing Officer's Proposed Decision.

Changes without regulatory effect. Authority and reference citations are amended. The section is renumbered from existing section 999.7.

§ 343. Final Attorney General Decisions.

Changes without regulatory effect. Authority and reference citations are amended. The section is renumbered from existing section 999.8.

§ 344. Suspension of Registration.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 344. Authority and reference citations are amended. The section is renumbered from existing section 316.

§ 345. Disclosure and Restrictions on Use of Charitable Assets After Suspension or Revocation of Registration.

Changes without regulatory effect. Authority and reference citations are amended. The section is renumbered from existing section 999.9.3.

§ 346. Reinstatement.

Changes without regulatory effect. Non-substantive grammatical corrections (e.g., removal of superfluous language, ensuring consistent capitalization of terms) are being made throughout section 346. Authority and reference citations are amended. The section is renumbered from existing section 999.9.5.

Chapter 15. Attorney General Review of Changes of Control Involving Health Care Facilities

The title of Chapter 15 is amended from “Attorney General Regulations Regarding Administrative Enforcement of the Supervision of Trustees and Fundraisers for Charitable Purposes Act” to “Attorney General Review of Changes of Control Involving Health Care Facilities.” With the exception of section 999.5, all Chapter 15 regulations are being renumbered and moved to Chapter 4 so that all regulations pertaining to the Act will be in Chapter 4.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes:

- (1) It is unlikely that the proposal would create or eliminate jobs within the state because the regulations create procedures for existing charitable fundraising platforms and platform charities to comply with new mandates imposed by statute.
- (2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because the regulations create procedures for existing charitable fundraising platforms and platform charities to comply with new mandates imposed by statute.
- (3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because the regulations create procedures for existing charitable fundraising platforms and platform charities to comply with new mandates imposed by statute.

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of the people of California by ensuring charitable assets donated by California residents are used for the intended purpose and for the benefit of California charitable beneficiaries.
- (2) The proposal would not benefit worker safety because it does not regulate worker safety standards.
- (3) The proposal would not directly benefit the state’s environment because it does not change any applicable environmental standards. But these regulations will prevent the misuse of donations made through charitable fundraising platforms and platform charities to charities supporting environmental causes.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Department did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations create procedures for existing charitable fundraising platforms and platform charities to comply with new mandates imposed by statute. The forms created by the Department are the easiest way for businesses to provide the required information to the Department. The \$625 registration fee for charitable fundraising platforms is similar to the \$500 annual registration fee charged to other fundraising professionals (commercial fundraiser, fundraising counsel, commercial coventurer). There has been no resulting adverse economic impact.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department finds that no reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small business.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations.

Performance Standard as Alternative:

The proposed regulations do not mandate the use of specific technologies or equipment. The proposed regulations prescribe specific actions or procedures. The Department's Registry of Charitable Trusts oversees registered charities and fundraising professionals to ensure that funds received are properly managed and devoted to charitable programs. Charitable organizations are required to register and file periodic reports with the Attorney General. The proposed procedures and forms are the least burdensome way to ensure that charities and professional fundraisers provide all required information to the Department. The proposed procedures and forms also ensure that basic financial information will become available to the donating public promoting transparency and allowing for prospective donors to research and assess the performance of charitable fundraising platforms, platform charities, and charities.